

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.Nos.943 &1609 OF 2011

COMMON ORDER:

Heard Mr.V.Sreenivasa Rao for revision petitioners and the learned Assistant Government Pleader for respondent.

The appellants in the Court of the Chairman, Land Reforms Appellate Tribunal-cum-II Additional District Judge, West Godavari, Euru are the revision petitioners.

The issue arises under the A.P. Land Reforms (Ceiling on Agricultural Holdings Act) 1973 and the A.P. Land Reforms (Ceiling on Agricultural Holdings) Rules 1974 (for short 'the Act & the Rules respectively'). The details of the civil revision petitions, the name(s) of revision petitioners and the appeals against which the revisions are filed are tabulated hereunder:-

Sl. No.	C.R.P.No.	L.R.A.No.	Name of the Petitioner
1.	943 of 2011	16 of 2008	Meka Meher Ram Venkatadri Appa Rao
2.	1609 of 2011	15 of 2008	Damera Manga Sri

The circumstances leading to the filing of Revision/ Appeal are same, hence, are adverted accordingly. However, both the revisions can be disposed of by the findings recorded in this behalf.

The subject matter of civil revision petitions is R.SNo.483 of Nuzvid Village.

One Mr.M.V.SV.K.Appa Rao (land owner) was the owner and possessor of the lands in R.SNo.483. The land owner through unregistered sale deed dated 09.07.1967 sold an extent

of Ac.7-00 cents in R.S.No.483 in favour of one Smt. Meka Lakshmi Devi (purchaser). The land owner and the purchaser have filed separate declarations under the Act and they are taken on file as C.C.No.1104/NZD/75 and C.C.No.1094/NZD/75 respectively. Both the civil revisions arise out of the orders passed in C.C.No.1104/NZD/75 filed by land owner. On 16.05.1976, the declaration filed by Meka Lakshmi Devi (purchaser) was accepted by the Land Reforms Tribunal and it was held that purchaser is a non-surplus holder of agricultural land under the Act. On 02.11.1976, the Land Reforms Tribunal in C.C.No.1104/NZD/75 held that M.V.S.V.K.Appa Rao (land owner) was holding Acs. 158-65 Cts in excess of ceiling limit.

Mr.M.V.S.V.K.Appa Rao/declarant filed L.R.A.No.494 of 1976 and on 08.03.1978, the Appellate Tribunal modified the order by excluding Acs. 38.98 Cts from the holding of Mr.M.V.S.V.K.Appa Rao (land owner). It is matter of record that on 18.04.1978, the revision filed against the said order i.e., C.R.P.No.2194 of 1978 was dismissed. The Land Reforms Tribunal, on 14.12.1982, issued show-cause notice calling upon Mr.M.V.S.V.K.Appa Rao to surrender ceiling surplus land. Show-cause notice dated 14.12.1982 was assailed in W.P.No.799 of 1983 and on 09.10.1987, the writ petition was disposed of giving liberty to M.V.S.V.K.Appa Rao/declarant to raise objections in the surrender proceedings initiated through notice dated 14.12.1982. At that juncture, Meka Lakshmi Devi/purchaser availed the opportunity and filed objections against taking possession of agricultural land, which was included and held to be within the ceiling limit in C.C.No.1094/NZD/75.

The Primary Tribunal rejected the objections not only filed by M.V.S.V.K.Appa Rao (declarant) and Meka Lakshmi Devi (purchaser), but also a few other objections raised by purchasers of the subject matter from M.V.S.V.K.Appa Rao. The objectors filed L.R. Appeal before the Appellate Tribunal. The Land Reforms Tribunal, Krishna, Machilipatnam, through common judgment dated 24.04.1990, disposed of the appeals. The State aggrieved by the common order dated 24.04.1990 filed C.R.P.Nos.1089 and 1090 of 1991. The revision petitions filed by the State are either dismissed for default or otherwise. At this juncture, the contention of the revision petitioners is that the issue of holding of land both by M.V.S.V.K.Appa Rao and Meka Lakshmi Devi was the subject matter of Land Reform Appeals as well as Civil Revision Petition before this Court. The findings recorded in the earlier round of litigation on the very same subject matter cannot and could not be ignored by the authorities while taking possession of alleged ceiling surplus land liable to be surrendered in C.C.No.1104/NZD/75. On 23.06.1988, M.V.S.V.K.Appa Rao/declarant died unmarried and Meka Meher Rama Venkatadri Appa Rao is now shown as the legal representative of M.V.S.V.K.Appa Rao and the proceedings are continued. On 05.09.1989, the Land Reforms Tribunal/respondent rejected the objection petition of Meka Lakshmi Devi/purchaser which resulted in filing the appeal referred above.

An extent of Acs.33-00 is stated to have been sold through agreement of sale dated 09.07.1967 in favour of Smt.Meka Lakshmi Devi and in the proceedings, the said document is marked as Ex.X-4 and again on 10.06.1969, an extent of Acs.7-00 was

purchased by Meka Lakshmi Devi and the same is evidenced as Ex.X-5. The petitioner contends that Meka Lakshmi Devi/purchaser since was holding agricultural land filed declaration in C.C.No.1094/NZD/75. The respondent vide order dated 16.05.1976 recognised the holding and possession of entire extent of agricultural land and held that Meka Lakshmi Devi/purchaser is a non-surplus holder of agricultural land.

The principle of laid down by the Apex Court in STATE OF ANDHRA PRADESH v. MOHD ASHRAFUDDIN¹ has to be applied in its entirety and the protection of possession granted to Meka Lakshmi Devi is extended to persons who claim through Meka Lakshmi Devi of land, which is free from obligation of surrender in C.C.No.1094/NZD/75. The basis for the said contention is that Meka Lakshmi Devi after the ceiling proceedings in C.C.No.1094/NZD/75 have become final, through registered sale deeds viz., registered sale deed dated 12.08.1994 sold in favour of one Bapanaiah and the petitioner is purchaser of a small portion as indicated above from Bapanaiah. Therefore, the revision petitioner, being a purchaser of small extent of land, the possession of which was protected by LRA.No.42/82, the same protection enjoyed by the revision petitioner is available and the revision petitioner cannot be dispossessed in the surrender proceedings taken up in C.C.No.1104/NZD/75.

¹AIR 1982 SC 913

Reverting back to the common order dated 24.04.1990, the Court finds it useful to excerpt the operative portion of the order in L.R.A.No.42/89, which reads thus:

“In pursuance of the remand order of the High Court of A.P., dt.9.10.87 passed in W.P.No.799/83, the declarant as well as the objectors 3 to 10 mentioned in the order of the primary Tribunal dt.5.9.89, filed objections by way of affidavits before the Land Reforms Tribunal, Bandar on 7.11.87. The father of the declarant viz., Meka Rangayappa Rao filed an affidavit before the primary Tribunal on 24.7.88. In that affidavit, he stated that the declarant is his only unmarried son and he died due to Jaundice on 23.6.88 at Hyderabad. He, therefore, prayed for substituting his name as legal heir of his deceased son and also as legal representative in the objection petition filed by his son in pursuance of the High Court remand order in W.P.No.799/83 dt.9.10.87. The Land Reforms Tribunal, Bandar brought M.R.Appa Rao, the father of declarant herein on record as his legal representative and he is petitioner No.2 in the objection petition filed before the primary Tribunal. The 2nd petitioner viz., M.R.Appa Rao also filed a petition on 21.8.88 authorising one Pallagani Pitchaiah, son of Gopalswamy of Nuzvid as his agent to act on his behalf in this case.

XXXXXXXXXXXX

XXXXXXXXXXXX

In the result, the order of the Land Reforms Tribunal, Bandar in C.C.No.1104/NZD/75 dt.5.9.89 is modified to the extent that the land purchased by the vendee Meka Laxmi Devi who is the appellant in L.R.A.No.42/89 in an extent of Ac.7-00 covered by Ex.X-5 dt.10.6.69 has to be excluded from the holding of the declarant and the appeal filed by the appellant in L.R.A.No.42/89 is partly allowed to the extent of the land covered by Ex.X-5 only has to be excluded from the holding of the declarant.

The appeals in L.R.As.41, 43, 44/89 and 3/90 are dismissed with a direction that the lands covered by the transactions under Ex.X.1, X.11, X.14 and A-42 are to be included both in the holding of the vendors and the

vendees and in view of the decision of their Lordships of the Supreme Court reported in AIR 1982 SC page 913 at page 915 para 9, the possession of the vendees and Exs.X.1, X..4, X.11, X.14 and A.42 is protected and they are entitled to continue possession of the said lands. These appeals are accordingly disposed of”.

Mr.V.Sreenivasa Rao contends that to the extent of land covered by Ex.X-5 dated 10.06.1969 a direction is issued to exclude Acs. 7-00 of agricultural land from the holding of M.V.S.V.K.Appa Rao and, therefore, no surrender proceedings insofar as the said extent is concerned can be pursued in C.C.No.1104/NZD/75. To the extent of Acs.33-00 covered by Ex.X-4, he contends that possession of Meka Lakshmi Devi/purchaser was protected and the protection of possession granted to Meka Lakshmi Devi enures to the benefit of either Bapanaiah or through Bapanaiah to the revision petitioner. The counsel lays emphasis on the operative portion of the direction viz., “the possession of the vendees under Exs.X-1, X-4, X-11, X-14 and A-42 is protected and they i.e., purchasers are entitled to continue possession of the said land”. Therefore, the direction cannot be diluted or benefit denied to purchaser from purchaser. In other words, the submission is that the respondent is prevented from taking possession of agricultural land which is included in the holding of Meka Lakshmi Devi and covered by Exs.X-1, X-4, X-11, X-14 and A-42. Therefore, either by operation of order dated 15.05.1976 in C.C.No.1074/NZD/75 or that the order dated 24.04.1990 in L.R.A.No.42 of 1989, the steps now taken for delivery of possession of land now held by the revision petitioners is illegal, beyond jurisdiction and contrary to the principle laid down by the Apex Court in MOHD ASHRAFUDDIN case (supra). He contends that

the argument of respondents, if accepted, amounts to allowed review of the direction by statutory authority. Adverting to the finding recorded by the Appellate Tribunal, he contends that the concept of applicability of benefit of common judgment in L.R.A.No.42 of 1989 on the distinction drawn by reference to *rem* and *personam* is completely misconceived and appears to be used only to dismiss the appeals. According to him, the protection granted by the Land Reforms Appellate Tribunal is possession of land covered by Ex.X-4 etc. The interference with possession by 1st respondent does not depend on the person who enjoys the property. Therefore, he prays for setting aside the orders under revision, allow the revisions and protect the possession of revision petitioners.

The learned Assistant Government Pleader submits that M.V.S.V.K.Appa Rao is under obligation to surrender about 140 acres of land in C.C.No.1104/NZD/75. The 1st respondent has properly understood the direction issued by Appellate Tribunal in L.R.A.No.42 of 1989 and has called upon the petitioners herein to deliver possession of the ceiling surplus land. According to her, the transactions relied on by the revision petitioners are void and hit by Section 17 of the Act. She prays for dismissing the revisions.

I have noted the submissions and perused the record.

The subject matter of revisions is R.S.No.483 of Nuzvid Village. In respect of the said survey number, declarations in C.C.No.1094/NZD/75 filed by Meka Lakshmi Devi and C.C.No.1104/NZD/75 filed by M.V.S.V.K.Appa Rao/declarant are

entertained. The 1st respondent, while considering the respective declarations, examined the holding of agricultural land by Meka Lakshmi Devi/purchaser, through order dated 16.05.1976, accepted the declaration and held that Meka Lakshmi Devi is a non-surplus holder. To the extent of possession and holding of agricultural land covered by C.C.No.1094/NZD/75, the orders under the Act have become final. Secondly, when the 1st respondent issued show cause notice to take possession of the land which is included in the holding of Meka Lakshmi Devi, objections were filed; rejected; matter carried by way of appeal; and L.R.A.No.42 of 1989 was disposed of vide common judgment dated 24.04.1990. At this juncture, it is useful to note the effect of each one of the findings recorded on Exs.X-4 and X-5. The Land Reforms Appellate Tribunal held that the possession pursuant to an agreement of transfer cannot be said to be illegal and the transferee is entitled to remain in possession of land covered by the agreement. In view of the ruling of the Apex Court in MOHD ASHRAFUDDIN case (supra), the transferees for the lands covered by Ex.X-4 and Ex.A-42 are entitled to be in possession of the said land and the Primary Tribunal cannot interfere with their possession. The Appellate Tribunal while disposing of L.R.A.No.42 of 1982 left it open for including the said extent in the declarations of M.V.S.V.K.Appa Rao/declarant and Meka Lakshmi Devi.

The common judgment in Land Reforms Appeal is dated 24.04.1990. As already noted, as early as 1975, Meka Lakshmi Devi, by including the land purchased under Ex.X-4 etc., in her declaration, filed C.C.No.1094/NZD/75. It is not the case of

1st respondent that in the ceiling declaration filed by M.V.S.V.K.Appa Rao in C.C.No.1104/NZD/75, the land covered by Ex.X-4 is not included. This aspect may not be crucial at this point of time in view of finding by the L.R.A. Tribunal in L.R.A.No.42 of 89 and batch. This Court is of the view that the common judgment dated 24.04.1990 in L.R.As held that the Land Reforms Primary Tribunal cannot interfere with their possession of purchasers of land covered by Exs.X-1, X-4, X-11, X-14 and A-42. From the above discussion what requires consideration is whether the restriction granted against 1st respondent is confined to parties to common judgment dated 24.04.1990 or the persons claiming through them. Much deliberation is not required to conclude that the 1st respondent by the directions in L.R.A. already excerpted is prevented from interfering with the possession of land covered by Ex.X-4 and it is not clarified that the enjoyment of the persons deriving the benefit under Ex.X-4 or a purchaser claiming from Mekala Lakshmi Devi is also protected. As already noted, further, the orders in L.R.A have become final in C.R.P.Nos.1089 and 1090 of 1991. The land covered by Ex.X-4 since is already included in the declaration of M.V.S.V.K.Appa Rao, the option available to the 1st respondent is to search and initiate surrender proceedings against the other agricultural land included in the declaration of M.V.S.V.K.Appa Rao, free from restriction by the order of the Appellate Court. This Court, if accepts the contention of 1st respondent that the possession of petitioner is void, the same would be against the finding recorded in L.R.A No.42 of 1989 and amounts to taking away the protection of possession granted in L.R.A.No.42 of 1989.

This Court by taking note of the findings recorded in the earlier round of litigation and also that these orders have become final with the dismissal of CRPs, is of the view that the orders under revision are unsustainable and are, accordingly, set aside. In the instant revisions, this Court has considered the effect of protection granted by the Land Reforms Appellate Tribunal which is excerpted above and not in respect of any other land which the 1st respondent can proceed and take possession in accordance with law from the enjoyers of ceiling surplus land.

The revisions are, accordingly allowed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

03rd October, 2018

Lrkm



S.V.BHATT, J

