

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 1013 OF 2020

ORDER :

This writ petition is filed challenging the order dt.19.10.2019 passed by the 2nd respondent in Case No.F2/5412/2017, under Section 90 of the A.P.(Telangana Area) Tenancy & Agricultural lands Act, 1950 (for short 'the Tenancy Act'), whereby the order dt.04.01.2016 passed by the Revenue Divisional Officer, Saroornagar District, is confirmed; and to set aside the same; and for a consequential direction to the 3rd respondent to issue Ownership Certificate in favour of the petitioners under section 38 E of the Tenancy Act.

Learned Counsel for the petitioners submits that the claims of the petitioners as protected tenants required to be considered by the original authority as well as appellate authority by granting certificate under Section 38 E of the Tenancy Act. But, the said aspect was not considered in proper perspective. Learned Counsel also submits that Section 9 A of the Telangana Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short 'the Act, 1973') also provides for reopening of the cases by the Tribunal where it is found orders were passed due to fraud, misrepresentation and suppression of facts. He also submits that landlords while filing declaration under the provisions of Agricultural Land Ceiling Act have suppressed the fact about the claims of the petitioners who are protected tenants and that they also misrepresented the facts before the ceiling authorities, as

such, the petitioners are entitled for filing application under Section 9A of the Act, 1973.

Learned Government Pleader for Revenue submits that the Joint Collector rightly pointed out in the impugned order that the petitioners can also approach under Sections 20 and 21 of the Act, 1973 in respect of their claims. He also submits that when the matter is seized up by the authorities under the Act, 1973, question of considering the case of the petitioner under Section 38 E of the Act does not arise. In support of the same, he relied on the Judgment rendered by this Court in *Pydi Hariya and another v. Revenue Divisional Officer, Kandukuru Division, Prakasam District and others (2001 (4) ALD 73 (DB))*.

In this case it is to be seen that Section 9A of the Telangana Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 reads as follows;

“9A. (1) Notwithstanding anything repugnant to the provisions of this Act, in respect of cases where, it is found that orders were passed due to any fraud or misrepresentation or suppression of facts, and where no subsequent orders were passed in appeal or revision, on the same, the Tribunal may, either suo motu or on application or direction of the Collector, Chief Commissioner of land Administration or Government, re-open such cases and pass orders, afresh as if no declaration has been filed under Section 8 of the Act:

Provided that, in respect of cases where, it is found that orders were passed due to any fraud or misrepresentation or suppression of facts and where

subsequent orders were passed in appeal or revision, confirming such orders the Tribunal may, either suo motu or on application or direction of the Collector, Chief Commissioner of Land Administration or Government, review such cases and pass orders for filing of review petition against the orders in appeal or as the case may be the orders of revision, in the Court or the authority, which passed such orders:

Provided further, that no order shall be passed without giving an opportunity of being heard to the parties interested.

(2) The provisions of the Limitation Act, 1963 shall not apply to initiation of action under sub-section (1).”

In the impugned order dt.19.10.2019 the Joint Collector also states that he has not dismissed the claims of the petitioners on merits, but, dismissed the appeal by observing that the petitioners can approach the Land Reforms Appellant Tribunal under Section 20 of the Act, 1973 by way of filing appeal or a revision before this Court under Section 21 of the Act, 1973.

The case of the petitioners is that the original land lords misrepresented and suppressed the facts regarding claims of the petitioners, though they are entitled for certificate under Section 38 E of the Act.

Learned Counsel for the petitioners states that the writ petition can be disposed of by granting liberty to the petitioners to make an application under Section 9A of the Act, 1973.

Learned Government Pleader only submits the application under Section 9 A of Act, 1973 can be filed only in case of suppression or misrepresentation of facts; and that the petitioners can approach the authorities under Section 20 and 21 of the Act, 1973.

In this case it is to be seen that Section 9 A of the Act, 1973 clearly provides for making application in case of any fraud is committed or any facts are misrepresented or suppressed. As such, the petitioners cannot be deprived of making an application under Section 9 A of the Act, 1973, and it is for the competent authority to consider the application in terms of Section 9A of the Act, 1973, on merits.

In view of the same, the writ petition is disposed of granting liberty to the petitioners to make an application under Section 9 A of the Act, 1973 to the Competent Authority and on such application being made, the Competent Authority to consider the claims of the petitioners on merits, in accordance with law, within a period of four months from the date of making application by the petitioners. No order as to costs.

As a sequel thereto, miscellaneous applications, if any pending in the Arbitration Application, shall stand closed.

A.RAJASHEKER REDDY, J

22.01.2020
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