

STATE OF A.P.

v.

SINGIREDDY RAMULU AND ANR.

(Civil Appeal No. 827 of 2002)

JANUARY 23, 2008

[DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.]

Land Ceiling:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 – s.3(i), clause (i) to (v) – Surrender of excess land – Claim by third party that part of surrendered land was sold to him under an agreement of sale and ever since that day, he is in possession of the said land – Exclusion of the land by the tribunal – Challenge against – Held: It is not correct to say that only where the land is in possession of a person can that land be regarded as 'held' by him – Same land can be held by one person in one capacity and by another person in a different capacity – Thus same land held by one person as the owner and by another person as his lessee or as a person to whom the owner has delivered possession of the land in part performance of an agreement to sell, would be included in holdings of both such persons.

Pursuant to a public notice, respondent no.2 filed a declaration in respect of lands covered by the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. The act of receipt of the declaration and its availability for public inspection in the office of Lands Reforms Tribunal was announced. The declaration was referred to the Tehsildar under s.4(5) for local inspection and verification. There was no objection received to the public notice. Thereafter an enquiry was held after issuing notice to the declarant who was present on the date fixed. After completion of enquiry, it was held that respondent No.2-the declarant held land in excess of the permissible

A limit and was required to surrender excess land under s.10(1) of the Act. Accordingly, notice was issued to him. The verification report, stated that the family unit consisted of four members i.e. declarant, his wife and two minor unmarried daughters.

B Land Reforms Tribunal held that the family unit was entitled to 1000 standard holdings and since the standard holding was more than the ceiling area under s.4(A) of the Act, which was determined under s.9 of the Act, the declarant held an extent of 0.9170 standard holdings in
C excess of the ceiling area on the notified date i.e. on 1.1.1975 and was liable to surrender the excess land. Surrender proceedings were thereafter initiated. Respondent no.2 filed statement proposing to surrender the lands and same was accepted by the Tribunal. Against
D the said acceptance, respondent no.1, third party filed a claim that surrendered land admeasuring 11.07 guntas was sold to him under an agreement of sale on 19.1.1971 and ever since that date, he was in continuous possession of said land by paying land revenue. The Appellate
E Tribunal directed exclusion of acre 11.07 guntas. The rest of the order was however upheld. Tribunal was directed to complete the recovery proceedings against respondent No.2 so far as the balance land was concerned. State filed revision before High Court which was dismissed. Hence
F the present appeal.

Allowing the appeal, the Court

G HELD: 1. Clause (i) to (v) of sub-section (i) of s.3 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 set out the various capacities in which
H a person can be said to "hold" land for the purposes of the said Act and among these capacities are "as a usufructuary mortgagee, as a tenant and as one who is in possession by virtue of a mortgage by conditional sale or through part performance of a contract of sale". The

Explanation in plain language states that the same land can be held by one person in one capacity and by another person in a different capacity and provides that such land shall be included in the holdings of both such persons. The Explanation clearly contemplates that the same land can be held as contemplated under sub-section (i) by one person as the owner and by another person as his lessee or as a person to whom the owner has delivered possession of the land in part performance of an agreement to sell. Thus, it is not correct to say that only where the land is in possession of a person can that land be regarded as held by him. [Para 6] [1109-G; 1110-A, B, C, D]

Yedida Chakradhararao (Dead) Through his Lrs. v. State of Andhra Pradesh (1990) 2 SCC 523; State of Andhra Pradesh and Ors. V. M. Lakshmi Devi and Ors. (1993) 2 SCC 421 – relied on.

CIVILAPPELLATE JURISDICTION : Civil Appeal No. 827 of 2002.

From the final Judgment and Order dated 03.09.1999 of the High Court of Judicature of Andhra Pradesh at Hyderabad in Civil Revision Petition No. 3176 of 1995.

Manoj Saxena, Rajnish Kr. Singh, Rahul Shukla and T.V. George for the Appellant.

V. Sudheer, M.B.R.S. Raju, Sunita, S. Balaji, J.B. Ravi, S.R. Sharma and S. Srinivasan, Advs. for the Respondents.

The Judgment of the Court was delivered by

Dr. ARIJIT PASAYAT, J. 1. Challenge in this appeal is to the order passed by a learned Single Judge of the Andhra Pradesh High Court in Civil Revision filed by the State of Andhra Pradesh dismissing the revision petition filed.

2. Background facts in a nutshell are as follows:

Respondent No.2 was a declarant in respect of lands

A covered by the Andhra Pradesh Land Reforms (Ceiling on
Agricultural Holdings) Act, 1973 (in short the 'Act'). The
declaration was filed by respondent No.2 Maqbool Alam under
Section 8(1) of the Act in response to the public notice in Form
IV as required under Rule 4 of the Andhra Pradesh Land
B Reforms (Ceiling on Agricultural Holdings) Rules, 1974 (in short
the 'Rules') containing the particulars of the land and the persons
holding such lands in respect of the declaration received which
was duly notified. By various modes the fact of receipt of the
C declaration and its availability for public inspection in the office
of Lands Reforms Tribunal, Adilabad (in short the 'Tribunal') was
announced by beat of drums in all the villages in which the lands
were situated on 6.7.1975. The declaration was referred to the
Tehsildar under Section 4(5) for local inspection and verification.
A copy received from the Tehsildar, Adilabad was furnished to
D the declarant and to the officer authorized by the Government in
this behalf. No objection was received in response to the public
notice. Thereafter an enquiry was held on 5.10.1976 after issuing
notice to the declarant who was present on the date fixed. The
officer authorized by the Government i.e. Special Tehsildar (Land
E Reforms), Adilabad was also present. Enquiry was completed
on 22.2.1977. After completion of enquiry by the Addl. Revenue
Divisional Officer (Land Reforms Tribunal) Adilabad Division, it
was held that the declarant holds land in excess of the
permissible limit and he was required to surrender excess land
F Under Section 10(1) of the Act. Accordingly, notice was issued
to him under Section 10(2) of the Act and Form VI under the
Rules. According to the verification report which was scrutinized,
the family unit consisted of four members i.e. declarant, his wife
and two minor unmarried daughters. By order dated 22.2.1977
G the Additional Revenue Divisional Officer (Land Reforms
Tribunal) held that the family unit was entitled to 1000 standard
holdings and since the standard holding was more than the
ceiling area under Section 4(A) of the Act, which was determined
under Section 9 of the Act the declarant held an extent of 0.9170
H standard holdings in excess of the ceiling area on the notified
date i.e. on 1.1.1975 and was liable to surrender the excess

land. Surrender proceedings were thereafter initiated and the declarant was directed to file surrender statement. On 2.1.1999 respondent No. 2 filed the surrender statement proposing to surrender the lands in Wanvath Village, Adilabad District and the same was accepted by the Tribunal on 2.1.1999. Against the said acceptance of surrender, a third party i.e. respondent No. 1 filed a Claim bearing L.R.A. No. 86 of 1994 before the Land Reforms Appellate Tribunal, Karimnagar (in short the 'Appellate Tribunal') contending that accepting the surrender in respect of land situated in Survey No. 4/B admeasuring Acres 11.07 Guntas of Nanvath Village in lieu of excess land. His stand was that the respondent No. 2 had shown in his declaration that he sold the surrendered land under agreement of sale dated 19.1.1971 and ever since that date, he was in continuous possession of the land by paying land revenue. Grievance was that the Tribunal without considering relevant records accepted the surrender of the land and ignoring the objection petition filed by respondent No.1 on 26.9.1978. It was therefore stated that the observation that no objection was received within the stipulated time is incorrect. The agreement for sale dated 6.2.1971 and certain other documents were filed. The Appellate Tribunal by its judgment dated 28.9.1994 allowed the appeal and directed exclusion of acre 11.07 guntas of Nanvath Village. The rest of the order was however upheld. Tribunal was directed to complete the recovery proceedings against respondent No.2 so far as the balance land is concerned.

3. Appellant-State filed Civil Revision assailing the judgment of the Appellate Tribunal but the same was dismissed by the impugned order.

4. In support of the appeal, it was contended that the declarant himself had not chosen to file an appeal. The respondent No. 1 could not file an appeal before the Appellate Tribunal in the absence of an appeal by the declarant. It was further submitted that there was no registered sale deed and the alleged agreement for sale was not of any consequence.

A 5. Learned counsel for the respondent on the other hand supported the order of the High Court affirming that of the Appellate Tribunal.

B 6. In *Yedida Chakradhararao (Dead) Through his Lrs. V. State of Andhra Pradesh* (1990 (2) SCC 523), it was inter alia observed as follows:

C "6. Section 8 provides, in brief, that every person whose holding on the notified date together with any land transferred by him on or after January 24, 1971 exceeds the specified limits, shall within 30 days from the notified date, namely January 1, 1975 or such extended period as the government may notify in that behalf furnish a declaration in respect of his holding to the competent Tribunal..

D 11. The main submission of learned counsel for the appellants is that the expression 'holding' has been defined in sub-section (i) of Section 3 of the said Act, the definition section set out earlier, as meaning the entire land *held* by a person (emphasis supplied) and that the use of the said word "held" in the definition indicates that the person who is supposed to *hold* the land, must necessarily be the person in possession of the said land; and hence where, in part performance for an agreement of sale or under a lease, the purchaser or lessee has been put in possession of any land, the owner of the said land cannot any longer be regarded as holding the said land and it cannot be said that the said land is *held* by him. It was submitted by learned counsel that in view of this context although the Explanation to sub-section (i) of Section 3 is very widely worded, its meaning cannot be so extended as to cover a case where the owner of the land is no longer in possession of the land and has parted with the possession thereof under an agreement creating a right, legal or equitable, in the land concerned. We find it difficult to accept this contention. Clauses (i) to (v) of sub-section (i) of Section 3 set out the various capacities in which a

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person can be said to "hold" land for the purposes of the said Act and among these capacities are "as a usufructuary mortgagee, as a tenant and as one who is in possession by virtue of a mortgage by conditional sale or through part performance of a contract of sale". The very language of sub-section (i) of Section 3 indicates that land can be *held* as contemplated in the said sub-section by persons in a number of capacities. The Explanation in plain language states that the same land can be *held* by one person in one capacity and by another person in a different capacity and provides that such land shall be included in the holdings of both such persons. The Explanation thus clearly contemplates that the same land can be *held* as contemplated under sub-section (i) by one person as the owner and by another person as his lessee or as a person to whom the owner has delivered possession of the land in part performance of an agreement to sell. On a plain reading of the language used in the Explanation, we find it that it is not possible to accept the submission that only where the land is in possession of a person can that land be regarded as *held* by him."

7. The position was reiterated in *State of Andhra Pradesh and Ors. v. M. Lakshmi Devi & Ors.* [1993(2) SCC 421].

8. In view of the law as delineated by this Court in the aforesaid decisions, the inevitable conclusion is that the appeal is bound to succeed. The orders passed by the Appellate Tribunal and the High Court in the Civil Revision cannot be maintained and are therefore set aside.

9. The appeal is allowed but without any order as to costs.

D.G.

Appeal allowed.