

(2003) 02 AP CK 0073

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 4179 of 1998

G. Jay Rao

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 21-02-2003

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 —
Section 10(1), 18, 9

Citation : (2003) 3 ALT 127 : (2003) 3 CivCC 113 : (2004) 2 RCR(Civil) 249

Hon'ble Judges : S.R.K. Prasad, J

Bench : Single Bench

Advocate : T. Veerabhadrayya, , Govt. Pleader,

Final Decision : Allowed

Judgement

S.R.K. Prasad, J.

This civil revision petition is directed against the judgment and decree passed in L.R.A No. 13 of 1992 dated 27.7.1998 on the file of the Land Reforms Appellate Tribunal-cum-Additional District Judge, Srikakulam confirming the order passed in L.C.C No. 1194/PLK/75, 1640/PLK/75 dated 22.2.1992 on the file of the Land Reforms Tribunal, Srikakulam.

2. The facts that arise for consideration can be briefly stated as follows:

Geinadi Jayarao who is the revision petitioner is the declarant. He has submitted a declaration to the authorities. Thereupon the primary Tribunal after due enquiry has determined the holding of the revision petitioner u/s 9 of the A.P Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short "the Act") on 27.6.1977. The primary Tribunal calculated the total holding at 5.0941 standard holdings and surplus holding at 4.0941 standard holdings. The primary Tribunal rejected the contention of G.K. Rama Rao that he purchased an extent of Ac.15.50 in November, 1970 under sale agreement from Smt. G. Jagajyothi, the wife of the declarant i.e. the revision petitioner. The primary Tribunal also rejected the claim

of Smt. P. Umasuresh that she adopted Kumari Srilatha, the last daughter of the revision petitioner and the adopted daughter was allotted an extent of Ac.13.75 from the properties of Smt. Jagajyothi, the wife of the revision petitioner. The Tribunal also held that G. Ramachandrarao was the minor son of the revision petitioner and the lands shown in Ramachandra Rao's declaration should form part of the holding the revision petitioner. Aggrieved by the said order, the revision petitioner the declarant in L.C.C. No. 1194/PLK/75 and Smt. P. Umasuresh, the declarant in L.C.C No. 1640/PLK/75 preferred appeals before the Land Reforms Appellate Tribunal, Srikakulam which ended in dismissal. A revision was filed by the revision petitioner herein and Smt. P. Umasuresh before this Court. This Court passed orders dated 12.6.1979 remanding the case to the Land Reforms Tribunal for de novo enquiry, with a direction that the matter be heard after giving due opportunity to the declarants in the C.R.P. After remand of the matter by this Court, notices were issued to both the declarants and the primary Tribunal passed orders u/s 9 of the Act after giving opportunity to both the declarants as per the directions of this Court and reduced the surplus holding to 3.3031 standard holdings in its order dated 9.10.1985 in respect of the revision petitioner herein in L.C.C No. 1194/PLK/75. Aggrieved thereby the revision petitioner herein and Smt. Umasuresh filed appeals before the appellate Tribunal contending that they were not given adequate opportunity to give evidence. The appellate Tribunal by its order dated 25.8.1987 in L.R.A No. 20 of 1985 remanded the matter to the primary Tribunal for fresh disposal according to law. After remand, the primary Tribunal took up enquiry afresh and recorded evidence. Thereafter, it has given a finding that the declarant has failed to prove that there is memorandum of family arrangement and disbelieved the document produced namely Ex. A-2. It is also observed by the primary Tribunal that the family arrangement has not been acted upon. It is also observed by the primary Tribunal that adoption of Kumari Srilatha by Smt. Umasuresh is valid adoption. It might have taken place with effect from 6.3.1976 on which date the adoption deed was registered but not earlier. It has also given a finding that Kumari G. Srilaxmi is not entitled to file a declaration u/s 18 of the Act and she cannot question whether Visakhapatnam Settlement Tract has to be adopted or Srikakulam Settlement Tract has to be adopted. It was also held that Palakonda Taluk should be classified adopting Visakhapatnam Settlement Track. Ultimately, the Tribunal determined that the declarant is holding lands equivalent to 3.2313 standard holdings in excess of the ceiling area as on 1.1.1975 which he is liable to surrender u/s 10(1) of the Act

Aggrieved by the same, the matter has been carried in appeal before the appellate Tribunal by preferring L.R.A No. 13 of 1992. The appellate Tribunal concurred with the findings given by the primary Tribunal and dismissed the appeal. Thereupon the declarant preferred this revision.

3. Sri T. Veerabhadraiah, learned senior counsel appearing for the revision petitioner mainly contends that the appellate Tribunal has not all considered the written arguments submitted by the petitioner whereunder he has raised the points for consideration. It is also contended that as per the schedule attached to the Act Palakonda falls under Srikakulam track and that has to be adopted. It is also further contended that neither the primary Tribunal nor the appellate Tribunal considered the evidence and the documents produced.

4. Learned counsel appearing for the Department contends that the primary Tribunal as well as the appellate Tribunal considered the matter basing on the material produced before them. There is no illegality in the order.

5. Adverting to the said contentions, on a close perusal of the record it is clear that the revision petitioner herein has submitted a notes of written arguments signed by the counsel in L.R.A No. 13 of 1992 before the appellate Tribunal on 20.7.1998. The main grievance of the revision petitioner is that the appellate Tribunal has not considered the contentions mentioned in the written arguments. The only thing urged by the Department is that they are not aware of the same and therefore, they are unable to defend the appellate Tribunal for its conduct.

6. I have perused the written arguments. None of the contentions raised in the written arguments are considered. In fact, the decisions of the Supreme Court, this Court and Patna High Court have been cited in the written arguments. The same does not find place in the judgment of the appellate Tribunal. The lower appellate Court shall keep in mind that written arguments are submitted not for fancy sake. It is a right conferred by the statute to a party to submit the written arguments which are meant for consideration and adjudication. No Court shall ignore the written arguments and refuse to consider the same. If it were to do so, they are liable for action by the superior Courts. This is nothing short of judicial dishonesty. A judge is not supposed to exhibit such dishonesty. A judge is supposed to exhibit extreme patience and give long rope and hear arguments and then pronounce his decision after adjudicating the matter. I find that this is a classic case where the judge refused to consider the written arguments. He has not considered the decisions cited before him. In such cases, the judgment should not be upheld. It deserves to be set aside since no party can be allowed to leave the Court with dissatisfaction for non-consideration of his arguments. If such things were to happen, the litigant public certainly loses confidence in the judicial system. I am of the considered view that the appellate Court's judgment shall not stand for judicial scrutiny before this Court for the learned Judge's failure to consider the written arguments and adjudicate the matter in the light of the written arguments which lead to miscarriage of justice.

7. In the result, the Civil Revision Petition is allowed. The judgment of the Land Reforms Appellate Tribunal in L.R.A No. 13 of 1992 is set aside. The matter is remitted back to the appellate Tribunal for fresh consideration. It shall consider every point raised in the written arguments by traversing through the necessary material namely evidence including oral and documentary and give answer to every point and adjudicate the same as expeditiously as possible. Both the parties are directed to appear before the appellate Tribunal on 1.4.2003. In view of the direction for their appearance, there is no need to issue a fresh notice to both the parties. Costs shall abide by the result of the appeal.