

Merla Venkata Rao

Vs

State of A. P. and others

Civil Appeal No. 2649 of 1977

(CJI M. H. Kania, Dr. T. K. Thommen, P. B. Sawant JJ)

11.02.1992

ORDER

1. This appeal by special leave is directed against the judgment of a learned single Judge of the Andhra Pradesh High Court in Civil Revision Petition No. 1472 of 1976. The revision petition was filed under S.21 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (hereinafter referred to as the "Act"). The appellant filed the declaration under S. 8(1) of the Act showing a holding of 119 acres and 82 cents of land. His wife filed a separate declaration. Both the declarations were clubbed together and the appellant and his wife were treated as one family unit within the meaning of S. 3(f) of the Act. After the various steps contemplated under the Act, a view was taken that the appellant was holding land in excess of the ceiling area and the same was liable to be taken over by the State. The dispute relates to certain alienation's of land made by the appellant which have been ignored in calculating his ceiling area. This alienation falls within three categories. There is one alienation which has occurred on June 24, 1952 that is long before the ceiling on agricultural land was under contemplation. The other transactions in question pertain to the period between 24-1-1971 and 2-5-1972. All these lands were included by the ceiling authority including the Tribunal in the holding of the appellant. Except the transaction effected in 1952, the other transactions were ignored for the purpose of computing the ceiling area of the appellant and the holding of the appellant was computed including the lands alienated by the transactions between 24-1-1971 and 2-5-1972. It is this inclusion which was challenged by the appellant in the revision-petition. After noticing the definitions of the terms 'standard holding' and the provisions of Ss. 4 and 5 and also of S. 7 of the Act which contain special provisions in respect of certain transfers made prior to the coming into operation of the Act which came into effect on May 2, 1972, the High Court confirmed the findings of the Tribunal regarding the excess area held by the appellant. The Land Tribunal had excluded the transaction of 1952 from the holding of the appellant for the determination of the ceiling area. The High Court has not disturbed this conclusion as stated in this regard as follows :

"So far as the alienations covered by Category No. (1), i.e., prior to 24-1-1971 are concerned, the initial burden of establishing that they are true, valid and supported by consideration, lies on the person setting up the alienations, and if they are challenged as not genuine or sham or bogus and not supported by consideration or that they were made in anticipation of and with a view to avoid the ceiling law, the onus lies on the person setting up the said plea."

It was submitted by Mr. K. Parasaran, learned counsel for the appellant that the view taken on the burden of proof by the High Court was totally erroneous and his client is prejudiced by the same as a notice has been issued by the ceiling authorities to the appellant on the basis of the said view of

the High Court. In our view, the submissions made by Mr. Parasaran, learned counsel for the appellant, deserve acceptance. As far as the period prior to 24-1-1971 is concerned, there was no bar under any ceiling law on transfers or alienations and those have been left untouched by the said Act as well as by the Andhra Pradesh Agricultural Lands (Prohibition of Alienation) Act, 1972. The latter Act prohibited alienations or transfers by persons holding land in excess of the specified limits set out in S. 4 of that Act after the commencement of the Act which came into effect on May 2, 1972. In regard to alienations prior to 24-1-1971, therefore, the burden of proof remained as under the general law and was nowhere affected by the provisions of either the said Act or the Act of 1972 dealing with prohibition of alienations. The proceedings pursuant to the said notice will, therefore, be determined on the basis of what we have stated above and irrespective of the observations made by the High Court in this connection. The learned counsel for the respondents has not disputed that this is the correct position in law.

2. As far as the transactions between 24-1-1971 and 2-5-1972 are concerned, the High Court has accepted the conclusions reached by the Tribunal. The High Court has pointed out that a large extent of over 220 acres of land was alienated by the appellant and his wife within a short period of eight months between 4-6-1971 and 1-2-1972. It was not the case of the appellant that there was any pressure on the estate for the discharge of debts or that the alienations were in fact made for discharge of, or meeting any binding debts, or for meeting the marriage or educational expenses of any member of the family. It was on the basis of this finding that the Tribunal came to the conclusion that the said transactions were made in anticipation of the said Act and the High Court was, in our view, justified in declining to interfere with the same. In the result, the appeal is dismissed save and except for what we have stated regarding the position of alienations prior to 24-1-1971. There will be no order as to costs. Order accordingly.

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