SUPREME COURT OF INDIA

State of A.P.

Vs.

Vatsavyi Kumara Venkata Krishna Verma

C.A.No.272 of 1983

(S.B.Majmudar and M.Jagannadha Rao JJ.)

06.01.1999

ORDER

S.B. MAJMUDAR, J.

1. The State of Andhra Pradesh on grant of special leave to appeal has brought in challenge the judgment and order dated 28.2.1978 rendered by the High Court of Andhra Pradesh in Civil Revision Petition No. 3037 of 1997.

2. A few facts leading to this appeal deserve to be noted at the out set.

3. The respondent was holding some agricultural lands in the State of Andhra Pradesh. These lands were governed by the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Act 1 of 1973) (hereinafter to be referred to as the 'Act'). As per the provisions of the said Act a person who was holding such lands would be entitled to retain possession of lands within the ceiling area permitted by the Act and the excess lands had to be surrendered to the State. The respondent, therefore, tiled a declaration under Section 8(1) of the Act on behalf of his family unit consisting of himself, his wife and two minor unmarried daughters. The Land Reforms Tribunal, Kakinada, by its order dated 12.7.1976 held that the holding of the respondent's unit was 1.6798 Standard Holdings, after excluding certain lands alleged to have been sold by the respondent and his wife under four registered sale Deeds, namely, Ex.A-1 dated 14.10.1971, Ex.A-2 dated 1.10,1971, Ex.A-8 dated 29.9.1971 and Ex.A-14 dated 29.9.1971. As these four transactions prima facie attracted the provisions of Section 7(1) of the Act, an enquiry had to be held as to whether these transactions were required to be disregarded for the purpose of computation of ceiling area of the respondent as per Section 7(1) of the Act. Section 7(1) of the Act reads as under :

7. Special provision in respect of certain transfers, etc. already made: Where on or after the 24th January, 1971 but before the notified date, any person has transferred whether by way of sale, gift, usufructuary mortgage, exchange, settlement, surrender or in any other matter whatsoever, any land held by him or created a trust of any land held by him, then the burden of proving that such transfer or creation of trust has not been effected in anticipation of, and with a view to avoiding or defeating the objects of any law relating to a reduction in the ceiling on agricultural holdings, shall be on such person, and where he has not so proved, such transfer or creation of trust, shall be disregarded for the purpose of the computation of the ceiling area of such person.

4. A mere look at the said provision shows that if any sale, gift, usufructuary mortgage, exchange, settlement or surrender is effected by the holder of the land between 24.1.1971 and the notified date which is defined by Clause (m) of Section 3 of the Act as the one notified under Sub-section (3) of Section 1 being 1.1.1975, then the burden of proving that such transfer or creation of trust had not been effected in anticipation of, and with a view to avoiding or defeating the objects of any ceiling law would be on the holder of such lands. However, as per the provisions of Sub-section (2) of Section 7, any such transactions effected after 2.5.1972 had to be treated as null and void. Consequently, the relevant period for which an enquiry had to be made under Section 7(1) of the Act in connection with the impugned transactions would be between 24.1.1971 and 2.5.1972. In other words, if the disputed sale transactions were effected within this period, a burden was cast on the declarant to show to the satisfaction of the Ceiling authority that such transactions were not effected in anticipation of and with a view to avoiding or defeating the objects of the Act relating to declaration of ceiling area regarding his agricultural holding. Accordingly, the aforesaid four transactions fell for scrutiny of the Ceiling authority in the first instance. The Land Reforms Tribunal, Kakinada by its order dated 12.7.1976 held that these transactions were not effected with a view to avoiding the operation of the Act and therefore, they were not taken into consideration in computing the holding of the respondent. It was held that these four sale transactions were genuine transactions and they were not made with a view to circumvent the provisions of the Act. Consequently, excluding them from consideration, the ceiling area and the surplus holding of the respondent were computed.

5. Being aggrieved by the aforesaid order of the Tribunal, the appellant-State filed an appeal before the Land Reforms Appellate Tribunal, Rajahmundry. The Appellate Tribunal after hearing the parties, came to a different conclusion on facts. By its judgment and order dated 19.8.1977 it allowed the appellant's appeal holding that Ex. A-8 and Ex. A-14 were true transactions and though Ex. A-1 and Ex.A-2 were nominal ones, still all of them ought not to be considered as they were all effected by the respondent and his wife in anticipation of and with a view to avoiding the provisions of the Act. This decision of the Land Reforms Tribunal was carried in revision under Section 21 of the Act by the respondent before the High Court of Andhra Pradesh. A learned Single Judge of the High Court by the impugned judgment in revision disagreeing with the view of the Appellate Tribunal came to the conclusion that the two transactions i.e. Ex. A-l and Ex. A-2 were genuine and that Ex.A-1 & Ex. A-2 were not nominal and the learned Judge thus disagreed with the finding of the Appellant Tribunal. So far as the other two transactions are concerned, agreeing with the view of the Appellate Tribunal that they were genuine it was held that all these transactions, even if they might have been entered into in anticipation of and with a view to avoiding any provisions of the Ceiling law, they had to be excluded under Section 7(1) of the Act they being true transactions. For coming to that conclusion reliance was placed by learned Single Judge of the High Court on two earlier decisions of the said High Court in Ch. Adisesha Reddy v. State of Andhra Pradesh reported in (1977) 2 A.P.L.J. 65 (short Notes) and Authorised Officer (L.R.) v. Venkata Narasayya reported in (1978) I.A.L.T. 112. In other words, according to learned Single Judge of the High Court as the transactions were genuine, nothing further was required to be done and had to be treated to have been entered into not with a view to defeating the provisions of the Ceiling Act. It is pertinent to extract the actual reasoning of the learned Single Judge in this connection.

It is true that in all Ac. 48.52 cents of land in a span of 15 days in the months of September and October, 1971 was sold by the petitioner and his wife, may be that they have entered into the

transactions in anticipation of and with a view to avoid any provision of any ceiling law that might be enacted in future. But that does not matter provided the transactions are true transactions.

6. As a result, the revision petition was allowed and the Appellate Tribunal's decision was set aside and the decision rendered by the Land Reforms Tribunal, Kakinada was restored. It is this decision which has been brought on the anvil of scrutiny of this Court by the State of Andhra Pradesh in this appeal as noted earlier.

7. Learned counsel for the appellant submitted that considering the nature of revision under Section 21 of the Act it was not for the High Court to reconsider the finding of fact arrived at by the Appellate Tribunal in connection with the genuineness of these transactions and also regarding the object with which they were entered into. It was submitted that the Appellate Tribunal had taken the view that out of the four transactions two transactions were genuine and the other two were not genuine but nominal yet all the four transactions were entered into during a period of fortnight by the declarant and his wife with a view to avoiding the operations of the Ceiling law. That it was a pure finding of fact based on evidence led by the declarant before the Land Reforms Tribunal. That there were no such clear recitals in the sale deeds that the transactions were entered into with a view to utilise the sale consideration raised from them for constructing a house at Kakinada. Hence, subsequent oral evidence to that effect was not believed by the final court of facts. That once the appellate court had not accepted that theory, the High Court could not have allowed the revision application by upsetting such a pure finding of fact, exercising jurisdiction under Section 21 of the Act. It was next contended that even on merits, the decision of the High Court cannot be sustained for the simple reason that even if the transactions might be sustained as genuine, as held by the High Court that was not sufficient to avoid the operation of Section 7(1) of the Act as three Judge Benches of this Court in case of Merla Venkata Rao v. State of A.P. and Ors. reported in [1995] Supp. 1 SCC 245 and in the case of State of A.P. v. S.B.P.V. Chalapathi Rao and Ors. reported in: AIR1995SC557 have taken the view that under Section 7(1) of the Act, a declarant is not only to show that the transactions were genuine, but that they were entered into on account of some compelling necessity and that there was no such evidence in the present case especially in view of the fact that the Appellant Tribunal as final Court of facts had held that there was no real need for the declarant to enter into such transactions. Hence the presumption under the Act, that they were entered into in anticipation of and with a view to avoiding or defeating the objects of the Ceiling Act remained unrebutted on record and such a finding reached by the Appellate Tribunal, in any case, could not have been interfered with by the High Court even on merits.

8. Learned counsel for the respondent on the other hand, submitted that though Section 21 of the Act is pan materiel with Section 115 of the CPC the limitation about exercise of jurisdiction under Section 115, C.P.C. may not strictly be made applicable to the provisions of Section 21 of the Act as this Section will have to be read with Rule 17(2) of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 whereunder the A.P. Appellate Side Rules would apply to such revision applications mutatis mutandis. That it has been consistently held by the High Court of Andhra Pradesh that if the decision rendered by the Appellate Tribunal was patently erroneous, it could be set aside by the High Court under Section 21 of the Act, It was emphatically submitted that there was sufficient evidence led by the respondent to show that all these four transactions were backed up by necessity inasmuch as a house had to be constructed at Kakinada by utilising the sale consideration and that the Appellate Tribunal had itself come to the conclusion that out of the four transactions two were genuine. He however fairly submitted that though the High Court has not

clearly held that there was any compelling necessity underlying these transactions, the totality of the evidence which was on record suggested that such a finding was implicit in the High Court's decision. In the alternative, it was submitted that this Court in exercise of powers under Article 136 read with Article 142 of the Constitution may not interfere with the order under appeal.

9. Having given our anxious consideration to the aforesaid rival contentions, the following points arise for our consideration.

(i) Whether the High Court in exercise of its jurisdiction under Section 21 of the Act was justified in interfering with the finding of fact reached by the final court of fact namely, Appellate Tribunal in connection with the genuineness and the necessity for entering into the four impugned sale transactions ?

(ii) Even assuming that it was open to the High Court to examine the correctness of the finding of the Appellate Tribunal regarding these transactions, whether the decision rendered by the High Court can be sustained on merits?

(iii) Whether this is a fit case for our interference under Article 136 read with Article 142 of the Constitution of India?

We shall deal these points seriatim.

Point No. (i)

10. So far as this point is concerned, it will be necessary to note the nature of the jurisdiction conferred by the Legislature on the High Court while exercising revisional jurisdiction. Section 21 of the Act reads as under :

21. Revision: An application for revision from any party aggrieved, including the Government, shall lie to the High Court, within the prescribed period, from any order passed on appeal by the Appellate Tribunal on any of the following grounds, namely:

(a) that it exercised a jurisdiction not vested in it by law, or

(b) that it failed to exercise a jurisdiction so vested, or

(c) that it acted in the exercise of its jurisdiction illegally or with material irregularity.

11. A mere look at the section shows that it is pan materia with Section 115 of the CPC which is identically worded.

12. So far as Section 115 is concerned, the scope and ambit of the revisional jurisdiction under the said Section as conferred on the High Court is now well settled by a series of decisions of this Court. It is obvious that the revisional jurisdiction under Section 115, C.P.C. or for that matter under pari materia provision of Section 21 of the Act is not an appellate jurisdiction and pure finding of fact reached by the court of appeal could not be interfered with. The Court can interfere in revision only when it is satisfied that the findings reached by the court below suffer from any jurisdictional errOrs. In this connection, we may usefully refer to two decisions of this Court. In the case of Hari

Shankar and Ors. v. Rao Girdhari Lal Chowdhury reported in AIR (1963) SC 698, Hidayatullah, J. speaking for two other learned Judges distinguished revisional jurisdiction under Section 115 C.P.C. with revisional jurisdiction under other Acts which conferred wider jurisdiction on the High Court, the following observation in paragraph 7 of the report deserve to be noted in this connection.

7. The distinction between an appeal and a revision is a real one. A right of appeal carry with it a right of rehearing on law as well as fact, unless the statute conferring the right of appeal limits the rehearing in some way as, we find, has been done in second appeals arising under the CPC. The power to hear a revision is generally given to a superior Court so that it may satisfy itself that a particular case has been decided according to law. Under Section 115 of the CPC, the High Court's powers are limited to see whether in a case decided there has been an assumption of jurisdiction where none existed, or a refusal of jurisdiction where it did, or there has been material irregularity or illegality in the exercise of that jurisdiction. The right there is confined to jurisdiction and jurisdiction alone.

13. The same view is reiterated in a later decision of this Court in the case of The Managing Director, (Mig) Hindustan Aeronautics Ltd. and Anr. v. Ajit Prasad Tarway reported in: (1972)ILLJ170SC , wherein a three Judge. Bench of this Court speaking through Hegde, J. clearly stated that the High Court under Section 115, C.P.C. had no jurisdiction to interfere with the order of the first appellate court based on facts or even involving any error of law. It was next observed that it was not the conclusion of the High Court that the first appellate court had no jurisdiction to make the order that it made. The order of the first appellate court may be right or wrong; may be in accordance with law or may not be in accordance with law; but one thing is clear that it had jurisdiction to make that order. It was not the case hat the first appellate court exercised its jurisdiction either illegally or with material irregularity. That being so, the High Court could not have invoked its jurisdiction under Section 115 of the Civil Procedure Code.

14. The aforesaid decisions of this Court clearly clinch the issue in favour of the appellant. So far as the facts of the present case are concerned, it has to be held that while exercising part materia jurisdiction under Section 21 of the Act, the High Court could not have interfered with pure findings of fact reached by the Appellate Tribunal. It cannot be said that the Appellate Tribunal had no jurisdiction to take a contrary view than the view taken by the Land Reforms Tribunal in connection with the legality and genuineness of the said four transactions entered into by the respondent and his wife. The findings of fact reached by the final court of fact could not have been set aside by the High Court exercising jurisdiction under Section 21 of the Act. Learned counsel for the respondent contended that the High Court has acted in a more liberal way and accordingly the decision rendered by the High Court may not be interfered with. That might have been the earlier approach of the High Court but once the question is raised before us we cannot ignore the limited scope and ambit of Section 21 of the Act as enacted by the Legislature.

15. The attempt made by learned counsel for the respondent to enlarge the scope of S.21 of the Act by resorting to rule 17(2) of the A.P. Land Reforms Rules also cannot be of any avail. A mere look at the said rule shows that it deals with the procedure in filing revision applications to the High Court under Section 21 of the Act. Rule 17 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 reads as under:

17. Revision to High Court: (1) The period for filing an application or revision to the High Court shall be ninety days from the date of communication of the order and every such application for revision shall bear a court fee of five rupees, if the value of the proceedings to which the order sought to be received relates, does not exceed Rs. 1000, and of ten rupees if it exceeds Rs. 1000.

(2) The rules issued by the High Court, from time to time for filing applications for revisions before it shall apply mutatis mutandis to an application for revision under the Act."

16. So far as the first part of Sub-rule (1) of Rule 17 is concerned, it deals with the period for filing applications in the High Court and the amount of court fees to be affixed. So far as Sub-rule (2) is concerned, it says that the rules issued by the High Court from time to time for filing applications for revision shall apply mutatis mutandis to the revision under Section 21 of the Act. Therefore, the procedure laid down by the Appellate Side Rules for filing revision application under Section 115,. C.P.C. or under any other Act may apply to revision application under Section 21 of the Act. It is obvious that by such procedural rules, the scope and ambit of Section 21 as enacted by the Legislature cannot either be extended nor can be curtailed. In this connection, we may refer to a decision of the High Court of Andhra Pradesh in the case of K. Rama Rao v. The Authorised Officer, Gudivada, reported in (1978) 2 A.P.L.J. 27 (Short Notes) on which reliance was placed by learned counsel for the respondent. In that case a learned Single Judge of the High Court took the view that once a revision petition was admitted, the petitioner was entitled to urge all the grounds against the order appealed against and the scope of the revision petition cannot be restricted to part of the subject matter or only to certain grounds. In that connection reference was made to Rule 17 of the Rules above referred to. It is difficult to appreciate as to how the said decision can be of any help to learned counsel for the respondent in the facts of the present case. The reasoning adopted in that case by learned Single Judge in overruling the contention about partial admission of revision application rested on the Appellate Side Rules which stated that once the appeal is admitted, it is to be posted for final hearing and that at the stage of admission, it could not be partially admitted. In the present case, we are not concerned with such a situation as the revision application was admitted in accordance with the jurisdiction conferred under Section 21 of the Act. This is not a case of partial admission of the revision application and partial rejection. Hence, the aforesaid decision of the Andhra Pradesh High Court cannot advance the case of the respondent. Even otherwise, it is obvious that whatever the above rule might have said, the jurisdiction of the High Court under Section 21 of the Act is to be culled out from Section 21 itself and the Rules as stated earlier cannot extend that jurisdiction. Consequently, it must be held that the impugned order passed in exercise of jurisdiction under Section 21 of the Act had travelled beyond the limited scope of revisional jurisdiction while it tried to upset the pure findings of fact reached by the final court of fact namely the Appellate Tribunal. Point No. (i) therefore, is answered in favour of the appellant and against the respondent.

Point No. (ii):

17. Having held the point No. (i) against the respondent we proceed to examine the decision of the High Court on merits on the assumption that the High Court was competent to examine the question on merits. That takes to the consideration of this point. So far as this point is concerned, it is to be kept in view that all these four sale deeds were entered into by the respondent and his wife during the relevant period between 24,1.1971 and 2.5.1972. On this aspect there is no dispute between the parties. All these four sale deeds saw the light of the day within a short span of 15 days. Ex. A-1 being registered sale deed dated 14.10,1971 was executed by the respondent in respect of Ac.6.24

cents of wet lands for a consideration of Rs. 13,000 in favour of P.W.I who is none other than the respondent's father. Ex.A-2 is dated 1.10.1971. By this sale deed the respondent is said to have sold Ac.22.83 cents dry land for Rs. 5,000 in favour of respondent witness No. 2. These two transactions entered into by the respondent have been followed by two more transactions entered into by his wife in favour of other vendees. Ex.A-8 is a registered sale deed dated 29.9.1971 in connection with wet lands of Ac.8.57 cents for a sum of Rs. 18,000 executed by the respondent's wife in favour of witness No. 3 and Ex. A-14 is another registered sale deed dated 29.9.1971 executed by the respondent's wife in favour of P.W. 4 in connection with wet lands of Ac.10.88 cents for a consideration of Rs. 20,000. It is pertinent to note that out of all these four transactions three pertained to very highly valued potentially rich wet lands and one was regarding a large chunk of dry land. They were all effected in a span of 15 days spread over between 29.9.1971 and 14.10.1971. The first transaction by the respondent was in favour of his own father. The recital in this transaction shows that the vendee under Ex. A-1 stated that four days prior to this sale he sold his land situated in Chinasankarlapudi village and as this land is contiguous to his own he purchased that from his son. All these transactions were scrutinised by the Appellate Tribunal and it came to the conclusion that the first two transactions entered into by the respondent were nominal in nature and the last two transactions which were entered into by respondent's wife though were genuine were not backed up by any real necessity and therefore, they could be said to have been entered into with a view to circumvent the provisions of the Ceiling Act. In view of the fact that these four transactions were entered into by the respondent and his wife in a span of only 15 days and that too one of them was in favour of the respondent's own father and again three of them pertain to wet lands which are naturally more valuable than dry lands as found by the Appellate Tribunal and by the last one large areas of dry land was tried to be shielded off, they were rightly held to be effected by the declarant and his wife in anticipation of and with a view to avoiding and defeating the provisions of the Ceiling Act. These factual findings cannot be said to be in any way uncalled for or not based on relevant evidence. These findings were clearly supported by evidence on record. The case of the respondent that out of the sale consideration obtained from these four transactions a house was constructed at Kakinada was rightly rejected by the Appellate Tribunal on the ground that the respondent himself had given facility to the vendee of some of the transactions to pay up the consideration money by instalments, spread over years and even the permission to construct the house was obtained years thereafter in 1973-74 and the respondent constructed the house only in 1975. Therefore, there was no real nexus between the sale deeds and the necessity to construct the house. Hence, the finding reached by the Appellate Tribunal that all these four transactions were effected with a view to defeat the provisions of the Ceiling Act cannot be said to be in any way erroneous. Consequently the High Court was not justified in reversing these findings even on merits. In this connection, we may usefully refer to the decisions of three Judge Benches of this Courts in the case of Merla Venkata Rao v. State of A.P. and Ors. reported in: AIR1994SC471 and in the case of State of A.P. v. S.B.P.V. Chalapathi Rao and Ors. reported in : AIR1995SC557 . In the first case, it was held by the Bench in connection with the impugned transactions of sale between 24.1.1971 and 2.5.1972 that the High Court had accepted the conclusion reached by the Tribunal that a large extent of 220 acres of land were 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. On the basis of this finding the High Court held that the transactions in question were made in anticipation of the Act. It has to be shown that during the relevant period when the transactions in questions were effected, they were supported by any real necessity or pressure on the estate for the discharge of the debts or that the alienation were in fact made for

discharge of or meeting any binding debts. Same view was reiterated with approval by a later decision of this Court in S.B.P.V. Chalapathi Rao (Supra). Interpreting Section 7(1) of this Act, the following pertinent observations were made by Kuldip Singh, J speaking for the three Judge Bench.

The provisions of the Act and the U.P. Act are not pan materia, under the U.P. Act where it is proved to the satisfaction of the prescribed authority that the transfer of land in a given case is in good faith, and satisfies other conditions laid down in Clause (b) of the proviso to Sub-section (6) of Section 5, the transfer is valid and cannot be ignored while determining the ceiling area of the landowner. On the other hand, under the Act the bonafide or genuine mature of the transfer or the same being made in good faith has no relevance at all. What is required to be proved under the Act by the landowner is that the transfer was not made in anticipation of and to avoid or defeat the provisions of the Act. *We are of the view that Section 7(1) of the Act not only requires the transfer to be valid and genuine but also makes it obligatory for the transferor to prove that there was some compelling reason to sell the land at that point of time. Some sort of necessity or compulsion to sell the land has to be proved.*

(Emphasis supplied)

18. It is therefore, obvious that before any transaction is upheld under Section 7(1) of the Act, it is to be shown that the transfer was not only genuine but also had to be effected for some compelling reason and was backed up by some sort of necessity. In that case, this Court held that the case of the declarant that the sale had to be affected for establishing a sugar factory did not reveal any compelling necessity so that such transactions can be saved under Section 7(1) of the Act. It is interesting to note that in the impugned judgment learned Judge, as already observed, has taken the view that once the transactions were genuine, they have to be excluded while computing the ceiling area of the respondent. The said finding of the High Court obviously falls foul on the touchstone of Section 7(1) as interpreted by this Court in the case of S.B.P.V. Chalapathi Rao (supra). Learned counsel for the respondent was right when he contended that the aforesaid liberal view of the High Court was holding the field earlier and in this connection he referred to two decisions of the High Court, in Ch. Adisesha Reddy v. State of Andhra Pradesh reported in (1977) 2 A.P.L.J. 65 (Short Notes) and in Authorised Officer (L.R.) v. Venkata Narasayya reported in (1978) I.A.L.T. 112. That may be so, but in the light of the aforesaid decisions of this Court the earlier view of the High Court cannot be said to be well sustained and has to be held as impliedly overruled.

19. Learned counsel for the respondent then invited our attention to the decision of the High Court of Andhra Pradesh in the case of The State of Andhra Pradesh v. Tikkavarapu Balarami Reddy and Anr. reported in (1977) 1 A.P.L.J. 452 to demonstrate the legal position which was holding the field in those days. In that case, Alladi Kuppuswami, J. (as he then was) speaking for the Division Bench in paragraph 5 of the report observed as follows:

5. From a perusal of Section 7(1) of the Act which has been extracted above, it is clear that in the case of alienations effected between 24th January 1971 and the date of notification the burden is upon the declarant to satisfy the Tribunal that they were not effected in anticipation or with a view to avoid or defeat the objects of any law relating to a reduction in the ceiling on agricultural holdings. There is in other words an initial presumption that such alienations were made with a view to avoid or defeat the provisions of the Act. But the Section itself contemplates that such a presumption is rebut able and the burden is placed on the declarant to rebut that presumption. It is

open to the declarant by satisfactory evidence to prove that such alienations were made not with a view to avoid or defeat the provisions of the ceiling law, but in the ordinary course. For example, a declarant may, by cogent evidence satisfy the Tribunal that the alienations were effected by the declarant for discharging a debt, or for performing the marriage of his children, or those dependent on him, or for incurring urgent medical expenses etc. These examples are not exhaustive and are intended only to serve as illustrations to show that the mere fact that the alienations were made after 24.1.1971 does not necessarily mean they were made with intent to defeat or avoid the provisions of the Act but may have been made in the usual course....

20. In the aforesaid decision the High Court upheld sale transactions for setting up of a distillary. In the first part of the passage, so far as the observations on the scope of Section 7(1) of the Act are concerned, they do not appear to be inconsistent with I he ratio of the decisions of this Court as aforesaid. But we cannot agree with the manner in which the said ratio was applied to the facts in that case, merely because a distillary was being set up. Such type of sale transactions were not accepted by this Court in S.B.P.V. Chalapathi Rao's case (Supra) where, in similar circumstances, a transaction of sale for establishing sugar factory was not held to be backed up by any compelling necessity. Consequently, even on merits, it is to be held that no case was made out by the respondent for interference of the High Court with the decision of the Appellate Tribunal. Issue No. (ii) therefore, is also answered in favour of the appellant and against the respondent. That takes us to the consideration of Point No. (iii).

Point No. (in):

21. It is true that this Court is called upon to exercise jurisdiction under Article 136 of the Constitution of India. On the facts of the present case, in our opinion this is not a case where we should refuse to interfere under Article 136 of the Constitution of India as the decision rendered by the learned Single Judge of the High Court is clearly contrary to two decisions of three Judge Bench judgment of this Court in Merla Venkata Rao & S.B.P.V. Chalapathi Rao (supra). On facts, we have found that these transactions in question were entered into in anticipation of and with a view to avoiding and defeating the provisions of the Act as held by the Appellate Tribunal. This finding is found by us to be well sustained on the basis of evidence on record. Once it is so held, it is obvious that any attempt to get out of the sweep of such a legislation like the present which is meant to subserve the common good, cannot be countenanced and by refusing to exercise our jurisdiction under Article 136 of the Constitution of India we cannot put imprimatur on such an illegal act. As held by this Court in the case of Government of Union Territory of Pondicheny v. Mohammed Hussain (Dead) by Lrs. reported in: (1994)5SCC121 the Ceiling Act is a piece of legislation enacted with a view to achieve more equitable distribution of land lor common good so as to subserve the Directive Principles contained in Article 39 of the Constitution of India. The provisions of such a legislation have to be so interpreted as to further the object of the legislation and not defeat the same. Any request on the part of the respondent for our non-interference in the present proceedings would clearly amount to defeating the object of such a beneficial legislation. Point No. (iii) is accordingly answered against the respondent and in favour of the appellant. No question of granting any relief to the respondent under Article 142 of the Constitution of India would survive in this view of the matter.

22. In the result, this appeal is allowed. The judgment and decree of the learned Single Judge of the High Court are set aside and the order of the Appellate Court dated 19.8.1977 passed in L.R.A. No.

707 of 1976 is restored. There will be no order as to costs.