

SUPREME COURT OF INDIA

Appineni Vidyasagar

Vs.

State of Andhra Pradesh

C.A.No.691 of 1999

(B. P. Singh and B. N. Srikrishna JJ.)

02.09.2004

JUDGMENT

B. P. Singh, J.

1. We have heard learned counsel for the parties.
2. The appellant in this appeal has impugned the order of the High Court of Judicature of Andhra Pradesh at Hyderabad in C.R.P.No.152/96 dated 10th February, 1998 whereby the High Court affirmed the order passed by the Land Reforms Appellate Tribunal at Warangal, which in turn affirmed the order of the Additional Revenue Divisional Officer Land Reforms Tribunal at Khammam.
3. The case of the appellant is that he had purchased the land in question under an unregistered sale deed dated 20.2.1957 from one Kondapally Hanumantha Rao. He was in possession of the land in question since the alleged date of sale.
4. A proceeding was initiated against Kondapally Hanumantha Rao under the land ceiling laws as he was found in possession of lands beyond the permissible limit. Kondapally Hanumantha Rao surrendered some lands, as required, but later it was found that the lands surrendered by him included lands which he has validly transferred to third parties. Thereafter, excluding the lands sold to third parties, the surplus lands of Kondapally Hanumantha Rao was determined for being taken over by the State. In that process, the land sold to the appellant was shown as the surplus land of Kondapally Hanumantha Rao.
5. Learned counsel for the appellant submitted that the appellant having purchased the land, though not under a registered sale deed, did acquire title though imperfect. All the same, he was in possession of the land in question and, therefore, according to him, the landlord could not have surrendered the land in possession of the appellant, and he should have been compelled to surrender other lands which were in his personal possession in excess of the ceiling limit. He drew our notice to Section 10(5) of the *A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973* (hereinafter referred to as the 'the Act') and submitted that

since there was an encumbrance on the land in question on account of the unregistered sale deed executed in favour of the appellant, the Tribunal ought to have rejected the surrender made by the landlord of the land in question, and ought to have compelled him to surrender other lands which were not involved in dispute of any kind as contemplated by sub-Section (5) of Section 10 of the Act.

6. The High Court having considered the orders of the Land Reforms Tribunal and the Land Reforms Appellate Tribunal, came to the conclusion that both the Tribunals had fully considered the matter and had reached the right conclusion that the land, of which the appellant may have been in possession for some time, could be surrendered because in the absence of valid transfer of title the land formed part of the holding of the owner. The courts below have also relied upon the judgment of this Court in State of A.P. vs. Md. Ashrafuddin in which it was observed as follows :

7. It is by now well settled that a person in possession pursuant to a contract for sale does not get title to the land unless there is a valid document of title in his favour. In the instant case it has already been pointed out that the transferee came into possession in pursuance of an agreement for sale but no valid deed of title was executed in his favour. Therefore, the ownership remained with the respondent-transferor. But even in the absence of a valid deed of title the possession pursuant to an agreement of transfer cannot be said to be illegal and the transferee is entitled to remain in possession. If per chance he is dispossessed by the transferor, he can recover possession. The transferor cannot file any suit for getting back possession but all the same he will continue to be the owner of the land agreed to be transferred. The respondent, in our considered opinion, satisfies the conditions contemplated by the definition of the term 'holding' and the land transferred by him under a defective title deed will form part of his holding. The High Court, therefore, erred in holding that the land in possession of the transferee cannot be taken to be a part of the holding of the transferor-respondent."

8. We have perused the orders of the Land Reforms Tribunal as well as the Land Reforms Appellate Tribunal and we find no reason to take a different view. It cannot be disputed that the land in question had not been validly transferred in favour of the appellant and, therefore, the erstwhile owner in the absence of a valid sale deed continued to be the holder of the land. The matter has also been examined from another angle, namely, whether the appellant acquired title to the land in question by adverse possession. Even that has been answered against the appellant. In these circumstances, the High Court has rightly dismissed the C.R.P. preferred by the appellant.

9. So far as sub-Section (5) of Section 10 of the Act is concerned, it does not give to the appellant a right to object to a surrender by the holder to the Tribunal of any land comprised in his holding. The Act, no doubt, gives a discretion to the tribunal not to accept surrender of the lands which are involved in disputes. That, however, is a discretion of the Tribunal and has to be exercised by the Tribunal in appropriate cases having regard to the facts and circumstances of each case. Moreover, this submission was neither urged before the High Court nor before the Land Reforms Tribunal and Land Reforms Appellate Tribunal, and

therefore, appellant is not permitted to raise this argument before us for the first time. In the result, we find no merit in this appeal. The same is, accordingly, dismissed.

No costs.

10. Heard learned counsel for the parties for 25 minutes.

11. The appeal is dismissed with no costs in terms of the signed judgment.