SUPREME COURT OF INDIA

Bandaru Satyanarayana

Vs.

Imandi Anasuya

C.A.No.3246 of 2011

(G.S. Singhvi and Asok Kumar Ganguly JJ.)

11.04.2011

ORDER

1. Leave granted.

2. This appeal is directed against order dated 15.11.2007 passed by the learned Single Judge of the Andhra Pradesh High Court whereby he allowed the petition filed by the Respondents under Article 227 of the Constitution of India and set aside the order passed by Appellate Tribunal-cum-Principal District Judge, West Godavari at Eluru (hereinafter described as "the Tribunal") declaring the Appellant as a statutory tenant under the Andhra Pradesh (Andhra Area) Tenancy Act, 1956 (for short, "the Act").

3. Bandaru Perumallu was owner of the land situated at Venkatapuram village. The Appellant is said to have been cultivating that land. After the death of Bandaru Perumallu his daughters (Respondent Nos. 1 and 2) are said to have given on lease another parcel of land situated at Timmaraogudem to the Appellant some time in August, 1985 for the purpose of cultivation. During the subsistence of lease, Respondent No. 1 entered into agreement with Respondent No. 3 for sale of her half share and Respondent No. 2 executed sale deed dated 21.8.1993 in favour of Respondent No. 4.

4. The Appellant filed a petition under Section 16 of the Act for grant of declaration that he is a statutory tenant of the schedule land and Respondents are not entitled to interfere with his possession.

5. Special Officer-cum-Principal Junior Civil Judge, Tadepalligudem (for short "the Special Officer), after analysing the pleadings and evidence of the parties, dismissed the petition filed by the Appellant.

6. By an order dated 25.10.2004, the Tribunal allowed the appeal preferred by the Appellant, reversed the finding and conclusion recorded by the Special Court and held that in view of the judgments Exhibits A-22 and 25, the Respondent is entitled to a declaration that he has acquired the status of a statutory tenant. Paragraphs 18 to 21 of the Tribunal's order which contain detailed reasons are extracted below:

> 18) Even if the land is sold, the rights of the tenancy cannot be wiped out. Tenant will continue even if the ownership is changed. Exs. A-13 to A-16 are said to be the maktha receipts issued by the husband of the 2nd Respondent examined as R.W.1. But, R.W. 1 has denied the same. Of course the said documents are not sent to hand-writing expert for comparison. Hence, the court has to look into other circumstances about the existence of the tenancy. The Petitioner has filed Exs. A-17 to A-19. Ex. A-17 has clearly mentioned about the payment of eight bags of the value and demand for remaining balance. Similarly in Ex. B-18, it is also mentioned about the same. When the Petitioner is not in possession and enjoyment of the property and if he is not attending, what is the need for him to pay bags of paddy or its value thereon. If he is no way connected with the land, what is the need for him to pay. Similarly, it is not their case that the Respondent is looking after the properties on their behalf on account of their relationship. In Ex.A-19, it is clearly mentioned about the raising of bunds and about the bunds on the said land about the promise to cultivate the said land by the husband of Respondent No. 2.
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> 19) The learned Special Officer has failed to look into the letters in detail. He has simply denied to receive the same on the ground that there is no point of tenancy. He has not gone into the contents of the said letters and he has not made any effort to interpret with the same.
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> 20) He has also failed to disbelieve the judgment in O.S. No. 461/94 on the ground that there is no issue with regard to the tenancy. It is very clearly mentioned that the Petitioner is not possession and enjoyment the property as a tenant and denied the injunction sought for by the Respondents herein. Ex.A-25 is also a suit filed by the Respondents herein. O.S. No. 265/96 and the said suit was also dismissed by holding that the Petitioner is in possession and enjoyment of the property.

> 21) The learned Special Officer has relied upon the documents filed by the Respondents before the court though they are subsequent to the petition filed by them. Even otherwise, the Respondents have also not examined any revenue officials to substantiate the said documents. When the Petitioner is in possession and enjoyment of the property and the same is approved by the competent civil courts under Exs.A-22 and A-25, the same cannot be deferred as the said judgments will operate as resjudicata for the plea raised by them that they are in possession and enjoyment of the property. In fact, they are estopped from raising such a plea. The learned Special Officer has filed to appreciate the said aspect and erroneously dismissed the petition. Merely because the ownership is transferred from one to the other, it does not mean that the rights of the tenant are obliterated. Tenant is a tenant till he is duly evicted under due process of law. Even if he is not a tenant, the remedy left open to the Respondents is to file a suit for eviction or for recovery of possession. The documents Exs.A-17 to A-19 have clearly established that he is not an encroacher but he is a tenant on the schedule land. The other documents filed by him have also clearly established that he is a tenant on the petition schedule lands.

7. The learned Single Judge re-appreciated the evidence produced by the parties as if he was hearing an appeal against the order of the Tribunal and set aside order dated 25.10.2004 albeit without even adverting to the two crucial documents i.e. Exhibits A-22 and 25, in which a finding had been recorded by the competent Court that the Appellant was in cultivating possession of the suit land.

8. We have heard learned Counsel for the parties and carefully perused the record.

9. In our view, the order under challenge is liable to be set aside only on the ground that while deciding the revision filed by Respondent No. 1, the learned Single Judge overlooked the limited scope of the supervisory jurisdiction vested in the High Court under Article 227 of the Constitution and ignored the law laid down in Surya Dev Rai v. Ram Chander Rai : (2003) 6 SCC 675 and Shalini Shyam Shetty and Anr. v. Rajendra Shankar Patil: (2010) 8 SCC 329. In Surya Dev Rai v. Ram Chander Rai (supra), the Court considered the parameters for exercise of power by the High Court under Articles 226 and 227 of the Constitution and laid down various principles including the following:

> (4) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their

jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.

(5) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied: (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby.

(7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the abovesaid two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred there against and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

(8) The High Court in exercise of certiorari or supervisory jurisdiction will not convert itself into a court of appeal and indulge in reappreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character.

10. In Shalini Shyam Shetty and Anr. v. Rajendra Shankar Patil (supra), the Court again examined the scope of supervisory jurisdiction of the High Court under Article 227 of the Constitution and laid down several principles, Clauses (c),(d), (g)and (h) whereof are reproduced below:

(c) High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restrain on the exercise of this power by the High Court.

(d) The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in Waryam Singh and the principles in Waryam Singh have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

(h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.

11. In view of the law laid down in the above noted judgments, it must be held that the learned Single Judge committed a jurisdictional error by reversing the finding of fact recorded by the Tribunal that the Appellant was in cultivating possession of the suit land and had acquired the status of a statutory tenant.

12. The appeal is accordingly allowed, the order under challenge is set aside and the one passed by the Tribunal is restored.

13. Leave granted.

14. The appeal is allowed in terms of the signed order.