STATE OF ANDHRA PRADESH ETC. ETC. A

v.

M. LAKSHMI DEVI ETC. ETC.

JANUARY 13, 1993

[LALIT MOHAN SHARMA, CJ AND S. MOHAN AND S.P. BHARUCHA, JJ.] B

Andhra Pradesh Land Reforms (Ceilng on Agricultural Holdings) Act, 1973/Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974: C

Sections 3(i) and 12/Rule 9—Land surrendered by party in possession through part performance of agreement to sell—Whether to revert to owner.

The respondents entered into an agreement to sell land admeasuring 294 acres, to a Sugar Company, and in pursuance thereof handed over possession of the land to the company. The company filed a declaration under the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 declaring surplus land held by it, which included the land in question and this land was surrendered by the company as surplus land. The primary Land Tribunal negatived the contention of the respondents that since the title to the said land had not passed to the company, the respondents remained the owners thereof, and were entitled to the reversion of its possession under section 12(4) of the Act. However, the Andhra Pradesh Land Reforms Appellate Tribunal, accepting the respondents' contention, directed the appellants to hand over the possession of 294 acres of land to the respondents. The Revision Petitions of the State were dismissed by the High Court. D E F

In the appeals before this Court, on behalf of the State-appellants, it was contended that the Appellate Tribunal was in error in directing the appellants to hand over to the respondents possession of the land in question since there had been a surrender of the said land and the appellants were under no obligation to return it to the respondents. G

On behalf of the respondents it was contended that the Act and the Rules framed thereunder obliged the appellants to hand back to the respondents the possession of the land and it was then for the respondents H

A to decide which particular part of their holding they should surrender as surplus, if any, under the terms of the Act.

Dismissing the appeals, this Court,

HELD 1.1. By reason of section 3(i) of the Andhra Pradesh Land
B Reforms (Ceiling on Agricultural Holdings) Act, 1973, the owner is obliged to declare land that he has agreed to sell as his holding, as is the person who is in possession of it through part performance of an agreement of sale. Where that land is surrendered as surplus both by the owner and the party in possession of it, the provisions of section 11 become applicable
C and the land vests in the Government; but where the land is surrendered by the party in possession of it through part performance of an agreement of sale but it is not also surrendered by the owner, the provisions of sub-section (4) of section 12 apply and the possession of the land must revert to the owner. [184C-D]

D 1.2. Under section 12(4), the possession shall revert to the owner subject to such rules as may be prescribed. The relevant rule in this behalf is Rule 9 of the Andhra Pradesh Land Reform (Ceiling on Agricultural Holdings) Rules, 1974. Sub-Rule (1) thereof states that where any land is surrendered or is deemed to have been surrendered under the Act by, *inter*
E *alia,* a person in possession through part performance of a contract for sale, the possession of such land shall, as soon as may be after a seasonal crop on the land is harvested, revert to the owner, except in a case where the owner himself surrender such land as surplus under the provisions of the Act, whereupon it shall vest in the Government free from all encumbrances. Sub-Rule (2) entitles the owner to apply to the Revenue
F Divisional Officer for being put in possession of the land if the party who is in possession of it, *inter alia,* by virtue of part performance of a contract for sale fails to deliver its possession to him. The Revenue Divisional Officer is then obliged, after giving to the party in possession an opportunity of making a representation, to authorise an officer to take posses-
G sion of the land and deliver it to the owner. [184E-G]

1.3. Therefore, having regard to the fact that sub-section (4) of section 12 refers to such rules as may be prescribed and terms of the prescribed rule, the land must revert to the owner. [184H, 185A]

H *State of Andhra Pradesh* v. *Mohd. Ashrafuddin,* [1982] 3 S.C.R. 482;

Yedida Chakradhararao (dead) through his L.Rs. & Ors. etc. **v.** *State of Andhra Pradesh & Ors. etc.,* **[1990] 2 S.C.R. 220, relied upon.** A

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 3187-3193 of 1989.

From the Judgment and Order dated 31.1.89 of the Andhra Pradesh High Court in C.R.P. Nos. 2388, 2391, 2428, 3345, 3418, 3425 and 3426 of 1988. B

C. Sitaramiah, T.V.S.N. Chari, Mrs. Bharathi Reddy, Ms. Pramila and G. Narasimhulu for the Appellants. C

K. Madhava Reddy, B. Kanta Rao and B. Parthasarthy for the Respondents.

The Judgment of the Court was delivered by

D

BHARUCHA, J. These appeals raise an interesting question relating to the interpretation of section 12 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (hereinafter referred to as 'the said Act') The appeals, by the State of Andhra Pradesh, are directed against the judgment and order of a learned Single Judge of the Andhra Pradesh High Court whereby he dismissed the revision petitions filed by E the appellants against the order of the Andhra Pradesh Land Reforms Appellate Tribunal directing the appellants to hand over possession of 294 acres of land to the respondents.

Briefly stated, these are the relevant facts : F

The respondents entered into an agreement to sell the land in appeal, admeasuring 294 acres, to M/s Challapalli Sugar Limited and in pursuance thereof handed over possession of the said land to the said company. The said company filed a declaration under the provisions of the said Act declaring surplus land held by it, which included the said land. The G respondents contended that since the title to the said land had not passed to the said company they remained the owners thereof and were entitled to the reversion of its possession to them under section 12(4) of the said Act. The Primary Land Tribunal held against the respondents but the Appellate Tribunal and the High Court held in their favour. H

A It is necessary to note the provisions of section 3(i) of the said Act which defines "holding" to mean "the entire land held by a person as an owner as a limited owner; as a usufructuary mortgagee; as a tenant; who is in possession by virtue of a mortgage by conditional sale or through part performance of a contract for the sale of land or otherwise ....." section B 12 of the said Act reads thus:

"12. Reversion and vesting of land surrendered :- Where any land is surrendered or is deemed to have been surrendered under this Act by any usufructuary mortgagee or tenant, the possession of such land shall subject so such rules as may be C prescribed revert to the owner.

(2) The owner to whom the possession of the land reverts under sub-section (1) from an usufructuary mortgagee shall be liable to pay the mortgage money due to usufructuary mortgagee in respect of that land with interest at the rate of six per cent per D annum from the date of such revision, and the said land shall continue to be the security for such payment.

(3) The owner to whom the possession of the land reverts under sub-section (1) from a tenant shall be entitled to receive from E the tenant rent due for the period ending with the last crop harvested by such tenant.

(4) Where any land is surrendered or is deemded to have been surrendered under this Act by any person in possession by virtue of a mortgage by conditional sale or through a part F performance of contract for sale or otherwise, the possession of such land shall subject to such rules as may be prescribed, revert to the owner.

(5) The owner to whom the possession of the land reverts under G sub-section (4) shall be liable to discharge the claim enforceable against the land by person in possession : and the land surrendered shall if held as a security, continue to be the security.

(5A) Where any land is surrendered or is deemed to have been H surrendered under this Act by any limited owner, the posses-

sion of such land shall, subject to such rules as may be prescribed; revert to the person having a vested interest in the remainder and such person shall be liable to discharge the claim enforceable against the land by the limited owner; and the said land shall, if held as a security, continue to be the security (Sub-section 5-A is added as per Amendment Act No. 10 of 1977).

(6) Notwithstanding anything contained in this section, where any land surrendered by an usufructuary mortgagee or a tenant or a person in possession referred to sub-section (4), is also a land surrendered by the owner, the provisions of section 11 shall apply."

Section 11 states that where any land is surrendered or is deemed to have been surrendered under the said Act by an owner, the Revenue Divisional Officer may, subject to such rules as may be prescribed, by order, take possession or authorise any officer to take possession of such land, which shall thereupon vest in the Government free from all encumbrances from the date of such order. Section 10(5) entitles a Tribunal to refuse to accept the surrender of any land in the circumstances therein stated.

It was contended by learned counsel for the appellants that the Appellate Tribunal was in error in directing the appellants to hand over to the respondents possession of the aforementioned 294 acres of land. In his submission, there had been a surrender of the said land and the appellants were under no obligation to return it to the respondents.

Learned counsel for the respondents urged, on the other hand, that the said Act and the Rules framed thereunder obliged the appellants to hand back to respondents the possession of the said land and it was then for the respondents to decide which particular part of their holding they should surrender as surplus, if any, under the terms of the said Act.

For our purposes what is relevant is that the said land was surrendered as surplus by the said company, which was in possession of the same by reason of part performance of an agreement of sale with the respondents. Sub-section (4) of section 12 states that "where any land is

A surrendered or is deemed to have been surrendered under this Act by any person in possession.....through a part performance of contract for sale.....the possession of such land shall, subject to such rules as may be prescribed, revert to the owner". The exception that is made to this requirement is set out in sub-section (5) of Section 12 which states that it
B is only when land which is surrendered by the person in possession through a part performance of contract for sale is also surrendered by its owner that the provisions of section 11 shall apply, that is to say, it shall vest in the Government.

It will be remembered that by reason of section 3(i) the owner is
C obliged to declare land that he has agreed to sell as his holding, as is the person who is in possession of it through part performance of an agreement of sale. Where that land is surrendered as surplus both by the owner and the party in possession of it, the provisions of section 11 become applicable and the land vests in the Government; but where the land is surrendered
D by the party in possossion of it through part performance of an agreement of sale but it is not also surrendered by the owner, the provisions of sub-section (4) of section 12 apply and the possession of the land must revert to the owner.

E It will be noted that possession shall revert to the owner "subject to such rules as may be prescribed". The relevant rule in this behalf is Rule 9 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974. Sub-rule (1) thereof states that where any land is surrendered or is deemed to have been surrendered under the said Act by, *inter alia,* a
F person in possession through part performance of a contract for sale, the possession of such land shall, as soon as may be after a seasonal crop on the land is harvested, revert to the owner, except in a case where the owner himself surrenders such land as surplus under the provisions of the Act, whereupon it shall vest in the Government free from all encumbrances. Sub-rule (2) entitles the owner to apply to the Revenue Divisional Officer
G for being put in possession of the land if the party who is in possession of it, *inter alia,* by virtue of part performance of a contract for sale fails to deliver its possession to him. The Revenue Divisional Officer is than obliged, after giving to the party in possession an opportunity of making a representation, to authorise an officer to take possession of the land and
H deliver it to the owner. Having regard to the fact that sub-section (4) of

section 12 refers to such rules as may be prescribed and terms of the prescribed rule, we are left in no doubt as to the correctness of the interpretation that we have placed upon section 12. A

We may mention that this Court in *State of Andhra Pradesh* v. *Mohd. Ashrafuddin*, [1982] 3 SCR 482 and in *Yedida Chakradhararao (dead) through his L.Rs. & Ors. etc.* v. *State of Andhra Pradesh & Ors. etc.*, [1990] 2 S.C.R. 220 had indicated the same interpretation. B

In the result, the appeals fail and are dismissed. No order as to costs.

N.P.V. Appeals dismissed.