

[2010] 14 (ADDL.) S.C.R. 803

SURENDER & ORS.

v.

GADDA BALAIAH & ORS.

(Civil Appeal No. 3054 of 2006)

DECEMBER 7, 2010

[V.S. SIRPURKAR T.S. THAKUR, JJ.]

Land Laws and Agricultural Tenancy:

Dispute as regards occupancy right of protected tenants – Order of single Judge of High Court passed in revision petitions challenged before Supreme Court – HELD: Order of single Judge of High Court set aside – Matter remitted to High Court for decision on the questions formulated by Supreme Court with the consensus of the parties – Though the revision petitions were decided by single Judge of the High Court, keeping in view the importance of the issues and the far reaching implications the same have for the parties, the revision petitions should be heard by a Division Bench to be constituted by the Chief Justice of the High Court – Practice and Procedure.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3054 of 2006.

From the Judgment & Order dated 07.10.2005 of the High Court of Andhra Pradesh at Hyderabad in Civil Revision Petition No. 6708 of 2003.

WITH

C.A. Nos. 4111, 4105 of 2006, 2578, 10330, 10331, 10332, 10334, 10333 of 2010, Conmt. Pet. (C) No. 335 of 2009 in C.A. No. 2578 of 2010, C.A. Nos. 10335, 10336-10337, 10338, 10339 & 10340 of 2010.

I. Venkatanarayana, P.P. Rao, Vishwanatha Shetty, A. Rajan, A. Ramesh, P. Promila, Madhavi, Neelam Jain, C.K.

- A Sucharita, Nirada Das, Promila, Hanumantha Rao, S. Udaya Kumar Sagar, Bina Madavan (for Lawyer's Knit & Co.), Sridhar Potaraju, D. Julius Riamei, Gaichang, A. Ramesh, Madhvi, A.D.N. Rao, Chava Badri Nath Babu, C. Durga Prasad, Nalini Mishra, R.P. Goyal, T.N. Rao, S. Thananjayan, G. Ramakrishna Prasad, B. Suyodhan, Bharat J. Joshi, Tatini Basu, D. Rama Krishna Reddy, T. Anamika, D. Bharati Reddy, Rameshwar Prasad Goyal, John Mathew, Guntur Prabhakar, T.V. George, Sridhar, Potaraju, G.V.R. Choudhary, K. Shivraj Choudhari, A. Chandra Shekhar, P. Venkat Reddy, B. Rama Reddy, Anil Kumar Tandale for the appearing parties.

The following Order of the Court was delivered

O R D E R

1. Leave granted.

- D 2. These appeals arise out of a common order dated 7th October, 2005 passed by a Single Bench of the High Court of Andhra Pradesh dismissing Civil Revision Petition No.1200/2003 filed by the State of Andhra Pradesh while allowing Civil Revision Petition No.6708 of 2003 filed by the respondents, E Gadda Balaiah & Ors. The High Court has in the process set aside order dated 9th December, 2003 passed by the Joint Collector, Ranga Reddy District and restored that dated 28th April, 2001 passed by the Revenue Divisional Officer ("RDO" for short), Chevella Division, Ranga Reddy District.

- F 3. The facts giving rise to the revision petitions filed before the High Court have been set out in the order passed by the High Court and those passed by the RDO and the Joint Collector, District, Ranga Reddy. It is, therefore, unnecessary G for us to repeat the same over and again especially because there are numerous areas in which the factual assertions made by one party are stoutly disputed by the other. The need for a full fledged factual narration is rendered unnecessary also because learned counsel for the parties are agreeable to the impugned order being set aside and the matter being remitted H

back to the High Court for a fresh hearing and disposal in accordance with law. The fact that such an agreement emerged only after the matter had been argued at considerable length underscores the significance of the issues that need to be addressed for a proper disposal of the controversy but have not been so addressed by the High Court in the order impugned. A B

4. Learned counsel for the parties submitted that lest the matters that need to be kept in focus are neglected at the hearing before the High Court it would be proper if specific questions that arise for consideration are formulated to enable the parties to make their submission on each one of those questions and also to enable the High Court to answer the same while disposing of the matter afresh. We had, with that object in view, adjourned the matter to enable the parties to formulate the questions that according to them fall for determination by the High Court. In response several questions have been suggested to us on either side totalling about 40 questions in all. Some of these questions are substantial while some are in the nature of arguments that could be addressed before the High Court. Be that as it may learned counsel for the parties agreed that broadly speaking the following questions arise for determination by the High Court: C D E

1. Whether the respondents or their predecessors were, at any stage, recorded as protected tenants in respect of land measuring 190 acres 17 guntas situate in survey Nos. 35, 36, 37, 40, 42-47, 50-53 of Gachibowli Village, Seralingamapalli Mandal, Ranga Reddy District, Hyderabad or any portion thereof? F
2. Whether the findings recorded by the RDO in his enquiry report dated 27.7.1981 in respect of (a) the status of respondents as protected tenants u/s 37-A and (b) absence of proof of surrender in accordance with Section 19 of the Act, were G H

- A challenged by Kastopa Corporation. If not whether the said findings can be challenged by the successors in interest of Kastopa Corporation?
- B 3. In case, questions No.1 and 2 above, are answered in the affirmative, whether the respondents or their predecessors had validly surrendered their tenancy rights in accordance with the procedure prescribed by law. If so, in which proceedings and qua which survey numbers, was the surrender made?
- C 4. Whether the sale of plots from the year 1986 onwards by M/s. Kastopa Corporation and the protected tenants in favour of the appellants and the petitioners in the concerned SLPs are valid having regard inter-alia to the provisions of the Tenancy Act?
- D 5. Whether the lands covered by protected tenancy rights were liable to be excluded from the holding of Kastopa Corporation under the Ceiling Act and, if they had not been excluded initially, whether the authorities under the Ceiling Act could exclude them subsequently at the instance of the protected tenants or the land holder?
- E 6. Whether there was conversion of the land use for house sites and non-agricultural purposes in respect of the lands in question in accordance with law and if so, what is the effect of such conversion on the rights of the parties and from which date would the conversion be effective?
- F 7. Whether surplus land to an extent of Ac 137.17 guntas in Survey Nos.35, 36, 37, 40, 42 to 47 and 53 of Gachibowli Village had vested in the government under Section 11 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural holdings) Act, 1973 (hereinafter referred to as the
- G
- H

'Land Reforms Act'). If so whether, any transaction by way of sale-deeds or otherwise by the d 'protected tenants' and the 'pattadars' are void ab initio? A

8. Whether the ceiling proceedings had attained finality with the dismissal of the Civil Revision Petition (SR) No.24698 of 1976 by a learned Single Judge of the High Court vide Order dated 28.4.1976. If so whether the same could not be reopened in Writ proceedings and in the absence of necessary parties or in collateral proceedings like Civil Revision Petition No. 3577 of 1997? B C

9. Having obtained a consent order dated 20.9.1999 (Justice A.S. Bhate's order) in Writ Petition No. 14708 of 1999 for grant of rights under Section 38(a) in respect of land in survey numbers 46, 47 and 53 (Paiki) to the extent of 37 acres, whether the respondents could mutually agree for issue of 38-A sale Certificates qua land in survey numbers 51, 52 and part 53 sold to the Petitioners herein for valuable consideration? D E

10. Whether the respondents are entitled to certificates under Section 38-A over Survey Nos. 51, 52 & 53?

5. We make it clear that the formulation of the above questions is by no means exhaustive and that the High Court would be free to either reframe any of the above questions or to frame any further questions that in its opinion arise for its consideration. Needless to say that the parties shall also be free to suggest before the High Court formulation of any further question is relevant and necessary for an effective and final adjudication of the matters in dispute. F G

6. The revision petitions in question were heard by a Single Bench of the High Court of Andhra Pradesh. Learned counsel for the parties submitted and in our opinion rightly so that H

A keeping in view the importance of the issues and the far-reaching implications the same have for the parties it would be appropriate if the revision petitions are placed before a Division Bench constituted by the Hon'ble Chief Justice of the High Court of Andhra Pradesh for hearing.

B 7. Our attention was also drawn by learned counsel for the parties to some applications that have been filed in these proceedings for addition of the applicants as parties. Since the matter is being remitted back to the High Court, we do not consider it necessary to pass any order on the said applications
C except that the applicants shall be free to approach the High Court in this regard in which event the High Court may examine the prayer made by the applicants request in accordance with law.

D 8. In the result we allow these appeals, set aside the impugned order and remit the matter back to the High Court for being heard by a Division Bench of that Court in accordance with law. The parties through their counsel are directed to appear before the High Court on 10th January 2011. This would obviate the necessity of issuing notices to the parties and
E consequent delay in the disposal of the matter. Since the matters are fairly old we request the High Court to expedite the hearing of the revisions and as far as possible dispose of the same by the 30th June, 2011.

F 9. Pending fresh disposal of the revision petitions by the High Court the interim orders passed by this Court on 20th February, 2006 and 22nd September, 2006 directing maintenance of status quo shall continue to remain operative. No costs.

G 10. In the light of what we have directed above, we do not see any reason to proceed further with Contempt Petition No.335 of 2009 in CA No.2578 of 2010 which is hereby disposed of and the rule discharged.

H R.P. Appeals allowed and contempt petition disposed of.