

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

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**CIVIL REVISION PETITION No.2813 of 2000**

**ORDER:**

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This is a civil revision petition under Section 21 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 [‘the Act’ for short] against the order dated 22.02.1997 made in LRA.No.51 of 1996 by the Land Reforms Appellate Tribunal, Warangal.

2. At the outset, it is to be noted that the petitioners 1 to 5 herein and some others had preferred aforementioned LRA having been aggrieved of the orders dated 19.06.1996 of the learned Additional Revenue Divisional Officer, Khammam in CC.Nos.1541, 1542 and 1545/STP/75. The 6<sup>th</sup> petitioner herein is stated to be the legal representative of the deceased 5<sup>th</sup> petitioner-Surapaneni Surya Prakasa Rao.

3. Now the facts necessary for consideration in this revision, in brief, are as follows: - “One Kalluri Joga Rao, S/o.Rajeswara Rao, who is said to be a resident of Ammapalem village in Sattupalli Taluk of Khammam District had filed a declaration under Section 8 of the Act. The said declarant was declared as surplus land holder having surplus land to an extent of 20.3212 standard holdings. Therefore, Form No.VI was issued to the said declarant requiring him to surrender the excess land held by him. Accordingly, he had filed a surrender statement. However, after verification of the said surrender statement, the Tribunal had rejected some of the extents of land sought to be surrendered by the said declarant. Therefore, Form No.VII notice was issued to the said declarant to file alternate surrender statement. Aggrieved of the said notice issued under Form No.VII, the said declarant had filed an appeal before the Land Reforms Appellate Tribunal. The said appeal was dismissed; and the declarant was directed to file an alternate surrender statement within a period of one month i.e, from 30.12.1995 and it was further held by the appellate tribunal that on the failure of the declarant to file an alternate surrender statement within the time allowed, the primary tribunal is

at liberty to proceed with the matter. On the failure of the declarant to file an alternate surrender statement within the stipulated period i.e., on or before 30.01.1996 the Land Reforms Tribunal had suo motu selected the surplus land in various survey numbers to the extent of Ac.941.53 cents equivalent to 20.3212 standard holdings and had issued Form No.VIII on 20.04.1996 for publication calling for objections, if any. Since no objections, within the stipulated time, have been received from anybody pursuant to publication of form VIII, certain lands in various survey numbers of Ammapalem, Penuballi, Gowraram, Tallapenta and Tekulapally were accepted towards surplus lands of the declarant by the Additional Revenue Divisional Officer, Khammam. The RDO, Khammam was requested to issue Form No.IX to the Mandal Revenue Officers, Vemsoor/Penubally for taking possession of the surplus lands. On that the MROs, Vemsoor/Penuballi were directed to take possession of the surplus lands in Form No.X after receipt of Form No.IX from the RDO, Khammam. At that stage, the petitioners 1 to 5 had objected to their dispossession and had inter alia contended that they are in actual physical possession of the lands. In fact in all 299 third parties had filed a batch of appeals in LRA.Nos.45, 51, 52, 53, 56, 60, 62, 65 and 67 of 1996 claiming title and possession over several of the lands that were computed to the holding of the declarant and which were sought to be taken possession towards surplus extents of land possessed by the declarant Jogarao and his major son Rajeswara Rao. Almost all the appellants had contended that they have been in possession and enjoyment of the lands shown in form No.VIII situated at Ammapalem, Penuballi, Gowraram, Tallapenta and Tekulapally villages under their own right and that the said declarant Joga Rao has nothing to do with these lands having parted with the same prior to the passing of the Act. The present revision petitioners and others who are appellants in LRA.No.51 of 1996 had claimed title and possession over several lands situated in Ammapalem village under sada sale deeds and agreements of sale and therefore, their contentions in that regard were not accepted by the appellate tribunal. They had contended that the lands in survey numbers 648, 649 and 915 were the lands covered by Section 37 (A) of the Tenancy Act for which one Gandra Rami Reddy had obtained

ownership certificate under Section 38 (E) of the Tenancy Act and that therefore, the said lands are liable to be deleted from the holding of the declarant Joga Rao and shall not be accepted for surrender. In the above said batch of appeals, the Land Reforms Appellate Tribunal had considered the following point: **whether several of the lands claimed by the appellants in these batch appeals were legally owned and possessed by them and whether these lands shall be deleted from the holding of the declarant and shall not be allowed to be taken possession by the Government towards the surplus extent of land possessed by the declarant Kalluri Joga Rao and his major son Rajeswara Rao**'. The appellate Tribunal had noted that except the appellants in LRA.No.51 of 1996 and LRA.No.60 of 1996, the other appellants are claiming right, title and possession over the respective lands claimed by them only under agreements of sale executed by the declarant Joga Rao directly in their names or in the names of their predecessors in interest and that those appellants have not filed any registered title deeds either to prove their possession over the lands claimed by them. However, we are not concerned in this revision petition about the other cases except LRA.No.51 of 1996. Coming to the present revision petitioners' appeal in LRA.No.51/96, it is to be noted that as far as the lands in survey nos.648, 649 and 915 are concerned, since they were the lands claimed to be held by the protected tenants and as the appellants in LRA.No.51 of 1996 including revision petitioners 1 to 5 had admittedly claimed the said lands through the said protected tenants, as far as lands in survey nos.648, 649 and 915 of Ammapalem are concerned, the Land Reforms Appellate Tribunal had directed the primary tribunal to make a thorough enquiry and allow the said appellants in LRA.No.51/96 to adduce necessary evidence to prove that the lands claimed by them in those survey numbers were in fact covered by Section 38-E certificate said to have been issued under the provisions of the tenancy Act. The appellate tribunal had further directed that in case it is found that those lands are covered by the said proceedings, the same shall be deleted from the holdings of the declarant. Therefore, so far as above survey nos.648, 649 and 915 are concerned, LRA.No.51 of 1996 was partly allowed. However, insofar as the

other lands over which title and possession was claimed under sada sale deeds and agreements of sale, the contentions of the appellants in LRA.51/96 were not accepted. Thus the Land Reforms Appellate Tribunal had allowed LRA.51/96 partly so far as it related to S.Nos.648, 649 and 915 of Ammapalem village and directed that the Primary land reforms Tribunal, Khammam shall not take possession of those lands for the time being and that an enquiry shall be held about the exact extent of lands possessed by Gandra Rami Reddy and identify the lands held by the said protected tenant before proceeding further in relation to the lands in these survey numbers 648, 649 and 915 of Ammapalem village. However, the rest of the appeal was dismissed with costs. Therefore, the revision petitioners are aggrieved and are before this Court.”

4. I have heard the submissions of the learned counsel for the revision petitioners and the learned Government Pleader.

5. Now the point for determination is:

‘Whether the revision petitioners had made out valid and sufficient grounds for allowing the revision and setting aside the common order insofar as it related to the dismissal of LRA.No.51 of 1996 in part?’

6. **POINT:**

6. (a) The introductory facts are stated supra, in detail.

6. (b) The learned Government Pleader supported the order of the Land Reforms Appellate Tribunal and had forcefully contended that since the claim insofar as the lands covered by survey numbers 648, 649 and 915 of Ammapalem village is partly allowed and the claim insofar as the other lands based on sada sale deeds and agreements of sale was not accepted, the order impugned cannot be said to be bad or unsustainable and that the well reasoned order of the Tribunal insofar as it related to dismissal of LRA.No.51 of 1996 in part is sustainable.

6. (c) On the other hand, the learned counsel for the revision petitioners would submit that the appellate tribunal had failed to take note of the fact that patta as well as title was transferred to the petitioners herein from Rajeswara Rao, S/o.Joga Rao., the declarant, in form No.1 dated 09.04.1975 and that the lands in question were registered in their names in the year 1982-85 and that the appellate tribunal had failed to see that after the transfer was made in favour of the revision petitioners, patta was given in their favour by the RDO and the joint Collector, Khammam in Zamabandi and that the names of the petitioners were also entered in the pattadar column of records of MRO, Vemsoor Mandal of Khammam District and that the appellate Tribunal had also failed to see that K. Rajeswara Rao, S/o. Joga Rao filed declaration on 09.04.1975 before the authority concerned for the land admeasuring Ac.50.39 cents and the same is permissible under law and that the said declaration related to sub division no.701, 702, 703, 704, 705, 706, 707, 719, 720, 721 and 795 and that therefore, the appellate tribunal ought to have seen that the petitioners purchased the lands in question from out of the sub division numbers in 704, 705, 706, 707, 719, 720 and 721 in respect of which the lawful pattas were also conferred on the petitioners by entering their names in the pattadar column also and that the authorities concerned had failed to consider an important question that the lands in question are registered and transferred by way of valid pattas and that the revision petitioners are pattadars holding the lands and that they cannot be treated as those falling within the scope of the Land Ceiling Act. The learned counsel for the appellant had further brought to the notice of the Court the details of various purchases said to have been made by the revision petitioners and their right to remain in possession and enjoyment of the lands being claimed by them and had prayed for allowing the revision and remanding the matter for appropriate orders by the primary tribunal after setting aside the impugned orders of the appellate Tribunal insofar as LRA.No.51/96 is concerned. It is also submitted that this Court by orders dated 12.07.2006 had set aside the orders of the primary tribunal insofar as LRA.45/96 is concerned while disposing of CRP.3070 of 1997. The above submission is not disputed by the learned Government Pleader.

6. (d) A careful perusal of the record would show that the main contention of the revision petitioners is that the 1<sup>st</sup> revision petitioner bought lands in S.No.704 in an extent of 3 acres and in S.no.705 in an extent of Ac.3.70 cents on 24.04.1982; 3<sup>rd</sup> revision petitioner had bought Ac.3.00 cents in S.No.704, Ac.1.00 cents in S.No.707 on 24.12.1985; 5<sup>th</sup> revision petitioner bought Ac.10.00 cents in S.No.706 on 30.10.1982; 4<sup>th</sup> revision petitioner bought Ac.1.50 cents in S.No.721, on 15.06.1995 and Ac.1-57.50 cents in S.No.706 on 30.10.1982 and the 2<sup>nd</sup> revision petitioner bought lands in S.No.721 to an extent of Ac.1.70 cents on 15.06.1985 and that all the purchases are by way of registered sale deeds from the permissible holdings of Sri Rajeswara Rao, who is the son of the Joga Rao, the declarant, and the said details of purchases were already entered in pattadar column of the revenue records after the purchasers/revision petitioners had obtained necessary pattas. Therefore, it is inter alia contended that the RDO and the Tribunal had erred in holding that the appellants had purchased lands under unregistered documents like agreements of sale and sada sale deeds and that they can never claim right and title over the lands while in fact the revision petitioners did not base their claim on sada sale deeds and agreements of sale alone but based their claims on valid entries in pattadar columns of revenue records and also on factual contentions, which are permissible under law and that the Land Reforms Appellate Tribunal and the primary tribunal had failed to consider their contentions in proper perspective and had wrongly partly dismissed LRA.51/96 without examining the merits of the contentions of these revision petitioners/appellants in LRA.51/96 independently. In view of the contentions now raised, the claim of the revision petitioners, in the well considered view of this Court, requires to be considered in detail by giving appropriate opportunity to the revision petitioners and they cannot be deprived of the possession of the lands claimed by them by virtue of purchases and pattas obtained by them more particularly when it is their case that no notice was given before passing the orders dated 19.06.1996 by the primary authority in selecting the lands for

surrender pursuant to the holding determined against the original declarant. As much as the petitioners had no opportunity before the primary tribunal and the appellate tribunal had not recorded detailed findings on the independent claims of the revision petitioners and had disposed of the appeal along with other batch of the appeals without going into the merits independently of the claims of the petitioners, this Court deems it appropriate to remit the matter for reconsideration by the primary tribunal. The point is accordingly answered.

7. Accordingly, the order dated 19.06.1996 passed by the primary tribunal and the order dated 22.02.1997 passed by the appellate tribunal insofar as LRA.51/96 are concerned are set aside to the extent the said orders are against the revision petitioners, while maintaining the part of the said order in their favour; and consequently the LRA.51/96 is remitted to the primary tribunal for consideration afresh and passing appropriate orders after giving an opportunity to the revision petitioners in respect of the claims that have been negatived in LRA.51/96.

8. The Civil Revision Petition is allowed to the extent indicated above.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this revision shall stand closed.

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**JUSTICE M. SEETHARAMA MURTI**

25<sup>th</sup> August 2014

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