

APHC010443972023



**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3460]

MONDAY ,THE TENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

CIVIL REVISION PETITION NO: 2634/2023

Between:

Musunuri Satyanarayana

...PETITIONER

AND

Dr Tummala Indira Devi and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.PARTY IN PERSON

Counsel for the Respondent(S):

1.KOTI REDDY IDAMAKANTI

2.ARRABOLU SAI NAVEEN

3.K KOUTILYA

4.

The Court made the following:

HON'BLE SRI JUSTICE NYAPATHY VIJAY
C.R.P.No.2634 of 2023

ORDER:-

This Civil Revision Petition is filed questioning the order dated 19.07.2023 in E.P.No.6 of 2022 in A.T.C.No.2 of 2003 passed by the Principal Junior Civil Judge, Ponnur, whereunder an application filed under Order XXI Rule 32 and Section 151 C.P.C., by the Petitioner seeking to order attachment of the property of respondent Nos.4 and 5; to send them to civil prison and to sell the land to compensate the damages was dismissed.

2. **The introductory facts:** The Petitioner filed A.T.C.No.2 of 2003 under Sections 16 and 15 of the Andhra Pradesh (Andhra Area) Tenancy Act, 1956 (for short 'the Act') against Respondent No.1 alone seeking to declare that the price of the scheduled land i.e. Rs.1,25,000/- per acre is reasonable and the same is accepted by the Respondent and for other consequential reliefs. As per the petition, the husband of Respondent No.1 late Dr.T.Veeraiah, Dr.T.Suryanarayana, Dr.T.Sashagiri Rao and T.Satya Narayana (Retired Engineer) were brothers.

3. The 1st Respondent was given General Power of Attorney by Dr.T.Suryanarayana to manage the properties, while Dr.T.Veeraiah died testate on 04.02.2002. Pursuant to a Will said to have been executed by Dr.T.Veeraiah, the Respondent No.1 succeeded to her husband's share of family properties situated at Mulukuduru and other places and became the absolute owner of the scheduled property. The Respondent No.1, on her behalf and on behalf of Dr.T.Suryanarayana had filed A.T.C.No.5 of 2002 before the Special Officer under the Act, Ponnur against the Petitioner, PamidiKoteswara Rao, V.Ramakrishna, C.Paparaju and others regarding existing lease among them. The Petitioner was said to be cultivating Ac.13.65 cents and as there was threat of dispossession, at the instance of brother-in-law of Respondent No.1 i.e. T.Satyanarayana, a suit O.S.No.174 of 2002 was filed seeking permanent injunction. The Petitioner also filed A.T.C.No.3 of 2002 against Respondent No.1 and her brother-in-law, Dr.T.Suryanarayana, T.Satyanarayana and T.Seshagiri Rao to declare him as cultivating tenant of Ac.13.65 cents.

4. A compromise was said to have been entered in O.S.No.174 of 2002, A.T.C.No.5 of 2002 and A.T.C.No.3 of 2002 jointly between the parties and as per the compromise, the

Respondent No.1 and her brother-in-law, Dr.T.Suryanarayana, got Ac.10.76 cents, which comprises of Ac.7.04 cents in Sy.No.56/2. Ac.0.10 cents in Sy.No.56/3, Ac.0.36 cents in Sy.No.65/5B, Ac.1.89 cents in Sy.No.473/3 and Ac.1.37 cents in Sy.No.25 and the remaining extents of lands situated in other survey numbers fell to the share of T.Satyanarayana and another brother Dr.T.Seshagiri Rao. As per the compromise, Respondent No.1 and Dr.T.Suryanarayana had agreed to permit the Petitioner to continue cultivating the land in Ac.10.76 cents as tenant and pay maktha to Respondent No.1.

5. As per the Petitioner, an extent of Ac.3.37 cents out of Ac.5.39 cents belonging to Dr.T.Suryanarayana was purchased by him and his wife and entire sale consideration was paid to Respondent No.1. The Respondent No.1, out of her share of land to an extent of Ac.5.37 cents, sold away Ac.0.76 cents in Sy.No.473/3 to one Jasti Sree Vani and Ac.0.68 cents in Sy.No.25 to Venendla Ramakrishna and retained the balance extent of Ac.3.93 cents, which is in possession of the Petitioner as tenant. The Petitioner pleaded that Respondent No.1 had offered to sell the scheduled property and he agreed to purchase the same at the rate of Rs.1,25,000/- per acre. Pursuant to the

determination of sale consideration, it was pleaded that the Petitioner was entitled to pay the sale consideration in 10 equal instalments of Rs.49,125/- and accordingly the said amount was paid by Demand Draft No.053831, dated 26.09.2003 drawn in the name of Respondent No.1 as per the provisions of the Act and the sale was deemed to be effective.

6. As the Respondent No.1 was not coming forward to execute sale deed, the Petitioner filed A.T.C.No.2 of 2003 under Section 16 of the Act to declare that the price of the scheduled property at the rate of Rs.1,25,000/- per acre as reasonable and to declare that the Petitioner was entitled to pay balance consideration of Rs.4,42,125/- to Respondent No.1 in 9 equal instalments. During the pendency of the A.T.C., an order of *status quo* was passed in I.A.No.1004 of 2003. During the pendency of the *status quo* order, Respondent No.1 executed registered sale deed regarding Ac.3.47 cents in Sy.No.56/2 and Ac.0.10 cents in Sy.No.56/3 items 1 and 2 of the scheduled property in favour of Respondent Nos.2 and 3 respectively vide registered sale Document No.139/06, dated 03.02.2006. Hence, the relief to declare the registered sale deed in favour of Respondent Nos.2

and 3 as both null and void was also included in the relief of A.T.C.

7. Respondent No.1 filed counter denying the landlord-tenancy relationship and that the Court had no jurisdiction to entertain the application. It was pleaded that after the settlement of dispute between the Respondent No.1 and her brother-in-law, the Petitioner had given up tenancy in April, 2003 and ever since she was in possession and enjoyment of the scheduled property. Thereafter, it was pleaded that the Petitioner had failed to pay Maktha amount for the year 2002-2003 and apart from that, the Petitioner being a retired Mandal Revenue Officer/Tahsildar, took the initiative on behalf of Respondent No.1 to execute the sale deeds in favour of Jasti Sree Vani and V. Ramakrishna as mentioned in the petition.

8. It was further pleaded that though the Petitioner proposed to purchase the scheduled lands and pay the balance Maktha within a short period, the Petitioner was avoiding payment. The Respondent No.1 was said to have been insisting the Petitioner to pay Maktha for the year 2002-2003 and it was in that context, A.T.C.No.2 of 2003 was filed with false allegations. It was contended that at no point of time, Respondent No.1 agreed to

sell the scheduled land to the Petitioner at the rate of Rs.1,25,000/- as there was no negotiation of sale consideration. The amount of Rs.49,125/- paid by the Petitioner by way of a Demand Draft was admitted and it was pleaded that the said amount was adjusted towards the arrears of Maktha payable for the year 2002-2003.

9. The Respondent Nos.2 and 3 also filed their counter denying the allegations and contended that Respondent No.1 cultivated the land in the year 2005-2006 and raised a crop and after execution of the registered sale deed on 03.02.2006, the property was in their possession.

10. The Special Officer under the Act framed the following issues for consideration:

- 1. Whether the petitioner is entitled to the declaration that the price of the scheduled lands ie. Rs.1,25,000/- per acre is reasonable, and the 1st respondent received the 1st Installment of Rs.49,125/- by way of Demand Draft No.053831, dated 26-9-03 and thereby the sale of the scheduled land has become effective or not?*
- 2. Whether the registered sale deed document No.139/06 dated 3-2-06 and the registered sale deed document No.140/06 dated 3-2-06 are null and void?*
- 3. Whether the petitioner is entitled for grant of suitable injunction as prayed for?*

11. On behalf of the Petitioner, P.Ws.1 and 2 were examined and Exs.P.1 to P.20 were marked. On behalf of the Respondents, R.Ws.1 to 8 were examined and Exs.B.1 to B.11 were marked. The Special Officer under the Act allowed the A.T.C on 30.11.2009 declaring the price of the scheduled land at the rate of Rs.1,25,000/- per acre as reasonable and that the sale was effective from the date of payment of the first installment of Rs.49,125/- to Respondent No.1 by the Petitioner and that the balance consideration to be paid in 9 installments. The sale deed in favour of Respondent Nos.2 and 3 dated 03.02.2006 was held to be null and void.

12. Questioning the same, appeals were filed by Respondents herein. Respondent Nos.2 and 3 filed A.T.A.No.2 of 2010, while Respondent No.1 filed A.T.A.No.8 of 2010 before the Principal District Judge-cum-Tenancy Appellate Special Officer under the Act, Guntur. The District Appellate Court after considering the rival submissions allowed the appeals on the ground that the Petitioner had surrendered the tenancy vide orders dated 20.12.2010 and 06.07.2011 respectively.

13. The Petitioner thereafter filed two revisions i.e. C.R.P.No.3591 and 816 of 2011 before this Court questioning the orders passed in the appeals. After consideration, this Court passed a common order on 12.06.2015 upholding the order of the Appellate Authority.

14. The Petitioner thereafter filed SLP(C).Nos.28696-28697 of 2015 before the Hon'ble Supreme Court. The Hon'ble Supreme Court vide its order dated 27.10.2021 granted leave and after hearing the appeals on merits and after considering the provisions under Sections 14 and 15 of the Act, which deal with the procedure for surrender, right of pre-emption and scope of adjudication of dispute under Section 16 of the Act, set aside the common order in Civil Revision Petitions referred above as well as the orders of the District Court in the appeals and the order of the Special Officer under the Act in A.T.C.No.2 of 2003 dated 30.11.2009 was restored.

15. In view of the judgment of the Hon'ble Supreme Court, the Petitioner filed E.P.No.6 of 2022 under Order XXI Rule 32 and Section 151 C.P.C., seeking to punish the Respondent Nos.2, 4, and 5 for intentional violation of the order of attachment of the

property of Respondent Nos.4 and 5 annexed to the property and sent them to civil prison.

16. In the affidavit filed by the Petitioner in support of the E.P, it was pleaded that the Judgment Debtor No.2 and his brother-Rajendra Prasad and his wife by name Pavani are joint family members and had intentionally removed the northern side boundary of the scheduled property for destroying the identity of the property. It was pleaded that the Judgment Debtors having lost their case before the Hon'ble Supreme Court cannot continue to retain possession of the scheduled property and the continuance is to be termed as an act of violation of the Order of Hon'ble Supreme Court. It was also pleaded that the Petitioner was suffering due to the illegal acts of the Respondents from 2005-2006 and as they had unauthorizedly occupied the scheduled property in violation of the *status quo* order and continuing to disobey the order of permanent injunction imposed on them for the last 17 years and also destroyed the identity of the scheduled property by merger of their land into their own land and making it un-useful for paddy cultivation.

17. In the counter filed by Respondent No.2, it was pleaded that in the order of the Hon'ble Supreme Court there is no relief of

possession was taken to the Petitioner and therefore question of violation would not arise. It was also pleaded that a review petition is filed before the Hon'ble Supreme Court and the same is pending for consideration. The counter filed by Respondent No.2 was adopted by Respondent Nos.4 and 5.

18. In the course of enquiry, the Petitioner was examined himself as P.W.1 and Respondent No.2 was examined as R.W.1. The Petitioner marked Exs.B.1 and B.2 i.e. Certified Copy of the Order in A.T.C.No.2 of 2003 and Certified Copy of the Order of the Hon'ble Supreme Court dated 27.01.2021 respectively. No evidence was filed on behalf of the Respondents.

19. The trial Court had dismissed the application on the ground that the order that was granted in favour of the Petitioner was only an order of injunction and as there is no relief of possession, the application was dismissed. Hence, the present revision petition.

20. Initially, the erstwhile counsel for the Respondents on 20.11.2024 through virtual mode submitted that an affidavit would be filed by the party-respondent withdrawing his plea regarding possession of the plaint scheduled property and sought time till 28.11.2024 to enable him to file such affidavit. Subsequently,

there was a change in the counsel and appeal was argued on merits.

21. Heard Sri Musunuri Satyanarayana (party in person) and Sri A.Sai Naveen, learned counsel for Respondent No.2 and Sri Koutilya, learned counsel for Respondent No.5.

22. **Contentions:** The party in person contended that since the order is one for injunction and the injunction being with reference to the date of the institution of the O.P., the brazen continuance of the Respondents in the scheduled property amounts to violation of decree of injunction and the Respondents are liable for punishment under the provisions of Order XXI Rule 32 CPC. It was contended that the trial Court had committed a grave error in not considering this aspect and rejected the application on the ground that no relief of possession was granted in favour of the Petitioner in A.T.C and had virtually validated the illegal acts of the Respondents.

23. Learned counsel for the Respondents contended that since there is no relief of possession in the order of the A.T.C, the application filed by the Petitioner seeking to punish the Respondents for intentional violation is misplaced.

24. Learned counsel for the Respondents also contended that there is no intentional violation of the order since no relief of possession was granted in the order of A.T.C. or in the judgment of the Hon'ble Supreme Court. It was further contended that the continuance of possession is on account of the understanding that the judgments relied upon by the Petitioner and as there is no intentional violation, no case is made out for the Petitioner seeking for punishment of the Respondents for violation.

25. Having considered the rival submissions, the following issue arises for consideration:

a. Whether the Petitioner /D.Hr is entitled to the relief as claimed?

26. **Reasoning:** Having heard the respective counsel, this Court is of the opinion that the rights of the parties are crystallized as on the date of the institution of the case. The relief that was granted to the Petitioner was with reference to his right as on the date of institution of the suit. The fact that the Respondent Nos.2 and 3 in the A.T.C have purchased the scheduled property and have disrupted the possession of the Petitioner was also brought to the notice of the Special Officer under the Act in A.T.C.No.2 of 2003 itself. This fact was also referred to by the Hon'ble Supreme

Court in its judgment in SLP.(C).Nos.28696-28697 of 2015 at Paras 7 and 9. Conscious of the subsequent developments, the Hon'ble Supreme Court restored the order of A.T.C.No.2 of 2003 after setting aside the common order of this Court in C.R.P.Nos.3591 and 816 of 2011 and that the District Court in Appeals in A.T.A.Nos.2 and 8 of 2010.

27. As the order of the Special Officer under the Act was restored, the continuance of the Respondents in possession does not appear to be in consonance with the relief granted by the Hon'ble Supreme Court.

28. Therefore, the brazen continuance of the Respondents in the scheduled property is undoubtedly in violation of the order of A.T.C., as confirmed by the Hon'ble Supreme Court.

29. However, one fact that needs to be considered for imposing punishment under Order XXI Rule 32 C.P.C. is to see whether the violation is intentional or not. The order XXI Rule 32 (1) C.P.C is extracted below:

32. Decree for specific performance for restitution of conjugal rights, or for an injunction.

(1) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an

opportunity of obeying the decree and has wilfully failed to obey it, the decree may be enforced in the case of a decree for restitution of conjugal rights by the attachment of his property or, in the case of a decree for the specific performance of a contract or for an injunction by his detention in the civil prison, or by the attachment of his property, or by both.

30. This aspect whether the violation is intentional or not needs to be considered afresh by the Special Officer under the Act in the light of the judgment of this Court in CRP.No.2636 of 2023.

31. **Result :** Therefore, the order of the lower Court dated 19.07.2023 is set aside and the civil revision petition is allowed. The case is remanded to the Special Officer under the Act to determine the question whether the violation of the order is intentional as required to be established under the provisions of Order XXI Rule 32 and Section 151 C.P.C. The enquiry shall be concluded within a period of six (6) months from today taking into consideration the judgment of the Hon'ble Supreme Court in ***Periyammal (dead) through L.Rs. v. V.Rajamani & another***¹. No order as to costs.

¹ 2025 SCC Online SC 507

As a sequel, pending applications, if any, shall stand closed.

NYAPATHY VIJAY, J

Date: 10.03.2025

KLP