

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.6541 OF 2000

BADIREDDY AVATAR MAHER BABA

Appellant (s)

VERSUS

TALLAPU NAGARAJU (DEAD) BY LRS. AND ORS.

Respondent(s)

(With office report)

Date: 10/12/2008 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE G.S. SINGHVI

For Appellant(s) Ms. Sudha Gupta,Adv.

For Respondent(s)

Mr. Anoop G. Chaudhary, Sr. Adv.

Ms. June Chaudhary, Sr. Adv.

Mr. Manoj Saxena, Adv.

Mr. Rajneesh Kumar Singh, Adv.

Mr. Rahul Shukla, Adv.

Mr. T.V. George, Adv.

Mr. R. Viduthalai, Sr. Adv.

Mr. Veeranjanyulu, Adv.

Mr. M. Vijaya Bhaskar, Adv.

Ms. Indira G., Adv.

Mr. K.V. Jagdish Varan, Adv.

Mr. Saravana Raja, Adv.

UPON hearing counsel the Court made the following
ORDER

Heard learned counsel for the parties.

The appeal is allowed.

No costs.

[Alka Dudeja]

[Savita Sainani]

Court Master

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6541 OF 2000

Badireddy Avatar Maher Baba

...Appellant(s)

Versus

Tallapu Nagaraju (Dead) By L.Rs. & Ors.

...Respondent(s)

O R D E R

1. By an order passed under Section 9 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short 'the Act'), the Land Reforms Tribunal, Kakinada, East Godavari District, decided the surplus area case of Shri Surya Prakasa Rao (deceased), his wife and minor children including the appellant herein and declared that they were holding 1.3560 standard hectares of land in excess of their entitlement. Thereafter, the appellant offered to surrender some parcels of land including the land comprised in survey nos. 14/2 and 13/4 of Tantikonda village. On receipt of the offer of surrender made by the appellant, the Land Reforms Tribunal issued notice in Form-VIII. Respondent no. 1 filed objections to the proposed surrender claiming that the land comprised in survey nos. 14/2 and 13/4 of Tantikonda village had been purchased by him on 23.2.1981 and, therefore, the same could not be surrendered. The Land Reforms Tribunal rejected his objections by observing that in

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view of Section 17(1) of the Act, the transfer made after 1.1.1975 is null and void. Appeal preferred by Respondent No.1 was dismissed by the Land Reforms Appellate Tribunal, East Godavari (Kakinada), by holding that he does not have the locus to file objections because the purchase made by him was hit by Section 17(1) of the Act.

2. Feeling dissatisfied with the appellate order, Respondent No.1 filed Revision under Section 21 of the Act. The High Court approved the view taken by the Land Reforms Tribunal and Land Reforms Appellate Tribunal, that the purchase made by respondent no.1 is violative of Section 17(1) of the Act and dismissed the revision petition. While doing so, the High Court observed that respondent no.1 is a bonafide purchaser and, therefore, the authority should call upon the owner to surrender some other land acceptable to the Tribunal and, thereafter, action may be taken in respect of the land in possession of other persons. Accordingly, the High Court directed that while taking the possession of the land, the authority shall exercise proper discretion under clause (ii) of sub-section (5) of Section 10 of the Act.

3. We have heard learned counsel for the parties.

4. Undisputedly, respondent no.1 purchased the land comprised in survey nos. 14/2 and 13/4 after the appointed date, i.e., 1.1.1975. Therefore, the Land Reforms Tribunal and Land Reforms Appellate Tribunal did not commit any illegality by invoking Section 17(1) of the Act and holding that the transfer was void. This being the position, the appellant is right in contending that respondent no.1 had no right to object to surrender of particular parcels of land by the declarant and the High Court was not justified in giving the impugned direction. The question relating to the locus of a person, who purchased the land after the appointed date,

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was considered by this Court in Appineni Vidyasagar vs. State of A.P. & Ors. [2004(11) SCC 186], and was answered in negative. In that case it has been held that in the absence of a valid transfer of title, the transferee does not have the right to object to a surrender by the holder and Section 10(5) does not confer locus upon him to do so.

5. In view of the law laid down in the afore-mentioned decision, the appeal is allowed. The direction of the High Court to the concerned authority to exercise proper discretion under clause (ii) of sub-section (5) of Section 10 of the Act, while taking possession of the land, is set aside. No costs.

.....J.

[B.N. AGRAWAL]

[G.S. SINGHVI]

.....J.

New Delhi,
December 10, 2008.