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C.A.No. 1168 OF 1998

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1168 OF 1998

MADHAV RAO

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APPELLANT(S)

:VERSUS:

KHUNRU BALAPPA & ORS.

.....

RESPONDENT(S)

O R D E R

This appeal arises out of an order passed by the High Court of Andhra Pradesh, allowing the revision petition preferred by the respondents herein, holding that the proceedings initiated by the appellant under Section 19 of the Andhra Pradesh (Telangna Area) Tenancy & Agricultural Lands Act, 1950, (hereinafter referred to as 'the Act') before the Mandal Revenue Officer, were not within the jurisdiction of the aforesaid Revenue Court, hence, the same could not be entertained by the Mandal Revenue Officer.

The brief facts are that the appellant filed two petitions before the Mandal Revenue Officer on 12.8.1986, by one of which a prayer for eviction of the respondents was made on account of arrears of rent relating to the period from 1982-83 to 1984-85. By means of the second petition the amount of arrears of rent was claimed. The Mandal Revenue Officer by its order dated 22.9.1992 rejected the petition of the appellant for eviction of the respondents on the ground that necessary procedure as prescribed under the law was not followed. But in so far as the other petition claiming the amount of arrears of rent for the period of three years, as indicated above was concerned, the petition was allowed. The present appellant preferred an appeal against the order of the Mandal Revenue Officer rejecting his petition for eviction of the respondents.

It may be mentioned here that the respondents did not prefer any appeal against the order allowing the petition for arrears of rent which the respondents were required to pay. The appeal preferred by the appellant was allowed by order dated 6.2.1993, holding that due procedure as required under the law was followed. Hence, the order passed by the Mandal Revenue Officer was set aside, the petition in regard to the eviction was also allowed. The respondents preferred a revision in the High Court which was allowed in favour of the respondents.

The main contention which seems to have been pressed and considered by the High Court was that the Mandal Revenue Officer had no jurisdiction to entertain the petition and decide the same for eviction of the respondents since it involved a dispute of title between the parties. In this connection it will be relevant to refer to the two provisions of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950. Section 99 of the Act bars the jurisdiction of the Civil Court which reads as under:

"99. Bar of Jurisdiction:- (1) Save as provided in this Act no Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Tahsildar, Tribunal or Collector or by the Board of Revenue or Government.

(2) No order of the Tahsildar, Tribunal or Collector or of the Board of Revenue or Government made under this Act, shall be questioned in any Civil or Criminal Court."

Section 19 of the Act deals with the termination of the tenancy, the relevant parts of which are quoted below:

"19. Termination of tenancy:-

(1) .....

(2) The landholder may terminate a tenancy on the ground that the tenant-

(a)(i) has failed to pay in any year, within fifteen days from the day fixed under the Andhra Pradesh (Telangana Area) Land Revenue Act 1317F for the payment of the last instalment of land revenue due for the land concerned in that year, the rent of such land for that year;  
....."

The fall out of the two provisions quoted above is that the Mandal Revenue Officer would be entitled to and shall have jurisdiction to entertain the petitions only in such matters as may be provided for under the Act, eg. Section 19 of the Act which may involve disputes relating to termination of tenancy of a tenant by the landlord and the disputes decided by the Revenue authorities under the Act. Other matters are entertainable by the Civil Court as the bar of jurisdiction of the Civil Court as provided under Section 99 of the Act would not be attracted in these matters. The High Court while dealing with this question has referred to certain decisions of the Andhra Pradesh High Court. As a matter of fact this legal position is not disputed by the appellant. However, his submission is that a bare denial without there being anything prima facie to substantiate such a plea claiming the title of the land would not by itself oust the jurisdiction of the Revenue Court. It is submitted that where such a plea disputing the title of the landlord is raised, it is the duty of the Court to examine as to whether prima facie there is some substance in such a plea and whether it is a bona fide plea or not before holding that the civil or the Revenue Court will have jurisdiction in the matter.

It is further submitted that in the written statement there is bare denial of the title of the appellant and nothing else is to be found so as to prima facie substantiate such a plea ousting the jurisdiction of the competent court under the provisions of the Act.

In support of his contention learned counsel for the appellant has also referred to a decision of this Court in S. Rama Iyer vs. Sundarasa Ponnappoondar, reported in 1966(3) SCC 474, the relevant part of which is quoted below:

"The Act gives generous protection to cultivating tenants from eviction, and severely restricts the right of landlords to resume possession of their land from their cultivating tenants. In case of disputes between the landlord and the cultivating tenant, the Revenue Divisional Officer is authorised to entertain and decide applications by the landlord for eviction and resumption of possession and by the cultivating tenant for restoration of possession and to impose penalties on the landlord or the tenant for infraction of S.4-B. To attract the jurisdiction of the Revenue Divisional Officer, there must be a dispute between a landlord and cultivating tenant. The existence of the relation of landlord and cultivating tenant between the contending parties is the essential condition for the assumption of jurisdiction by the Revenue Divisional Officer in all proceedings under the Act. The Tribunal can exercise its jurisdiction under the Act only if such relationship exists. If the jurisdiction of the Tribunal is challenged, it must enquire into the existence of the preliminary fact and decide if it has jurisdiction. But its decision on the existence of this preliminary fact is not final; such a decision is subject to review by the High Court in its revisional jurisdiction under s.6-B. The enquiry by the Tribunal is summary, there is no provision for appeal from its decision, and the legislature could not have intended that its decision on this preliminary fact involving a question of title would be final and not subject to the overriding powers of revision by the High Court."

(emphasis given by us)

On the basis of the above observations, the submission is that mere denial of title of the petitioner in a petition for eviction, the Revenue Court is not supposed to take its hands off without any preliminary enquiry into the claim of the title. On preliminary enquiry, if it is found prima facie that a bona fide dispute of title arises for decision, it shall not entertain the application. But where it is found that such a vexatious and flimsy plea is raised mala fide to prolong the litigation and to harass the opponent it would be open for the Revenue Court to proceed to decide the case on merits.

Learned counsel for the appellant has drawn our attention to certain facts and circumstances which, it is submitted, should have been considered while deciding this question by the High Court. It is submitted that the respondents did not choose to prefer any appeal against the order passed on the petition of the appellant claiming arrears of rent for the period with effect from 1982-83 to 1984-85. Learned counsel appearing on behalf of the respondents replied that it had not come to the notice of the respondents that any such order was passed by the Mandal Revenue Officer, hence, no appeal against the aforesaid order was preferred. It is then pointed out by the learned counsel for the appellant that in a proceedings initiated in the year 1980, for succession amongst the tenants themselves, an admission of fact was made that the appellant was the landlord and the respondents have been the tenants. It is submitted that a statement to that effect was made by one of the respondents. Our attention has also been drawn to the order passed in those succession proceedings, after the remand of the matter by which su

cession was allowed as prayed by the respondents, indicating different shares to which the heirs of the deceased tenant were found entitled to, and containing the admission that the appellant Madhav Rao was the owner of the land in question. It is submitted that the above facts are enough to show that the plea raised by the respondents in written statement challenging the title of the appellant is without any substance or any material to prima facie support the plea raised by the respondents.

We feel where it comes to the question of ouster of jurisdiction of a forum, a bare averment unsubstantiated by any iota of evidence or semblance of title, such a plea should bear some minimum scrutiny by the Court so as to come to a conclusion as to whether the plea raised has any substance and in fact any such dispute relating to title of the parties is actually involved or not. Care has to be taken that it may not be found easy to oust the jurisdiction of the competent Court by merely making a bald and bare statement in the face of the material indicating the position to be otherwise. We feel that while considering the matter none of the courts have considered it in that light. The High Court has, though rightly, narrated the position as exists under the law pertaining to the jurisdiction of the Revenue Court where a dispute of title is raised but relevant material does not seem to have been taken into account to scrutinize as to whether the plea raised was only for the sake of raising a plea of jurisdiction of Revenue Court or it was a plea which deserved adjudication on the question of title between the parties. In that view of the matter we feel it appropriate that the High Court may reconsider the matter in the light of the law as indicated in its order but taking into account the other material which has been pointed out to us by the learned counsel for the appellant or any other material which may be referred to by the parties.

In view of the discussion held above, we set aside the order passed by the High Court and remand the matter for consideration afresh by the High Court in the light of the observations made above. There would, however, be no order as to costs.

.....J  
( BRIJESH KUMAR )

.....J  
( ARUN KUMAR )  
NEW DELHI;  
APRIL 22, 2004.

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.1168. OF 1998

MADHAV RAO

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APPELLANT(S)

:VERSUS:

KHUNRU BALAPPA & ORS.

.....

RESPONDENT(S)

(With Office Report)

Date : 21/04/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR

HON'BLE MR. JUSTICE ARUN KUMAR

For Appellant (s)Mr. P.S. Narasimha,Adv.

Mr. Potaraju Sridhar,Adv.

Mr. Ananga Bhattacharya,Adv.

Mr. G. Seshagiri,Adv.

Mr. V.G. Pragasam,Adv.

For Respondent (s)Mrs. K. Sharda Devi,Adv.

UPON hearing counsel the Court made the following

O R D E R

Mr. P.S. Narasimha, learned counsel for the appellant commenced arguments at 3.20 p.m. and had not concluded when the Court rose for the day at 4.00 p.m.

The matter remained part-heard.

(A.S. BISHT) (V.P. TYAGI)

COURT MASTER

COURT MASTER

ITEM NO.101COURT NO.8 SECTION-XIIA

(PART-HEARD)

Date : 22/04/2004 This appeal was called on for hearing today.

CORAM AND APPEARANCE AS ABOVE:

UPON hearing counsel the Court made the following

O R D E R

Mr. P.S. Narasimha, learned counsel for the appellant resumed his arguments at 10.35 a.m. and concluded at 11.20 a.m. Thereafter Mrs. K. Sharda Devi, learned counsel for the respondents argued for about half an hour.

The order passed by the High Court is set aside and the matter is remanded to the High Court

for consideration afresh in light of the observations made in the signed order. There would, however, be no order as to costs.

(A.S. BISHT) (V.P. TYAGI)  
COURT MASTER

COURT MASTER

[Signed order is placed on the file]