

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.586 OF 2000

VASANTHA MALLIKARJUNA SWAMY TEMPLE

Appellant (s)

VERSUS

VALLURI RADHAKRISHNA MURTHY

Respondent(s)

(With office report)

Date: 14/12/2004 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant(s)

Ms. Anjani Aiyagari,Adv.

Mr. B. Sridhar,Adv.

for Mr. K. Ram Kumar,Adv.

For Respondent(s)

Mr. T.L.V. Iyer,Sr.Adv.

Mr. G. Ramakrishna Prasad,Adv.

Mr. Mohd. Wasay Khan,Adv.

UPON hearing counsel the Court made the following

O R D E R

2.20 p.m. to Heard the learned counsel for the parties from 1
1.15 p.m.

The civil appeal is dismissed.

No costs.

[T.I. Rajput]
Court Master

[Shelly Sengupta]
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.586 OF 2000

Vasantha Mallikarjuna Swamy Temple

...Appellant(s)

Versus

Valluri Radhakrishna Murthy

...Respondent(s)

O R D E R

The land belonging to the appellant-Temple was sold to the Union of India for the purpose of constructing Doordarshan Kendra and post office. The

respondent herein claimed to be a tenant over the said land. He was dispossessed

before the land was sold. He approached the Special Officer (Tenancy cases-cum-

second Additional District Munsif) under Section 16 of the Andhra Pradesh (Andhra

Area) Tenancy Act, 1956, stating that he had been illegally and forcefully

dispossessed from the land and claimed his share in the sale price of the said land.

The Special Officer negatived his claim. Aggrieved by the order of the Special

Officer, the respondent filed an appeal before the appellate authority. The appellate

authority accepted his claim and granted forty per cent share in the sale proceeds to

him recording a finding that he was a tenant and was forcefully and illegally

dispossessed. The appellate authority also recorded the finding that he continued to

be in possession of the land as a tenant on the

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date he was dispossessed. Aggrieved by the order of the appellate authority, the

appellant herein approached the High Court. The High Court, by the impugned

order, affirmed the order made by the appellate authority, accepting the findings

recorded therein. Hence, this appeal by special leave.

The learned counsel for the appellant contended that by virtue of Section

82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and

Endowments Act, 1987, [for short, "the Act"], which came into force on 15th May

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1987, the respondent-tenant had lost his tenancy rights and thereafter the land was sold. Hence, granting of any share in the sale proceeds to the respondent was not

correct. According to the learned counsel, both the appellate authority and the High Court committed error in allowing the claim of the respondent.

Per contra, the learned senior counsel for the respondent pointed out to the findings recorded by the appellate authority as well as the High Court and, in particular drew our attention to the statement made by the executive officer on behalf of the appellant that the respondent continued to be in possession of the land as a tenant and that the appellant had received rent even after the coming into force of the Act.

Having considered the submissions made by the learned counsel for the parties and particularly in view of the findings recorded by both the appellate authority and the High Court that the rent was received from the respondent even on 24th January, 1989, as per Exhibit A-3, and in view of the evidence of the executive officer almost admitting the claim of the respondent, we think that the appellate authority and the High Court were right in accepting the claim of the respondent.

Considering the

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facts and circumstances of the case, in our view, it is not a fit case to exercise

jurisdiction under Article 136 of the Constitution of India. Consequently, the ci

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appeal is dismissed.

The Bank guarantee furnished by the respondent in terms of the order of this Court dated 24th January, 2000, shall stand discharged.

No costs.

.....J.

[SHIVARAJ V. PATIL]

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.....J.

[B.N. SRIKRISHNA]

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New Delhi,

December 14, 2004.