



NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.4658 OF 2008

Bikkina Rama Rao & Ors.Appellant(s)

VERSUS

The Special Deputy Tahsildar
(Tribal Welfare)
Kota Ramachandrapuram & Ors. ...Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. This appeal is directed against the final judgment and order dated 24.08.2007 passed by the High Court of Judicature, Andhra Pradesh at Hyderabad in Writ

Appeal No.675 of 2007 whereby the Division Bench of the High Court dismissed the said writ appeal filed by the appellants herein.

2. A few facts need mention hereinbelow for the disposal of the appeal, which involves a short point.

3. The dispute relates to the land measuring around 60 acres comprised in survey Nos.462 and 472 situated at Ganaparavaram village of Buttaigudem Mandal, West Godavari District (hereinafter referred to as “the suit land”). This dispute is governed by the provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 as amended by Regulation 1 of 1970 (hereinafter referred to as “the Regulation”).

4. The claim of the appellants is that they have purchased the suit land vide registered sale deeds dated 29.01.1977 executed by several vendors. However, the State (Special Deputy Collector -Tribal welfare, Kota Ramachandra Puram, West Godavari),

questioned the *bona fides* of the transactions in question and accordingly issued the notices to the appellants alleging therein that since these sale deeds were found executed in contravention of Section 3 (1) (a) of the Regulation by the Vendors and the Vendees (appellants) and, therefore, they were null and void.

5. It is this issue which was probed by the Revenue Authorities by holding an inquiry under the Regulation such as in the first instance, by the Special Deputy Collector by order dated 24.04.1984, thereafter by the Agent to Govt. (as an Appellate Authority) by order dated 27.10.2001 followed by the State (as a Revisionary Authority) by order dated 16.07.2007 and by the High Court in its writ jurisdiction by order dated 02.08.2007 and thereafter in its intra court appellate jurisdiction by the impugned order.

6. Though the appellants contested the issue on facts and in law but it was consequently decided

against the appellants by all the Authorities and the Courts, wherein it was held that the sale deeds in question were executed in contravention of the provisions of Section 3 (1) of the Regulation and, therefore, they are declared null and void.

7. The appellants felt aggrieved by the order of the High Court and have filed the present appeal by way of special leave in this Court.

8. So, the short question, which arises for consideration in this appeal, is whether the Authorities and the Courts were justified in holding that the sale deeds in question are null and void because they were executed in contravention of the provisions of the Regulation.

9. Heard Mr. R. Basant, learned senior counsel for the appellants and Mr. B. Adinaryana Rao, learned senior counsel for the respondents.

10. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow this appeal and while setting aside the impugned order as also the order dated 02.08.2007 passed by the Single Judge, remand the case to the Single Judge (writ court) for deciding the appellants' writ petition afresh on merits in accordance with law.

11. The need to remand the case to the High Court (writ court) has arisen for two reasons.

12. First, the High Court did not examine the case in the context of the definition of the expression "Transfer" as defined in Section 2 (g) of the Regulation; and Second, certain documents filed by the appellants to prove the transactions in question as being legal and not hit by Section 3 of the Regulation as amended with effect from 01.01.1970, were not considered.

13. In our opinion, inquiry on the aforementioned two grounds was also necessary while deciding the legality and validity of the sale deeds in question along with all other issues decided by the Courts below.

14. It is for this reason, we feel that it would be in the interest of justice that the matter be remanded to the High Court (Single Judge-writ court) for deciding the appellants' writ petition afresh on merits in accordance with law on all the issues arising in the case including those mentioned above. The subsequent allottees of the land in question, who made an application seeking their impleadment in the appeal (I.A. No.2/2008) is allowed. They are allowed to become parties in the writ petition. They will also be heard.

15. We, however, make it clear that we have not expressed any opinion on merits having formed an opinion to remand the case though learned counsel for the parties argued several issues arising in the case.

Indeed, we refrained ourselves from going into the issues urged.

16. The High Court (Single Judge-writ court) will, therefore, decide the writ petition on merits strictly in accordance with law uninfluenced by any observations made by this Court, on the issues arising in the case.

17. The appeal is accordingly allowed. The impugned order is set aside.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[DINESH MAHESHWARI]

New Delhi;
May 03, 2019