

A

STATE OF ANDHRA PRADESH

v.

KORUKONDA SURYANARAYANA CHOWDHARY

SEPTEMBER 15, 1995

B

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 :

C

Sections 4 and 7—Agricultural Lands—Ceiling area—Computation of Land sold under compelling necessity to discharge Bank loan—Held, sale not intended to defeat provisions of the Act—Lands sold under other agreements of sale to be included in the holdings of purchaser as well as of owner.

D

Certain lands sold by the tenure holder were included in his holdings for purpose of the Andhra Pradesh Land Reforms (Ceiling on land Holdings) Act, 1973. The tenure holder filed an affidavit stating that the lands under sale deed dated 16.10.1971 were sold under compelling necessity to discharge the loan of the appellant Bank.

E

Allowing the appeal in part, this Court

HELD : 1.1. The sale dated October 16, 1971 was not intended to defeat the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. [747-C]

F

1.2. The lands covered under two other agreements of sale shall be included in the holding of the purchaser as well as the owner as agreement of sale does not divest the rights in the land. The computation shall be made accordingly. [747-D]

G

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8425 of 1995.

From the Judgment and Order dated 25.1.82 of the Andhra Pradesh High Court in C.R.P. No. 935 of 1981.

H

K. Ram Kumar, Ms. Asha Nair, C. Balasubramaniam and T.V.S.N. Chari for the Appellant.

S. Markandeya, Ms. C. Markandeya and Ajay Singh for the Respondent. A

The following Order of the Court was delivered :

Leave granted.

With regard to the lands covered by the sale deed dated October 16, 1971, pursuant to our directions dated 14.8.1995, the respondent has filed documents to establish that he was under compelling necessity to sell the land to discharge the loans taken from the Andhra Bank since the Bank was proceeding against his property for recovering dues payable to the Bank. Therefore, we find that the sale dated October 16, 1971 was not intended to defeat the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. But with regard to the lands covered by the two agreements of sale, in view of the judgment of the Constitution Bench of this Court and also an earlier judgment, the lands covered under those agreements shall be included in the holding of the purchaser as well as the owner as agreement of sale does not divest the rights in the land. The computation shall be made accordingly. B C D

The appeal is accordingly allowed in part. No costs.

R.P.

Appeal allowed.