

CHITTOOR CHEGAIAH & ORS.

v.

PEDDA JEEYANGAR MUTT & ANR.
(Civil Appeal No. 2012 of 2002 & Ors. Etc.)

MARCH 8, 2010

[P. SATHASIVAM AND H.L. DATTU, JJ.]

Andhra Pradesh (A.A.) Tenancy Act, 1956:

ss. 2(c), (f) and 13 – Landlord-tenant relationship – Suit for eviction on ground of non-payment of rent – Resisted on ground of res judicata and permanent lease patta – HELD: In the earlier litigation the High Court had held that it did not have jurisdiction in the matter in view of the special process prescribed in the Act and, that the title with respect to tenancy rights had been perfected owing to adverse possession – These two rulings are not in conflict with each other and are equally binding – Jurisdiction of High Court was ousted only to limited extent with respect to eviction of tenants and possession of property owing to procedure provided under the Act – But the Court continued to have jurisdiction with respect to determination of title to the property and as such held that title of ownership belonged to plaintiffs and defendants had title with respect to tenancy rights on conditions prescribed under the permanent lease patta – Therefore, earlier decision of High Court was merely with respect to tenancy title and would not bar instant eviction proceedings u/s 13 – It cannot be said that a permanent lease would not result in tenant-landlord relationship since it is implied that in such an agreement non-fulfilment of prescribed terms (non-payment of rent in the instant case) would give right to landlord to evict the tenant – The finding of the appellate authority that tenants committed default in payment of rent was rightly affirmed by High Court – Eviction of tenant not interfered with – Code of Civil Procedure, 1908 – s.11 – Res judicata – Deeds and

A *documents – Permanent lease patta – Tenant-Landlord relationship.*

B The suit property, namely, 29 acres 59 cents of land, belonged to respondent no. 1-Mutt. The head of the Mutt granted two permanent leases, and the lessees and their transferees sold the land to one 'MM'. The Mutt filed a suit against 'MM' and pursuant to a compromise during the pendency of the suit the Mutt executed a permanent lease patta dated 11.3.1931 in favour of 'MM' for the entire land. C 'MM' sold 10 acres of the land and the transferee further sold the land to the father of the appellants in CA No. 2012 of 2002, under a registered sale deed dated 25.5.1938. In 1964, the Mutt filed a suit for declaration and possession against the father of the appellants. The suit was decreed. D The consequent appeals bearing AS No. 130 of 1973 and AS No.2413 of 1973 were allowed by the High Court holding that the Court did not have jurisdiction over the matters owing to the special process prescribed under the Andhra Pradesh (AA) Tenancy Act, 1956 and that the title with respect to tenancy rights was perfected owing E to adverse possession. This judgment achieved finality as no appeal was filed thereagainst.

F In the year 1980 the Mutt filed eviction petition bearing ATC No. 35 of 1980 against the appellants and the same was dismissed on 24.8.1987. The appeal filed by the Mutt bearing ATC No. 9 of 1987 was allowed by the Additional District Judge on 3.6.1996. The revision petitions were dismissed by the High Court on 17.11.2000. Aggrieved, the appellants filed the appeals.

G It was contended for the appellants that in view of the permanent lease patta dated 11.3.1931, and the judgment of the High Court in AS No. 130 of 1973, which became final, the Mutt lost the right to recover the land from the appellants and that judgment would operate as res H judicata.

The questions for consideration before the Court were: (i) whether the decision of the High Court in holding that the findings given in A.S. No. 130 of 1973, the earlier judgment on the same subject matter, would not operate as *res judicata*, when in the said decision the High Court had categorically held that the appellants perfected their title by adverse possession in the schedule property?; and (ii) whether a permanent lease would give rise to a tenant-landlord relationship within the meaning of the Andhra Pradesh (AA) Act, 1956 and the High Court was correct in holding that the Mutt was entitled to recover the suit though there was an irrevocable condition in the lease patta dated 11.03.1931 that the Mutt was entitled only for recovery of *theerva* (rent) and not the possession?.

Dismissing the appeals, the Court

HELD: 1.1. The Mutt had approached in appeal to the High Court in A.S. No. 130 of 1973 for declaration of the title of the property in their favour. The High Court in that instance held two things: (1) that the court did not have jurisdiction over the matters owing to the special process prescribed under the Andhra Pradesh (AA) Tenancy Act, 1956 – The court reached this conclusion by examining the Act holding that the relationship of Tenant-Landlord was established, thus confirming the jurisdiction of the Act and ousting the jurisdiction of a Civil Court – and (2) the title *with respect of tenancy rights was perfected* owing to adverse possession. The court went on to determine the title of the property itself and held that since the suit had not been brought within the limitation period of 12 years, the appellants had perfected their title with respect to tenancy rights on the basis of adverse possession. These two rulings are not in conflict with each other, and are equally binding. The jurisdiction of the High Court was ousted only to a limited extent, i.e. with respect to the eviction of the tenants and possession of the

A property, as the procedure for that was provided under the Act. But the Court continued to have jurisdiction with respect to the determination of the title to the property. [Para 16 and 17] [138-A-H; 139-A]

B 1.2. The import of the High Court decision in AS No. 130 of 1973 has been misunderstood while relying on it for the purposes of *res judicata*. The court, in no uncertain terms, held that the title of ownership belongs to the respondents, but the appellants had the title with respect of tenancy rights. This decision was perfected by non-appeal and is binding on the parties. Thus, the appellants are not the owners of the property, but tenants on conditions prescribed under the permanent lease patta dated 11.03.1931. Therefore, the decision of the High Court in AS 130 of 1973 would not bar any proceedings under the Tenancy Act as the issue decided by the court in that instance was merely the tenancy title in favour of the appellants, while the instant case is for eviction of tenants u/s 13 of the Act. [Para 18] [139-B-D]

E *G. Veeraswamy v. Uppardasta Papanna* 1969 An. W.R. 359; *U. Pappanna Sastri v. Naga Venkata Satyavati* AIR 1972 AP 53; *K. Sesharatnamma vs.A. Satyanarayana* 1963 (2) An. W.R. 32, referred to.

F 1.3. The instant proceedings emerging from the ruling of the Illrd Additional District Judge, exercising the powers of Appellate Authority under the A.P. Tenancy Act does not suffer from any legal infirmity as the proceedings are not barred by *res judicata*. [Para 21] [140-C-D]

G 2.1. A person shall qualify to be a landlord under the meaning of the Tenancy Act if he is entitled to evict the tenant. Such entitlement can arise either directly due to the agreement entered into (i.e. by providing the time period of tenancy) or by providing the conditions or terms

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of tenancy violating which the tenant may be evicted u/s 13. There is no reason why a permanent lease which provides terms would not result in a tenant-landlord relationship since it is implied in such an agreement that non-fulfillment of the prescribed terms would give the right to the landlord to evict the tenant. One such term can be payment of periodic rent, which exists in the instant case. Thus, the parties qualify as tenant-landlord and are, thus, amenable to the jurisdiction of the Tenancy Act. [Para 20 and 21] [139-H; 140-A-B]

2.2. In view of categorical finding of the Appellate Authority, which was rightly affirmed by the High Court, that the tenants have committed default in payment of rent from fasli 1372 and never paid rent, they are liable to be evicted as per s. 13 of the Act. There is no reason to interfere in the order of the High Court. [Para 21] [140-D-E]

Case Law Reference:

1969 An. W.R. 359	referred to	para 19
AIR 1972 AP 53	referred to	para 19
1963 (2) An. W.R. 32	referred to	para 19

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2012 of 2002.

From the Judgment & Order dated 17.11.2000 of the High Court of Judicature Andhra Pradesh at Hyderabad in CRP No. 2124 of 1996.

WITH

C.A. No. 2011 & 2014 of 2002

M.N. Rao, K. Ramamoorthy, S. Thananjayan, V. Sridhar Reddy, Abhijit Sengupta, VN Raghupathy, K.L. Sastry, Amit Kr.

A Srivastav, R.V. Kameshwaran, BA Ramagandhan, A. Subhashini V. Rangam, D. Julius Raimei, G. Gangmai, Sridhar Potarju for the appearing parties.

The Judgment of the Court was delivered by

B **P. SATHASIVAM, J.**

Civil Appeal No. 2012 of 2002:

C 1. This appeal is directed against the judgment and order dated 17.11.2000 passed by the High Court of Judicature, Andhra Pradesh at Hyderabad in Civil Revision Petition No. 2124 of 1996 whereby and whereunder the High Court has dismissed the petition filed by the appellants herein.

D Civil Appeal No. 2014 of 2002:

D This appeal is directed against the judgment and order dated 17.11.2000 in Civil Revision Petition No. 2322 of 1996 whereby the High Court has dismissed the petition filed by the appellants herein by following its judgment passed on the same day in C.R.P. No. 2124 of 1996.

E Civil Appeal No. 2011 of 2002:

F This appeal is filed by the appellants who were not parties before the High Court against the judgment and order dated 17.11.2000 passed by the High Court of Andhra Pradesh in C.R.P. No. 2322 of 1996.

G (a) Since the issues which arose in these appeals are similar, they were heard together and are being disposed of by this common judgment. The facts in Civil Appeal No. 2012 of 2002 are sufficient for the disposal of all these appeals. They are as under:

H (b) A property consisting of 29 acres 59 cents in T.S. No.11 and old T.S. No. 507 of Tirupathi town originally

belonged to the Plaintiff - Pedda Jeeyangar Mutt (hereinafter called 'the Mutt') - respondent herein. The then head of the Mutt granted a permanent lease in respect of 12 acres of land to one Kotilingam Subbaraya Chetti under a registered lease deed dated 8.01.1900. He also granted a permanent lease in respect of 15 acres of land to one Shaik Budan Saheb under a registered lease deed dated 29.11.1915. Shaik Budan Saheb sold the leasehold rights in equal halves to Narasimhaiah under a deed dated 01.12.1919 and Mandaram Munikannaiah under a deed dated 19.08.1922. Narasimhaiah sold his half share purchased under deed dated 1.12.1919 to Mandaram Munikannaiah under a registered lease deed dated 19.08.1922. Thus Mandaram Munikannaiah got 15 acres from the said property and out of that he leased out 12 acres of land to Kotilingam Subbaraya Chetti by a registered lease deed dated 06.01.1919. The Mutt filed O.S. No.152 of 1930 on the file of the District Munsif's Court, Tirupathi, against Mandaram Munikannaiah in respect of total land. During the pendency of the suit, there was a compromise and the Mutt executed a registered permanent patta dated 11.03.1931 in favour of Mandaram Manikannaiah for the total land and he sold 10 acres of land to Pappaiah under a registered sale deed dated 21.09.1935 and after his death, his son Polaiiah sold the said land to Chittoor Siddaiah under a registered sale deed dated 25.05.1938. Polaiiah created usufructory mortgage of the property in favour of Chithoor Siddaiah under a registered deed dated 07.06.1937 and eversince he is in possession of the property. On 07.08.1964, the Mutt filed O.S. No. 59 of 1964 before the Sub-Court, Chittoor for declaration and possession which was transferred to Sub-Court, Tirupathi and renumbered as O.S. No. 7 of 1971 and the same was dismissed by the subordinate Judge. Against the said judgment, Chittoor Siddaiah (defendant No.3 in the suit) preferred A.S.No. 130 of 1973 and one S.Veeraswamy Naidu (defendant

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A No.4 in the suit) who was a purchaser from Mandaram
 B Munikannaiah filed A.S. No. 243 of 1973 on the file of the
 C High Court of Andhra Pradesh. The High Court allowed the
 D said appeals. In the year 1980, the Mutt - respondent
 E herein, filed eviction petition bearing A.T.C. No. 35 of 1980
 and the same was dismissed by the Principal District
 Munsif-cum-Special Officer, Tirupathi by order dated
 24.08.1987. During the pendency of A.T.C. No. 35 of 1980,
 the Mutt filed O.S.No. 176 of 1981 on the file of the
 Additional sub-Court, Tirupathi for declaration and
 permanent injunction and the same was disposed of by
 holding that the plaintiff is entitled for declaration as
 permanent owner but without a right to recover possession.
 Against the order passed in A.T.C. No. 35 of 1980, the
 Mutt filed ATC No.9 of 1987 under the A.P. Tenancy Act
 and the same was allowed by the Additional District Judge
 vide order dated 03.06.1996. Aggrieved by the said order,
 the appellants herein filed Civil Revision Petition No. 2124
 of 1996 before the High Court which was dismissed by the
 High Court on 17.11.2000. Following the judgment in Civil
 Revision Petition No. 2124 of 1996, on the same day, the
 High Court dismissed Civil Revision Petition No. 2322 of
 1996. Hence the present appeals have been filed before
 this Court by way of special leave petitions.

F 2. Heard Mr. M.N. Rao, learned senior counsel for the
 appellants and Mr. A.V. Rangam, learned counsel for the
 respondents.

G 3. Before going into the merits of the claim made by both
 the parties, it is useful to refer the definition of "cultivating tenant"
 in Section 2(c) and "landlord" under Section 2(f) of the Andhra
 Pradesh (A.A.) Tenancy Act, 1956 (hereinafter referred to as 'the
 Act'):

Section 2 (c)

H "Cultivating tenant" means a person who cultivates by his

own labour or by that of any other members of his family or by hired labour under his supervision and control, any land belonging to another under a tenancy agreement, express or implied, but does not include a mere intermediary";

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Section 2 (f)

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""landlord" means the owner of a holding or part thereof who is entitled to evict the cultivating tenant from such holding or part, and includes the heirs, assignees, legal representatives of such owner or person deriving rights through him":

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With these statutory definitions and the Mutt having approached the authorities under the Act for eviction of the appellants, let us consider the rival claims. In the earlier part of the pleadings, we have adverted to the case of both the parties, however, it is useful to trace the rival claim briefly hereinafter. As early on 29.11.1915, permanent lease was executed in favour of Sheik Budan Saheeb in respect of 15 acres of land. The suit land was sold by him into two halves one to Shri Narasimhaiah and another to Mandaram Munikannaiah. Narasimhaiah sold his share to Mandaram Munikannaiah by sale deed dated 19.08.1922.

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4. The Mutt granted 12 acres of land on permanent lease to one Kotilingam Subbaraya Chetti in the year 1919 and this land was occupied by Mandaram Munikannaiah. It was pointed out that there is a condition in the lease deed dated 19.11.1915 that those land shall always remain as Modati Eedu (1st Charge) for cist and pay Jodi payable to the Government.

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5. The Mutt filed O.S. No. 152 of 1930 against Mandaram Munikannaiah in respect of the land occupied by him. During the pendency of the suit, there was a compromise and the Mutt executed a registered permanent lease Patta (though not a permanent lease) on 11.03.1931 in favour of Mandaram

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A Munikannaiah for the total extent of land, namely, 29 acres-59 cents. It is useful to refer the terms of permanent lease patta dated 11.03.1931:

B (i) Mandaram Munikannaiah shall enjoy entire schedule property by paying Rs. 25/- to the Mutt from Fasali 1340.

C (ii) In future Mandaram Munikannaiah or his legal heirs can transfer etc. the schedule mention land to any one and such fact shall be intimated to Pedda Jeeyangar the Matadhipathy, and transfer deed shall be got executed with his consent by the transferer.

(iii) The schedule mention land shall always been first Eedu (1st Charge) for the said permanent lease amount.

D (iv) The pedda Jeeyangar alone shall pay the usual jodi, Cess, etc. and cist to Government.

(v) Further Pedda Jeeyangar shall have a right to claim the excess amount paid, if any, to Government from Mandaram Munikannaiah.

E (vi) Mandaram Munikannaiah shall have absolute and unlimited rights in respect of schedule mentioned land and shall enjoy the same as per his wishes in perpetuity.

F (vii) The Pedda Jeeyangar have no manner of right in respect of the land except the right to recover theerva (rent).

G 6. By pointing out the various clauses in the permanent lease, Mr. M.N. Rao, learned senior counsel for the appellants submitted that the Mutt has no right in respect of the property except to recover theerva (rent).

H 7. An extent of land of 10 acres which is a subject matter of the said suit was sold to Pappaiah on 21.09.1935. After the death of Pappaiah, his son Polaiiah became the absolute owner

of the subject matter of the suit property. By registered deed dated 07.06.1937, Polaiah created usufructry mortgage of the property in favour of Chittoor Siddaiah (father of the appellant) and ever since he has been in possession and enjoyment of the property to the knowledge of the Mutt. The materials placed further show that by a registered deed dated 25.05.1938 Polaiah sold the said 10 acres of land to Chittoor Siddaiah.

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8. In order to establish its right, title and possession, the Mutt filed O.S. No. 59 of 1964 before Sub-Court, Chittoor on 07.08.1964 which was subsequently transferred to Sub-Court Tirupathi and re-numbered as O.S. No. 7 of 1971. In the said suit the Mutt is the plaintiff and Thirumala Tirupathi Devasthanam is Defendant No. 1, Defendant No. 2 - Board of Trustees of TTD, Defendant No. 3 - Chittoor Siddhaiah, father of the present appellant and Defendant No. 4 is Veeraswamy Naidu. In the plaint, it was contended that permanent lease deed which was executed in favour of Mandaram Munikannaiah was null and void and the same was barred under Section 29 of the Madras Hindu Religious and Charitable Endowments Act, 1929. On the other hand, in the written statement, it was specifically contended that the subject matter of the land has been perfected by the predecessors of the appellant by adverse possession. On 03.10.1972, the Sub-Court Tirupathi decreed the suit holding that the defendants have failed to pay the rents as tenants and, therefore, they are liable to be evicted. The plea of adverse possession was rejected. The Court also held that Defendant Nos. 3 and 4 (appellants herein) are only entitled to compensation for the improvement effected in the field. Aggrieved by the said judgment and decree, the appellants herein filed appeal A.S. No. 130 of 1973 before the High Court. Defendant No. 4 has also filed an Appeal No. 243 of 1973. The Mutt has filed cross objections. The High Court by a common judgment dated 12.10.1976 held that the appellants have perfected the title in respect of tenancy rights by adverse possession and the suit was filed beyond the period of limitation. The High Court further held that the Act will apply

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A to the facts of the case and observed that it would be open to the parties to take steps as may be open to them under the provisions of the Tenancy Act. With the said observation, the High Court disposed of the appeals and dismissed the cross objections filed by the Mutt. It is important to point out that the judgment of the High Court in the above appeals become final as no appeal was preferred.

9. After the judgment of the High Court in A.S. No. 130 of 1973, nearly after three years the Mutt filed ATC No. 35 of 1980 under the A.P. Tenancy Act against the appellants for eviction on the ground that the appellants herein defaulted in payment of rent from 1373 fasli (1963 onwards). It was highlighted by the appellants by filing reply contending that what was granted by the Mutt in favour of Mandaram Munikannaiah on 11.03.1931 was not a permanent lease but it was only a permanent patta. It was pointed out that the father of the appellants had purchased the suit property by way of registered sale deed dated 25.05.1938 and since then they are in continuous possession and enjoyment of the suit property. Further it was contended that the appellants even otherwise have perfected the title by adverse possession and therefore there is no relationship of landlord and tenants between the Mutt and the appellants. In the same way, the ATC filed by the Mutt is barred by limitation.

10. During the pendency of ATC No. 35 of 1980, the Mutt filed O.S. No. 176 of 1981 on the file of additional Sub- Court Tirupathi for declaration and permanent injunction. The suit was disposed of holding that the plaintiff therein is entitled for declaration as permanent owner but without right to recover possession. Here again, the said finding become final as the Mutt has not challenged the same, however, appeal was filed by the appellant herein against the order of granting injunction by the learned Judge in O.S. No. 176 of 1981. The appeal A.S. No. 75 of 1989, which was also dismissed and second appeal filed by the appellants herein that is S.A. No. 1081 of 2000 is

still pending on the file of High Court of Andhra Pradesh at Hyderabad. A

11. On 24.08.1987, learned Judge dismissed ATC No. 35 of 1980 holding that the appellants perfected title by adverse possession. On 03.06.1996, ATA No. 9 of 1987 filed by the Mutt was allowed without taking note of the dismissal of ATC 35 of 1980 filed by the very same Mutt. In those circumstances, Civil Revision No. 2124 of 1996 was filed by the appellants before the High Court under Article 227 of the Constitution of India. Among the several contentions, the main contention raised by the appellants herein is that the judgment of the High Court in appeal A.S. No. 130 of 1973 became final and the Mutt has lost the right to recover the land from the appellants herein. The judgment would operate as res judicata against the Mutt. However, on 17.11.2000, the High Court dismissed the Civil Revision No. 2124 of 1996 by holding that the relationship of landlord and tenant between the appellants and the first respondent-the Mutt, does not suffer from any legal infirmity, not barred by any res judicata dismissed the revision. As observed earlier, challenging the said order three appeals have been filed before this Court. B C D E

12. Now, we have to consider whether the decision of the High Court in holding that the findings given in A.S. No. 130 of 1973, the earlier judgment on the same subject matter, would not operate as res judicata, when in the said decision the High Court had categorically held that the appellants perfected their title by adverse possession in the schedule property and the suit is barred by limitation. In addition to the same, we have also to consider whether the High Court is correct in holding that the Mutt is entitled to recover the suit lands when there is irrevocable condition in the lease patta dated 11.03.1931 wherein it is stated that the Mutt is entitled only for recovery of theerva (rent) and not the possession. F G

13. The common judgment of the High Court dated 12.10.1973 in A.S. No. 130 and 243 of 1973 with cross H

- A objections are available and placed before this Court as Annexure-P1. After narrating the entire events commencing from permanent lease patta, the High Court came to the conclusion a) the suit for eviction of the appellants and for recovery of possession is not maintainable before a Civil Court
 B b) a proceeding in that direction is maintainable only before the statutory designated authority under the Andhra Pradesh Tenancy Act, 1956 c) the suit is barred by limitation and d) the appellants have perfected their title to the suit properties with respective tenancy rights.

- C 14. Res Judicata is defined under Section 11 of the Code of Civil Procedure [CPC] as under:

D "No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court."
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Explanation I- The expression "former suit" shall denote a suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.

- F Explanation II.- For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

- G Explanation III.- The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

H Explanation IV.- Any matter which might and ought to have been made ground of defence or attack in such former suit

shall be deemed to have been a matter directly and substantially in issue in such suit. A

Explanation V.- Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused. B

Explanation VI- Where persons litigate bona fide in respect of public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating. C

Explanation VII.- The provisions of this section shall apply to a proceeding for the execution of a decree and reference in this section to any suit, issue or former suit shall be construed as references, respectively, to proceedings for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree. D

Explanation VIII.-An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in as subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised. E

From the above, it is clear that a court is barred from entertaining an issue which has already been decided previously by any court of law. F

15. The appellants in the present case have argued that the decision of the High Court in A.S. No. 130 of 1973 fully resolved the issues arising in the present case and, thus, would bar their agitation now. In order to determine this question, we must look closely at the decision of the High Court and see what the Court actually held. G

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A 16. The Mutt had approached in appeal to the High Court
in A.S. No. 130 of 1973 for declaration of the title of the
concerned property in their favour. The Court held that it did not
have jurisdiction to entertain a suit for possession against the
defendants owing to the A.P. Tenancy Act, 1956. It was held
B that it was the Tahsildar acting under the Act who was
competent to entertain such matters relating to the termination
of tenancy and the eviction of the cultivating tenant. The court
reached this conclusion by examining the Act holding that the
relationship of Tenant-Landlord is established, thus confirming
C the jurisdiction of the Act and ousting the jurisdiction of a Civil
Court. Nevertheless, the court went on to determine the title of
the property itself. Arguments were raised that the permanent
lease or patta entered into would be in violation of Hindu
Religious Endowments Act, and thus be infructuous. It was
D pointed out that the permanent lease deed 29.11.1915 is ab
initio void as sanction was not obtained from the Endowment
Authorities as prescribed under the Madras Hindu Religious
and Charitable Endowments Act, 1929 which prohibits any
alienation, lease, sale or mortgage exceeding five years and
E the appellants who had purchased in good faith and continuing
in possession without any interruption since 1931, have
perfected their title by adverse possession. The court on this
point held that since the suit had not been brought within the
limitation period of 12 years, the appellants had perfected their
title with respect of tenancy rights on the basis of adverse
F possession.

17. Therefore, the High Court in that instance held two
things, (1) that the court did not have jurisdiction over the
matters owing to the special process prescribed under the
G Tenancy Act; and (2) the title with respect of tenancy rights was
perfected owing to adverse possession. These two rulings are
not in conflict with each other, and are equally binding. The
jurisdiction of the High Court was ousted only to a limited extent,
i.e. with respect to the eviction of the tenants and possession
H of the property, as the procedure for that was provided under

the Act. But the Court continued to have jurisdiction with respect to the determination of the title of the property. A

18. The appellants seem to have misunderstood the import of the High Court decision while relying on it for the purposes of res judicata. The court, in no uncertain terms, held that the title of ownership belongs to the present respondents, but the present appellants had the title with respect of tenancy rights. This decision was perfected by non-appeal and is binding on the parties. Thus, the present appellants are not the owners of the property, but tenants on conditions prescribed under the permanent lease patta dated 11.03.1931 mentioned above. Thus, we hold that the decision of the High Court in 1973 would not bar any proceedings under the Tenancy Act as the issue decided by the court in that instance was merely the tenancy title in favour of the appellants, while the present case is eviction of tenants under Section 13 of the Act. B
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19. Coming to the next question, it has to be determined whether a permanent lease gives rise to a tenant-landlord relationship within the meaning of the Act. The appellants have relied upon *Chinnappa Reddy, J.'s opinion in G. Veeraswamy v. Uppardasta Papanna*, 1969 An. W.R. 359, where it was held that the Act applies only to tenancy agreements and not to permanent tenancies. We must also note two other opinions regarding the interpretation of the application of the Act. In *U. Pappanna Sastri v. Naga Venkata Satyavati*, AIR 1972 AP 53, the Court placed reliance on *K. Sesharatnamma v. A. Satyanarayana*, 1963 (2) An. W.R. 32. It was held that the pre-condition for establishing the tenant-landlord relationship is that the landlord should have reserved for himself the right to evict the tenant. E
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20. Thus, a person shall qualify to be a landlord under the meaning of the Act if he is entitled to evict the tenant. Such entitlement can arise either directly due to the agreement entered into (i.e. by providing the time period of tenancy) or by providing the conditions or terms of tenancy violating which the H

- A tenant may be evicted under Section 13. We find no reason why a permanent lease which provides terms would not result in a tenant- landlord relationship since it is implied in such an agreement that non fulfillment of the prescribed terms would give the right to the landlord to evict the tenant. One such term can be payment of periodic rent, which exists in the present case. Thus, the respondents in the present case do qualify as landlords.

21. For the aforementioned reasons, we hold that the present proceedings emerging from the ruling of the IIIrd Additional District Judge, Tirupathi, exercising the powers of Appellate Authority under the A.P. Tenancy Act does not suffer from any legal infirmity as the proceedings are not barred by res judicata. Furthermore, the parties qualify as tenant-landlord and are, thus, amenable to the jurisdiction of the Tenancy Act. In view of categorical finding of the Appellate Authority that the tenants have committed default in payment of rent from fasli 1372 and never paid rent, they are liable to be evicted as per Section 13 of the Act which was rightly affirmed by the High Court. We thus find no reason to interfere in the order of the High Court, consequently, all the three appeals are dismissed with no order as to cost.

R.P.

Appeals dismissed.