REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). _____OF 2021
(Arising out of SLP (C) NO(S). 28696-28697 OF 2015)

MUSUNURI SATYANARAYANA ...APPELLANT(S)

VERSUS

DR. TIRUMALA INDIRA DEVI & ORS. ...RESPONDENT(S)

ORDER

S. RAVINDRA BHAT, J.

1. Special leave granted. With consent of counsel for the parties, the appeals were heard finally. The appellant is aggrieved by an order of the High Court of Judicature at Hyderabad for the State of Andhra and Telangana[1] dismissing his revision petitions.

2. The appellant (hereafter called "Musunuri Satyanarayana") had approached Andhra Pradesh Tenancy Tribunal (hereafter "the tribunal") claiming various reliefs under Section 16 (1) of the Andhra Pradesh Tenancy (Andhra Area) Act (hereafter "the Tenancy Act") i.e. for declaratory relief that the price of the schedule land i.e., ₹ 1,25,000/per acre is reasonable and stood accepted by the first respondent (hereafter "Indira Devi") by receiving the first instalment of ₹ 49,125/- by demand draft; that he was entitled to pay the balance sale price of

[1] Dated 12.06.2015 in CRP No. 816/2015 and CRP No. 3591/2015

₹ 4,42,125/- to Indira Devi in nine instalments; for a declaration that two registered sale deed documents[2] (hereafter "the impugned sale deeds") executed by Indira Devi in favour of the second and third respondents (collectively called here as "contesting respondents" or "purchasers") are void and for injunction against the respondents to prevent them from interfering with his possession and tenancy of the petition schedule lands. The tribunal granted the reliefs; the appellate authority (District Judge) upset that order and the High Court affirmed the District Judge's order, dismissing the appellant's revision petitions.

3. Indira Devi's husband -late Dr. T. Veeraiah- had three brothers Dr. T. Suryanarayana, Dr. T. Seshagiri Rao and T. Satyanarayana a retired Engineer (R&B). T. Suryanarayana and T. Seshagiri Rao were settled in the United States of America. T. Satyanarayana also used to be in the USA for some time; he returned to Hyderabad to his daughter's house. After the death of their father Narasaiah, the said four brothers got landed properties. Dr. T. Suryanarayana appointed Indira Devi as his general power of attorney. Her husband, T. Veeraiah died intestate on 04-02-2002. In terms of his will, his share of the properties devolved on Indira Devi. These properties were situated at Mulukuduru and other places. After her husband died, Indira Devi became the absolute owner of all the properties, and she was a land lady within the meaning of the provisions of Tenancy Act. Indira Devi, for herself and on behalf of Dr. T. Suryanarayana (as his general power of attorney) filed A.T.C.No.5/02 on the file of Special Officer, Ponnur against the appellant, one Pamidi Koteswara Rao, Vezendla Rama Krishna, Chakravarapu Papa Raju, her brother, her brother-in-law T. Satyanarayana and Marupudi Gnana Prasada Rao Under Section 16(1) of the Tenancy Act to declare that the lease between the appellant and the other respondents relating to the appellant's 2/4th share in agreed *maktha*[3] due for the

[2] Nos. 139/06 dated 03-02-06 and the registered sale deed document No. 140/06, dated 03-02-06
[3] Agreed rent, either in cash or in kind, in the form of a measure of agricultural produce.

years 2002-2003 and in future either to T. Satyanarayana or to Marupudi Gnana Prasada Rao.

4. The appellant alleged that he was cultivating 13.65 acres and the respondents 2 and 4 (in the petition) were cultivating 4.17 acres, 1.37 acres and 1.00. acre respectively. The appellant filed a suit[4], for grant of permanent injunction against Ari Venkateswara Rao and 6 others who at the instance of T. Satyanarayana were interfering with his tenancy rights in the said land of 13.63 acres which includes the above schedule land of 3.93 acres. The appellant also filed A.T.C. No. 3/02 against Indira Devi, her brother-in-law Dr. T. Suryanarayana represented by his G.P.A. (Indira Devi) T. Satyanarayana and T. Seshagiri Rao for declaration that he was the cultivating tenant of those 13.65 acres and that the tenancy was subsisting. Interim injunction restraining the respondents from interfering or causing obstruction with his tenancy rights in the said lands too was sought.

5. It was alleged further that during pendency of the suits (O.S.No.174/02, A.T.C.5/02 and A.T.C.3/02) a compromise took place between all the parties (i.e. Indira Devi, and her brother-in-law Dr. T. Suryanarayana and the appellant). The said two parties got their share of 10.76 acres (which comprises of 7.04 acres in D.No.56/2, 0.10 acres in D.No.56/3, 0.36 acres in D. No. 65/5B, and 1.89 acres in D.No.473/3; 1.37 acres in D. No. 25). The remaining extents of lands situated in other survey numbers fell to the share of T. Satyanarana and another brother Dr. T. Seshagiri Rao. It was agreed by Indira Devi and T. Suryanarayana that the petitioner would continue to cultivate the said land 10.76 acres as a tenant and pay *maktha* to Indira Devi.

6. The appellant urged that he and his wife purchased 3.37 acres out of 5.39 acres belonging to T. Suryanarayana and the entire sale consideration was paid to his G.P.A. Indira Devi, who, out of her land of 5.37 acres sold 0.76 acres in D.

[4] O.S.No. 174/02

No. 473/3 to Jasti Sree Vani and 0.68 acres in D.No.25 to Venedla Rama Krishna, retaining with her schedule land of 3.93 acres- which was in the appellant's possession. As cultivating tenant of the said schedule land, the appellant incurred heavy expenditure and could complete the transplantation of paddy crop in the schedule land in the end of last month only, and regularly paid the agreed *makthas* without defaulting payments of cash amounts. It was alleged that when the appellant wished to purchase the agreed land, Indira Devi threatened that she would sell the land to others in case he did not pay the entire sale consideration at once and obtain registered sale deed from her. The price determined for the schedule land was @ ₹ 1,25,00/- per acre. He also alleged that as the price of the schedule land was determined, he was entitled to pay the sale consideration in ten equal instalments of ₹ 49,125/- to Indira Devi one of such instalment was paid by way of a demand draft drawn on Syndicate Bank, Mulukuduru in her name and that the sale was deemed to have been effective. Consequently, the balance consideration was payable in instalments upon terms agreed by the parties.

7. Indira Devi resisted the proceedings; *pendente lite,* an interim order was made restraining alienation, which was extended from time to time and was in force till 14-02-06. In violation of the interim order and of Section 15 of Tenancy Act, Indira Devi sold 3.57 acres (which consists of 3.47 acres cents in D. No. 56/2 and 0.10 acres in D. No. 56/3 of Mulukuduru village, i.e. items 1 and 2 of the petition schedule property) to the second respondent (Gorijavolu Srinivasa Rao- hereafter "GS Rao") by Registered sale deed No.139/06, dated 03-02-2006 and 0.36 acres in D. No. 6515 B of the same village (item No.3 of the petition schedule property) to third respondent Undrakonda Rama Rao ("U.R. Rao" hereafter)[5] by a Registered Sale Deed No. 140, dated. 03-02-06. It was further alleged that the respondents, encroached and disturbed crop heaped in the said land of 3.47 acres committing theft of the paddy of about 110 bags for which the appellant lodged

[5] The second and third respondents are collectively referred hereafter, as "the contesting respondents"

a report to the Ponnur police station. The sale of the lands by Indira Devi, were therefore illegal; the impugned sale deeds were alleged to be invalid and void under law.

8. Indira Devi's stand, in her reply was of denial; she alleged that when a compromise took place between the parties, the appellant, by an oral agreement, gave up his tenancy in respect of the lands of her brother-in-law, for which she was general power of attorney holder. It was alleged that he however, failed to pay the *makhta* for prior periods. As he was a retired revenue official, versed in procedure, he used to assist her from time to time, and had even assisted her in respect of sale of the lands to Jasti Sree Vani and Venedla Rama Krishna. She alleged that there was no land lord tenant relationship between her and the appellant and further contended that at no point of time, she offered to sell the schedule land to the appellant. The question of determination of price for the schedule land @ ₹ 1,25 ,000/- per acre never arose. As there was no negotiation for sale and purchase of the schedule land between them, the question of threatening the appellant for payment of the entire sale consideration at once etc., does not arise. Furthermore, she adjusted the sum of ₹ 49,125/- sent by the appellant through demand draft towards the instalment towards arrears of *maktha* payable by her to the appellant for the year 200l-03.

9. The contesting respondents/ purchasers alleged that Indira Devi cultivated the land during the year 2005-06 and raised crops. She offered to sell the land and they offered to purchase them; and also paid substantial amounts before the execution of the impugned sale deeds. Indira Devi delivered the land with heaps of paddy and they were entitled to those crops which they took away after thrashing. The appellant's false report to police led to investigation of the case. They further denied that the appellant was ever in possession of the suit land after 2002-03 and consequently the appellant was not entitled to any relief claimed.

10. Before the tribunal, the appellant produced the compromise deed, as well as the covering letter by which the sum of ₹ 49,125/- was tendered to Indira Devi,

towards part payment of consideration for the sale. Indira Devi examined herself; the purchasers too participated in the proceedings and they examined themselves. Several documents were produced, including deeds giving effect to the compromise, and subsequent sale deeds, including the impugned documents.

11. The tribunal, upheld the appellant's claim. In doing so, the tribunal took into consideration the admission by Indira Devi, the first respondent -during the course of her oral deposition, that she had sold her property to the appellant as she was alone and was unable to manage it. The tribunal rejected her contention that the appellant had surrendered his tenancy. Most importantly, the tribunal held that the first respondent's argument that ₹ 49,125/- sent to her by the appellant was appropriated towards past arrears of rent as untenable. To so conclude, the tribunal relied upon the circumstance that no demand for alleged arrears of rent had ever been made and that the document under which the demand draft for the sum - ₹ 49,125/- was sent (produced as Ex. P-12) clearly referred to the sale transaction and that the amount was part-payment towards it. Furthermore, the tribunal noted that in terms of the pleadings of the parties, the rent agreed appeared to be ₹5,000/- per acre. *Arguendo,* on a calculation, assuming that some arrears existed for a past period, for the extent of land, i.e. 5.37 acres, the rental amounts would have been only ₹ 28,850/-. On these considerations, the tribunal upheld the claim and granted relief. In holding that the consideration of ₹ 1,20,000/- per acre was reasonable, the tribunal took into account another transaction whereby 3.57 acres in Survey No. 56/2 (which was registered as Ex. P-15 and P-16) were valued at ₹ 1,25,000/- per acre when they were sold by the first respondent. On an overall analysis of Section 14 of the Tenancy Act, the Tribunal held that the appellant had never surrendered the tenancy; that the compromise which was arrived at between the landlords and that his possession as a cultivating tenant remained undisturbed. Consequently, he was entitled to the purchase rights as the law allowed which he had provided in the facts of the case.

12. The first respondent appealed to the appellate authority, i.e. the District Judge. The appeals were allowed by the District Judge who held that the appellant had not established any continuing jural relation of landlady and tenant to show that the same subsisted between him and the first respondent. It was held that though the compromise, Ex. P-2 mentioned that he was a tenant *ipso facto*, that could not be given credence having regard to other circumstances. The District Judge was swayed by the fact that two other persons had purchased parts of properties in 2003 and held that the appellant lost possession as a tenant, as a result of which there was no jural relation of landlord and tenant between the appellant and Indira Devi which entitled him to claim the right of purchase. It was furthermore held that the compromise indicated surrender of tenancy in part which is impermissible. The District Judge construed the compromise deed as evidencing surrender of a part of the tenancy and that disentitled a claim in terms of Section 14 (2) of the Tenancy Act.

13. The appellant approached the High Court through revision petitions. His contention was that he continued as a tenant and therefore, had a priority right to purchase the property under Section 15. On the other hand, the respondents contended that the appellant had surrendered part of the tenancy. The High Court stated that the District Judge had elaborately discussed the evidence on record and ruled against the appellant holding that he had surrendered the tenancy in 2003 itself. It was further held that by virtue of Section 14(2), no tenant could surrender a part of the holding and that having regard to this bar, the appellant's contention that he did not surrender the holding was unacceptable. The High Court concurred with and endorsed the reasoning of the District Judge that the claim for priority purchase was in the facts of the case untenable and that the relief granted, by the tribunal was impermissible. On the basis of these findings, the High Court dismissed the appellant's revision petition.

Parties' contentions

14. It was argued on behalf of the appellant by Mr. Sridhar Potaraju, who was requested to act as *amicus curiae* (since the appellant represented himself in the proceedings) that the findings recorded by the District Judge are contrary to the record. It was argued that both the District Judge as well as the High Court overlooked the salient circumstance that the compromise [which took place in 2003] was in respect of settlement of *inter se* disputes of landlords. In terms of the compromise, Indira Devi and T. Suryanarayana were given certain portions whereas other two brothers became owners in respect of other portions of the land. This compromise decree which was recorded in writing, clearly acknowledged that in respect of parts of those lands, i.e. 13.65 acres, the appellant continued as a cultivating tenant. Furthermore, the document, Ex. P-2 also recognized that his landlord was Indira Devi. In these circumstances, his status as cultivating tenant was unquestionable and could not have disputed much less held not to exist by the lower authorities.

15. The findings of the District Judge, according to learned counsel, that the petitioner appellant failed to establish anything beyond the written documents that he continued as a cultivating tenant are unreasonable. Elaborating on this, it was submitted that the first respondent's argument was solely based on the circumstance that the construction of the compromise petition along with an overall surrender would mean that the appellant had surrendered some or whole of his tenancy. In the absence of any particulars with respect to when the oral agreement took place or any other document establishing that possession had been lost, the status granted by law to the appellant who is admittedly in possession of the lands as cultivating tenant could not have been questioned. Learned counsel relied on Sections 14 and 15 of the Tenancy Act, to highlight that surrender of tenancy is known to law, and can be inferred if the procedure prescribed by law, is followed, and not otherwise.

16. It was also argued by the *amicus* that the District Judge and the High Court proceeded on an entire misappreciation of the evidence, particularly, the

documentary materials on the record. It was pointed out that the compromise principally was to settle the disputes between the landlords. The appellant's participation was because he was in possession of the lands that were the subject matter of the *inter se* disputes of the landlords. Those landlords – in effect all of them were parties to the compromise as the appellant was. The document did not expressly record any surrender of tenancy. In the circumstances, none of the lower authorities could have fairly concluded that a surrender of tenancy much less part of surrender of tenancy had taken place as was held by the District Court. It was also argued that the District Judge and the High Court completely overlooked a material circumstance that Ex. P-12 covering letter by which the sum of ₹ 49,125/- was remitted as part consideration for the sale was sought to be explained in an entirely unconvincing manner, the Tribunal's findings on this were categorical. Besides noting that the landlady virtually admitted that she wished to sell the property, had no explanation to offer with respect to receipt of ₹ 49,125/-.

17. Mr. Potaraju highlighted and relied upon the observations of the tribunal and that the first Respondent's case that the said amount was appropriated towards past arrears did not make any sense at all. In this regard, the tribunal's findings that at best the arrears would have worked out to ₹ 28,850/- and the alleged arrears of ₹ 49,125/- completely falsified the first respondent's case.

18. Learned counsel relied upon the provisions of Sections 14 to 16 of the Tenancy Act and submitted that both the District Judge and the High Court lost sight of the fact that the appellant had never surrendered in an overt or covert manner, his tenancy. Consequently, the protection afforded by law as a tenant in cultivation and possession of the property and his corresponding right to purchase a part of the property upon a proper valuation was unquestionable.

19. On behalf of the respondents, it is argued that the findings of the lower court with respect to surrender of tenancy was based on the evidence. Learned counsel highlighted that the mere mention of subsistence of the tenancy in the

compromise recorded by the court was not sufficient to make out the appellant's case to continue his protected tenant status. It was argued that both the District Judge as well as the High Court took note of a salient circumstance which is the sale of certain parts of land in the appellant's favour. Furthermore, the first respondent Indira Devi had deposed that the appellant was a retired revenue officer and therefore versed with the procedures. In the circumstances, the question of his being unaware of any surrender of tenancy did not arise.

20. Learned counsel also emphasized that the surrender of tenancy was a matter of inference based upon appreciation of the documentary evidence on record. This comprised not only the compromise between the parties recorded by the Court but also the subsequent sale deeds executed by the parties. One set of the sale deeds was consequential in the sense that it settled the rights of the landlords. The other, on the other hand, dealt with the sale of certain parcels of lands which belonged to the first respondent. Contemporaneously, as part of these transactions, the appellant's wife had purchased a small portion of the land. In the circumstances, the inference drawn by the lower authorities that a part of the tenancy had been surrendered, was not perverse and was eminently reasonable.

21. Learned counsel also argued that Indira Devi's evidence was cogent with respect to the treatment and appropriation of ₹ 49,125/- which was towards the arrears payable for the previous years of 2002-03 and part of 2003-04, which had found express mention in the compromise itself. In the circumstances, the deduction by the Tribunal that the amount constituted part of the consideration for the agreed sale transaction in respect of 3.93 acres, was not based on law.

22. Learned counsel relied upon the findings of the District Judge, as affirmed by the High Court to say that the express stipulation in Section 14 of the Tenancy Act which barred the relief, of priority of purchase of a cultivating tenant are clearly attracted to the facts of this case because the transactions which were concededly part of the record evidenced that a part of the tenancy had been surrendered. In fact, the first respondent Indira Devi's claim was that the entire

tenancy had been surrendered through an oral arrangement. She supported that fully in the course of her oral deposition. For these reasons, urged learned counsel, the present appeals should not be allowed and the findings of the lower authority as well as the High Court should be left undisturbed.

Analysis and reasoning

23. Before proceeding with the merits of the parties' contentions, it would be essential to extract the relevant portions of the Tenancy Act. They are as follows:

> *"14.* ***Surrender of holding by cultivating tenant (Substituted by Section 11 Act No. 39 of 1974)*** *:-(1) A cultivating tenant may terminate his tenancy and surrender his holding at the end of any agricultural year after giving to the landlord and the Special Officer at least three months' notice expiring with the end of such agricultural year: and the surrender of such holding shall take effect only after it is accepted by the Special Officer on being satisfied, after making such inquiry as he thinks fit, that such surrender is voluntary and genuine:*
>
> *Provided that where any holding is cultivated jointly by joint tenants of members of a Hindu undivided family, unless the surrender is made by all of them, it shall be ineffective in respect of such joint tenants or members as have not joined in the notice for surrender.*
>
> *(2) No tenant shall surrender a part of his holding only.*
>
> ***15. Cultivating tenant's right to first purchase the land leased to him (Sub. by S. 10 of Act No. 39 of 1974)*** *:--(1) Any landlord intending to sell the land leased to a cultivating tenant shall first give notice to such cultivating tenant, of his intention to sell such land, and requiring him to exercise his option to purchase the land. The particulars to be specified in the notice and the time within which the option shall be exercised by cultivating tenant shall be such as may be prescribed.*
>
> *(2) If the cultivating tenant exercises his option to purchase the land there is an agreement between the landlord and his cultivating tenant in regard to the price payable, the landlord shall sell the land to such cultivating tenant in accordance with such agreement.*
>
> *(3) Where the cultivating tenant exercise his option to purchase the land; but there is no agreement in regard to the price payable, the landlord or the cultivating tenant may apply to the Special Officer for the determination of reasonable price of such land; and the Special Officer shall, after giving notice to the landlord, and the cultivating tenant and after making such enquiry as he thinks fit, determine the reasonable price;*
>
> *Provided that the reasonable price so determined shall not exceed*

five times, the fair rent, if any fixed after the commencement of the Andhra Pradesh (Andhra Area) Tenancy (Amendment) Act, 1974 and in force in respect of that land; or where no such fair rent has been fixed or is in force, five times the fair rent that would have been so fixed, has an application been made for determination of such rent on the date of giving of notice under sub-section (1).
(4) The reasonable price determined under sub-section (3) shall be payable in ten equal annual instalments in such manner as may be prescribed; and the sale shall be deemed to have become effective on the payment of the first instalment and land shall be deemed to be the security for the payment of the balance of the instalments.

(5) If the cultivating tenant fails to exercise his option to purchase the land or fails to pay the first instalment of the reasonable price, the landlord shall be entitled to sell the land to any other person.

Provided that where the land is not sold to any other person within a period of two years from the date of notice given under sub-section (1), the landlord shall not sell the land thereafter without giving a fresh option under this section to the cultivating tenant to purchase the land.

(6) Any sale of the land by the landlord in violation of this section shall be voidable to the option of the cultivating tenant).”

16. ***Adjudication of disputes and appeal (Subs. by Section 13 of Act No. 39 of 1974)*** *:--(1) Any dispute arising under this Act, between a landlord and a cultivating tenant in relation to a matter not otherwise decide by the Special Officer under the provisions of this Act, shall, on application by the landlord or the cultivating tenant, as the case may be, be decided by the Special Officer after making an enquiry in the manner prescribed.*
(2) Against any order passed by the Special Officer under this Act an appeal shall lie to the District Judge having jurisdiction, within thirty days of the passing of the order; and the decision of the District Judge on such appeal shall be final].

24. The undisputed facts are that Tummala Narasaiah, father of T. Suryanarayana, T. Satyanarayana, T. Seshagiri Rao, and Indira Devi’s husband, (late Veeraiah) owned the scheduled property. T. Satyanarayana, T. Suryanarayana and T. Seshagiri Rao were residing in U.S.A. T. Suryanarayana executed a general power of attorney constituting the first respondent, Indira Devi during the life time of her husband, Dr. Veeraiah. The properties were divided by their father; the revenue records recognized the same and issued *pattadar* pass books and title deeds in their names in the year 1994-95. The appellant used to

manage the properties during Narasaiah's (father of the said four brothers) lifetime. After the death of Narasaiah, the appellant used to pay the *maktha* to his sons. Dr. Veeraiah died on 4.2.2002 executing a will in respect of all his properties situated at Mulukuduru and other places, favouring his wife, Indira Devi. She became the absolute owner of all the properties including the lands in A, B, C and D schedules. The four brothers thus were landlords and the Respondent Nos. 1 to 4 (including the appellant) were tenants under the provisions of the Tenancy Act, 1956.

25. Disputes between the landlords, i.e. sons of Narasaiah (including the first respondent and her brothers-in-law) led to institution of proceedings. Further, the appellant had initiated proceedings claiming injunction to prevent injury to his property; the first respondent had filed proceedings alleging default in payment of rent, by the appellant. All these disputes were settled during pendency of the proceedings, by the parties. A joint application for recording of compromise, was made. The relevant extracts of the order passed by the jurisdictional tribunal, in this context, are as follows:

> *"Brief allegations made in the petition, are as follows:*
>
> *a) One Tummala Narasaiah is the father of the 2nd petitioner, 5th respondent, husband of the first petitioner namely late Veeraiah and one T. Seshagiri Rao, and he owned and possessed the schedule property. The second petitioner, fifth respondent and their brother T. Seshagiri Rao are residing in U.S.A. The second Petitioner T. Suryanarayana executed general power of attorney in favour of the first petitioner during the life time of T. Narasaiah, he got divided the properties among all his four sons. The revenue records also recognized the same and issued pattadar pass Books and title deeds in their name in the year 1994-95. He used to manage the properties during his lifetime. Even during his life time and after his death, they used to pay the maktha to Narasaiah till his death and to his sons after his death. The first Petitioner's husband Dr. Veeraiah died on 4.2.2002 executing a will in respect of all his properties situated at Mulukuduru and other places, and as such, she became the absolute owner of all the properties including the lands in A, B C and D schedules. Therefore, the petitioners, fifth respondent and T. Seshagiri Rao are the landlords and the Respondent Nos. 1 to 4 are the tenants under the provisions of the A.P.(A.A) Tenancy Act, 1956.*

XXXXXX *XXXXXX* *XXXXXX*

(c) The Respondent No.1 is the cultivating tenant of the land of Ac 13.65 cents, second respondent is the cultivating tenant of Ac 4.17 cents, third respondent is the cultivating tenant of Ac 1.37 cents and fourth respondent in the cultivating tenant of Ac 1.00 which are shown as A, B, C and D schedule properties respectively. They are neither evicted from the holdings nor they surrendered the holding either wholly or partly either to fifth Respondent or to the petitioners and T. Seshagiri Rao at any point of time. So, the respondents 1 to 4 are liable to pay the petitioners and T. Seshagiri Rao's 3/4th share out of the agreed maktha due for the year 2002-2003 and also due during the years 2003-2005. The first respondent paid the first Petitioner Rs. 11,450/ under receipt, dated 1.6.2002 towards her 1/4th share for the year 2001-2002. He also paid Rs. 18510/- to fifth respondent by way of pay order of Syndicate Bank, Mulukuduru on 30.5.2002 which amount includes also lease amount due for his wife's land. The respondent nos. 3 & 4 did not pay any amount to the petitioners and Dr. T. Seshagiri Rao their 3/4th shares in agreed makthas due in the year 2001-2002. The petitioners came to know that the respondents 2 to 4 agreed to pay the entire maktha as due for B, C and D schedule lands while they have been cultivating, to the fifth Respondent this year and also to deposit the total maktha amounts due for the said holdings in future years in Syndicate Bank, Mulukuduru in fifth respondent's personal account No.3617. Thus, there have been disputes between the petitioners- land-lords and respondents-tenants. Hence, the petition.

3. The petitioner also filed I.A.No.641/2002 for temporary injunction prohibiting the respondents 1 to 4 from paying the maktha due towards their share in the A, B, C and D schedule land to the respondents 5 and 6 for the last year 2001-2002 and in future years also pending disposal of the main petition.

4. The Respondent No.1 herein i.e. Musunuri Satyanarayana also filed a suit in O.S.No.174/2002 against the Defendant Nos.1 to 7 therein for permanent injunction restraining them, their men, agents, associates, assignees, followers and confederates from in any way interfering with and or causing obstruction to the peaceful possession and enjoyment of the plaint schedule lands as tenant thereof. Further, the Respondent No.1 herein also filed ATC.3/2002 against the landlords i.e. the Petitioners herein, fifth respondent and his brother T. Seshagiri Rao for declaration that he is the cultivating tenant of the petition schedule property therein and that his tenancy is subsisting and also for interim injunction restraining the Respondent No.1 and his men, associates, agents, power of attorney holders if any from in any way interfering or causing obstruction in any way to the petitioner's tenancy rights in the petition schedule land.

5. During the pendency of the I.A.No.641/2002 filed by Petitioners, for temporary injunction, a compromise took place between all the parties and the compromise agreement, dated 25.7.2002 was also filed. As all the parties were present in the court hall and all of them accepted that the contents of the compromise agreement are true and correct and they have no objection to record the compromise and the same was recorded, accordingly. In view of the

said compromise, the Respondent No.1 herein has not pressed the O.S.No.174/2002 and the tenancy petition in A.T.C.3/2002 and they were dismissed. As per the terms of compromise agreement, the wet lands to the extent of Ac 7.04 in S.No.56/2, wet land of Ac 0.10 cents in Dl.No.56/3, extent of Ac 0.36 cents in D.No.65/5 T wet land of Ac 1.89 cents in D.No.473/3 and wet land to the extent of Ac 1.37 cents in D.No.25, in total Ac 10.76 cents of wet land was fallen to the share of the petitioners and the remaining extent of the lands situated in other survey numbers were fallen to the shares of the fifth respondent-T. Satyanarayana and his brother T. Seshagiri Rao. Further, as per the terms of the compromise agreement, the Respondent No.1 herein shall continue as the cultivating tenant for the lands fallen to the share of the petitioners. Thus, from the said compromise petition, it is obvious that the first respondent has to pay the maktha in respect of the lands as mentioned above, to the petitioners and the petitioners are no way concerned with the lands fallen to the share of the fifth respondent and his brother.

6. Since the compromise took place between the parties and since as per the said compromise, first respondent has to continue his tenancy in respect of the lands fallen to the share of the petitioners, I as inclined to declare that the lease between the petitioners and the first respondent is subsisting in respect of the lands fallen to the share of the petitioners. Since, in the petition, there is no allegation

made against the first respondent that he is ready to pay then maktha either to the fifth respondent or to the sixth respondent herein and since as per the agreement, the Respondent No.1 agreed to pay the maktha to the petitioners in respect of the lands fallen to their shares, I am not inclined to grant any injunction.

7. In the result, the petition is allowed without costs in terms of the compromises, declaring that the lease between the petitioners and the first respondent is subsisting and dismissing the relief of suitable injunction is dismissed."

26. A plain reading of the above extracts establishes that, (a) the sharing of properties, between the landlords, was re-arranged; (b) the status of the tenants *including the present appellant,* was reiterated, in more than one place; and (c) the relationship of landlord and tenant, in respect of different properties, was arranged, keeping in mind the compromise by the landlord parties. The operative part of the order, recording compromise between the appellant/ tenant, and the landlords clearly stated that

"the petition is allowed without costs in terms of the compromises, declaring that the lease between the petitioners and the first respondent."

27. The compromise is a matter of record, and could not be disputed; it was recorded by the Special officer, on 29-07-02 in A.T.C. 5/02. It was produced by the appellant, before the tribunal in the present case. The declaration of subsistence of the tenancy, having regard to the share of the first respondent (Indira Devi) and Suryanarayana was to the extent of 10-76 acres. Crucially, the Special Officer's order declared that the tenancy had to be continued.

28. The appellant had urged before the tribunal that in 2003, the first respondent had agreed to sell the property, 3.93 acres, for ₹ 1,25,000/-, payable in nine instalments. He urged that a part payment of ₹ 49,125/- through a demand draft dated 26-09-2003 issued by Syndicate Bank, Mulukuduru was made to the first respondent, who appropriated the amounts.

29. When the appellant approached the tribunal for various reliefs, it was contended by the first respondent that he had surrendered his tenancy pursuant to an oral agreement and that having lost his status as tenant, he could not claim recourse to the provisions enabling a tenant to purchase property, i.e. Section 15.

30. The statement of objects of the Tenancy Act show that it was enacted with a view to protecting tenants who were then in possession of agricultural lands from unjust eviction. Initially, an ordinance was promulgated; that was later replaced by an Act providing for permanent measures of tenancy reform. The statement of objects of the amendment, of 1974, through which certain provisions were introduced, shows that the legislature provided for the regulation of the rent payable by the tenant to the landlord, the prescription of a minimum period for agricultural leases, and other incidental matters, as well as special provisions prescribing that (i) all leases should be for a minimum period of six years and should be automatically renewable successively for further minimum periods of six years except where the landlord wishes to resume his land for personal cultivation and (ii) that the cultivating tenant should have a right of first preference in the purchase of the land under his tenancy if the landlord wishes to sell it.

31. The provisions of Tenancy Act reveal that under Section 4 of the Act, every landlord and his cultivating tenant have to agree in regard to the form of tenancy, in particular whether the rent shall be paid in the form of a share in the produce or in the form of a fixed rent in kind, or in the form of a fixed rent in cash. Such agreement cannot be altered during the currency of the lease except by mutual agreement of the parties. By Section 5 of the amending Act No. 39 of 1974, the sentence 'during the currency of the lease' stood omitted with effect from 01-07-1980. In terms of an amendment to Section 10 of the Act, every lease subsisting at the commencement of Andhra Pradesh (Andhra Area) Tenancy (Amendment) Act, 1974 *is deemed to be in perpetuity*. Section 13 of the Act enacts that, notwithstanding anything contained in Sections 10, 11 and 12, a landlord cannot terminate the tenancy and evict his cultivating tenant except by an application made in that behalf to the Special Officer on the grounds mentioned in that section and if the cultivating tenant intends to surrender his tenancy the procedure prescribed by Section 14 of the Act has to be followed.

32. In *Adapala Subbaiah vs. Shaik Hasan Saheb*[6] the importance and imperative nature of the procedure prescribed for surrender of tenancy, by a tenant, was explained by the High Court, in the following terms:

> *"As per that Section 14, surrender of holding by a tenant can only be at the end of any agricultural year, after giving his landlord and the Special Officer at least three months' notice expiring with the end of such agricultural year. 'Agricultural year' is defined in Section 2(a) of the Act as the year commencing on the 1st day of June or such other date as may be notified by the Government in the Andhra Pradesh Gazette in respect of any locality having regard to the usage or custom of the locality in respect of the commencement of agricultural operations therein. If the respondent really had cultivated the land of appellant and had vacated the same in 1981-82, in view of Section 14 of the Act, he should have given a notice in March 1981 both to the appellant and the Special Officer intimating them about his intention to vacate the land. It is not even the case of appellant that any such notice was given by the respondent. When the tenancy Act confers special rights including the right to purchase the land is given to the tenant, no ordinary prudent tenant would vacate the land that too without following the procedure prescribed in the Act. Therefore, the contention of the*

[6] 2007(4) ALT 54

appellant that the respondent took the land on lease for only one year and vacated it at the end of the year is difficult to be believed."

33. The above view had been previously echoed in the judgment reported as *Mygapula Venkateswara Rao vs. Ponangi Venkataraju*[7] in the following terms:

"This requirement of giving notice before three months is stipulated with a view to safeguard the interests of the tenant So long as the surrender as contemplated under Section 14 of the Act has not been completed and final order has been passed in pursuance of an oral or written agreement if any entered into between the landlord and the tenant, it cannot be said to be a final one. Unless and until final order has been passed with regard to the surrender by the Special Officer under Section 14 of the Act, the relationship of landlord and tenant cannot be said to have been extinguished."

34. Again, in *Badugu Venkata Durga Rao and Ors. vs. Surneni Lakshmi*[8] the importance of following the procedure, under Section 14 and its mandatory content, was reiterated. This court had, in the past, examined and interpreted identical terms of the law in the erstwhile state of Bombay i.e. the Section 15 of the Bombay Tenancy and Agricultural Lands Act, 1948[9], in *Vallabbhai Nathabhai vs. Baijivi & Ors.*[10]

"3. Under Section 15 (1) a tenant, as defined by Section 2 (18) of the Act, can terminate the tenancy in respect of the land held by him as a tenant by surrendering his interest in favour of his landlord and as provided by Sub-section (2) on such surrender of the tenancy the landlord becomes entitled to retain the land so surrendered by the tenant in the same manner as when the tenancy is terminated under Sections 31 and 31A of the Act. The tenancy on such surrender comes to an end and thereupon the relationship between them of a landlord and a tenant and the rights arising out of that relationship terminate. The Legislature, however, was aware of the possibility of landlords taking advantage over the tenants and therefore to safeguard the tenants against such a possibility, it laid down through the proviso that a surrender by a tenant could

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[7] 1990 (1) APLJ (HC) 466

[8] 2001 (1) ALT115

[9] The relevant portion of Section 15, which is *in pari materia* with Section 14 of the Tenancy Act, in this case, reads as follows:

"15.Termination of tenancy by surrender thereof. - (1) A tenant may terminate the tenancy in respect of any land at any time by surrendering his interest therein in favour of the landlord:
Provided that such surrender shall be in writing, and verified before the Mamlatdar in the prescribed manner.
(2) Where a tenant surrenders his tenancy, the landlord shall be entitled to retain the land so surrendered for the like purposes, and to the like extent, and in so far as the conditions are applicable subject to the like conditions, as are provided in sections 31 and 31A for the termination of tenancies.
[(2A) The Mamlatdar shall in respect of the surrender verified under subsection (1), hold an inquiry and decide whether the landlord is entitled under subsection (2) to retain the whole or any portion of the land so surrendered, and specify the extent and particulars in that behalf."

[10] [1969] 3 SCR 309 (this decision was followed in *Polisetti Venkata Subbaiah vs. Karre Venkata Prasad & Ors*. 1998 (1) ALT 79 in relation to Section 14 of the Tenancy Act- in the present case).

only be valid and binding on him if it was in writing and was verified by the Mamlatdar. Before the Mamlatdar would verify such surrender it would be his duty to ascertain whether the surrender was voluntary and was not under pressure or undue influence of the landlord. But once the surrender satisfies these two conditions it has the same effect as the termination of tenancy: the tenancy comes to an end and the landlord becomes entitled to retain the land of which possession is delivered to him by the tenant surrendering his interest as a tenant therein. In cases, however, where the surrender has not satisfied the two conditions, even if it is voluntary, it is no surrender and therefore there is no termination of relationship of a landlord and tenant."

35. An identical view was expressed by a Full Bench of the Bombay High Court, in *Madhao Tatya Sonar v. Maharashtra Revenue Tribunal Nagpur & Ors*[11] whilst interpreting provisions of Sections 20 and 36 Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act (Bom. XCIX of 1958). Again, later, in *Ramchandra Keshav Adke & Ors vs Govind Joti Chavare*[12] the primacy, and imperative nature of such provisions was underlined, by this Court in the following terms:

"It will be seen from a combined reading of these provisions that a surrender of tenancy by a tenant in order to be valid and effective must fulfil these requirements : (1) It must be in writing. (2) It must be verified before the Mamlatdar. (3) While making such verification the Mamlatdar must satisfy himself in regard to two things, namely, (a) that the tenant understands the nature and consequences of the, surrender, and (b) that it is voluntary. (4). The Mamlatdar must endorse his finding as to such satisfaction upon the document of surrender.

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Next point to be considered is, what is the consequence of noncompliance with this mandatory procedure ? A century ago, in Taylor v. Taylor(1876 Ch.D 426), Jassel M. R. adopted the rule that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden. This rule has stood the test of time. It was applied by the Privy Council, in Nazir Ahmed v Emperor (AIR 1936 P. C. 253) and later by this Court in several cases(Shiv Bahadur Singh v. State of U. P. [1954] 1 S.C.R. 1098; Deep Chand v State of Rajasthan [1962] S.C.R. 662), to a Magistrate making a record under Sections 164 and 364 of the Code of Criminal Procedure, 1898. This rule squarely applies "where, indeed, the whole aim and object of the legislature would be plainly defeated if the command to do the thing in a particular manner did not imply a prohibition to do it in any other.(Maxwell's Interpretation of Statutes, 11th Edn., pp, 362-363). The rule will be attracted with full force in the present case because non-

[11] 1970 Mh. L.J. 991
[12] 1975 (3) SCR 839

> *verification of the surrender in the requisite manner would frustrate the very purpose of this provision. Intention of the legislature to prohibit the verification of the surrender in a manner other than the one prescribed, is implied in these provisions. Failure to comply with these mandatory provisions, therefore, had vitiated the surrender and rendered it non-est…"*

36. Thus, *as a matter of law*, the requirement of notice for the prescribed period of three months, to the landlord, and the concerned revenue official is *mandatory.* This provision, in the form of a procedure enacted for the welfare and protection of a tenant (like the appellant) has to be construed in its literal and plain terms. The material phrase in Section 14 (1) in the present case is that *"the surrender of such holding shall take effect only after it is accepted by the Special Officer on being satisfied, after making such inquiry as he thinks fit, that such surrender is voluntary and genuine."* This reinforces the conclusion that not following the prescribed procedure, invalidates the so-called surrender. Therefore, the twin conditions that make a valid surrender of tenancy are *firstly*, three months' notice in writing to the landlord, and the Special Officer about the intention to surrender the tenancy, and *secondly,* satisfaction recorded by the Special Officer in an order, after due inquiry about the voluntary nature of the surrender of tenancy. Neither Indira Devi nor the other contesting respondents (who purchased the lands from her) pleaded or proved that notice in writing was issued to them by the appellant, followed by inquiry conducted by the Special Officer, culminating in an order accepting such alleged surrender. Therefore, clearly, the findings of the District Judge and the High Court, regarding surrender (either in part or fully) of the tenancy, are wholly untenable.

37. This court is also of the opinion that the findings recorded by the High Court and the District Court, as regards lack of evidence of subsisting tenancy in favour of the appellant are contrary to the record. The order passed in the compromise petition, clearly recorded, in more than one place, that the lease between the appellant on the one hand, and Indira Devi, on the other, was subsisting and continuing. Being an admitted document, recording an

incontrovertible fact, the burden was upon the respondents to prove that the appellant's tenancy had been terminated, or surrendered in a manner known to law. They plainly failed to do so. As a result, the finding regarding surrender of tenancy is erroneous.

38. The next issue is with respect to the agreement to purchase the scheduled lands. Here, the appellant had, in his petition, claiming various reliefs, contended that Indira Devi, for herself and as G.P.A of T. Suryanarayana orally offered to him to sell the lands in measuring 10.76 acres. He accepted the offer to purchase 3.57 acres (in D.No.56/2 belonging to T. Suryanarayana), 3.47 acres (in the same D.No.56/2) 0.10 acres (in D. No. 56/3), and 0.36 acres (in D.No.65/5B) belonging Indira Devi on instalment basis @ ₹ 1,25,000/- per acre. It was argued that this was agreed during negotiations between him and Indira Devi after payment of agreed maktha for the year 2002/03. He had also relied on the fact that in consideration of Indira Devi's request the appellant paid full sale consideration in the shape of advance of ₹ 16,500/- in cash and ₹ 1,80,000/- by demand draft (No. 187502, Dated. 30-06-2003) and advance of ₹ 45,500/- and ₹ 2,05,000/- in the shape of demand draft No. 187501, dated. 30-06-03 on behalf of his wife M. Rajamohini which resulted in execution of the sale deeds Ex. P 15 and P.16 at the agreed rate of ₹ 1,25,000/- per acre. These were incontrovertible facts, because the particulars of the demand drafts, and the registered sale deeds, were exhibited during the proceedings. Having regard to these facts, his further case was that a sum of ₹ 49, 125/- was paid as first of the nine instalments, the balance being ₹ 4, 42,000/-. Ex. P-12 was the covering letter enclosing a demand draft dated 26-09-2003 issued by Syndicate Bank, Mulukuduru. That document categorically referred to the sale transaction, clearly spelling out that the amount was towards an instalment payable as consideration for purchase of property.

39. In the light of these facts, the first respondent's stand was that the amount was appropriated towards *maktha* or rent for a part of the previous period. The tribunal held that the explanation for appropriation was untenable, because no

notice (as required by express provisions of the Tenancy Act) had been issued; more importantly, in terms of the appellant's pleadings, the rent was ₹ 5,000/- per acre, which meant that the arrears, at best would have been ₹ 28,850/-. As in the case of Section 14, the law recognizes that a tenant can face eviction, if she or he fails to deposit rent. There was no specific pleading as to the period for which rents were defaulted by the appellant. On the other hand, the notice was produced (Ex. P-12) to establish that the amount paid was towards consideration. In the absence of a similar notice setting out with particulars of the rent payable as well as the period, the District Judge and the High Court could not have upset the order of the tribunal as regards the appellant's exercise of right to purchase the property, under Section 15.

40. For the above reasons, the impugned order of the High Court, as well as the judgment of the District Court, are hereby set aside. The order of the Tribunal[13], is hereby restored. This Court hereby records its appreciation for the assistance given by Mr. Sridhar Potaraju, the amicus appointed in this case. The appeals are allowed in these terms, without order on costs.

.....J.
[UDAY UMESH LALIT]

.....J.
[S. RAVINDRA BHAT]

New Delhi,
October 27, 2021.

[13] Special Officer for A.P. Tenancy Tribunal-Cum-Prl. Junior Civil Judge, Punnur in A.T.C. NO. 2/2003 dated 30.11.2009.