

**BEFORE THE APPELLATE TRIBUNAL UNDER
THE ANDHRA PRADESH (ANDHRA AREA) TENANCY ACT, 1956-CUM-
PRINCIPAL DISTRICT COURT, NELLORE**

Present: **A.V.RAVINDRA BABU**

Chairman

The Appellate Tribunal under the Andhra Pradesh (Andhra Area) Tenancy Act, 1956-cum-
Principal District Judge, Nellore

Friday, the 27th day of July, 2018

A.T.A.No.1/2016

- | | | | |
|----|--|----|------------|
| 1. | Musali Venu Gopal | | |
| 2. | Musali Venkateswarlu s/o
Late Pitchaiah | | |
| 3. | Musali Venkateswarlu s/o
Late Subbarayudu | | |
| 4. | Vonteru Peda Kondaiah | .. | Appellants |

Vs.

Chinthalapalli Kusuma Kumari @ Kusum Mohan, represented by her G.P.A. Parlapalli Padmanabha Reddy	..	Respondent
---	----	------------

On appeal against the judgment and decree dated 17.10.2016, passed by the Junior Civil Judge-cum-Special Officer under the Andhra Pradesh (Andhra Area) Tenancy Act, 1956, Atmakur, in—

A.T.C.No.1/2013

Chinthalapalli Kusuma Kumari @ Kusum Mohan, represented by her G.P.A. Parlapalli Padmanabha Reddy	..	Petitioner
---	----	------------

Vs.

- | | | | |
|----|--|----|-------------|
| 1. | Musali Venu Gopal | | |
| 2. | Musali Venkateswarlu s/o
Late Pitchaiah | | |
| 3. | Musali Venkateswarlu s/o
Late Subbarayudu | | |
| 4. | Vonteru Peda Kondaiah | .. | Respondents |

This appeal coming on 12.7.2018 for final hearing before me, in the presence of Sri K.Raghunatha Reddy – advocate for the appellants, and of Smt P.Gnana Prasunamba – advocate for the respondent, and having stood over for consideration to this day, this Court delivered the following—

J U D G M E N T

The unsuccessful respondents in A.T.C.No.1/2013 on the file of Junior Civil Judge-cum-Special Officer under Andhra Pradesh (Andhra Area) Tenancy Act, 1956, Atmakur (hereinafter referred to as 'the Special Officer'), filed the present appeal, questioning the order dated 17.10.2016, whereunder the Special Officer ordered eviction against the respondents herein from the petition schedule property.

(i) The parties to this appeal will hereinafter be referred as described before the trial-court, for the sake of convenience.

2. The respondent herein, in the capacity of petitioner, filed the above A.T.C.No.1/2013, before the trial court, under section 16(1) of Andhra Pradesh (Andhra Area) Tenancy Act, 1956, seeking eviction of the petitioners herein, from the petition schedule property. The case of the petitioner before the trial court, according to the averments in the petition, is as follows: -

(i) The petitioner is the absolute owner of the petition schedule property items No.1 to 3, having purchased from Munamala Argi Reddy and Munamala Tirupal Reddy vide registered sale deed dated 5.11.1975 bearing Document No.2990/1975 before the Sub-Registrar's Office, Atmakur. Again he purchased some more adjacent land in items No.4 and 5 of the schedule properties for valuable consideration, under registered sale deed from one Mavilla Chinnaiah on 5.11.1975, and its document was No.2972/1975. The entire schedule properties are located in Nukanapali village of Kaluvoy Mandal. Since then the petitioner had been in possession and enjoyment of the same. Later she left for U.S.A. As she was unable to manage the schedule properties personally, she handed over the same to her elder brother Parlapalli Subosh Chandra Bose Reddy and he had been managing the same on behalf of the petitioner. On

25.10.1996, the brother of the petitioner died, and his widow took over possession, and started managing the same. Later, the petitioner's sister-in-law was unable to cultivate the same, as such, she entered into oral lease with the respondents, for cultivating the crops in the year 2004. The sister-in-law of the petitioner used to collect lease from the respondents. The petitioner gave registered General Power of Attorney to her another brother by name Parlapalli Padmanabha Reddy on 23.5.2007. The wife of Parlapalli Subash Chandra Bose was collecting Makta of Rs.20,000/- in respect of the schedule properties. After that, the petitioner is collecting the lease from the respondents.

(ii) The respondents failed to pay the lease amount from 2008. When the petitioner's General Power of Attorney demanded the respondents, they assured to pay the entire Makta in the year 2009, due to deficiency in the yield and seasonal damages, due to flooding of water to river Pennar. As the petitioner's General Power of Attorney was unable to go to the village due to ill-health, he waited upto April 2010. The respondent did not turn-up to pay the Makta. The petitioner's General Power of Attorney demanded the respondents personally and by phone, to vacate the schedule properties, and to hand over vacant possession. The respondents gave reply dishonestly on phone. The petitioner's General Power of Attorney came to know that the respondents, with evil desire to evade Makta, and taking advantage of the lack of personal supervision of the petitioner, tried to convert the ownership of the schedule properties in their favour, by managing the revenue officials. On 26.9.2012, the petitioner's General Power of Attorney got issued legal notice to all the respondents, cancelling the oral lease entered into between the petitioner's General Power of Attorney and the respondents in the year 2007, and asking them to deliver vacant possession, and to pay the arrears of Rs.80,000/- towards Makta. The respondents got issued a false reply on 17.10.2012 with false and frivolous allegations,

denying the present ownership of the petitioner. Hence, the petition to evict the respondents.

3. The 4th respondent got filed counter, and the respondents 1 to 3 got filed adoption memo, adopting the counter filed on behalf of the 4th respondent. The respondents, in their counter, denied the case of the petitioner, and their contention in brief is that, the General Power of Attorney alleged to have been executed by the petitioner, is not valid one. The suit filed through General Power of Attorney is not sustainable under law. The General Power of Attorney has no locus-standi to file the suit. The petition schedule properties are not in 5 items. The total extent of Ac.8.56 cents is in a single plot. The purchase transaction was made by the brother of the petitioner by name Chandrasekhar Reddy @ Subash Chandra Bose. The 4th respondent does not know, with whose money it was purchased, but it was in the name of the petitioner. Ever since from the date of purchase, the land had been under the management and possession of Chandrasekhar Reddy. The petitioner's brother Padmanabha Reddy has nothing to do with the schedule lands. After they are acquired by Chandrasekhar Reddy in the name of his sister, they were made into one single plot. In the month of July, 1993 Chandrasekhar Reddy @ Subash Chandra Bose sold the schedule lands to the father of the respondents 1 and 2, and respondents 3 and 4, for a sum of Rs.1,80,000/-. Total consideration was paid to Chandrasekhar Reddy. Chandrasekhar Reddy represented that he was selling the schedule lands with the consent of the petitioner. The father of the respondents 1 and 2, purchased Ac.2.00 Cents, the 3rd respondent purchased Ac.3.00 Cents, and the 4th respondent purchased Ac.3.50 Cents, and they proportionately paid consideration in lump-sum to Chandrasekhar Reddy. Chandrasekhar Reddy delivered possession of the lands to them. Chandrasekhar Reddy promised that he would go to U.S.A. where the

petitioner is staying, and pay the consideration to her, and obtain General Power of Attorney from her, and thereafter he would execute registered sale deeds. The respondents 3 and 4, and the father of the respondents 1 and 2 believed the said version. Chandrasekhar Reddy delivered possession on the date of purchase of the schedule lands. The respondents divided the property according to their shares. The 4th respondent got Ac.2.56 cents on northern side, and Ac.1.00 cents on the southern side. He got total Ac.3.56 cents. The 3rd respondent got Ac.2.00 cents on the north-west corner of the 4th respondent's land, and Ac.1.00 cents on the south of the 4th respondent's land. Pitchaiah got Ac.2.00 cents on the southern side of the land, which fell to the 3rd respondent. Since then, they have been in possession and enjoyment of the property. In the beginning they installed one electric motor, to the river Pennar, and later the 3rd respondent installed the motor, and they are irrigating the land with Pennar water. Chandrasekhar Reddy went to U.S.A. as promised, and he fell ill and underwent heart-operation, and died in the hospital in the year 1996. The petitioner got knowledge of the said transaction. She never objected to the enjoyment of the respondents. Pitchaiah died, and the respondents 1 and 2 became entitled to his land of Ac.2.00 cents, and they are in possession of the same. They are enjoying the land openly. So, they acquired title to the schedule land, to their separate extents, by adverse possession also. The respondents are not the tenants, as such, their default does not arise. They are the absolute owners of the property. They validly purchased the property, and they perfected their title by adverse possession. The petition is not maintainable. Notice under section 106 of the Transfer of Property Act, is not issued. So, the petitioner is not entitled for eviction. Hence, the petition is liable to be dismissed.

4. During the course of trial, on behalf of the petitioner, PW-1 was examined and Exhibits P-1 to P-8 were marked. On behalf of the respondents, RW-1 to RW-7 were examined, and Exhibits R-1 to R-25 were marked.

5. The Special Officer, on hearing both sides, and on considering the oral as well as documentary evidence, gave adverse finding against the respondents, and while upholding the claim of the petitioner, granted an order of eviction, directing the respondents to vacate from the petition schedule properties, and to deliver vacant possession thereof to the petitioner within three months.

6. Aggrieved by the said order of the trial court, the unsuccessful respondents, filed the present appeal, and the contention of the respondents in brief, according to the grounds of appeal, is as follows—

(i) The judgment and decree in A.T.C.No.1/2013 by the Special Officer, is contrary to law, weight of evidence, and probabilities of the case. The trial court ought to have observed that the burden is on the petitioner to establish that she is a landlord, and the respondents are tenants, by filing relevant proof. The trial court simply relied on the contents of the petition, without observing any proof. The trial court failed to see that there was no relationship of landlord and tenant between the parties. The Special Officer disposed the case without appreciating the evidence, but basing on oral evidence, and without any documentary proof. The trial court went wrong in admitting the A.T.C. basing on the General Power of Attorney, without any petition. The trial court did not consider that there is no piece of evidence to show that there is landlord and tenant relationship, and there is no proof of giving and receiving of Maktas at any time. The Special Officer decided the case basing on the weaknesses of the respondents. The trial court failed to observe the

documents filed by the respondents. Hence, the appeal is liable to be allowed.

7. Now, in deciding the present appeal, the points that arise for consideration are as follows—

- (1) Whether the petitioner, before the Special Officer, established the relationship of landlord and tenants between her and the respondents?
- (2) Whether the petitioner, before the Special Officer, has established her title over the petition schedule properties?
- (3) Whether the respondents, before the Special Officer, proved their contentions, that they are the purchasers of the petition schedule properties in the manner as pleaded?
- (4) Whether the petitioner, before the Special Officer, proved her entitlement for eviction of the respondents?
- (5) Whether the judgment dated 17.10.2016 in A.T.C.1/2013, is sustainable under law and facts, and whether there are any grounds to interfere with the said judgment?
- (6) To what relief?

8. **POINTS No.(1) to (5):** - The General Power of Attorney of the petitioner, examined himself as PW-1 before the trial court, and he put-forth the facts in his chief-examination affidavit, according to the averments in the petition. Through his examination, Exhibits P-1 to P-8 are marked. Exhibit P-1 is the registered sale deed dated 5.11.1975 vide Document No.2972/1975 standing in the name of the petitioner, in respect of items No.1 and 2 of the petition schedule property. Exhibit P-2 is the registered sale deed dated 5.11.1975, vide Document No.2990/1975 standing in the name of the petitioner in respect of items No.3 to 5 of the petition schedule property. Exhibit P-3 is the registered general power of attorney dated 23.5.2007 executed by the petitioner in favour of her brother Parlapalli Padmanabha Reddy. Exhibit P-4 is the

legal notice dated 26.9.2012. Exhibit P-5 is acknowledgements (four in number). Exhibit P-6 is the reply notice dated 17.10.2012 for the notice under Exhibit P-4. Exhibit P-7 is certified copies of adangals and 1-B account relating to the petition schedule properties for the fasalies 1409 to 1422. Exhibit P-8 is the certified copy of computerized revenue record dated 20.7.2011.

(i) RW-1 before the trial court is the 3rd respondent, and he deposed according to the averments in the counter, and through him Exhibits R-1 to R-25 are marked. Exhibits R-1 & R-2 are the demand notices for service connection Nos.124 and 299 respectively, Exhibits R-3 to R-6 are the receipts for payment of electricity charges for service No.4 belonging to the 4th respondent. Exhibit R-7 is the receipt for payment of electricity charges for service No.302. Exhibits R-8 and R-9 are the receipts for payment of electricity charges for service No.299. Exhibit R-10 is the adangal for fasali 1407. Exhibits R-11 and R-12 are the certified copies of adangals for fasali 1407. Exhibit R-13 is the certified copy of adangal for fasali 1404 for SC No.630-1C. Exhibits R-14 to R-16 are the certified copies of adangals for fasali 1415. Exhibits R-17 to R-19 are the certified copies of adangals for fasali 1416. Exhibits R-20 to R-22 are the certified copies of adangals for fasali 1417. Exhibits R-23 to R-25 are the certified copies of adangals for fasali 1419.

(ii) The respondents further examined RW-2, RW-3, RW-4, RW-5, RW-6 and RW-7. The chief-examination affidavit of RW-3 was eschewed from consideration, as he did not turn-up for cross-examination. So, the evidence on behalf of the respondents is of RW-1, RW-2, and RW-4 to RW-7.

(iii) RW-2 is a third-party and his evidence is that, he has his ancestral lands by the side of the petition schedule lands, and the said

petition schedule lands are in possession of the respondents. An extent of Ac.2.00 cents on north-west corner, belongs to the 3rd respondent, and Ac.2.50 Cents belongs to the 4th respondent, and the 3rd respondent is in possession of Ac.1.00 cents, and the respondents 1 and 2 are in possession of Ac.2.00 cents, and the 4th respondent is also in possession of Ac.1.00 cents. The respondents are enjoying the property since 20 years, and they reclaimed it, and divided the properties between them. They installed electrical motors to the river and irrigating the Paddy crops. He came to know that the father of the respondents 1 and 2, and the respondents 3 and 4, jointly purchased the schedule lands from Chandrasekhar Reddy. The petitioner never cultivated the schedule lands. The respondents are cultivating their lands as owners, but not as tenants.

(iv) The chief-examination affidavit of RW-4 is similar as that of the evidence of RW-3. The chief-examination affidavits of RW-5, RW-6 and RW-7, are also similar as that of the evidence of RW-2. They are also said to be the owners of adjacent lands, and they deposed in support of the case of the respondents.

9. The learned counsel for the appellants, and the counsel for the respondent, filed their written arguments.

(i) The learned counsel for the appellants, in the written arguments, referred the case of the petitioner, and the case of the respondents, and referred about the points that were framed before the Special Officer at the time of judgment, and he sought to contend that, the petitioner has to establish the relationship of landlord and tenants, and there is no dispute about the ownership of the petitioner with regard to the petition schedule property, by virtue of two sale deeds. The petitioner examined PW-1 – the general power of attorney holder, and produced certain documents, and there is no proof filed on behalf of the

petitioner to show that the land was given to the respondents, under lease, in the year 2004, for annual Makta of Rs.20,000/-, and they collected the rents from the respondents. According to Exhibits P-7 and P-8, the respondents have been cultivating the lands as purchasers under agreement of sale, but not as tenants. So, the petitioner miserably failed to prove the tenancy. In view of the decision in "**Hayat Begum and Others v. Khadar Sharif and Others**",¹ when the existence of the tenancy is denied, the landlord has to prove the same. The trial court did not observe this proposition. The case of the respondents is that, they purchased the land from Subash Chandra Bose Reddy, who managed the property on behalf of the petitioner, and since then they have been in possession, as purchasers thereof. Electric motors were fitted by obtaining electricity connection, and their cultivation was borne-out by the record. The respondents filed Exhibits R-1 to R-25, which show their possession and enjoyment, as they are the purchasers since 1993. The case of the petitioner, *that Suneethamma leased out the land to the respondents*, is false. According to PW-1, in cross-examination, Chandrasekhar Reddy used to cultivate the land, by engaging agricultural coolies, till his death, and thereafter, his wife used to cultivate. Exhibit P-3 is an invalid document, in which there is no whisper about the alleged lease to the respondents. The petitioner issued Exhibit P-4 notice with false allegations, for which the respondents sent Exhibit P-6 reply. The Special Officer, without looking into the proof, bluntly allowed the petition, treating the petitioner as landlord, and the respondents as tenants, and the petitioner, before the trial-court, obtained ex-parte order of delivery, without following the procedure. He further sought to contend that, the petitioner miserably failed to establish her case, as such the appeal is liable to be allowed.

¹ 2009(6) ALT 339

(ii) The substance of the arguments of the respondent's counsel herein, according to the written arguments, is that, RW-1 put-up different versions. On one hand he stated that, Parlapalli Chandrasekhar Reddy purchased the petition schedule properties on his own, and later stated that they purchased the petition schedule properties from Chandrasekhar Reddy. But, there is no proof of agreement of sale, or receipts towards consideration, as admitted by RW-1 in cross-examination. Contrary to his previous statement, RW-1 stated that, Chandrasekhar Reddy stated to him that, the property stands in the name of the petitioner, and he would obtain general power of attorney. So, RW-1 newly introduced certain versions. The admissions made by RW-1 in cross-examination goes to negative the case of the respondents. If the respondents really purchased the petition schedule properties, what prevented them to approach the wife or relatives of Parlapalli Chandrasekhar Reddy or the petitioner, on phone, to get a sale deed. RW-1 stated that, from 1994, cist collection system was abolished, and they are not paying cist. According to RW-7, the government did not collect electricity consumption charges from ryots from 2009. In the documents filed on behalf of the respondents, in some of the documents, the name of the petitioner is shown as 'pattadar' and in some documents her name is not shown, and in some documents, enjoyment of the respondents was shown as 'under agreement'. The documents under Exhibits R-10 to R-25 are all created. The petitioner proved her ownership, by producing Exhibits P-1 to P-8. The respondents denied the ownership of the petitioner. They failed to file single piece of document, in support of the title claimed by them. The respondents put-up inconsistent pleas, to grab the petition schedule properties. Mere entries in the revenue records, do not confer any title, and it is a settled position, according to "**Corporation of the City of Bangalore v. M.Papaiah and Another**",² "**Guru Amarjit Singh v. Rattan Chand and Others**",³ and "**State of**

² (1989) 3 SCC 612

Himachal Pradesh v. Keshav Ram and Others".⁴ The trial court rightly granted order of eviction against the respondents, as such, the appeal is liable to be dismissed.

10. In view of the above contentions advanced, firstly, this court would like to deal with *as to whether PW-1 is general power of attorney holder of the petitioner.*

(i) PW-1 deposed that, he is the general power of attorney holder of the petitioner, and through his examination, Exhibit P-3 – the registered general power of attorney dated 23.5.2007, is marked. PW-1 was cross-examined at length regarding Exhibit P-3. In cross-examination he deposed that, he affixed his signature in Exhibit P-3 at the Registrar's Office, Nellore. The petitioner Kusuma Kumari signed in States, and sent the same to him, and thereafter he signed it at District Registrar's Office, Nellore. He does not remember, on which date the petitioner put her signature. The Governor therein signed on Exhibit P-3 in the bottom, in the general power of attorney. The photographs' and finger prints' sheet was sent by the petitioner, and he signed it. The entire Exhibit P-3 document is the general power of attorney.

(ii) As seen from Exhibit P-3, it is the registered general power of attorney. It is quitely evident that, the petitioner in the capacity of executant, signed the same at U.S.A. in the presence of Notary Public of New Jersey. There is no dispute about the signature of the petitioner on Exhibit P-3. It is not that the presence of the petitioner was mandatory at the time of registration of Exhibit P-3 before the District Registrar, Nellore, absolutely. The signature as well as thumb impression of the petitioner and PW-1, and their photographs on Exhibit P-3 are never in dispute. Nothing is elicited from the cross-examination of PW-1, so as to

³ (1993) 4 SCC 349

⁴ (1996) 11 SCC 257

throw out Exhibit P-3 general power of attorney from consideration. Hence, the contention of the appellants herein, *that Exhibit P-3 is invalid document*, deserves no merits.

11. It is a case where the petitioner has approached the trial-court averring that she is the absolute owner of the petition schedule properties by virtue of Exhibits P-1 and P-2, and as she was out of the country, her brother, for sometime, looked after the properties, and after his death, her sister-in-law looked after, and ultimately leased out the petition schedule lands to the respondents. The respondents, in their counter, admitted the ownership of the petitioner over the lands. During the cross-examination of PW-1, they have come up with a version, as if Chandrasekhar Reddy – the brother of the petitioner, purchased the property. They claimed ownership over the property. They denied the relationship of landlord and tenants between the petitioner and the respondents. So, one of the things that is to be considered by this court is, *as to whether the petitioner had established before the trial-court, that the respondents are the cultivating tenants of the petition schedule properties*.

(i) It is no doubt true that, according to the decision cited by the learned counsel for the respondents in “**Hayat Begum and Others v. Khadar Sharif and Others**” (supra), the duty of the petitioner before the trial-court, was to establish that she was the landlord and the respondents were her tenants.

(ii) Section 2(c) of the Andhra Pradesh (Andhra Area) Tenancy Act, 1956, provides as to who can be termed as a ‘*cultivating tenant*’. It reads that “*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”.

12. The above definition goes to show that, the petitioner can as well establish the relationship of landlord and tenant, with oral evidence also. It clearly contemplates, the tenancy agreement can be express or implied. Now, it is a matter of appreciation to decide *as to whether the evidence adduced by the petitioner in this regard is convincing.*

(i) As seen from Exhibit P-1, it is the registration copy of the sale deed standing in the name of the petitioner, in respect of items No.1 and 2 of the petition schedule properties. Exhibit P-2 is the registration copy of the sale deed standing in the name of the petitioner in respect of items No.3 to 5 of the petition schedule properties. The respondents, in their counter, admitted the fact that, the petition schedule properties stand in the name of the petitioner. Their plea is that, the brother of the petitioner by name Subash Chandra Bose Reddy sold away the property to them, assuring that he would go to U.S.A. and obtain general power of attorney and then would execute sale deed.

(ii) A close perusal of the counter of the respondents, and the suggestions put-forth before PW-1 during cross-examination, reveals that, they put-up different versions. Having admitted the ownership of the petitioner over the petition schedule properties, and that Chandrasekhar Reddy promised to sell the property, they gone even to the extent of developing the case that Chandrasekhar Reddy is the owner of the property, which is not tenable.

(iii) During cross-examination, PW-1 denied a suggestion that petition schedule lands are not purchased by the father of the petitioner, but they are purchased by her brother Chandrasekhar Reddy on her

behalf, and the said denial is bona-fide. He denied that, her elder brother Chandrasekhar Reddy sold away the schedule lands to the respondents for consideration of Rs.1,80,000/- in the year 1993, and he went to America and died there. He denied that from the year 1993, the respondents converted the petition schedule dry-lands into wet-lands, and they are cultivating by installing electric motors. PW-1 deposed that, the adangals are not in his name and he is only the general power of attorney holder of the petitioner. In adangals, the name of the enjoyers will be mentioned. He denied that the petition schedule lands were cultivated by the respondents, as owners, but not as tenants.

(iv) Coming to the evidence of RW-1 in cross-examination, he deposed that he purchased the petition schedule properties from Parlapalli Chandrasekhar Reddy for a consideration of Rs.1,80,000/-. He did not file any documentary proof to show that the schedule lands belong to Parlapalli Chandrasekhar Reddy. He has not filed any adalgal showing that the lands stand in the name of Parlapalli Chandrasekhar Reddy. Generally, in any sale transaction of immovable property, an agreement of sale or receipt towards consideration of sale, will be obtained from the vendors, by way of agreements. He denied that the petitioner is in no way concerned with the sale consideration. He denied that though they are not having any agreement, but they got mutated the lands in their name, on the basis of Exhibits R-11 and R-12. They obtained Exhibits R-10 to R-15 last year. He denied that, without any basis they got mentioned their names in the revenue records by managing the revenue authorities. He denied that he is deposing false.

(v) By virtue of the above admissions and answers spoken by PW-1 and RW-1 in cross-examination, it is quite clear that, no piece of paper was filed by the respondents, before the trial-court, in the form of any agreement of sale, any receipts to show that they purchased the

petition schedule properties from Chandrasekhar Reddy, and that Chandrasekhar Reddy was the authorized representative of the petitioner. Virtually basing on the alleged oral sale, the respondents are contending that, they are the absolute owners of the schedule properties.

(vi) According to section 54 of the Transfer of Property Act, any sale of immovable property of value of more than Rs.100/- shall be effected only by a registered sale deed. So, it is quite clear that the contention of the respondents, *that they are the absolute owners of the petition schedule properties*, is devoid of merits. By virtue of the documents filed on behalf of the respondents, they are contending that they obtained electricity service connection, by fixing electric motors. It is quite natural for a person, who is in possession of lands, to obtain electricity connection and to fix motors if the lands are dry-ones, and those factors are not going to prove the ownership of the respondents over the property in question.

(vii) This court has carefully gone through Exhibits P-7 and P-8, and Exhibits R-10 to R-25. They are all copies of No.10 adangals. None of the above documents shows the possession of the respondents as purchasers. Only some of the copies referred the respective names of the respondents, as possessors under agreement. It does not disclose what is the nature of agreement. There is no whisper in the above referred documents, that the respondents were in possession, as agreement of sale holders. The contention of the appellants, in the written arguments, that *cultivation adangals show their names as possessors by agreement of sale*, deserves no merits.

(viii) Even otherwise, when the respondents are relying upon the entries in the adangal copies, *that they are the agreement-holders by way of purchase*, it is their bounden duty, to produce the Special Officer

under Andhra Pradesh (Andhra Area) Tenancy Act, 1956- the so called agreement. For obvious reasons, they did not produce it. So, the respondents have no basis to get their names mentioned in the said revenue records, as *possessors by way of agreement*. There should be some basis for the revenue authorities to make such entries, and the respondents failed to explain the basis for such entries.

(ix) As is evident from the citations referred by the learned counsel for the respondents, there is no dispute about the settled legal position, *that mere entries in the revenue records does not confer any title in favour of any person*. So, when it is the case of the petitioner that the respondents were put in possession as tenants, the documents filed by the respondents, showing that they were the possessors, assume little importance here. As pointed out, this court can assume the tenancy, basing on implied circumstances, by virtue of the definition of *cultivating tenant* in the Andhra Pradesh (Andhra Area) Tenancy Act, 1956.

13. The respondents examined RW-2 to RW-7, and as pointed out, the evidence of RW-3 was eschewed from consideration. RW-1, RW-2, and RW-4 to RW-7 - claimed to be the adjacent owners, who deposed in support of the case of the respondents, as if they are the purchasers. The oral evidence of the above witnesses does not prove the title claimed by the respondents. Their evidence can only be considered to assume possession of the respondents, and the possession of the respondents was never in dispute. Hence, just by examining R.W.2, RW-4 to RW-7, the respondents cannot establish their title over the property in question. They put-up a case denying the title of the petitioner, by claiming that they came into possession of the property as owners, which they miserably failed to establish. Here, the petitioner is able to establish her ownership over the property in question. The moment when the respondents have no basis to deny the title of the petitioner, the case of

the petitioner, *that the respondents were tenants in the property*, is to be accepted. The preponderance of probabilities are clearly in favour of the petitioner, in this regard.

14. The contention of the appellants, in the grounds of appeal, that *no notice was issued under Transfer of Property Act terminating tenancy*, deserves no merits, as, under the provisions of the Andhra Pradesh (Andhra Area) Tenancy Act, 1956, especially under section 13 of the Act, *the landlord shall be entitled to terminate the tenancy in case of the tenants' failing to pay the rent within the stipulated time*. Here, the respondents miserably failed to prove their ownership over the property, and it is the case of the petitioner that, the respondents failed to pay the annual tenancy amount. There is no dispute about the fact that the respondents did not pay, even according to them, any amounts to the petitioner, because they contended that they are the owners which they failed to establish. So, this itself is sufficient to say that the respondents did not pay the rents due by them to the petitioner. So, in view of section 13 of the Andhra Pradesh (Andhra Area) Tenancy Act, 1956, absolutely the petitioner was entitled to terminate the tenancy of the respondents, and accordingly she issued legal notice under Exhibit P-4, asking the respondents to vacate the schedule property within specific time. Hence, there is no merit in the contention of the respondents, *that the petitioner had to terminate the tenancy under the provisions of the Transfer of Property Act*.

15. In the light of the above reasons, this Court is of the considered view that, the petitioner, before the trial-court, was able to establish the relationship of landlord and tenants between her and the respondents, and she was further able to establish her title, and the respondents miserably failed to substantiate their contentions in any way. It is also borne-out by the record that, as there is no stay, the petitioner,

who is the respondent herein, already obtained delivery of possession, by filing Execution petition. This fact is also evident from the record. In view of the above reasons, I am of the considered view that the learned Special Officer, rightly appreciated the evidence. He has looked into the inconsistent pleas taken by the respondents, and rightly disbelieved their case, and rightly granted the order of eviction, by recording valid reasons. Hence, there are no grounds to interfere with the judgment and decree of the learned Special Officer. The points are answered accordingly against the appellants.

16. **POINT No.(6)**: - In view of the findings on points No.1 to 5, as referred to above, there are no merits in the appeal, as such, the appeal must fail.

17. In the result, the A.T.A. is dismissed with costs, confirming the judgment and decree dated 17.10.2016 on the file of the Junior Civil Judge-cum-Special Officer under the Andhra Pradesh (Andhra Area) Tenancy Act, 1956, Atmakur, in A.T.C.No.1/2013.

Dictated to the Stenographer, transcribed by him, corrected and pronounced by me in the Open Court, this the 27th day of July, 2018.

Sd/-A.V.RAVINDRA BABU
Chairman
The Appellate Tribunal under the
Andhra Pradesh (Andhra Area)
Tenancy Act,1956-cum-
Principal District Judge
Nellore

APPENDIX OF EVIDENCE

-----NIL-----

Sd/- A.V.RAVINDRA BABU
Chairman
The Appellate Tribunal under the
Andhra Pradesh (Andhra Area)
Tenancy Act,1956-cum-
Principal District Judge
Nellore