

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8562 OF 2014

G. INDIRA

Appellant(s)

VERSUS

TRIPURANENI SUDHA & ORS.

Respondent(s)

WITH

C.A. No. 8563 OF 2014

O R D E R

Heard learned counsel for the parties. The facts in short giving rise to the appeal, briefly indicate that the proceedings were initiated by respondent nos.1 to 5 in the Land Revenue Court in the year 2002, which was registered as L.G.C No.43 of 2002. The Special Court passed an order on 06.07.2006 allowing the application filed by respondent nos.1 to 5 herein, and held the appellants to be land grabber, within the purview of Section 2(d) and 2(e) of A.P. Land Grabbing (Prevention) Act. It was found that K. Chandraiah was not a protected tenant and had no legal right. The order passed by the Special Court came to be

challenged before the High Court, the High Court dismissed the petition by considering the claims of rival parties.

Learned counsel appearing for the appellants has submitted that the issue of adverse possession raised by the appellants has not been taken into consideration by the Special Court or by the High Court.

Learned counsel appearing for the respondents submitted that the appellants are not entitled to raise the question of adverse possession. On the basis of evidence, a finding has been recorded that K. Chandraiah was not a protected tenant and his vendors Smt. K. Indira Bai and N. Narasimha Reddy were also not proved to be owners. Hence, the appeal must fail on the basis of findings recorded by the Special Court as well as by the High Court.

In our considered opinion that once a plea of adverse possession, though raised in the reply, has not been pressed before the Special Court, as well as, before the High Court. It is not open to the appellants to raise it for the first time in this Court, on the basis of change of law, as appellants have failed to press it before the Courts below. As the decision prevailing at relevant time precluded from raising it in such proceedings. However, after the decision rendered by the Special Court and High Court, it has been held by this Court that such plea can be examined by land

grabbing court as such it should be examined by this Court. In our opinion, it would not be a ground to permit the appellant to press such a plea in this Court for the first time. There is nothing on the record to show that it was pressed before the special Court, as well as, before the High Court, and the Courts did not decide it. The fact remains that there is no mention of such plea being argued. Thus, it was neither pressed before the Special Court nor before the High Court. In the aforesaid situation, we are not inclined to allow the appellants to raise such plea in this Court.

We find no ground to interfere with the impugned orders, in the facts and circumstances of the case. The appeals are, accordingly, dismissed.

The person(s) who has filed the application for impleadment is/are free to avail an appropriate remedy which may be available to him in accordance with law.

.....J.
(ARUN MISHRA)

.....J.
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI;
AUGUST 03, 2017.

ITEM NO.114

COURT NO.11

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 8562/2014

G. INDIRA

Appellant(s)

VERSUS

TRIPURANENI SUDHA & ORS.

Respondent(s)

WITH

C.A. No. 8563/2014 (XII-A)

Date : 03-08-2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Appellant(s) Mr. Purushottam Sharma Tripathi, AOR

Mr. G. Ramakrishna Prasad, AOR
Mr. Suyodhan Byrapaneni, Adv.
Mr. Mohd. Wasay Khan, Adv.
Ms. Filza Moonis, Adv.Mr. A. Subba Rao, Adv.
Mr. Annam D. N. Rao, AOR
Mr. A. Venkatesh, Adv.
Mr. Rahul Mishra, Adv.

For Respondent(s) Mr. John Mathew, AOR

Mr. Ankur Pradhan, Sr. Adv.
Mr. Venkateswara Rao Anumolu, AOR
Mr. Prabhakar Parnam, Adv.Mr. Purushottam Sharma Tripathi, AOR
Mr. Ravi Chandra Prakash, Adv.
Mr. Mukesh Kumar Singh, Adv.
Mr. L. Nidhiram Sharma, Adv.

Mr. G. Ramakrishna Prasad, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeals are dismissed in terms of the signed order.

(SAPNA BISHT)
SENIOR PERSONAL ASSISTANT

(Signed order is placed on the file)

(TAPAN KUMAR CHAKRABORTY)
BRANCH OFFICER