

(1997) 01 AP CK 0009
In the Andhra Pradesh High Court
Case No : Writ Petition No. 724 of 1997

Ajru Nagarathnam

APPELLANT

Vs

Commissioner, Survey, Settlements and Land Records and
Others

RESPONDENT

Date of Decision : 29-01-1997

Acts Referred:

Andhra Pradesh (Scheduled Areas Ryotwari Settlement) Regulations, 1970 — Section 15, 7, 9

Citation : (1997) 2 ALT 143

Hon'ble Judges : P. Ramakrishnam Raju, J

Bench : Single Bench

Advocate : M. Chandrasekhar Rao, for the Appellant; Govt. Pleader for Revenue, for the Respondent

Final Decision : Dismissed

Judgement

P. Ramakrishnam Raju, J.—The petitioner is the owner having possession of an extent of Ac.4-77 cents of land of Muppinavarigudem (Nagavaram Mutha), hamlet of Buttayagudem, Buttayagudem Mandal, West Godavari District. The said land originally was a part of Gatalat estate. Thonam Ramudu and Juttuga Subbaiah were cultivating this land. Zamindarini granted patta to the said cultivators on 1-7-1905. They partitioned the land between themselves and Ac. 4-77 cents of land has fallen to the share of Thonam Ramudu. After his death, his wife Narasamma conveyed the said land to the father of the petitioner under a gift deed dated 9-3-1943. The petitioner's father cultivated the land during his life time and executed a gift deed on a stamped paper bequeathing the said land as marriage gift (Pasupukunkuma) to the petitioner. From 27-4-1995 the petitioner has been in continuous possession and enjoyment of the said land. In fact, the Special Deputy Collector (T.W), K.R. Puram on the complaint of the Special Deputy Tahsildar (T.W.) II, K.R. Puram enquired into the matter u/s 3 (2) (a) of A.P. Scheduled Area Land Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970, and found that this land is never held by a Tribal at any

time, and therefore, there is no contravention of the provisions of A.P. Scheduled Area Land Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970. The said order dated 31-8-1993 has become final.

2. While so, the third respondent conducted a suo-motu enquiry u/s 9 of A.P. (Scheduled Areas) Ryotwari Settlements Regulation II of 70 for granting Ryotwari Patta in respect of R.S.No. 849/1 which is the same subject-matter of which enquiry was conducted by Special Deputy Collector (T.W.). The third respondent held that patta No. 16 and R.S. No. 849/1 of an extent of Ac. 4-77 cents is a part of Gutala Zamin estate which was taken over by the Government on 4-2-1953 under the provisions of A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 is in the scheduled area and held by the petitioner who is a non-tribal, and as such, she is not entitled to a patta. The said order was confirmed in appeal by the second respondent. Second Appeal preferred by the petitioner before the first respondent was also dismissed. Hence this writ petition.

3. Sri M. Chandrasekhara Rao, learned Counsel for the petitioner submits that during the enquiry conducted by the Special Deputy Collector it is decided whether the land is held by a tribal or not and the finding that it was never held by a tribal has become final. Therefore, the said question cannot be re-opened by the authority under Regulation II of 70, an enquiry contemplated for grant of a Ryotwari Patta. He relies on a decision of this Court in M. Gangaraju v. Deputy Collector, 1986 (1) ALT 38 (NRC) = 1986 (1) (HC) APLJ 417. In that case the learned Judge relying on the Judgment in W.P.No. 1328 of 1978 dated 29-8-1979, held as follows:

"If it was intended that the jurisdiction of the authorities under the land Transfer Regulation should cease to exist after the passing of the Settlement Regulation in so far as the matters coming within the jurisdiction of the Settlement Officer under that Regulation are concerned, the legislature would have expressly provided to that effect."

The learned Judge holding that though the jurisdiction before the Settlement authorities is more comprehensive in nature, finally held that mere pendency of the proceedings either before the Settlement Officer Or the Director of Settlements or the Board of Revenue, does not proclude the authority from making an enquiry u/s 3 of the Land Transfer Regulation. He also observed that in the event of any patta granted under Regulation 2 of 1970, it shall be conclusive and shall be binding on the respondents only to that extent.

4. In this decision it is nowhere held that the enquiry held under Regulation 1 of 1959, as amended by Regulation 1 of 1970 shall be final and conclusive. Therefore, it is not an authority for the proposition that once an enquiry under Regulation 1 of 1959, as amended by Regulation 1 of 1970 is held, the enquiry under the Settlement Regulation (No. 2 of 1970) cannot be held.

5. The learned Government Pleader on the other hand relied on Section 9 of the Andhra Pradesh Scheduled Areas Ryotwari Settlement Regulation, 1970 which

says that the Settlement Officer shall inquire into the nature and history of all lands in respect of which Ryotwari patta is claimed and decide the persons who are entitled to Ryotwari Patta, provided the claim for a Ryotwari Patta is not void under any other law applicable to the Scheduled Area. Section 7 deals with grant of Ryotwari Patta. The proviso says that a person who is entitled to a Ryotwari Patta under the Act, shall be granted patta if the lands have been continuously in the occupation of that person from the notified date, provided further that no ryot who is not a member of the Scheduled Tribes shall be entitled to a Ryotwari Patta in respect of cultivable land unless he had been in possession or in occupation of the land for a continuous period of not less than eight years immediately before the commencement of the Regulation, further such possession or occupation shall not be void or illegal under the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959, or any other law for the time being in force.

6. A reading of these two sections clearly show that the Settlement Officer is entitled to decide who is the person entitled to a Ryotwari Patta and he is entitled to see whether such possession or occupation is not void or illegal under the A.P. Scheduled Areas Land Transfer Regulation, 1959. Therefore, I am of the view that the operation of these provisions cannot be stopped when an enquiry was conducted by the Special Deputy Collector, T.W. under Land Transfer Regulation, 1959, as amended by Regulation 1 of 1970. The enquiry whether the transfer of land is null and void or not cannot prevent an enquiry under Regulation 2 of 1970. This Regulation 2 of 1970 is of a later origin, and therefore, it is clear that notwithstanding the enquiry under Regulation 1 of 1959 as amended by Regulation 1 of 1970, enquiry under this Regulation can be proceeded with. In similar circumstances, Justice Jeevan Reddy, as he then was, in *J. Samba Murthy v. Agent to the Government*, 1983 (1) ALT 72 (NRC)= 1983 (2) APLJ 96. held that when once there is a final order under the Muttas Abolition Regulation in favour of a person, no proceeding or eviction can be taken against him under Regulation 1 of 1959. Before reaching this conclusion, he relied upon a decision rendered by Justice Chinnappa Reddy, as he then was in *Sadanapalli Rachandra v. The Special Deputy Collector (Tribal Welfare) Palwancha, District Khammam.*, 1978 (2) APLJ 244. Relying on these decisions, I have no hesitation to hold that the finding arrived at under Regulation 1 of 1959, as amended by Regulation 1 of 1970 cannot be binding on the authorities under Regulation II of 1970. It may be a piece of evidence in order to come to a just conclusion. Section 15 of Regulation 2 of 1970 has an overriding effect on any other law, custom, 35 usage or agreement for the time being in force, or any decree or order a Court, tribunal or other authority. It means that this Regulation overrides against any order passed under Regulation 1 of 1959 as amended by Regulation 1 of 1970. Even the scope of enquiry with reference to the above two Regulations is entirely different.

7. For all these reasons I do not find any merit in this writ petition and it is accordingly dismissed at the stage of admission.