
(2003) 10 AP CK 0017
In the Andhra Pradesh High Court
Case No : CRP No. 1563 of 1995

Attada Bhagavan	Vs	APPELLANT
State of A.P. and Others		RESPONDENT

Date of Decision : 15-10-2003

Acts Referred:

Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 — Section 1

Citation : (2004) 1 ALD 834

Hon'ble Judges : P.S. Narayana, J

Bench : Single Bench

Advocate : M. Srinivasa Rao, for the Appellant; Government Pleaders, for Revenue and Appeals for Respondent Nos. 1, 3 and 4 and T.S. Venkataramana, for the Respondent

Final Decision : Allowed

Judgement

P.S. Narayana, J.—One Attada Bhagavan, plaintiff in O.S. No. 230 of 1988 on the file of Principal Subordinate Judge, Visakhapatnam aggrieved by the judgment and decree dated 30-12-1994 made in the said suit, had preferred the present civil revision petition under Article 227 of the Constitution of India, on the ground that the learned Subordinate Judge having held that the Civil Court has no jurisdiction and the Special Tribunal under A.P. Land Grabbing (Prohibition) Act (hereinafter be referred to as Act) alone has got jurisdiction to try the suit, should have transferred the suit to the competent Land Grabbing Tribunal to try the same, instead of dismissing the suit with costs.

2. The suit OS No. 230 of 1988 on the file of the Principal Subordinate Judge, Visakhapatnam was filed for declaration that the petitioner plaintiff is the ryotwari pattadar in respect of the plaint schedule land, for mandatory injunction, for delivery of possession and for certain other reliefs.

3. The factual details need not be narrated in detail. In fact at paragraph 10 of the judgment, the learned Subordinate Judge had recorded as under:

"There cannot be any dispute with regard to the legal proposition that when once the dispute before the Court is found to be a case coming under the Land Grabber cases, for special Tribunal was constituted under the special enactment, such suit shall stand transferred to that Tribunal, as laid down in that decision. But in the present case that Special Tribunal already conducted enquiry at the instance of the 1st defendant herein and gave a finding that the plaintiff herein is a land grabber by its order dated 25-7-1989 though that was held without prejudice to the revision petition pending before the Director of Settlements. When once the Special Tribunal already gave a decision in that dispute, in my view there is no necessity for this Court to again transfer the plaint to the Tribunal. I do not find any force in the contention of the Counsel for the plaintiff that this Court has no power even to pass an order for dismissal of the suit. Though normally when once it is found that the Civil Court has no jurisdiction in view of the constitution of a Special Tribunal, the Court is bound to transfer the same to that Tribunal and cannot be said to have any power to pass orders in that suit, in my view, in the peculiar circumstances of this case that the Special Tribunal already seized to with the matter and already gave its decision, it is no longer necessary for this Court to transmit the records to that Tribunal again."

4. The learned Subordinate Judge while answering the issues to 4, 6 and 8 at paragraph 12, had stated as under:

"In view of my findings on issue No. 5, that this Court has no jurisdiction to decide the dispute by virtue of the constitution of Special Tribunal, and in view of the fact that Tribunal already gave a decision, this Court has no competency to give findings on the other issues, and as a matter of fact, it is unnecessary also to give findings. Accordingly these issues are answered."

5. As can be seen from the judgment, it is clear that this aspect was brought to the notice of the Court by the contesting parties, but however, the learned Subordinate Judge, Visakhapatnam having clearly held so, should have transferred the matter transmitting the records to the Land Grabbing Tribunal, instead of dismissing the suit, since this is a question relating to the jurisdiction of the Civil Court to try the suit. In fact, I had expressed similar view in *Maharajahalakh Narayana Society of Arts and Science (Mansas) Fort Vs. Ranjani Theatre by its Manager*, . Reliance was also placed on *Govt. of A.P. and Others Vs. Sathaiah*, and *B. Raghavaratnam and Ors. v. State of Andhra Pradesh by Joint Collector, Warangal 1987 (1) ALT 771*.

6. In view of the clear legal position, I am satisfied that the learned Principal Subordinate Judge, Visakhapatnam having held that the Civil Court has no jurisdiction, should have transferred the matter to the competent Land Grabbing Tribunal for the purpose of adjudication, instead of further proceedings with the matter and dismissing the suit with costs, since it is a question of jurisdiction. The judgment and decree impugned in this revision petition are hereby set aside, with a direction to the Principal Senior Civil Judge, Visakhapatnam to transfer OS No. 230 of 1988 to the concerned competent Land Grabbing Tribunal for trial and

disposal in accordance with law.

7. The Civil Revision Petition is, accordingly, allowed to the extent indicated above. No costs.