

(2002) 07 AP CK 0110

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 5647, 8090 and 8196 of 2002

Bar Association Cuddapah

APPELLANT

Vs

Government of A.P. and Others

RESPONDENT

Date of Decision : 22-07-2002

Acts Referred:

Andhra Pradesh Civil Courts Act, 1972 — Section 11(1), 11(2), 21, 21(1)
Criminal Procedure Code, 1973 (CrPC) — Section 7, 9(4), 9(6)

Citation : (2002) 5 ALD 345 : (2002) 5 ALT 179

Hon'ble Judges : Ar. Lakshmanan, C.J.; Ghulam Mohammed, J

Bench : Division Bench

Advocate : M.R.K. Chowdary, for the Appellant; S. Chandra Rao, SC for HC, C.V. Njagarjuna Reddy and Bhaskaralakshmi for Respondent No. 2, Jayanthi, SC Proddutur Advocate's Bar Association for Respondent No. 3 and Government Pleader for Home, for the Respondent

Final Decision : Dismissed

Judgement

Ar. Lakshmanan, C.J.—Heard Sri M.R.K. Chowdary, learned senior Counsel appearing for the petitioner in WP No. 5647 of 2002, Sri M. Sudhir Kumar and Smt. B. Sudha, learned Counsel appearing for the petitioners in WP No. 8096 and 8196 of 2002 respectively, Mr. S. Chandra Rao, Mr. C. V. Nagarjuna Reddy and Smt. Bhaskara Lakshmi learned Standing Counsel appearing for the High Court and the learned Government Pleader for Home.

2. All these writ petitions were filed for a writ of mandamus declaring the action of the Government of Andhra Pradesh in issuing the impugned order in G.O. Ms.No. 38, Law (LA & J Courts-C) Department dated 8.3.2002 directing the shifting of II Additional District and Sessions Judge's Court from Cuddapah to Proddatur with its staff and other paraphernalia as illegal, void, discriminatory, without power, jurisdiction or authority and contrary to the provisions contained in A.P. Civil Courts Act, 1972 and the Code of Criminal Procedure, and consequently to direct the respondents to refrain from giving effect to the idea of

shifting of the Court in question from Cuddapah to Proddatur.

3. WP No. 5647 was filed by the Cuddapah District Advocates Bar Association represented by its Secretary, N. Munikumar Reddy.

4. WP No. 8090 of 2002 was filed by one Sri D. Sivashankar Reddy, accused No. 1 in Sessions Case No. 166 of 1999 on the file of the Court of I Additional District Judge, Cuddapah, Smt. G. Sarojamma, accused in Sessions Case No. 278 of 2001 on the file of the II Additional District and Sessions Court, Cuddapah and Sri V. Chandrasekhara Reddy, defendant No. 2 in O.S.No. 12 of 1999 on the file of the Court of Principal District Judge, Cuddapah.

5. WP No. 8196 of 2002 was filed by Reach Integrated Social Development Action, Cuddapah represented by its President P. S. Rayudu and by Sri Lakshmi Narasimha Mahila Mandali, Siddavatam, represented by its President Smt. G. Jayamma

6. Though the petitioners are different, since the prayer sought for in the petitions is one and the same, with the consent of the learned Counsel appearing for the parties, we have heard all the writ petitions jointly and are being disposed of by this common judgment.

7. The facts leading to the controversy may briefly be noted thus:

8. In the year 1989, the Government has requested the High Court to offer its views on the proposal of the Bar Association, Proddatur, Cuddapah district for shifting one of the Additional District and Sessions Judges' Courts at Cuddapah to Proddatur. The High Court has informed the Government that the High Court is reconsidering the issue of establishment of Additional District and Sessions Judges' Courts at places other than the headquarters of the District, in view of certain legal impediments involved in the issue and that a reply would be sent to the Government and accordingly informed the Government to keep the matter in abeyance till such time. However, the Government without waiting for a reply from the High Court, issued orders in G.O.Ms.No. 548 Home (Courts-A) Department dated 6-10-1989 shifting one of the three Additional District and Sessions Judges Courts at Cuddapah to Proddatur along with the existing staff. The said G.O. was challenged by the Bar Association, Cuddapah in W.P.No. 15405 of 1989 and this Court by order dated 18-11-1992 quashed the said G.O. on the ground that the Government hurriedly issued the orders without having a clear idea as to the implications that would crop up in the matter.

9. Subsequently, several representations have been received from various Bar Associations in the State for the establishment of Additional District Courts at their places. The High Court in its Full Court meeting of the Hon'ble Judges held on 27-10-1999 had considered the said issue in detail and resolved to rescind its earlier decision i.e., not to establish Additional District Courts outside the District Headquarters. It was also resolved that the individual cases for establishment of Additional District and Sessions Courts outside the District headquarters shall be

examined and decided by the Administrative Committee. Pursuant to the said decision, certain proposals were considered and after considering, the work arising from the area to be brought under the jurisdiction of such Courts, the High Court recommended to the Government for the establishment of the Additional District and Sessions Courts away from the District Headquarters at certain places by its letter in Roc.No. 1615/ E1/2001 dated 16-3-2001.

10. The Bar Association, Proddatur has submitted a representation to the High Court for the establishment of the Additional District and Sessions Judge's Court at Proddatur for the trial of cases arising from the jurisdiction of the Junior Civil Judge's Courts of Proddatur, Jammalamadugu, Kamalapuram, Pulivendla and Badvel. The High Court, however, taking into considerations the work load, recommended to the Government for the establishment of an Additional District and Sessions Judge's Court at Proddatur with jurisdiction over the Junior civil Judge's Courts, Proddatur, Jammalamadugu and Kamalapuram, vide High Court's letter Roc.No. 758/E1/98 dated 29-8-2001. The Law secretary by letter dated 21-1-2002 informed the High Court that the Finance Department did not agree to the proposal for establishment of Additional District Judge's Court at Proddatur in view of the ways and means position and requested the High Court to give consent for shifting the II Additional District and Sessions Court, Cuddapah to Proddatur, The High Court has considered the said proposal and recommended to the Government for issuance of orders of shifting of the II Additional District and Sessions Court, Cuddapah to Proddatur to function as "II Additional District and Sessions Court, Cuddapah at Proddatur" with the existing staff, vide letter of the Registrar (Vigilance) dated 26-2-2002. Accordingly, the Government issued the impugned orders in G.O.Ms.No. 38 dated 8-3-2002 shifting the II Additional District and Sessions Court from Cuddapah to Proddatur along with the existing staff and other paraphernalia attached to it.

11. It may be noted herein that while issuing the impugned G.O. it was mentioned that the Court is "shifted" to enable the Court to clear all the pendency and also the cases arising under its jurisdiction of places like Proddatur, Jammalamadugu, Kamalapuram, Pulivendla and Badvel Munsif Magistrate Courts. It appears that the Registrar (Vigilance) by letter dated 28-3-2002 informed the Government that it is not necessary to mention in the G.O. the jurisdiction over which the said Court exercises and that it is not as per the recommendation of the High Court and that the District Judge will issue a notification u/s 11(2) of the A.P. Civil Courts Act, 1972 (for short "the Act") assigning the areas over which the II Additional District and Sessions Judge, Cuddapah at Proddatur exercises its jurisdiction. Therefore, the Government was requested to issue revised orders deleting the words "to enable the Court to clear all the pendency and also the cases arising under its jurisdiction of places like Proddatur, Jammalamadugu, Kamalapuram, Pulivendula and Badvel Munsif Magistrate Courts after locating it in the Proddatur Court Complex in 4th para of the G.O. Pursuant thereto, modified orders were issued by the Government in G.O.Ms.No. 49," Law (LA&J, Courts-C) Department dated 2-4-2002 directing that

the II Additional District and Sessions Court be shifted forthwith along with existing staff and other paraphernalia attached to it from Cuddapah to Proddatur, immediately to enable the Court to clear all the pendency after locating it in the Proddatur Court Complex. Thereafter, the Secretary to Government, Law (LA&J Courts.C) Department issued notification u/s 21(1) of the Act specifying Proddatur as the place at which the II Additional District for Cuddapah District shall sit. Thereafter, the High Court in exercise of the powers u/s 9(6) of the Code of Criminal Procedure, 1973 issued notification notifying that with effect on and from the date of the officer posted assumes charge, the II Additional Sessions Judge of Cuddapah District as ordered in G.O. Ms. No. 38, Law (LA & J Courts. C) Department dated 8-3-2002 and G.O.Ms.No. 49 Law dated 2-4-2002 shall sit at Proddatur and depose of the Sessions cases and other criminal matters as are made over to him by the Sessions Judge, Cuddapah. Similarly, the District Judge, Cuddapah issued a notification in exercise of the powers conferred u/s 11 (2) of the Act assigning to the II Additional District Judge, Cuddapah at Proddatur to receive and dispose of all civil cases, appellate and original, arising from the areas comprising the Junior Civil Judges' Courts of Proddatur, Jammalamadugu and Kamalapuram.

12. A counter-affidavit was filed by the Registrar (Vigilance) in WP No. 5647 of 2002 and the same was adopted in the other two writ petitions.

13. Sri M.R.K. Chowdhary, learned Counsel would submit that the impugned G.O. reflecting/the idea of shifting of II Additional District and Sessions Court is on the basis of a representation from two M.L.As from Jammalamadugu and Mydukur constituencies, a Chairperson of Proddatur municipality and the President of Proddatur Bar Association and from the impugned order it is clear that the Government issued orders in G.O.Ms.No. 548 dated 6-10-1989 for shifting of one of the three Additional District Judge's Courts at Cuddapah along with its existing staff to Proddatur and the said orders could not be implemented for want of recommendation by the High Court. He, therefore, submits that such a proposal, which, was not acceptable at un-one point of time, has now been accepted and it is un-understandable how it could become an acceptable proposal to the High Court after lapse of some years. He would further submit that the scheme of the Civil Courts Act does not provide for shifting of any Additional District Judge's Court to any other place beyond the district Headquarters and in any event such a power could not have been exercised by the Government in an arbitrary and discriminatory manner and that the High Court of Andhra Pradesh ought not to have accepted the said proposal without serious consideration in the context of its view that was expressed on an earlier occasion when G.O.Ms.No. 548 dated 6-10-1989 was issued.

14. Mr. Chowdary further invited our attention to the averments made in paragraphs 5, 6, 7 and 8 of the affidavit filed in support of W.P.No. 5647 of 2002. He would submit that Section 10 the Act does not reflect any power for establishment of any Court of Additional District Judge and only three types of

Courts are contemplated in the scheme of the Act, namely, District Court, Court of Subordinate Judge (now Senior Civil Judge) and District Munsif (now Junior Civil Judge). There is no Court like the Court of Additional District Judge. In other words, according to the learned Counsel, the scheme of the Act does not provide for establishment of any Court of Additional District Judge. He would further submit that under the provisions of the Act, no territorial jurisdiction is contemplated for the Additional District Judge as in the case of Senior Civil Judge/ Junior Civil Judge. The Act also does not seek to provide any specific reference to any of the provisions seeking to provide any limit of either territorial jurisdiction or pecuniary jurisdiction to the Additional District Judges. The Additional District Judges are to discharge the functions of a District Judge to the extent of the work that is entrusted with or assigned to such Additional District Judge by the District Judge. There are no separate functions that are contemplated to be discharged by the Additional District Judges except to the extent of assignment that was made by District Judge transferring his functions. He, therefore, submit that there is no independent existence as an independent unit for discharging the functions of any Court for the Additional District Judge. The functions that are discharged by the Additional District Judge are part and parcel of the functions of the District Judge concerned. According to the learned Senior Counsel, in the absence of any assignment of functions, the Additional Judge has no independent, existence to discharge the functions of District Judge.

15. He would further submit that all functions that are discharged by the Additional District Judge are the functions of District Judge and there is no Court like Additional District Judge's Court as seen from the impugned order. Under the scheme of the Act, there can be only one District Court for each District with its territorial jurisdiction and every Court has to be located for its sittings only within the local limits of such Court as prescribed. Therefore, the question of shifting from the headquarters of the District where the District Court is located to any other place is opposed to the scheme of the Act and also contrary to the object sought to be achieved. He would further urge that the Additional District Judge has no administrative control over the staff working in the II Additional District and Sessions Judge's Court. Therefore, the question of shifting any one of the Additional District Court or Additional District Judges from the headquarters to any other place does not arise under the Act.

16. Referring to Section 21 of the Act, learned Senior Counsel would submit that the power under he said provisions shall have to be exercised in consultation with the High Court. The Additional District Court being a part of District Court cannot be considered as a separate independent unit having any local limit. Having no separate local limit for the purpose of jurisdiction, the same cannot be shifted from the place viz., Cuddapah to Proddatur. No Court like the Court of II Additional District and Sessions Court or any other Additional District Judge are contemplated in the entire Act. The functions discharged by the Additional District Judge cannot be attributed to be a separate independent Court. So long as it is not possible to call a separate independent District Court, not being a part

of the Court of district Judge, it cannot be shifted from Cuddapah to Proddatur. Therefore, it was submitted that the shifting of the II Additional District and Sessions Court from Cuddapah to Proddatur is beyond the power contemplated under the scheme of the Act and as such the order is without jurisdiction.

17. It was further submitted that Section 21 read with Sections 10 and 12 also reflect the territorial jurisdiction in respect of the Courts contemplated under the Act, Since the II Additional District and Sessions Court cannot be considered as a Court within the meaning of the provisions of the Act, it is to be considered as District Court only and such District Court is not sought to be shifted. He would further submit that the establishment and constitution of Courts as contemplated in Part-II of the Act does not take into its purview any establishment of any Court other than the District Court, Sub-Court and District Munsif Court. Therefore, the question of application of provisions contained in Section 15 with reference to local authorities of jurisdiction does not arise. As such, neither Section 15 nor 21 can be invoked for the purpose of passing the impugned order. Any recommendation made by the High Court is bound to be treated as without application of mind and with reference to the provisions of the Act.

18. Learned Senior Counsel would further submit that the action of the Government in making a proposal to the High Court for appropriate recommendation for shifting of the Court in question to Proddatur is arbitrary and discriminatory inasmuch as the order reflects that it has emanated from two MLAs out of ten MLAs and also at the instance of the local Bar Association who may be personally interested. But the entire interests of the litigant public has to be considered in proper perspective and it is for their convenience the laws are to be implemented for the object of achieving the provisions and ends of justice.

19. The learned senior Counsel would further urge that under the impugned order what is sought to be shifted is not only the Court of II Additional District and Sessions Court but it is the Sessions Division held by such Additional District Judge as Sessions Judge. In this context, learned Counsel refers to Chapter-II of the Code of Criminal Procedure which provides for constitution of Criminal Courts besides Courts of Judicial Magistrates of the First or Second Class including executive magistrates. Having created the Courts of Sessions u/s 6 of Cr.P.C, the Cr.P.C. further provided limits of territorial division in respect of each division. Learned Counsel would submit that u/s 7 every State shall have a Sessions Division or shall consist of Sessions Divisions. Every Sessions Division shall, for the purpose of the Court, be treated as District or consists of Districts. In other words, the revenue District not necessarily co-terminus with the sessions division. But the whole State irrespective of revenue division can be divided into various sessions divisions and each sessions division will be entrusted with a particular authority. After consultation with the High Court, the Government can fix the limits for each division and it has the power to alter such limits of such divisions or number of divisions. Similarly, the State Government can divide any district into subdivisions and it has the power to alter such sub-division limits.

Without the consultation of the High Court the sessions division or its limits cannot be altered at all by the Government under the Cr.P.C. and this power is held to be mandatory. Anything done without consultation of the High Court is wholly without power. According to the learned Counsel, the impugned order does not show that any consultation was made u/s 7 with the High Court and what the High Court was stated to have been consulted is only in respect of shifting of II Additional District and Sessions Court and so far that is said to have been under the A.P. Civil Courts Act. But there has been no consultation at all so far as regards the shifting of the Sessions Division. Therefore, to the extent of shifting of sessions division is concerned, it is without jurisdiction or authority and the action of the Government is thus hit by the mandatory provisions contained in Section 7 Cr.P.C.

20. The learned Counsel appearing for the petitioners in the other writ petitions have adopted the arguments of Sri M.R.K. Choudary.

21. Mr. Chandar Rao, learned Counsel appearing for the High Court would submit that under Sub-section (6) of Section 9 of the Code of Criminal procedure, the High Court is empowered to specify the place or places of sitting of the II Additional District and Sessions Judge of Cuddapah Sessions Division. In the present context the High Court and the Government have decided to direct the II Additional District and Sessions Judge, Cuddapah to sit at Proddatur for the disposal of the civil cases assigned to him by the Principal District and Sessions Judge u/s 11(2) of the Act and the session and criminal cases made over to him by the Principal Sessions Judge. The learned Counsel then referred to draft notifications issued by the Government, High Court and the District Judge. He would further submit that the II Additional District and Sessions Court, Cuddapah at Proddatur is not a separate District and Sessions Court and it is part and parcel of the District and Sessions Court, Cuddapah and it is to perform duties as assigned by the District Judge, Cuddapah u/s 11(2) of the Act by holding it's sitting at Proddatur as per the notification issued by the Government Therefore, there is no irregularity in directing the II Additional District and Sessions Court, Cuddapah to sit at Proddatur for the disposal of Civil and Criminal cases to be assigned to him by the District and Sessions Judge, Cuddapah for the convenience of the litigant public. He would further submit that the II Additional Sessions Judge, Cuddapah at Proddatur will have no separate jurisdiction and he will try the sessions and other criminal cases as made over by the Sessions Judge, Cuddapah. Hence there is no need for the Government to consult the High Court u/s 7 of the Code of the Criminal Procedure. It was submitted that the proposal is considered basing on the views of the District Judge, Cuddapah and after considering the average institutions and pendency of cases arising from the areas to be brought under the purview of the said Court i.e. Proddatur, Jammalamadugu and Kamalapuram Munsiffs and also the convenience of the litigant public but not merely on the request made by the Bar Association, Proddatur or at the request made by ML As concerned.

22. The A.P. Civil Court's Court Act, 1972 (Act No. 19 of 1972) was enacted to consolidate and to amend the law relating to Civil Courts subordinate to High Court in the State of Andhra Pradesh. Part II of the Act deal with the establishment and constitution of Courts in the District of Hyderabad and Part-111 provide for establishment and constitution of Courts in Districts other than the District of Hyderabad. Section 10 of the Act contemplates the establishment of District Courts and appointment of District Judges for each District Court. Thus there will be a District Court for each District presided by a District Judge. At this stage, it is apt to notice Section 11 of the Civil Courts Act, which reads as follows:

11. Appointment of Additional District Judges:--(1) Wherein the opinion of the High Court, the state of business pending in a District Court, so requires, the Government, may, after consultation with the High Court, appoint one or more additional District Judges to the District Court for such period as they may deem necessary.

(2) An Additional District Judge so appointed shall perform all or any of the functions of the District Judge under the said Act or any other law for time being in force which the District Judge may assign to him, and in the performance of those functions, he shall exercise the same powers as the District Judge.

23. Therefore, Section 11(1) provides for power to appoint and Additional District Judges, and in case in the opinion of the High Court that the state of business pending in any District Court requires appointment of appointment of Additional District Judges, the Government may appoint one or more Additional District Judges to that District Court for a specified period. Such Additional District Judges shall perform all or any of the functions of the concerned District Judge under the Act. Any Additional Judge thus appointed shall also perform the functions of the District Judge under any other law for the time being in force if such functions are assigned to such Additional District Judge by the District Judge. Section 15 of the Act, which is also necessary for the purpose, reads as follows:

75. Local limits of jurisdiction of District Courts, Court of Senior Civil Judge and Junior Civil Judge :--(1) The Government shall, after consultation with the High Court, by notification, fix and may from time to time, likewise alter, the local limits of the jurisdiction of any District Court or Court of Senior Civil Judge; and the High Court shall, by notification, fix and may from time to time, likewise alter the local limits of the jurisdiction of any Court of Junior Civil Judge.

(2) The local limits of the jurisdiction of every District Court, Court of Senior Civil Judge or Court of Junior Civil Judge existing on the date of the commencement of this Act shall be deemed to have been fixed under this section and shall continue as such until altered.

24. From the above, it is clear that the Government after consultation with the High Court, may, by notification fix the local limits of the jurisdiction of any

District Court or Court of Senior Civil Judge.

25. Section 21 of the Act reads as follows:

Places for the sitting of the Courts :--(1) The Government may, after consultation with the High Court, from time to time, by notification appoint the place or places at which any District Court or the Court of Senior Civil Judge established under this Act shall sit; and the High Court may, from time to time, by notification, appoint the place or places at which any court of Junior Civil Judge established under this Act shall sit.

(2) The place at which any Court specified in this Act is sitting on the date of the commencement of this Act shall be deemed to have been appointed under this section and shall continue as such until it is altered.

(3) The place or places appointed, or deemed to have been appointed, for the sitting of any Court under this section shall be within the local limits of the jurisdiction of that Court, unless the Government otherwise directs.

26. The words "place or places at which" occurring in Sub-section (1) of Section 21 of the Act were substituted by Act No. 29 of 1997. It is seen from, the Section 21 that the Government may after consultation with the High Court, from time to time by notification appoint the place or places at which any District Court or the Court of Senior Civil Judge established under the Act shall sit and the High Court may, from time to time by notification appoint the place or places at which any Court of Junior civil Judge established under the Act shall sit. This power can be exercised by the Government from time to time in consultation with the High Court. Sub-section (3) of Section 21 provides that the place or places appointed or deemed to have been appointed, for the sitting of any Court under the said section shall be within the local limits of the jurisdiction of that Court unless the Government otherwise directs.

27. Chapter II of the Code of Criminal procedure, 1973 deals with constitution of Criminal Courts and Offices. Section 7 deals with territorial divisions. Sub-section (1) of Section 7 provides that every State shall be a Sessions division or shall consist of sessions divisions and every sessions division shall, for the purposes of the Code, be a district or consist of districts. Sub-section (2) of Section 7 provides that the State Government may, after consultation with the High Court, alter the limits or the number of such divisions and districts. Section 7(3) provides that the State Government may, after consultation with the High Court, divide any district into subdivisions and may alter the limits or the number of such sub-divisions. Section 9 of Cr.P.C. deal with Court of Session. Section 9(1) provides that the State Government shall establish a Court of Session for every sessions division. Sub-section (2) provides that every Court of session shall be presided over by a Judge, to be appointed by the High Court and Sub-section (3) provides that the High Court may also appoint Additional Sessions Judges and Assistant Judges to exercise jurisdiction in a Court of Session. At this stage, it is also useful to extract Sections 9(4) and 9(6) which reads thus:

9(4): The Session Judge of the Session Division may be appointed by the High Court to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in the other division as the High Court may direct.

9(6): The Court of Session shall ordinarily hold its sitting at such place or places as the High Court may, by notification, specify: but, if, in any particular case, the Court of Session is of opinion that it will tend to the general convenience of the parties and witnesses to hold its sittings at any other place in the sessions division, it may, with consent of the prosecution and the accused, sit at that place for the disposal of the case or the examination of any witness or witnesses therein.

28. Chapter XIV of Cr.P.C. deals with conditions requisite for initiation of proceedings. We may also usefully quote Section 194 Cr.P.C. which reads thus:

Additional and Assistant Sessions Judge to try cases made over to them - An Additional Sessions Judge or Assistant Sessions Judge shall try such cases as the Sessions Judge of the division may, by general or special order, make over to him for trial or as the High Court may, by special order, direct him to try".

29. We have considered rival submissions made by either parties with reference to the submissions made in the affidavit, counter and other material on record including the correspondence, between the High Court and the Government and the notifications issued by the Government, High Court and the District Judge. It is seen that the orders issued by the Government in the impugned G.O. for shifting of the II Additional District and Sessions Court, Cuddapah to Proddatur is in effect a direction of the Government issued in consultation with the High Court to the II Additional District Judge, Cuddapah, which is part and parcel of District Court, Cuddapah to sit at Proddatur for the convenience of the litigant public u/s 21(1) of Act where the Government have the power to specify the place or places of sitting of the, District Court.

30. Since Section 11(1) provides for appointment of Additional District Judges, in view of the provisions of Section 21(1) of the Act, the Government, after consultation with the High Court, is empowered by notification to specify the place at which the Additional district Judge appointed shall sit to dispose of the cases made over to him by the Principal District Judge as underlined u/s 11 (2) of the Act. Even if we construe that the Additional District Court is part of District Court and cannot be considered as a separate unit, Sub-section (1) of Section 21 clearly provides that the Government may, after consultation with the High Court, from time to time, by notification appoint, the place or places at which any District Court established under the Act shall sit. Therefore, even if the Court of Additional District Judge is construed as part of District Court, the Government is not without power to direct that the District Court shall sit at more than one place when occasion arises and in the interest of litigant public. Therefore, when there are Additional District Judges appointed u/s 11(2) of the Act available in a

District Unit, the Government would be well within its competence u/s 21(1) of the Act, after consultation with the High Court, if it directs that one of the Additional District Judges so appointed to such District shall sit at some other place other than the headquarters of the District where the Principal District Judge sits, to discharge the functions of the District Judge under the Act or any other law for the time in being force which the District Judge may assign to him. The words "place or places" occurring in Section 21(1) has, therefore, wider connotation.

31. Likewise, Sub-section (6) of Section 9 of the Cr.P.C. provides that the High Court is empowered to specify the place or places of sitting of the Court of Sessions. As such, the High Court, in our considered view, is empowered to specify the place or places of sitting of the II Addl. District and Sessions Judge of Cuddapah Sessions Division. In the present context, the High Court and the Government have decided to direct the II Addl. District and Sessions Judge, Cuddapah to sit at Proddatur for the disposal of the civil cases assigned to him by the Principal District and Sessions Judge u/s 11(2) of the Act and the session and criminal cases made over to him by the Principal Sessions Judge, Cuddapah. The High Court has prepared draft notification to be issued by the Government u/s 21(1) of the Act. The High Court has also prepared a draft notification u/s 9(6) of Code of Criminal Procedure, 1973 for issuance of the same. A draft notification is also prepared by the High Court u/s 11(2) of the A.P. Civil Courts Act to be issued by the District Judge, Cuddapah assigning the Civil cases arising from the areas covered by the jurisdiction of Junior Civil Judge Courts of Proddatur, Jammalamadugu and Kamalapuram.

32. It cannot be gainsaid that the II Additional District and Sessions Court, Cuddapah is one of the Additional District and Sessions Courts to Cuddapah District and it shall perform all or any. of the functions of the District Judge, Cuddapah as assigned to it u/s 11(2) of the Act and shall also dispose of Sessions and other criminal cases which are made over to it by the Principal Sessions Judge, Cuddapah.

33. In view of the above legal provisions, we are of the view that the High Court need not specify the jurisdiction of II Additional District and Sessions Court, Cuddapah at Proddatur as mentioned in the impugned G.O.Ms.No. 38 dated 8-3-2002 and the High Court has rightly addressed to the Government for deleting the portion which specified the jurisdiction of the said Court and accordingly the Government has issued the revised orders in G.O.Ms.No. 49 dated 2-4-2002 by which the Government after careful consideration of the proposals directed that II Additional District and Sessions Court be shifted forthwith along with existing staff and other paraphernalia attached to it from Cuddapah to Proddatur, immediately to enable the Court to clear all the pendency after locating it in the Proddatur Court complex,

34. In our view, the II Additional District and Sessions Judge, Cuddapah is not a separate District and Sessions Court and it is part and parcel of the District and

Sessions Court, Cuddapah and it has to perform duties as assigned by the District Judge, Cuddapah u/s 11(2) of the Act by holding its sitting at Proddatur as per the notification to be issued by the Government u/s 21(1) of the Act and also a notification to be issued by the High Court u/s 9(6) of the Code of Criminal Procedure. Hence, there is no irregularity in directing the II Addl. District and Sessions Court, Cuddapah to sit at proddatur for the disposal of civil and criminal cases to be assigned to him by the District and Sessions Judge, Cuddapah for the convenience of the litigant public. It is not out of place to mention that some Additional District and Sessions Courts are functioning away from the District Headquarters as per the G.Os. and notifications issued by the Government and High Court, namely, II Additional District and Sessions Court, Krishna at Vijayawada, II Additional District Sessions Court, Chittoor at Madanapalli, II Additional District and Sessions Court, Chittoor at Tirupathi, II Additional District and Sessions Court, Ananthapur at Hindupur and the III Additional District Sessions Court, East Godavari at Kakinada. Further, the proposal was considered basing on the views of the District Judge, Cuddapah and after considering the average institutions and pendency of cases arising from the areas to be brought under the purview of the said Court i.e. Proddatur, Jammalamadugu and Kamalapuram Munsifs and also the convenience of the litigant public but not merely on the request made by the Bar Association, Proddatur or at the request made by the MLAs concerned as contended by the petitioners. In our view by issuing the impugned G.O. the Government has not altered the limits of the Sessions Division of Cuddapah. The II Additional Sessions Judge, Cuddapah at Proddatur will have no separate jurisdiction and he will try the sessions and other criminal cases as made over by the Sessions Judge, Cuddapah. Hence, there is no necessity on the part of the Government u/s 7 of the Code of the Criminal Procedure to consult the High Court in this regard. As already noticed above, the Government of A.P. has in fact consulted the High Court of A.P. while issuing the impugned G.O.

35. The High Court in its Full Court meeting considered the issue of establishment of Additional District Judge's Courts at places other than the Headquarters in depth and accordingly reconsidered its earlier decision not to establish any additional Court away from the District Headquarters. Unless the decision of the Full Court is contrary to the provisions, the same cannot be called in question. The learned Counsel appearing for the petitioners have not been able to establish how the decision of the Supreme Court is contrary to the provisions of the A.P. Civil Courts Act or the Code of Criminal Procedure, 1973. There cannot be any prohibition on the part of the High Court in changing its view on a consideration of the entire material afresh if the later decision is in the interest of litigant public. The High Court is not precluded from reconsidering its earlier decision. Therefore, the contention of Mr. M.R..K. Chowdary on this score cannot be accepted.

36. As rightly contended by Mr. Chowdary, the scheme of the Civil Courts Act does not provide for shifting of any Additional District Judge's Court. At the same

time, there is nothing in the Act that the place of the District judge's Court should be at the headquarters of the District only. Further, Sub-section (2) of Section 11 of the Act does not mention that any Additional Courts shall be established only at the District Headquarters or where the District Court is located. It is not necessary for the purpose of assigning the work of the District Court to the Additional District Judge, the Court of Additional District Judge must necessarily be at the headquarters only. No doubt the Additional District Judge perform the functions of the District Judge. But that does not mean that the Court of Additional District Judge should also be located in the Headquarters only. The Act has only conferred the powers on the Additional District Judge to perform the same functions as that of District Judge while discharging the judicial functions or under any other law for the time being in force if the District Judge assigns such functions to the Additional District Judge. It is true that no territorial jurisdiction is contemplated for the Additional District Judge as in the case of Senior Civil Judges and Junior Civil Judges. But the Additional District Judge has powers to perform the functions of District Judge. It may also be noted that it is not that the Additional District Judge or for that matter the District Judge is only dealing with the cases relating to local jurisdiction of headquarters or where the District Court is located. The District Judge or Additional District Judge has the power to deal with the cases of entire jurisdiction of the District as per law. Therefore, in view of the provisions of Section 9(6) Cr.P.C. and Sections 11 (1) and 21 (1) of the Act the High Court has power to specify the place or places at which the Additional Sessions Judge may sit in the district for the purpose of disposal of civil and criminal and sessions cases made over to him by the Principal District Judge. The Government cannot ignore the inconvenience caused to a section of the litigant public. Thus, the contention of the petitioners that shifting of the Additional District Judge's Court from the headquarters of the District is opposed to the scheme of the Act and contrary to the object sought to be achieved has no merit. We cannot subscribe to the contention of Mr. Choudary that Section 21 of the Act cannot be invoked for the purpose of passing of the impugned order. The recommendation made by the High Court cannot be termed as without application of mind and reference to the provisions of the Act.

37. The decision taken by the Government is purely a question of public policy based on certain factual situation. Such policy decision taken by the Government on the recommendation made by the Full Court of the High Court cannot be held to be discriminatory. In a changing society, a decision or a policy adopted at one point of time may not hold good at a later point of time and the authority has every right to change its view. Where public interest demands and where the convenience of the litigant public is to be properly safeguarded, it is always open to any authority to reconsider its earlier decision and take a decision afresh under the changing circumstances and in the light of the materials placed before it. In our considered view, no fetters can be imposed on the power of the authority in such a situation. The High Court in its Full Court meeting held on

27-10-1999 in its wisdom resolved to rescind its earlier decision not to establish Additional District Courts outside the District Headquarters based on the material placed before it and in the interest of litigant public. As already held, such decision, unless it is held to be contrary to the provisions of law or public interest, cannot be interfered with. Neither the Bar Association nor the litigant public have any fundamental right to claim that a Court should be established at a particular place nor a Court already established shall not be shifted to another place. They have no locus standi to file the writ petition.

38. It is true that no territorial jurisdiction is originally conferred with the Additional District Judge and no provision was also made to limit the territorial jurisdiction of the Additional District Judge. But, we are not inclined to accede to the contention of the learned Counsel for the petitioners that there is no independent existence as an Additional District Judge's Court. What the District Judge exercises the jurisdiction in civil matters, criminal and sessions cases, the same functions will be exercised by the Court of Additional District Judge. While exercising the functions after the cases are made over to it, the Court of Additional District Judge will act as an independent existence and it acts independently.

39. We shall now consider the relevant decisions on the issue. A Division Bench of this Court comprising one of us viz., Dr. Justice AR. Lakshmanan (CJ) and Venkatanarayana, J in Vemula Rajamouli and Another Vs. State of A.P. and Another, , while considering the transfer of a Court and conversion of existing Court of Special Judicial Magistrate of First Class, Manthani as Court of Junior Civil Judge-cum-Judicial Magistrate of I Class and shifting the same to Godavarikhani, held as follows:

The action of the Government, therefore, cannot be characterised as irregular or illegal. By reason of conversion of the Court of Special Mobile Court, Manthani as Court of Junior Civil Judge-cum-Judicial Magistrate of I Class and shifting the same to Godavarikhani having civil jurisdiction as also jurisdiction on criminal side to try all offences including bailable and non-bailable, the poorer litigants of all the areas including the Ramagundam area can avail of the benefit of the setting up of a permanent/ regular Court. It is true that by shifting the Court from one place to another, people of one area may be affected. But that cannot, in our opinion, stand in the way of Government issuing the G.O. when it is required to shift the Court in larger public interest on the basis of the recommendations of the High Court. As already observed, by shifting the Court to Godavarikhani, the poorer litigants residing in Godavarikhani and Ramagundam and also the people residing in the nearby mandals will be benefited. The inconvenience or grievance of a few residing in the mandals of Kalva Srirampur and Julapalli is only imaginary in nature and cannot be a ground to quash the G.O.

40. We may also usefully refer to the decision of the Rajasthan High Court in Rajasthan High Court Advocates Association Vs. State of Rajasthan and Others, .

In this case, a Division Bench of the Rajasthan High Court consisting of one of us viz., Dr. Justice AR. Lakshmanan (CJ) and Bhagwati Prasad, J., was considering a case filed by the Rajasthan High Court Advocates Association, Jodhpur in regard to the establishment of Benches of the various Tribunals at Jodhpur. The Bench after referring to various decisions of the High Court and the Supreme Court held that the establishment of a Court is a question of public policy and that the policy is required to be left to Government and members of the Bar Association, therefore, would have no locus standi to file writ petition for establishment of Bench in a particular city. The Bench has followed a recent decision of the Supreme Court in *Federation of Bar Association in Federation of Bar Associations in Karnataka Vs. Union of India*, , instituted by the Federation of Bar Associations in Karnataka wherein it was observed that a federation of members of the bar cannot be considered to be the accredited representative of the litigants and no litigant can claim a fundamental right to get a Court located within proximal distance of his residence. Thus, the Hon'ble Supreme Court has clearly laid down that a Bar Association has no fundamental right to espouse a question of the nature raised in the present writ petitions.

41. Further in *State of Punjab and Others Vs. Ram Lubhaya Bagga Etc. Etc.*, , the Apex Court held that the right of the State to change its policy from time to time under the changing circumstances cannot be questioned, that the wisdom of the policy cannot be judicially scrutinised though the Court can consider whether the policy is arbitrary or violative of law. The Rajasthan High Court in *Rajasthan High Court Advocates Association v. State of Rajasthan*, also observed:

We think that there cannot be a dispute about the proposition of law that the High Courts have a greater scope of passing orders required in a particular contingency but then there has to be a right which requires its enforcement in the extraordinary jurisdiction of this Court. The establishment of Court is a question of public policy. A policy decision is best required to be left to the Government and, thus, we are firmly of the opinion that the present petitioners have no right in asking for establishment of a Bench at Jodhpur.

42. Following the above judgments, we hold that the petitioners have no locus standi in maintaining the writ petition and therefore the Vrit petitions are not liable to succeed on the ground of right of the petitioners to maintain the writ petitions.

43. We may also conveniently refer to a decision of this Court in *G. Rangayanakulu v. Registrar, A.P.* High Court 1980 CrL. L.J 1162. In this Case, the High Court of A.P. issued a notification on 23-1-1980 directing an Additional Sessions Judge, Krishna to sit at Vijayawada and dispose of those sessions cases and other criminal matters as are made over to him by the District Judge at Krishna at Machilipatnam. P.A. Choudary, J., after an elaborate discussion held:

The notification did not amount to creating a Court of Additional Sessions Judge, Vijayawada within the Sessions Division of Krishna. Therefore, the notification did

not contravene Section 7 Cr.P.C. and was not ultra vires powers of the High Court u/s 9(6) Cr.P.C. read with Section 194 Cr.P.C.

There cannot be a Sessions Court without a power to receive Original Applications and appeals. Notwithstanding the fact that the Notification uses the word "Court", what is provided for by the Notification is not the "establishment" of a Court of an Additional Sessions Judge but only posting of an Additional Sessions Judge at Vijayawada with directions to dispose of such of those criminal cases instituted before the Sessions Court, Krishna at Machilipatnam but which have been made over to him by the District and Sessions Judge, Krishna at Masulipatnam. The notification has scrupulously avoided the investiture of any powers on the Additional Sessions Judge, Krishna of receiving criminal appeals and original applications etc.

The Court exercising its supervisory powers under Article 227 of the Constitution is well within its authority to designate one of the Additional Sessions Judges of Krishna Division to work as an Additional Sessions Judge, at Vijayawada.

When in exercise of the powers vested in it the High Court had issued the notification, it would not be open to re-evaluate in writ proceedings the needs of the litigant public of the area. The possibility of pecuniary loss to certain members of the Bar cannot be taken into consideration while deciding the validity of the notification.

44. A similar question arose for consideration before the Supreme Court in *Kehar Singh and Others Vs. State (Delhi Administration)*, . This case relates to the trial of the former Prime Minister Smt. Indira Gandhi murder case, A notification was issued by High Court of Delhi for holding sittings of Sessions Court in Tihar Jail. Some preliminary objections were raised about the procedure at the trial. One of the contentions raised was about the venue of the trial and the manner in which the venue was fixed by the Delhi High Court by a notification u/s 9(6) Cr.P.C. Another objection raised was that on the basis of Section 194 Cr.P.C. that it was not necessary for the High Court to have allotted the case to a particular Judge, On a consideration of the provisions of Section 194; rejecting the contention of the petitioners, the Apex Court held that the first part of the Section 9(6) clearly provides that the Sessions Judge of the division by general or special order is supposed to allot cases arising in a particular area or jurisdiction to be tried by Additional or Assistant Sessions Judges appointed in the division but the last part of this section also authorises the High Court to allot the case to a particular Judge keeping in view the fact that in certain cases the Sessions Judge may not like to allot and may report to the High Court or either of the parties may move an application for transfer and under these circumstances it may become necessary for the High Court to allot a particular case to a particular Judge.

Oza, J,. held:

.....Whatever be the terms of the notification, it is not disputed that it is a notification issued by the Delhi High Court u/s 9, Sub-clause (6), Cr.P.C. and

thereunder the High Court could do nothing more or less than what has the authority to do. Therefore, the said notification of the High Court could be taken to have notified that Tihar Jail is also one of the places of sitting of the Sessions Court in the Sessions Division ordinarily. That means apart from the two places Tis Hazari and the New Delhi, the High Court by notification also notified Tihar Jail as one of the places where ordinarily a Sessions Court could hold its Sittings. In this view of the matter, there is no error if the Sessions trial is held in Tihar Jail after such a notification has been issued by the High Court.

Jagannatha Shetty, J., agreeing with Oza, J, interpreting the words "place or places" occurring in Section 9(6) Cr.P.C. held:

The words "place or places" used in Section 9(6) apparently indicates that there could be more than one place for the sitting of the Court of Session. The different places may be notified by different notifications. There may be a general notification as well as a special notification. The general notification may specify the place for the class of cases where Court of Session shall sit for disposal. The special notification may specify the same place or a different place in respect of a particular case.

45. Further Section 9(4) Cr.P.C. empowers the High Court to appoint a Sessions Judge of one Division to sit at such place or places in another division for disposal of cases. The High Court while so appointing need not direct him to sit only at the ordinary place of sittings of the Court of Sessions. There is no such constraint in Section 9(4). The High Court may also issue a separate notification u/s 9(6) specifying the place or places where that Sessions Judge should sit for disposal of cases.

46. Therefore, when a provision is there even to appoint a Sessions Judge of one Session Division to be an Additional Sessions Judge of another division and the High Court is empowered by a notification u/s 9(6) specifying the place or places where that Sessions Judge should sit for disposal cases, it cannot be said that an Additional Sessions Judge working in the same division cannot be asked to sit at the notified place in the same division.

47. The contention Mr. Chowdary that there has been no consultation u/s 7 Cr.P.C. with the High Court for shifting of the Sessions Division and therefore it is without jurisdiction has also no merit. The Sessions Division is not shifted. The II Additional Sessions Judge, Cuddapah at Proddatur will have no separate jurisdiction and he will try the sessions and other criminal cases as made over to him by the Sessions Judge, Cuddapah. Further, in the teeth of Section 9(6) of Cr.P.C. whereunder the High Court is empowered to issue a separate notification specifying the place or places where that Sessions Judge should sit for disposal of cases, such a contention cannot be accepted. Further, consultation as required u/s 7(2) of the Code of Criminal Procedure is necessary only where the Government intends to alter the limits or the number of such divisions and districts. In this case, there is no alteration of the limits of the sessions Division,

Cuddapah. The Sessions Division, Cuddapah continues to remain as such. Hence, the consultation of the High Court is not necessary. Even otherwise also, the High Court has consented for the shifting of the Court of the Additional District Judge, Cuddapah to Proddatur. In this view of the matter, the objection raised by the petitioners on this score is also of no consequence and therefore we reject the same.

48. For the reasons aforesaid, we are of the opinion that there are no merits in the writ petitions and they must fail. Accordingly, the writ petitions are dismissed. There shall, however, be no order as to costs.