
(2002) 02 AP CK 0161
In the Andhra Pradesh High Court
Case No : WA No. 1491 of 1998

Collector/Agent to the Govt., Khammam District	APPELLANT
Vs	
Bhadrachalam Division Lorry Owners Association, Bhadrachalam	RESPONDENT

Date of Decision : 01-02-2002

Acts Referred:

Andhra Pradesh Agency Rules, 1924 — Rule 3
Civil Procedure Code, 1908 (CPC) — Section 9
Constitution of India, 1950 — Article 226

Citation : (2002) 2 ALD 678

Hon'ble Judges : S.R. Nayak, J; L. Narasimha Reddy, J

Bench : Division Bench

Advocate : Govt. Pleader for Social Welfare, for the Appellant; M. Ravindranath Reddy and A. Sudershan Reddy, for the Respondent

Final Decision : Allowed

Judgement

S.R. Nayak, J.—The Collector/Agent to Government, Khammam District has filed this writ appeal against the order dated 9-4-1998 passed in WP No.33 of 1998 by the learned single Judge.

2. WP No.33 of the 1998 was filed by the Bhadrachalam Division Lorry Owners Association, Bridge Road, Bhadrachalam, praying for writ of mandamus declaring the action of the Collector/Agent to Government-appellant herein, who is impleaded as 1st respondent in the writ petition, in entertaining the suit OS No.49 of 1996 filed by one Sri Chennupati Ramakotaiah Lorry Transport, Vijayawada, for perpetual injunction against the writ petitioner, as arbitrary, illegal and without jurisdiction.

3. It appears that the 3rd respondent filed suit OS No.49 of 1996 praying for the relief of perpetual injunction against the writ petitioner's association from interfering with his transport business along with an interlocutory application for temporary injunction. The said suit was entertained by the Collector/Agent to

Government, Khammam District and that is why the Bhadrachalam Division Lorry Owners Association, against which injunction was sought before the Agency Court, filed the writ petition. Before the learned single Judge, it appears, it was contended that u/s 3 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, (for short, "the Regulation"), a suit relating to lands could only be entertained by the Agency Court and not other kinds of suits. The learned Judge accepting the said contention of the writ petitioner held that the suit filed by the 3rd respondent is not maintainable and consequently, the learned Judge allowed the writ petition and declared that the suit filed by the 3rd respondent is not maintainable. Hence, this writ appeal by the Collector/Agent to Government, Khammam District.

4. Learned Government Pleader for Social Welfare would contend that the contention put forth before the learned Judge that u/s 3 of the Regulation only suits relating to the lands could be entertained and not any other suit is totally misconceived inasmuch as Section 3 of the Regulation does not deal at all with the jurisdiction of the Agency Court to entertain the suit. Learned Government Pleader would draw our attention to Rule 3 of the A.P. Agency Rules, 1924, (for short, "the Agency Rules") framed by the Governor by virtue of the power conferred u/s 6 of the Scheduled Districts Act, 1874. Rule 3 of the Agency Rules reads-

"3. The Courts shall subject to the provisions herein contained have jurisdiction to try all suits of a civil nature, excepting suits of which their cognizance is either expressly or impliedly barred."

5. The provision of Rule 3 of the Agency Rules is exactly similar to that of Section 9 of CPC. By virtue of Rule 3 of the Agency Rules, the Agency Court has the jurisdiction to try all suits of civil nature, excepting suits of which their cognizance is either expressly or impliedly barred. At the outset, it needs to be noticed that an Agency Court is a substitute for a Civil Court in every respect in the Agency Areas and therefore, it has the same jurisdiction, which a Civil Court has u/s 9 of the Code of Civil Procedure. Generally speaking, Agency Courts like Civil Courts have plenary powers to try all suits which involve determination of any civil right. Only two things are required to give the jurisdiction, i.e., (i) dispute must be of a civil nature, and (ii) its cognizance must not be barred by other statute either expressly or by necessary implication. Ouster of Agency Courts jurisdiction cannot be readily inferred and the provisions of ouster have to be strictly construed. Out of one incident or transaction more than one cause of action may arise, each giving rise to an independent right. Every right has a remedy and exclusion of ordinary remedy will depend upon the ambit of machinery provided for in the provisions of exclusion. Therefore, all will depend upon host of factors like the nature of the grievance, grounds of challenge, nature of remedy provided for in the enactment and conditions attached to that remedy. There is an inherent right in every person to bring a suit of a civil nature and unless the suit is barred by statute, one may, at one's peril, bring a suit of

one's choice. It is no answer to a suit, howsoever frivolous the claim, that the law confers no such right to sue. In *Smt. Ganga Bai Vs. Vijay Kumar and Others*, , the Apex Court held that a suit for its maintainability requires no authority of law and it is enough that no statute bars the suit. A suit is expressly barred if a legislation in express terms says so. It is impliedly barred if a statute creates a new offence or a new right and prescribes a particular penalty or special remedy. In that event, no other remedy can, in the absence of contrary intention, be resorted to. In forming this opinion, we are fortified by the judgments of the Apex Court in *K.S. Venkataraman and Co. Vs. State of Madras*, , *Munshi Ram and Others Vs. Municipal Committee, Chheharta*, and the judgment of a Division Bench of Karnataka High Court in *Khadi and Village Industries Commission, Bombay Vs. N.S. Pai*, , and also the judgment of Rajasthan High Court in *Modern Machinery Stores v. District Judge* AIR 1983 Raj 178. However, two conditions are required to be fulfilled before an Agency Court can be said to be competent to try a suit, i.e., the suit must be of a civil nature; and (ii) the cognizance of such a suit should not have been expressly or impliedly barred. In *Dhulabhai and Others Vs. The State of Madhya Pradesh and Another*, , and *Munshi Ram v. Municipal Committee (supra)*, the Apex Court suggested certain tests/fundamental principles to be borne in mind in deciding cases where the question of exclusive jurisdiction of Tribunal is raised. It is not the case of the writ petitioner that the jurisdiction of the Agency Court is ousted explicitly or impliedly by any other statute.

6. It cannot be gainsaid that the suit filed by the 3rd respondent in the Agency Court is a suit of civil nature seeking a civil remedy. Section 3 of the Regulation does not at all deal with the jurisdiction of the Agency Court to entertain the suits. On the other hand, Section 3 of the Regulation deals with transfer of immovable property by a member of a scheduled tribe. In view of Rule 3 of the Agency Rules and since it is not brought to our notice by the learned Counsel appearing for the writ petitioner any other statute or statutory rule which bars the jurisdiction of the Agency Court to entertain a suit for perpetual injunction, we hold that the Agency Court has jurisdiction to entertain the suit filed by the 3rd respondent. In that view of the matter, with respect, we cannot sustain the order of the learned single Judge. However, learned Counsel appearing for the 1st respondent-writ petitioner would contend that the impugned order need not be interfered at the instance of the Agent to the Government who constitutes the Agency Court because the plaintiff has accepted the order of the learned single Judge and it has not come forward to assail the validity of the same. The learned Counsel for the writ petitioner contends that the Collector/Agent to Government, Khammam District, has no locus to assail the correctness of the orders made by the learned single Judge. This contention of the learned Counsel for the 1st respondent-writ petitioner is not acceptable to the Court. It is true that normally, a Court or a statutory quasi-judicial authority or Tribunal, is not permitted to assail the order of a superior Court or the Tribunal if its order is set aside or quashed by such superior Court or Tribunal on the ground that it is for

the aggrieved parties to pursue further legal remedies and not for the Court or the Tribunal, as the case may be, because, they cannot be treated as aggrieved parties. But, here is an extraordinary situation and if the order of the learned single Judge is allowed to stand, the jurisdiction conferred upon the Agency Court u/s 3 of the Agency Rules would be restricted to entertaining the suits in respect of the land only and the jurisdiction of the Agency Court to entertain all other suits of civil nature would be ousted thereby substantially curtailing the jurisdiction of the Agency Court. The situation created by the order of the learned single Judge is drastic and far-reaching and it will create serious problems in the administration of justice in the Agency Areas of the State of Andhra Pradesh. In such situation, simply because the plaintiff who instituted the suit in the Agency Court has not preferred appeal against the order of the learned single Judge, that would not come in the way of the State and its authorities in assailing the correctness of the order of the learned single Judge. Therefore, it cannot be said that the Collector/Agent to Government, Khammam District has no locus standi to prefer this writ appeal against the order of the learned single Judge. It is also relevant to notice that the Collector/Agent to Government, Khammam District, was arrayed as 1st respondent in the writ petition and by the order under appeal, his jurisdiction to entertain the suit of the respondent No.3 is ousted. Looking from that angle also, the writ appeal filed by him is maintainable and could be entertained.

7. In the result and for the foregoing reasons, we allow the writ appeal and set aside the order dated 9-4-1998 passed by the learned single Judge and dismiss Writ Petition No.33 of 1998 with no order as to costs.

8. Before parting with this case, another submission made by the learned Counsel for the 1st respondent be noted. According to the learned Counsel, the suit filed by the 3rd respondent is not maintainable even otherwise on the grounds of lack of territorial jurisdiction in the Agency Court, the subject-matter of the dispute etc. We do not wish to express any opinion on this contention of the learned Counsel for the 1st respondent. If that is the case, it is permissible for the 1st respondent to raise all these pleas before the Agency Court for its consideration and decision.