

(1964) 03 AP CK 0010
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 11 of 1963

Government of Andhra Pradesh	Vs	APPELLANT
Satyanarayana and Another		RESPONDENT

Date of Decision : 04-03-1964

Acts Referred:

Estates Abolition Act — Section 11

Citation : AIR 1967 AP 129

Hon'ble Judges : AP. Chandra Reddy, C.J.;Kumarayya, J

Bench : Division Bench

Advocate : Parrnment Pleader, for the Appellant; K. Jagannada Rao, A. Suryanarayana Murty and T. Eswara Prasad, for the Respondent

Judgement

P. Chandra Reddy, C. J.,

(1) It is the proper interpretation of the proviso to Section 11 of the Estates Abolition Act that is involved in this Writ Appeal.

(2) The Respondent is the resident of Amudalapalli situate in the then Vuyyur estate of the Krishna District, claiming that he was inducted into possession of Ac. 6.02 cents of land by the then Zamindar of Vuyyur and that the patta therefore was subsequently granted to him on 19-7-1946. He invoked the provisions of Section 11 of the Estates Abolition Act. The proper Assistant Settlement Officer rejected this application on the ground that the land in dispute formed part of the Budameru River poramboke, although he found that the respondent was in fact admitted into possession in 1944 and patta was assigned in 1946. The aggrieved respondent carried the matter in appeal to the Settlement Officer. The Settlement Officer, being of opinion that this was ryoti land and was not included in the river poramboke, that the respondent was in possession and enjoyment of this land from 1944 and that a patta was issued to him in 1946 by the then landlord set aside the order of the Assistant Settlement Officer and directed the issue of patta to him.

(3) One of the persons who opposed the issue of patta to the respondent before the Assistant Settlement Officer on the plea that it was a river poramboke carried a revision to the Director of Settlements. This authority reversed the order of Settlement Officer, having come to the conclusion that it was not ryoti land and restored that of the Assistant Settlement Officer.

(4) This order formed the subject-matter of a revision to the Board of Revenue at the instance of the respondent. The Board of Revenue chose to agree with the Settlement Officer rather than with the Director of Settlements with the result that a patta was directed to be issued to the Respondent.

(5) Once again the objector came on the scene and sought to have the order of the Board of Revenue revised before the Government of Andhra Pradesh, which quashed the order of the Board of Revenue without notice to the respondent. This led the respondent to invoke the jurisdiction of this Court under Article 226 of the Constitution contending that the final authority u/s 11 is the Board of Revenue and that in any view the order of the Government is opposed to natural justice in that the doctrine of audi alteram partem was not observed. This contention appealed to our learned brother Justice Basi Reddy; while allowing the Writ petition he observed that it is open to the Government, if so advised, to deal with the matter according to law after giving reasonable opportunity to the petitioner to present his case. In compliance with the directions of this Court the Government issued a notice to the respondent to show cause why the order of the Board of Revenue should not be set aside. Once again the respondent approached this Court, this time for the issue of a Writ of prohibition i.e., to prevent the Government from rehearing the petition.

(6) Our learned brother Justice Seshachalapati, before whom the matter came up, granted this prayer being of opinion that the proviso to Section 11 does not govern the present case as the respondent was found to be in possession of the land from 1944. In this appeal it is this view of the learned Judge that is assailed.

(7) The question for consideration is whether the Government could exercise revisional jurisdiction when it was found that the person concerned was admitted into possession before the 1st day of July, 1945.

(8) At the outset, we must say that we do not agree with Mr. Jagannadha Rao, learned counsel for the Respondents that the proviso has nothing to do with Clauses (a) and (b). The proviso does govern Clauses (a) and (b), because if the authorities come to the conclusion that the claimant was admitted into possession of the land by the landholder on or after of July, 1945, they have to reject the application for the issue of patta, except in the circumstances contemplated by the proviso. Therefore the proviso is quite relevant in the context of the consideration whether the land should be included in the holding of the claimant or not.

(9) The next question is whether the Government could interfere with the finding of the hierarchy of tribunals when the respondent was admitted into possession

in 1944 itself. In our considered opinion, this proviso does not seem to justify the conclusion that it is for the Government to decide ultimately as to when the person was admitted into possession. We feel that the Government would come into the picture only if it is decided by these tribunals, including the Board of Revenue, that he was admitted into possession after the 1st of July, 1945. In spite of the applicant being admitted into possession after the 1st of July, 1945, it is open to the Government to direct the issue of a patta if the circumstances permit it. Thus, the Government is vested with discretion and jurisdiction to direct the issue of patta even if admission is after the 1st of July, 1945. We do not think that the section vests any power other than the one indicated above. It is for the Board of Revenue as the final authority to find out as to when exactly he was admitted into possession. If, in the exercise of this power, the Board of Revenue comes to the conclusion, in agreement with the Settlement Officer that it is a ryoti land and that the person was admitted into possession before the 1st of July, 1945, the Government cannot interfere with it.

(10) In these circumstances we feel that the conclusions of our learned brother cannot be successfully assailed.

(11) In the result, the appeal is dismissed. No order as to costs.

(12) GJ/RSK/D. V. C.

(13) Appeal dismissed.