
(1999) 04 AP CK 0071

In the Andhra Pradesh High Court

Case No : Writ Petition No. 32373 of 1997

Gurram Rami Reddy and another

APPELLANT

Vs

State of Andhra Pradesh and others

RESPONDENT

Date of Decision : 30-04-1999

Acts Referred:

Andhra Pradesh Civil Courts Act, 1972 — Section 1, 2, 7
Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 — Section 3, 4, 5, 8, 8
Civil Procedure Code, 1908 (CPC) — Order 39 Rule 2
Constitution of India, 1950 — Article 226, 236

Citation : (2000) 3 ALD 328 : (2000) 3 ALT 117

Hon'ble Judges : Vaman Rao, J;B. Subhashan Reddy, J

Bench : Division Bench

Advocate : Mr. K. Venkat Reddy, for the Appellant; Mr. C.V. Mohan Reddy, for the Respondent

Judgement

Vaman Rao, J

1. This petition under Article 226 of the Constitution of India has been filed for a writ of certiorari calling for the records relating to the judgment in LGC No.34 of 1996 dated 29-10-1997 on the file of the Special Court under A.P. Land Grabbing (Prohibition) Act at Hyderabad (for short "the Special Court") and quash the same.

2. The writ petitioners 1 and 2 are respondents 1 and 2 in LGC No.34 of 1996 on the file of the Special Court. Respondent No.2 in this writ petition is the petitioner before the Special Court. Respondent No.4 herein is the respondent No.3 in the said LGC.

3. A brief resume of facts culminating in filing of this writ petition may be given as follows :

Respondent No.2 herein filed a petition before the Special Court asserting that she is the owner of the property of a house plot bearing No. 19 admeasuring 400

square yards in Survey No.50 of Saheb Nagar village, Hayathnagar Mandal, Ranga Reddy District. She traces her title and possession through purchase under sale deed dated 23-1-1993 from respondent No.4 in this petition. The said Jhansi Laxmi (respondent No.4 herein) had acquired title earlier under a registered sale deed dated 7-12-1979 from one Sri Gurram Krishna Reddy. The case of respondent No.2 herein (applicant in LGC) was that respondents 1 and 2 therein (writ petitioners) were seeking to grab the land in question and petitioner No.1 herein tried to dispossess respondent No.2 herein from the said property. The 1st petitioner herein also filed a caveat petition in the first week of June, 1995 in the Court of Principal District Munsif, East and North, Ranga Reddy District to oppose any suit or proceedings likely to be taken by the respondent No.2 herein. Respondent No.2 herein filed a complaint before the concerned police in respect of threat of dispossession by the petitioner No. 1 herein in spite of the fact that she is the owner of the said land and her name was also mutated in the municipal records as owner. The 2nd respondent herein thereafter filed a suit in OS No.679 of 1995 on the file of the Principal District Munsif, East and North, Rangareddy District for a perpetual injunction restraining respondent No.1 therein (petitioner No.1 herein) from interfering with her possession. A status quo order was granted by the Court. The petitioners herein opposed the injunction petition. The plea taken by the petitioners herein in that suit was that Gurram Krishna Reddy, who is the brother of the 1st petitioner and husband of the 2nd petitioner herein purchased the property from Gummudi Basava Punnaiah with the funds of the joint family and after his death the petitioners herein, are entitled to the same. It is stated that the 2nd petitioner herein also executed a settlement deed in favour of the petitioner No.1 herein to an extent of 188.8 square yards out of 400 square yards of the land. They constructed a room with tin shed two years back and let out the same to one Nugakhushanam and Bubu for running lorry work shop.

4. The case of respondent No.2 herein before the Special Court was that in spite of her efforts to resist the onslaught of the petitioners herein, they finally succeeded with the help of anti-social elements in grabbing the scheduled property on 27-11-1995. She lodged a complaint to the police against the 1st petitioner herein and also filed an application under Order 39, Rule 2(a) of the CPC for punishing the 1st petitioner herein for violating the order of status quo. It is under these circumstances she filed LGC in the Special Court.

5. The LGC filed by the respondent No.2 herein has been opposed by the petitioners herein and the principal plea was that Gurram Krishna Reddy purchased the property in question from one Gummadi Basava Punnaiah from joint family funds. The sale of land by Gurram Krishna Reddy in favour of respondent No.2 herein as set up by her has been denied by the petitioners herein. Among other things, it was stated that Gurram Krishna Reddy was literate and was capable of making signatures. But the sale deed contains the thumb impression of Gurram Krishna Reddy. Thus, the defence of the petitioners was that the alleged sale deed is forged one and that after death of Gurram

Krishna Reddy they succeeded to the property.

6. The 3rd respondent in LGC (the fourth respondent herein) supported the case of the 2nd respondent herein (the petitioner in the LGC).

7- Basing on the rival contentions, the Special Court framed the following issues :

"(1) Whether the applicant is the owner of the petition schedule land ?

(2) Whether the respondents are land grabbers within the meaning of A.P. Act XII of 1982 ?

(3) To what relief ?

8. On behalf of the applicant in LGC (respondent No.2 herein), PWs.1 and 2 have been examined and Exs.A1 to A14 have been marked. On behalf of the petitioners herein, RWs.1 to 4 have been examined and Exs.B1 to B15 have been marked.

9. On this evidence, the Special Court upheld the claim of respondent No.2 herein that she was the owner of the property in question and also held that the petitioners herein were land grabbers. The Special Court granted the relief of possession to the respondent No.2 herein and also directed that the petitioners herein may be prosecuted under the provisions of Sections 3, 4 and 5 of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982. This judgment is challenged in this writ petition.

10. Respondent No.2 filed counter opposing the writ petition.

11. The judgment of the Special Court in LGC No.34 of 1996 is sought to be challenged in this writ petition on three grounds :

Firstly, the finding of the fact that respondent No.2 herein is the owner of the land and that the petitioners herein are the land grabbers is assailed as being illegal, arbitrary and against the principles of natural justice, in particular the finding as to the execution of sale deed by Gurram Krishna Reddy is said to be totally against the evidence on record inasmuch the Special Court ignored the fact that Gurram Krishna Reddy was an illiterate person and the sale deed with thumb impression must have been a forged one; Secondly, it is averred that the finding of the Special Court has been vitiated because of denial of opportunity to the petitioners to prove that the thumb impression of Gurram Krishna Reddy on the sale deed relied upon by respondent No.2 herein was a forged one inasmuch as interlocutory applications to call for some documents for comparison with the said thumb impression have been dismissed erroneously; and Thirdly, it is urged that the Special Court had no jurisdiction to entertain and try this petition.

12. Taking up the first question, it is well settled that the scope of interfering with the finding of fact arrived at by a Court or statutory authority in a proceedings under Article 226 of the Constitution of India is limited. It is pertinent to mention that the judicial review under Article 226 of the Constitution

of India is directed not against the correctness of the decision but against the correctness of the decision making process. It is not a case where it can be said that the finding of the fact as to title of respondent No.2 herein and grabbing of the land by petitioners 1 and 2 herein is not based on any evidence at all. Nothing has been urged to show that the statutory authority, namely, the Special Court acted upon irrelevant considerations or neglected to take into account the relevant factors. The only aspect which may be considered is whether the decision arrived at by the Special Court is so unreasonable that no reasonable authority would have made such a decision.

13. We have carefully gone through the judgment of the Special Court. Every aspect of the case and every plea taken by the petitioners herein has been meticulously addressed with reference to the evidence adduced in the case. For instance, the plea of the petitioners herein that Gurram Krishna Reddy through whom respondent No.2 herein claims title was illiterate person and that Ex.A14, the registered sale deed under which the predecessor-in-title of respondent No.2 herein, namely, respondent No.4 herein is said to have acquired title contains only thumb impression and as such it must be a forged document has been elaborately considered by the learned Bench of the Special Court at Pages 20, 21 and 22 of the impugned judgment. The plea of the petitioners herein that they have been in possession of the land in question right from the date Gurram Krishna Reddy purchased it and as such they could not be called as land grabbers has also been examined by the Special Court and it came to the conclusion that the documents relied upon by the petitioners herein in that regard are got up documents which came into existence after the disputes arose. Thus, looking from any angle, the petitioners herein have not succeeded in bringing out grounds for interference with the finding of the fact of the learned Special Court which could be considered as permissible and relevant under Article 226 of the Constitution. On the other hand, a close scrutiny of the impugned judgment would disclose that the Special Court has based its findings entirely on the evidence adduced by the partners subjecting it to its close examination. The findings of the Special Court are thus based on admissible evidence on record. No instance has been pointed out to show that any admissible evidence was not considered or any evidence which was not admissible has gone into the decision of the Special Court. There is absolutely no ground to contend that the findings of the Special Court are so unreasonable that no reasonable authority or Tribunal would come to such a conclusion on the contrary to the judgment of the Special Court is based on thorough analysis of the evidence supported by cogent and convincing reasons.

14. The next plea is based on rejection of the interlocutory applications by the Special Court to call for certain documents for comparison with the alleged thumb impression of Gurram Krishna Reddy on the sale deed relied upon by respondent No.2 herein i.e., Ex.A14 said to have been executed by Gurram Krishna Reddy in favour of respondent No.4 herein i.e., Jhansi Laxmi. The plea is that the petitioners were denied an opportunity to produce some material

evidence, and the same is incorporated in "Ground-C" at page six of the writ petition, which reads as follows :

"c. That the Special Court has denied the opportunity by dismissing the IA No.689 of 1997 and 1A No.690 of 1997 in LGC No.34 of 1996 to us to prove the thumb impression containing on Ex.A14 (i.e., the sale deed dated 7-12-1979) is forged."

There is no material as to at what stage and on what material, these IAs., were filed and whether they were filed for calling for records from any office or they were filing the documents in their own custody. Copies of orders passed on these IAs., are not available. There is nothing in the affidavit of the petitioner filed in support of the writ petition to show as to on what grounds and for what reasons the 1A Nos.689 and 690 of 1997 in LGC No.34 of 1996 have been dismissed by the Special Court. However, in the counter-affidavit filed on behalf of respondent No.2, it is specifically stated that the Special Court had earlier allowed an application similar to IA No.690 of 1997 and the Supervisor of the Hyderabad District Co-operative Central Bank was summoned and examined.

15. Discussion at Page 19 of the impugned judgment would disclose that Exs.B1 to B3 were already filed which purport to contain the signatures of Gurram Krishna Reddy. They were introduced into the evidence by examining RW1, a Supervisor of Hyderabad District Cooperative Central Bank. There is a mention in the judgment of the Special Court that "RW1 himself admitted that there is discrepancy between one signature and the other of Krishna Reddy in Exs.B1 to B3. He also stated that he cannot explain the discrepancy since he was not present at the time of sanction of the loan and finally he stated that he has no personal knowledge about the loan transaction". Thus, it is not a case where such material in support of the plea of the petitioners herein that Gurram Krishna Reddy used to affix his signatures on documents and not thumb impressions was not available. It is specifically stated in the counter-affidavit of respondent No.2 that IA Nos.689 and 690 of 1990 were filed for the same purpose in order to procrastinate the proceedings and also to fill up the lacuna after examination of the Supervisor of the Hyderabad District Central Co-operative Bank who was summoned and examined pursuant to allowing a similar application filed earlier.

16. Considering this aspect, it appears that the Special Court considered it unnecessary to call for other such documents. Taking any view of the matter, the petitioners have not made out any case of violation of principles of natural justice or of refusal to admit material evidence erroneously which influenced by the judgment materially.

17. The only question that remains to be considered is the contention of the learned Counsel for the petitioners that the Special Court had no jurisdiction. This plea is stated as grounds "a" and "b" at Pages 5 and 6 of the affidavit of the petitioner.

18. It is stated that OS No.679 of 1995 for perpetual injunction is pending in the

Court of Principal District Munsif, East and North, Ranga Reddy District. Temporary injunction petition was filed in that suit and status quo order was obtained. It is also stated that IA No.2552 of 1996 under Order 39, Rule 2(a) of the CPC was still pending for punishing the 1st petitioner herein for violating the order of "status quo". Respondent No.2 herein who filed LGC No.34 of 1996 have not withdrawn the IAs., or the suit pending before the civil Court and filed the application before the Special Court under A.P. Land Grabbing (Prohibition) Act, 1982 in respect of the same relief. It is also pointed out that respondents 1 and 2 had not made any application before the Principal District Munsif Court to transfer the case to the Special Court under Land Grabbing (Prohibition) Act, 1982. From this, it is contended that when a suit is pending before the civil Court, the Special Court had no jurisdiction to entertain the application in respect of the same subject matter with the same relief. In support of this contention, the judgment of this Court rendered by our learned Brother Sri Justice P. Venkatarama Reddi in the case of N.M. Kabintddin Khan v. M. Krishna Rao 1996 (4) ALD 684, is relied upon.

19. Section 8 of the Land Grabbing (Prohibition) Act provides for taking cognizance of a case arising out of the alleged act of land grabbing. The relevant provisions in Section 8 of the Land Grabbing (Prohibition) Act, 1985 (for short "the Act") are extracted below which have bearing on the question of jurisdiction of the Special Court :

"8. Procedure and powers of the Special Courts :--(1) The Special Court may, either suo motu, or an application made by any person, officer or authority take cognizance of and try every case arising out of any alleged act of land grabbing or with respect to the ownership and title to, or lawful possession of, the land grabbed, whether before or after the commencement of this Act, and pass such orders (including orders by way of interim directions) as it deems fit.

(1-A) The Special Court shall, for the purpose of taking cognizance of the case, consider the location, or extent or value of the land alleged to have been grabbed or of the substantial nature of the evil involved or in the interest of justice required or any other relevant matter :

Provided that the Special Court shall not take cognizance of any such case without hearing the petitioner.

(2) Notwithstanding anything in the Code of Civil Procedure, 1908, the Code of Criminal Procedure, 1973 or in the Andhra Pradesh Civil Courts Act, 1972, any case in respect of an alleged act of land grabbing or the determination of question of title and ownership to, or lawful possession of any land grabbed under this Act, shall subject to the provisions of this Act be triable in Special Court; and the decision of the Special Court shall be final.

(2-A to 2-C) x x x x (3 to 5) x x x x

(6) Every finding of the Special Court with regard to any alleged act of land

grabbing shall be conclusive proof of the fact of land grabbing and of the persons who committed such land grabbing, and every judgment of the Special Court with regard to the determination of title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land :

Provided that the Special Court shall, by notification specify the fact of taking cognizance of the case under this Act. Such notification shall state that any objection which may be received by the Special Court from any person including the custodian of evacuee property within the period specified therein will be considered by it;

Provided further that where the custodian of evacuee property objects to the Special Court taking cognizance of the case, the Special Court shall not proceed further with the case in regard to such property;

Provided also that the Special Court shall cause a notice of taking cognizance of the case under the Act, served on any person known or believed to be interested in the land, after a summary enquiry to satisfy itself about the persons likely to be interested in the land.

(7) It shall be lawful for the Special Court to pass such order as it may deem fit to advance the cause of justice. It may award compensation in terms of money for wrongful possession of the land grabbed which shall not be less than an amount equivalent to the market value of the land grabbed as on the date of the order and profits accrued from the land payable by the land grabber to the owner of the grabbed land and may direct re-delivery of the grabbed land to its rightful owner. The amount of compensation and profits, so awarded and costs of re-delivery, if any, shall be recovered as an arrear of land revenue in case the Government is the owner, or as a decree of a civil Court, in any other case to be executed by the Special Court :

Provided

(8) Any case, pending before any Court other authority immediately before the constitution of a Special Court, shall stand transferred to the Special Court as if the cause of action in which such suit or proceeding is based had arisen after the constitution of the Special Court."

20. As stated above, the only ground urged in support of the contention that the Special Court has no jurisdiction is that a suit for injunction and the relevant IAs., for temporary injunction and another IA under Order 39, Rule 2(a) of CPC are pending before the civil Court. No specific provision in the Land Grabbing (Prohibition) Act, 1985 has been adverted to, to point out that mere pendency of a suit in civil Court ousts the jurisdiction of the Special Court even if otherwise it had jurisdiction. Subsection (1) of Section 8 of the Act contemplates that the Special Court may take cognizance of and try every case arising out of any alleged act of land grabbing or with respect to the ownership and title to, or lawful possession of, the land grabbed, whether before or after the

commencement of the Act. Thus, the condition precedent for assuming jurisdiction by the Special Court is that the case must have arisen out of any alleged act of land grabbing. In other words, the petitioners coming before the Special Court should have made an application that the respondent has committed an act of land grabbing in respect of the applicant's land. It also contemplates that the Special Court can take cognizance of a case where in respect of a grabbed land, the question of ownership and title to or lawful possession has arisen for decision. In this case, the averments of the petition as noted in the judgment of the Special Court would disclose that the petitioner in the LGC has come up with a case that while under a lawful title, she was in possession initially, the respondents in LGC attempted to grab the said property which she tried to resist and ultimately to defend her possession, she filed a suit in the civil Court and obtained status quo order. But, the applicant's case is that finally respondents 1 and 2 in the LGC with the help of anti-social elements grabbed the application - scheduled property on 27-7-1995 forcibly. Having thus been deprived of the possession of the property, the applicant lodged a complaint with the concerned police and also filed an application under Order 39, Rule 2(a) of the CPC for punishing the first respondent in the LGC for violating the order of status quo. Thus, the applicant has come up with a case that after filing the suit and during the pendency of the suit for injunction, the respondents in LGC succeeded in dispossessing her and thus grabbed the land. The averments do make out a plea of land grabbing as contemplated u/s 8(1) of the Act. As the petitioners herein denied her title in respect of the grabbed land and asserted their own title thereto, the applicant in the land grabbing case also asked for a decision of the Special Court for finding on the question of title and lawful possession also.

21. Sub-section (2) of Section 8 of the Act extracted above would make it abundantly clear that notwithstanding anything in the CPC or in the Andhra Pradesh Civil Courts Act, 1972, any case in respect of alleged act of land grabbing or the determination of title or ownership to or lawful possession of any land grabbed under this Act, shall be triable only in a Special Court. Thus, the Special Court has been conferred with exclusive jurisdiction to try two aspects :

(i) Where there is an allegation of land grabbing; it is the Special Court which shall decide whether the respondents before it had committed an act of land grabbing as defined in Section 2(e) of the Act; and

(ii) The Special Court will have also an exclusive jurisdiction to decide the question of title and ownership to or lawful possession of any land said to have been grabbed within the meaning of Section 2(e) of the Act.

In this case, there is specific allegation that during the pendency of the civil suit, the respondents in LGC succeeded in grabbing the land even violating the status quo orders passed by the civil Court. Even the findings of the Special Court would show that it decided that the respondents are land grabbers and that the applicant was the rightful owner of the grabbed land. Thus, the petition in LGC

No.34 of 1996 squarely and undisputably was within the jurisdiction of the Special Court.

22. The only question that needs to be considered is whether the fact of pendency in a civil Court filed by the applicant in the LGC for perpetual injunction in any way affects the question of jurisdiction of the Special Court in respect of the questions raised in the application under the Act filed before the Special Court.

23. Sub-section (8) of Section 8 clearly mandates that any case pending before any Court or authority immediately before the constitution of a Special Court as would have been within the jurisdiction of such Special Court shall stand transferred to the Special Court.

24. The contention of the learned Counsel for the petitioners, Sri K. Venkata Reddy, is that inasmuch as the applicant before the Special Court has not made any application before the Principal District Munsif to transfer the pending suit therein to the Special Court, this itself renders the judgment of the Special Court without jurisdiction. It is difficult to appreciate this contention.

25. In NM Kabiruddin Khan v. M. Krishna Rao (supra), the facts were that a suit was filed for injunction in a civil Court, pending trial an application was filed for temporary injunction against the defendants therein. That application was dismissed holding that there was no prima facie evidence of possession of the plaintiff. The said finding was confirmed in appeal as well as in revision. Just before trial began, a memo was tiled on behalf of the petitioner/ plaintiff seeking transfer of the suit to the Special Court constituted under Andhra Pradesh Land Grabbing (Prohibition) Act for trial in accordance with law. On this memo, the Court passed an order for returning the plaint for presentation into proper Court. Against this order, CRP No.3876 of 1994 was filed by the first respondent/ defendant in that case. The Court set aside the aforementioned order on the ground that the order was passed without hearing the learned Counsel for the defendant and that order did not disclose any reasons. The case was thus remanded to IV Additional Judge for fresh disposal. After hearing both the Counsel, the impugned order was passed on 10-4-1995 rejecting the petitioner's request to transfer the suit. It was this order refusing to transfer the suit. It was this order refusing to transfer the suit which was challenged in civil revision petition before the High Court. This revision petition was dismissed by the learned Judge mainly on the ground that on interlocutory application for injunction filed by the petitioners, A prima facie finding was given that the petitioner was not in possession of the land and that finding was confirmed in appeal and also in revision. The emphasis in the judgment was that having suffered such a finding it was not open to the petitioner to turn round and ask the Court to ignore its order passed in IA and fall back upon the pleadings and seek transfer of the case to the Special Court and it is on the basis of these facts, the High Court held that the civil Court which was seized of the suit could proceed with the suit on the basis that necessary conditions for transferring the

suit as required u/s 8(8) of the Act are absent. This judgment does not support the contention of the petitioner that simply because the suit was not transferred, the Special Court on that ground will have no jurisdiction.

26. The question that was raised in the above cited judgment before the learned single Judge does not fall for consideration in this case. Whether, on the basis of prima facie finding on an interlocutory application for temporary injunction, the question of jurisdiction can be decided is a matter on which we do not propose to express our opinion. In its very nature, it is necessary to underscore that the finding as to existence of prima facie case in an interlocutory application is neither considered conclusive nor is it a circumstance in determining the issues involved in the suit at the final hearing of the suit. The findings at the final hearing will obviously be determined on the basis of the entire evidence adduced by both the parties, untrammelled by any finding as to existence of prima facie case during interlocutory proceedings. But, we may note here that the findings of the learned single Judge can be supported on the general principle that the civil Court's jurisdiction in a suit for mere injunction is not barred by virtue of provisions u/s 8(1) and (ii) of the Act.

27. The question whether the Special Tribunal or Special Court will have exclusive jurisdiction or not has to be examined with reference to the provisions in sub-section (1) of Section 7-A and subsections (I) and (2) of Section 8 of the Act. A bare reading of sub-section (1) of Section 7-A and sub-sections (1) and (2) of Section 8 of the Act will reveal that where an allegation is made by the applicant that the opposite party was guilty of land grabbing or where a question is raised as to title and ownership to or lawful possession of the land grabbed, the Special Court will have exclusive jurisdiction.

28. In terms, suits for mere perpetual injunction do not fall under exclusive jurisdiction of the Special Court. It may be pointed out that an owner of the property in possession might approach the Court for seeking the relief of perpetual injunction not necessarily on any ground or any cause of action related to land grabbing. It is obvious that such suits do not fall within the purview of the Special Court under Land Grabbing Prohibition Act at all. Even otherwise, in a suit for mere injunction the principal question that arises for consideration is whether the plaintiff was in possession of the suit property and whether the defendant was guilty of any acts of interference in such possession. Even in cases where in a suit for injunction the defendant sets up title to the land in himself, unless there is an averment in the plaint that the defendant was indulging in acts of land grabbing, the Special Court cannot be said to have exclusive jurisdiction to entertain and try such suits. However, considering the language used in subsection (2) of Section 8 of the Act for deciding the question whether the Special Court has exclusive jurisdiction in respect of a case, the averments of the pleadings of both the sides may be considered and as observed by Justice Sri P. Venkatarama Reddi in N.M. Kabiruddin Khan's case (supra), the averments in the plaint itself may not be conclusive on the question of

jurisdiction.

29. Similarly, suits for possession based merely on the anterior possession of the plaintiff, suits for specific performance, suits for mere declaration of title, suits in which possession of the defendants is sought to be defended on the basis of agreement of sale from the plaintiff, may be filed and tried in civil Courts and may not fall under exclusive jurisdiction of the Special Tribunals or Special Courts.

30. If the Legislature intended that all suits relating to land or immovable property situated in areas covered by subsections (3) and (3-A) of Section 1 of the Act shall be tried exclusively by the Special Tribunal or Special Court under the Act, a clear provision mandating the exclusion of jurisdiction of civil Court without any conditions could have been enacted. But, the language used in subsection (2) of Section 8 of the Act would indicate that there is no total elimination or exclusion of the jurisdiction of the civil Courts in respect of all land covered by Section 2(c) of the Act (which includes buildings) without reference to the nature of averments and the relief sought (similar provision is made in Section 7-A of the Act relating to Special Tribunals) jurisdiction of civil Courts stands excluded only in respect of specific categories of suits as mentioned in the said provision under subsection (2) of Section 8 of the Act. They are : (i) suits in which there is an allegation of land grabbing; and (ii) suits for determination of questions of title or ownership or lawful possession in respect of any land grabbed.

31. However, there may be cases where the pleadings may be mere camouflage and the averments may be couched in a language which may appear to make out that the matter does not fall within the exclusive jurisdiction of the Special Court though in substance the questions related to land grabbing may be involved. In such cases it may be open to the civil Court to go behind mere language of the pleadings to ascertain whether the real dispute relates to land grabbing. In such cases, notwithstanding such averments a suit may have to be transferred to the civil Court.

32. In this regard, it may be pointed out that proviso to Section 8(2) of the Act contemplates that if in the opinion of the Special Court any application filed before it is a prima facie frivolous or vexatious it shall reject the same without any further enquiry. This gives an indication that mere averments in the petition filed before the Special Court is not conclusive as to the exclusive jurisdiction of the Special Court. The proviso indicates that it is open to the Special Court to go behind the pleadings and in appropriate cases may insist the petitioner to place some material before the Court to prima facie show that the dispute brought before it falls within its exclusive jurisdiction.

33. The learned Counsel for the petitioners seeks to rely on the judgment of this High Court in the case of J. Anji Reddy v. Mir Ahmed Ali Khan 1991 (1) An.WR 717. In this case, it has been held that the definition of land grabbing includes not only completed acts of grabbing but also attempts of land grabbing. In Govt.

of A.P. and Others Vs. Sathaiah, , Justice Sri P. Ramakrishnam Raju has taken the same view. In the case before us, the question whether the definition of land grabbing u/s 2(e) of the Act includes attempted acts of grabbing does not fall for consideration and we do not feel it necessary to express any opinion on that aspect. It is pertinent to point out that in this case the specific averment of the petitioner before the Land Grabbing Tribunal was that the petitioner was dispossessed by the respondents by committing acts of land grabbing.

34. The other judgment referred to during the course of arguments in Bahagga Bai v. Mandal Revenue Officer 1997 (4) ALD 196. In that case, the plaintiff filed a suit in the civil Court for perpetual injunction against the Revenue Officials of the Government for restraining them from dispossessing the petitioner. A written statement was filed by the defendants alleging that the suit property belongs to the Government and that the plaintiff had illegally encroached upon the same. It was alleged that the plaintiff himself was a land grabber and that the case falls within the purview of A.P. Land Grabbing (Prohibition) Act and falls within the exclusive jurisdiction of the Special Tribunal. On the said pleadings, the learned Assistant Judge is said to have held that the plaintiff encroached upon the suit land and the Court has no jurisdiction to try the suit in view of the provision contained in sub-section (6) of Section 7 of the Act and the plaint was accordingly directed to be returned to the plaintiff for presentation before the Special Court. Subsequently, this order was modified with a direction to file before the Special Tribunal. When the matter came up before the Special Tribunal, a plea was made on behalf of the defendants in the suit who continued to be arrayed as respondents before the Special Tribunal that in view of the allegations made by the respondents that the plaintiff/petitioner was the land grabber, the burden of proof lies on them and they must lead evidence in the first instance specially in view of the provision u/s 10 of the Act which provides that initial burden to show that the petitioners are land grabbers is on the respondents. This Court presided over by our learned Brother Justice Sri P. Venkatarama Reddi held that the Special Tribunal need not act on the prima facie finding given by the civil Court in this regard and that it was the Special Tribunal which was required to consider whether the petitioners committed land grabbing within the meaning of the Act. It was thus held that respondents are required to discharge the initial burden and they must be asked to adduce evidence in the first instance and accordingly allowed the revision petition filed against the order of the Special Tribunal who had dismissed the petition in this regard. The question in that case was merely pertaining to the burden of proof which is not relevant to the facts of this case. We, however, have our own reservations and do not wish to express our opinion on the question whether the initial order of the civil Court to transfer the case to the Special Court was proper or not particularly in view of the fact that it was the defendants who made allegations against the plaintiff that he was the land grabber. In a suit filed by the plaintiff for injunction for restraining the defendants from interfering with his possession whether any relief against the plaintiff and in favour of the defendants can be passed when

the defendants themselves have not chosen to initiate any proceedings against the plaintiff, is a question which requires examination. But, this question does not arise in the case before us now.

35, Thus, the authorities cited by the learned Counsel for the petitioners do not have a bearing on the question involved in this case. Nothing has been argued specifically as to how mere failure to transfer the pending civil suit to the Special Court/Special Tribunal would affect the jurisdiction of the Tribunal, if otherwise on the basis of the averments in the application filed before the Special Court and the counter therein and on the basis of the questions involved in the application, the Special Court could be held to have jurisdiction. As to the pendency of the suit for injunction, which is said to be still pending, it was for the civil Court either to have transferred the suit to the Special Court or dealt with it otherwise. At any rate, as the dispute involved falls within the exclusive jurisdiction of the Special Court, all findings given by the Special Court as to the land grabbing, title and lawful ownership or possession in respect of the land involved in the application will be binding on the civil Court. It is open to the applicant in the land grabbing case (respondent No.2 herein) to apprise the civil Court of the decree passed by the Special Court in the matter with authenticated copy of the decree passed and in such an event, the suit before the civil Court shall stand dismissed. But, having regard to the facts and circumstances of the case, we are of the considered view that the prosecution ordered against the petitioners herein by the Special Court in issue No.3 is unwarranted and accordingly, we set aside the said direction issued by the Special Court in issue No.3. In other respects, the findings of the Special Court are affirmed.

36. Accordingly, while setting aside the prosecution against the petitioners herein, in other respects, this writ petition is dismissed. No costs.