

(1977) 09 AP CK 0026

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 1360 of 1976

K. Venkaiah and Others

APPELLANT

Vs

K. Venkateswara Rao and Another

RESPONDENT

Date of Decision : 01-09-1977

Acts Referred:

Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 — Section 89(2), 93
Hyderabad Tenancy and Agricultural Lands Act, 1950 — Section 93
Limitation Act, 1963 — Section 12, 13, 14, 15, 16

Citation : AIR 1978 AP 166

Hon'ble Judges : Ramachandra Raju, J;Jeevan Reddy, J

Bench : Division Bench

Advocate : Advocate General on Court Notice and Y.V. Narayana, for the Appellant; A.V. Radha Krishna, for the Respondent

Judgement

Jeevan Reddy, J.—This Civil Revision Petition has been referred to a Bench by our learned brother, A. V. Krishna Rao, J., in view of the conflict between the decisions of this Court on the question of applicability of S. 5 of the Limitation Act to proceedings under the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950. Before the coming into force of the Indian Limitation Act, 1963, this court held uniformly that S. 5 has no application to the proceedings under the said Act; but, after the coming into force of the new Limitation Act, there has been a divergence of opinion. A Bench of this Court, consisting of Sambasiva Rao, Acting C. J., and Jayachandra Reddy, J., has held in *Guru Butchaiah v. K. Ahalya Bai* 1975 (2) APLJ 66 that by virtue of S. 29(2) of the new Limitation Act, Ss. 4 to 24 of the said Act are applicable to appeals or applications under any special or local law in so far as the applicability thereof has not been expressly excluded by such special or local law. Inasmuch as there is no such express exclusion in the Hyderabad Tenancy Act, the Bench held that Section 5 does apply to proceedings under the said Act. When the said decision was cited before Alladi Kuppuswami, J. in C. R. P. No. 440 of 1975, D/-

11-3-1976 (Andh Pra), its correctness was doubted on the ground that the said decision has not taken into consideration the circumstance that the Indian Limitation Act applies only to, Courts as held by the Supreme Court in Nityananda, M. Joshi and Others Vs. Life Insurance Corporation of India and Others, and that , it has no application to proceedings before Tribunals. Alladi Kuppaswami, J. thought that it is a matter which requires consideration by a Bench or even a Full Bench, if necessary; but, in so far as that case was concerned, it was found unnecessary to refer it to a larger Bench inasmuch as, in that case, it was not clear as to when the appellant came to know of the order appealed against. It is well settled by now that the period of sixty days prescribed by S. 93 of the Hyderabad Tenancy Act has to be computed from the date of knowledge of the order appealed against, and not necessarily from the date of the order itself. In that view the matter was remanded to find out the date on which the appellant came to know of the order appealed against. Before A. V. Krishna Rao, J., the aforesaid Bench decision and the Judgment of Alladi Kuppaswami, J. were both cited and, accordingly, the learned Judge referred the matter to a Bench. Our attention has also been drawn to another decision of Sambasiva Rao, J. (sitting singly), in C. R. P. No. 1843 of 1971, D/- 12-8-1974 (Andh Pra), wherein it has been held that S. 5 has no application to proceedings under the said Hyderabad Act. Sambasiva Rao, J. came to the said conclusion on the basis of the observation in Pingali Sivakumar and Others Vs. Doli Sivaiah and Others, to the effect that it is well settled by a series of decisions of this Court that S. 5 of the old Limitation Act has no application to appeals or revisions under the Hyderabad Tenancy Act.

2. After hearing the Counsel for the parties for sometime, we gave notice to the learned Advocate-General to assist the Court in this matter, and we thank him for the valuable assistance, rendered by him.

3. Under the Hyderabad Tenancy Act, the original authority is either the Tahsildar, or the Revenue Divisional Officer, and from their order an appeal is provided to the Collector. From the order of the Collector in appeal, a revision is provided to this Court. Where, however, the Collector is the original authority, an appeal lies to the Board of Revenue and, thereafter, a revision to this Court. Section 93 of the Act provides that "every appeal and every application for revision under this Act shall be filed within sixty days from the date of the order against which the appeal or application is filed" It further provides that the provisions of the Indian Limitation Act, 1908 shall apply for the purpose of computation of the said period" Since the Indian Limitation Act, 1908 has since been repealed by the Indian Limitation Act, 1963 dealing with the computation of the period of limitation are those mentioned in Part III thereof, i. E., Ss. 12 to 24 (both inclusive). Section 93 thus does not make S. 5 of the Indian Limitation Act applicable to proceedings under the Act. It is for this reason that it was held by this Court uniformly that S. 5 of the Indian Limitation Act, 1908 has no application to proceedings under Hyderabad Tenancy Act, inasmuch as, according to s. 29(2) of the 1908 Act, S. 5 applied only where it was made specifically

applicable and S. 93 did not so make it applicable. The issue was re-opened after the coming into force of the new Limitation Act on the ground that, by virtue of S. 29(2) of the 1963 Act, s. 5 applies to proceedings under any special or local law, unless specifically excluded. It is this argument which was given effect to in *Guru Butchiah v. K. Ahalya Bai* 1975 (2) APLJ 66. Unfortunately, the line of decisions rendered both by the Privy Council and the Supreme Court, holding that the Limitation Act applies only to proceedings before a Court and that too a Civil Court (and now also before the Criminal Court), were not brought to the notice of the said Bench. It is the said aspect which now assumes importance.

4. It is, no doubt, true that by virtue of S. 29(2) of the new Limitation Act, the provisions contained in Ss. 4 to 24 of the said Act apply even where a special or local law prescribes a period of limitation different from the period prescribed by the Schedule and, for the purpose of determining the period of limitation according to such special or local law, all the provisions contained in Ss. 4 to 24 are applicable. The Hyderabad Tenancy Act may be a special or local law, within the meaning of S. 29(2); but then the question is whether the Limitation Act itself has application to proceedings before the authorities created by the Hyderabad Act. In *Town Municipal, Council, Athani Vs. The Presiding Officer, Labour Courts, Hubli and Others etc.*, one of the principal questions canvassed pertained to the applicability of Art. 137 of the Limitation Act, 1963 to applications under S. 33-C (2) of the Industrial Disputes Act. Article 137 of the new Limitation Act, corresponds to Article 181 of the Limitation Act, 1908. They are in the nature of residuary Articles, and they prescribe a period of three years limitation for an application for which no period of limitation is provided by the Limitation Act, and such period of three years has to be computed from the date on which the right to apply accrues. So far as Art. 181 of the 1908 Act is concerned, it was held by the Privy Council (*Vide Abdullah Ashgar Ali v. Ganesh Das*, AIR (20) 1933 PC 63 and by the Supreme Court in *Sha Mulchand and Co. Ltd. (In Liquidation) Vs. Jawahar Mills Ltd., and Bombay Gas Co. Ltd. Vs. Gopal Bhiva and Others*, that, Article 181 applies only to applications which are made under Civil P. C. The extension of the said Article to applications under the Industrial Disputes Act, and Companies' Act, was repelled. After the coming into force of the Limitation Act, 1963, however, it was again argued that Art. 137 applies to proceedings under special enactments, notwithstanding the fact that the said applications are not governed by the Civil P. C. Support for this argument was sought from the circumstance that Art. 137 employs language different from Art. 181 of the old Act and that, the "long title" to the new Act is also different from that of the old Act. The Supreme Court, however, refused to accede to this argument and held that, the view expressed by it in *Sha Mulchand and Co. Ltd. (In Liquidation) Vs. Jawahar Mills Ltd., and Bombay Gas Co. Ltd. Vs. Gopal Bhiva and Others*, with reference to Art. 181 of the old Act, continues to be true of the position obtaining under Art. 137 of the new Limitation Act also. It observed that, merely because the schedule to the Limitation Act now contains a reference to applications under the Criminal P. C. (In addition to applications

under the Civil P. C. and the Arbitration Act), it does not materially alter the scope of the said residuary Article and that, it applies only to applications under the Civil P. C. The following observations of the Supreme Court are apposite :

"... .. One factor at least remains constant and that is that the applications must be to Courts to be governed by the Articles in this division. The scope of the various articles in this division cannot be held to have been so enlarged as to include within them applications to bodies other than Courts, such as quasi-judicial tribunal, or even an executive authority. An Industrial Tribunal or a Labour Court dealing with applications or references under the Act are not Courts and they are in no way governed either by the Civil P. C. or the Criminal P. C. We cannot, therefore, accept the submission made that this Article will apply even to applications made to an Industrial Tribunal or a Labour Court "

Dealing with the argument based on the amendment to the long title to the Limitation Act, it observed :

".....but, we do not think that this addition (in the long title) necessarily implies that the Limitation Act is intended to govern proceedings before any authority, whether executive or quasi judicial, when, earlier, the old Act was intended to govern proceedings before Civil Courts only. The omission of the preamble does not, however, indicate that there was any intention of the legislature to change the purposes for which the Limitation Act has been enforced....." This decision, therefore, is an authority for two propositions, viz., (i) that, in spite of changes made in the Indian Limitation Act, 1963, no drastic change was intended in the scope of Art. 137 so as to include within it all applications, irrespective of the fact whether they had any reference to the Civil P. C., or not. In other words, the dicta laid down by the Court in *Sha Mulchand and Co. Ltd. (In Liquidation) Vs. Jawahar Mills Ltd., and Bombay Gas Co. Ltd. Vs. Gopal Bhiva and Others*, , to the effect that "Art. 181" of the Limitation Act applied only to applications which are made under the Code of Civil Procedure" and cannot be extended to applications made under the Industrial Disputes Act or the Companies Act, still holds good even with respect to Art. 137 of the new Limitation Act; and (ii) that, Limitation Act applies to proceedings only in a "Court".

5. The question of applicability of the said Article again came up for consideration before the Supreme Court in *Nityananda, M. Joshi and Others Vs. Life Insurance Corporation of India and Others*, . After noticing the decision in *Town Municipal, Council, Athani Vs. The Presiding Officer, Labour Courts, Hubli and Others etc.*, , the Court held :-

".....In our view Art. 137 only contemplates applications to Courts. In the Third Division of the Schedule to the Limitation Act, 1963, all the other applications mentioned in the various articles are applications filed in a Court. Further, S. 4 of the Limitation Act, 1963 provides for the contingency when the prescribed period for any application expires on a holiday and the only

contingency contemplated is "When the court is closed." Again, u/s 5 it is only a Court which is enabled to admit an application after the prescribed period has expired if the Court is satisfied that the applicant had sufficient cause for not preferring the application. It seems to us that the scheme of the Indian Limitation Act is that it only deals with applications to Courts, and that the Labour Court is not a Court within the Indian Limitation Act, 1963.

It is not necessary to express our views on the first ground given by this Court in Civil Appeals Nos. 170 to 173 of 1968, dated 20-3-1969 Town Municipal, Council, Athani Vs. The Presiding Officer, Labour Courts, Hubli and Others etc., . It seems to us that it may require serious consideration whether applications to Courts under other provisions, apart from Civil Procedure Code, are included within Art. 137 of the Limitation Act, 1963, or not....."

(The words "first ground" referred to in the above extract, refer to the first proposition, referred to by us above).

6. We shall first take up for our consideration the second proposition contained in Town Municipal, Council, Athani Vs. The Presiding Officer, Labour Courts, Hubli and Others etc., (and which has been affirmed in Nityananda, M. Joshi and Others Vs. Life Insurance Corporation of India and Others,). According to it, the Limitation Act applies only to "Courts", and not to other forums. The question that then arises is, what is the meaning of the expression "Court". It has not been defined either in the Code of Civil Procedure, or in the General Clauses Act. The said expression has been defined in the Evidence Act; but the said definition is confined only to the provisions of the said Act. We have, therefore, to find out the meaning and scope of the said expression with reference to the general principles evolved by courts.

7. Before we do that, it is well to remember that S. 89 (20 of the Hyderabad Tenancy Act empowers the authorities under the Act to exercise "all or any of the powers conferred on Civil Courts by the Civil P. C., 1908, including the power to award costs....." Construing the said provision, a Full Bench of this Court has held, in Radha Bai Vs. Banka Chinnayya and Others, , that the authorities under the Act are invested with all the powers conferred on a Civil Court by the Code of Civil Procedure.

8. Yet another point to be noted before we deal with the meaning and scope of the expression "Court", is the distinction between the authorities dealing with matters under the Act, and the High Court while dealing with matters arising under the said Act. In so far as the High Court is concerned, it stands on a different footing from the authorities under the Act, because it is indisputably a "Court" and, for that reason, there can be no difficulty in holding that S. 5 of the Limitation Act does apply to proceedings before the High Court. No such assumption can, however, be made with respect to the several authorities under the Act, viz., Tahsildar, Tribunal, Collector, and the Board of revenue. The point which we have to consider, is, whether the said authorities while acting under the

Act, can be called "Courts", within the meaning of S. 5 of the Limitation Act?

9. According to Halsbury's Laws of England (Third Edition Vol. 9), at page 342 :

" Originally the term " Court" meant, among other meanings, the Sovereign's palace; it has acquired the meaning of the place where justice is administered and, further, has come to mean the persons who exercise judicial functions under authority derived either immediately or mediately from the Sovereign. All tribunals, however, are not Courts, in the sense in which the term is here employed, namely, to denote such tribunals as exercise jurisdiction over persons by reason of the sanction of the law, and not merely by reason of voluntary submission to their jurisdiction The question is whether the Tribunal is a Court, not whether it is a Court of Justice, for there are Courts which are not courts of justice. In "determining whether a tribunal is a judicial body the facts that it has been appointed by a non- judicial authority, that it had no power to administer an oath, that the Chairman has a casting vote, and that third parties have power to intervene are immaterial, especially if the statute setting it up prescribes a penalty for making false statements; elements to be considered are (1) the requirement for a public hearing, subject to a power to exclude the public in a proper case , and (2) a provision that a member of the tribunal shall not take part in any decision in which he is personally interested, or unless he has been present throughout the proceedings....."

The Privy Council had occasion to deal with this aspect in *Shell Company of Australia v. AC 275*. The question there was whether the Board of Review set up under the Common-Wealth Income Tax Legislation (of Australia) was a "Court" exercising judicial powers of the Common-Wealth. The High Court of Australia held , by a majority, that it is only an administrative body but not a judicial tribunal. While affirming the said judgment in appeal, Lord Sankey observed in the course of his judgment that " the decided cases show that there are tribunals which posses many of the trappings of a Court but which, nevertheless, are not courts in the strict sense of exercising judicial power. Mere externals do not make a direction by an adhoc tribunal to an administrative officer, an exercise by a Court of judicial power.....". The Privy Council then proceeded to enumerate a series of negative propositions which stated, inter alia, that a tribunal is not necessarily a Court because two or more contending parties appear before it, nor because it hears witness or gives a final decision which affects the rights of the parties. The Privy Council, however, did not lay down any real or positive test in that behalf.

10. The first case in which this question arose for consideration before the Supreme Court is the one reported in *The Bharat Bank Ltd., Delhi Vs. Employees of the Bharat Bank Ltd., Delhi and The Bharat Bank Employees" Union, Delhi*, . It is however, unnecessary to refer to the separate opinions recorded therein, in view of the definite opinion expressed by the Supreme Court on this subject in *Thakur Jugal Kishore Sinha Vs. Sitamarhi Central Co-operative Bank Ltd. and Another*, . This case arose under the Contempt of Courts Act. One of the main

questions canvassed before the Supreme Court was whether the Asst. Registrar of Co-operative Societies, under the Bihar & Orissa Co-operative Societies Act , 1935 is a " Court" . For answering the said question, the Court examined the scheme and broad outline of the said act and observed:-

"..... It will be noted from the above that the jurisdiction of the ordinary civil and revenue courts of the land is ousted under S. 57 of the Act in case of disputes which fell under S. 48. A Registrar exercising powers under S. 48 must, therefore, be held to discharge the duties which would otherwise have fallen on the ordinary civil and revenue Courts of the land. The Registrar has not merely the trappings of a Court but in many respects he is given the same powers as are given to ordinary civil courts of the land by the Civil P.C. including the power to summon and examine witnesses on oath, the power to order inspection of documents, to hear the parties after framing issues, to review his own order and even exercise the interest jurisdiction of Courts mentioned in S. 151 of the Civil P.C. In such a case there is no difficulty in holding that in adjudicating upon a dispute referred under S.48 of the Act, the Registrar is to all intents and purposes , a Court discharging the same functions and duties in the same manner as a Court of law is expected to do.....".

It is relevant to note in this case that the Asst. Registrar under was, by law, empowered to exercise the powers of the Registrar under the Act and that, he was not a nominee of the Registrar. This distinction is of quite some significance, in view of the fact that in a subsequent case the Supreme Court held that a person nominated by the Registrar to decide a dispute referred to him is not a "Court", for the reason that such a nominee derives his authority not from the statute, but from investment by the Registrar in his individual discretion and that, the power so invested is liable to be suspended or withdrawn. On that ground it was held that a nominee cannot be said to have been entrusted with the judicial power of the State and that, he is merely in the nature of an arbitrator.

11. Now, if we apply the aforesaid tests to the authorities under the Act, there can be no doubt, that they are "Courts". Ordinarily, disputes between landlords and tenants in respect of agricultural lands are to be adjudicated by Civil Courts. Only because of the said Hyderabad Tenancy Act, the said disputes have been taken away from out of the purview of Civil Courts, and entrusted to a special forum. The authorities exercise all the powers of a Civil Court and are empowered , by law, to decide the disputes arising between the parties. They satisfy all the tests enumerated by the Supreme Court in case aforementioned. It needs no reiteration that the expression "Court" was not defined even by the Contempt of Courts Act 1952.

` 12. The learned Advocate-general argued that the authorities under the Act are only tribunals and cannot be called "Courts" because they are not part of the regular judicial system of the State. He contended that only Civil and Criminal Courts, which comprise the basic judicial system of the State, can be called "Courts", but not the other tribunals. Reliance for the said proposition is placed

upon the observations of the Supreme Court in *Brajnandan Sinha Vs. Jyoti Narain*, , that the word "Court" was defined in the Act (Contempt of Courts Act 1952) and the expression "Courts subordinate to the High Court" would prima facie mean the Courts of law subordinate to the High Court in the hierarchy of courts established for the purpose of administration of justice throughout the Union". We are, however, unable to agree that the said decision of the Supreme Court lays down any such proposition as is contended for by the learned Advocate-General. In that case, the question for consideration was whether a Commissioner appointed under the Public Servants (Inquiries) Act, 1850, constitutes a "Court" within the meaning of the Contempt of Court's Act. In that connection, the Court considered the meaning of the expression "Court" and expression "Courts subordinate to the High Courts". After referring to the definition of the expression "Court" in Coke on " Littleton and Stroud" (as the place where justice is judicially administered) and by Stephen, " In every court, there must be at least three constituent parts- the actor, reus and judex; the actor or plaintiff, who complains of an injury done; the reus , or defendant, who is called upon to make satisfaction for it; and the judex, or judicial power, which is to examine the truth of the fact, and to determine the law arising upon that fact , and if any injury appears to have been done, to ascertain, and by its officers to apply, the remedy.....". it observed:-

" The pronouncement of a definitive judgment is thus considered the essential sine qua non of a Court and unless and until a binding and authoritative judgment can be pronounced by a person or body of persons it cannot be predicated that he or they constitute a Court.....".

After referring to certain English decisions and the earlier decisions of the Supreme Court, the Court accepted the following passage from Halsbury's Laws of England, Hailsham Edition, Vol.8 at page 526 as highly relevant for determining whether a tribunal is a "Court":-

" Many bodies are not Courts, although they have to decide questions and in so doing have to act judicially, in the sense that the proceedings must be conducted with fairness and impartiality, such as assessment committees, guardians committees, the Court of referees constituted under the Employment Insurance Act to decide claims made on the insurance funds, the benchers of the Inns of Court when considering the conduct of one of their members, the General Medical Council, when considering questions affecting the position of a medical man.....".

Applying the said test to the Commissioner appointed under the Public Servants (Inquiries) Act , 1850, they held that the said Commissioner is not a "Court" for the purpose of Contempt of Courts Act, mainly for the reason that he is only a fact finding authority and that, his report is merely an expression of his opinion , lacking both finality and authoritativeness which are the essential tests of judicial pronouncement. It was held that the report of the Commissioner is merely in the nature of an advice tendered to the Government, which appoints him.

13. The above decision does not, in our opinion run counter to the conclusion arrived at by us. Firstly the judicial system of a State is that which is established by law for the time being in force. The Civil Courts are established by the Civil Courts Act. The Criminal Courts are established by the Criminal Procedure Code, or such other Act in that behalf, as the case may be; but, there is no reason to presume that the judicial system comes to an end with that. A court again is, in essence, a tribunal. The nomenclature is not of much consequence. We have to look to the substance of the matter. One must look to the function, and not to the functionary. The Courts established by the Hyderabad Tenancy Act are as much part of the judicial system of the State as the Civil or Criminal Courts. Secondly, the authorities established under the Act do satisfy the tests evolved by the Court in the said case, viz., that, it must have the power to pronounce a binding and authoritative judgment. The said authorities also meet the criteria contained in the passage from Halsbury's Laws of England, quoted with approval by the Supreme Court. It should also be noted further that the decision of the Supreme Court in *Thakur Jugal Kishore Sinha Vs. Sitamarhi Central Co-operative Bank Ltd. and Another*, is a subsequent decision which, in our opinion, is a more definitive expression of law on the subject. We must however, make it clear that our decision is confined only to the tribunals under the Hyderabad Tenancy Act and not to the tribunals created by the other special enactments. We have considered only the provisions of the Hyderabad Tenancy Act and have arrived at the above conclusion in the light of the aforementioned tests enunciated by the Supreme Court.

14. That, however, does not solve the problem. There is still the first proposition enunciated in *Town Municipal, Council, Athani Vs. The Presiding Officer, Labour Courts, Hubli and Others etc.*, viz., that the Limitation Act applies only to Civil Courts (and Criminal Courts) but not to other tribunals. We have referred to the decisions of the Supreme Court and the Privy Council, and in particular the decision of the Supreme Court in *Bombay Gas Co. Ltd. Vs. Gopal Bhiva and Others*, that the Limitation Act applies only to Civil Courts. Most of the decisions, no doubt, arose with respect to the questions whether Art. 181 of the Limitation Act, 1908 and the corresponding Article in the New Limitation Act, viz., Art. 137, apply to applications made otherwise than under the provisions of the Civil Procedure Code. It is in that connection that the Courts have repeatedly held that the said residuary Article should be considered in the light of the preceding Articles in Schedule I to the Limitation Act, all of which deal only with applications under the CPC (barring, of course, a few Articles which deal with applications under the Arbitration Act and Cr. P.C.). It has been further stated in the said decisions that, for the Limitation Act to apply, it must be suit, or appeal or an application made under the provisions of the Civil P.C. Bound as we are by the aforesaid decisions, we must hold that even though the authorities under the Hyderabad Tenancy Act are "Courts" within the meaning of the said expression employed in S. 5 of the Limitation Act, yet it has no application, for the reason that they are not Civil Courts, and hence the Limitation Act itself has no

applications to proceedings before such authorities, except, of course, in so far as they are expressly made applicable by the special enactments. Section 93 of the Hyderabad Tenancy Act makes only the provisions of the Limitation Act, relating to the computation of the period of limitation applicable to the said proceedings, and not the other provisions. The object is not clear. In fact, the said non-application is likely to create very anomalous situations leading to grave injustice. Suppose, a successful party before the Tahsildar wrongfully confines the opposite party for a period of sixty days following the decision in his favour, and releases him thereafter, even in such a case such unsuccessful party would not be able to file an appeal since it would be barred by limitation, and the appellate authority has no power to condone the delay. It is this consideration which has been weighing with us in considering the matter.

15. We then sought to examine the matter from the point of view of inherent powers. But, we are faced with more than one difficulty on this count. Firstly, the tribunals cannot be said to possess inherent powers; only a Court does. But since we have held that the authorities under the Act are "Courts" and therefore can be said to possess inherent powers, even then we felt it difficult to hold that the said powers can be implied for the purpose of extending the period of limitation and for entertaining the appeal. It may be that once an authority under the Act is seized of a matter, it can exercise inherent power to do full justice between the parties; but, it appears doubtful to us whether such power can be implied for the purpose of extending the period of limitation prescribed by special enactments and for entertaining the same. At least, if the matter had been dealt with by the authority once, it can exercise this power in respect of the said matter, even though it has passed final orders therein in circumstances where such a course is necessary for doing full justice between the parties. Again, we had to take into consideration the circumstance that Section 93 did not choose to make S. 5 of the Limitation Act applicable to proceedings under the Act, whereas it chose to make Ss. 12 to 24 thereof applicable.

16. We are, therefore, of the opinion that S. 5 of the Limitation Act does not apply to proceedings under the Act and that, the authorities under the Act have no power to extend the period of limitation prescribed for filing an appeal or revision before the authorities under the Act.

17. A Bench of this Court in *Guru Butchaiah v. K. Ahalya Bai* 1975 (2) APLJ 66, has, no doubt, come to a contrary conclusion, but we did not think it necessary to refer the matter to a Full Bench because, on the facts of that case, the decision therein, cannot be said to be inconsistent with the conclusion arrived at by us. That was a case concerned with condonation of delay in filing the revision before the High Court, and the High Court, admittedly, is a Civil Court. If so, the Limitation Act including S. 5 thereof, applies and the High Court does have the undoubted power to extend the period of limitation prescribed by the special enactment and entertain a revision filed beyond the prescribed period. Our decision is confined to appeals and revisions before the authorities created under

the Act. The decision in the said Bench decision must , therefore, be read in the light of the facts of that case; and if so read, it has to be confined only to revisions filed before the High Court under S.91 of the Hyderabad Act, notwithstanding certain observations which, not being strictly necessary for the purpose of that case, must be treated as obiter dicta.

18. We are sure, this is a situation which shall be taken notice of immediately by the Government and the Legislature, and we hope that they take prompt steps for remedying this situation and for making S. 5 of the Limitation Act applicable to proceedings under the Act.

19. For the above reasons, the Civil Revision petition is dismissed but in the circumstances, without costs.

20. Revision dismissed.