

(2012) 09 SC CK 0138

In the Supreme Court Of India

Case No : C.A. No's. 5028, 5029, 5030-5036 and 5037-5038 of 2004 and 371 of 2007 and T.P. (C) No. 1052 of 2012

Nagarjuna Grammena Bank and Others

APPELLANT

Vs

Medi Narayana and Others

RESPONDENT

Date of Decision : 25-09-2012

Acts Referred:

Andhra Pradesh Civil Courts Act, 1972 — Section 1(3)
Civil Procedure Code, 1908 (CPC) — Section 115

Citation : (2012) 11 SCALE 312

Hon'ble Judges : R.M. Lodha, J;Anil R. Dave, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Civil Appeal Nos. 5030-5036 of 2004; Civil Appeal Nos. 5037-5038 of 2004; Civil Appeal No. 5028 of 2004; Civil Appeal No. 5029 of 2004 and Civil Appeal No. 371 of 2007;

1. Before the High Court in a group of Civil Revision Petitions filed Section 115 of the Code of Civil Procedure, 1908 the issue under consideration was the applicability of the Andhra Pradesh Civil Courts Act, 1972 [Act No. 19 of 1972] (for short, '1972 Act') to the Scheduled Areas of the State of Andhra Pradesh. One of the contentions raised before the High Court was that the courts established under the 1972 Act cannot be conferred any territorial jurisdiction over the Scheduled Areas and the decrees passed by the Civil Courts were nullity in relation to cases where whole cause of action arose in the Scheduled Areas.

2. The High Court, by the impugned judgments dated June 27,2000, August 2,2000 and August 25, 2000, has declared the jurisdiction of the Civil Courts functioning in the Scheduled Areas from 1972 onwards as illegal and void. It was declared consequently that all the judgments, decrees and orders passed by the Civil Courts in the Scheduled Areas from 1972 onwards were null and void.

3. The above judgments of the High Court are impugned in these Civil Appeals.

4. On January 23, 2008 this Court passed the following order:

in the midst of hearing of these appeals, a peculiar problem has been brought to our notice by learned Counsel appearing for the parties that under Andhra Pradesh Civil Courts Act, 1972 (hereinafter for short 'Act No. 19 of 1972') a notification has been issued by the Governor in exercise of powers under Sub-section (3) of Section 1 of the Act No. 19 of 1972 by which the jurisdiction of the Civil Courts has come into force in the whole State of Andhra Pradesh except in the Scheduled Areas of the State.

It is contended by Mr. P.S. Narsimha, learned Counsel appearing for the Appellant(s) that even before coming into force of the Act, the Civil Courts had been established in the Scheduled Areas and they have been functioning since 1950. The Appellant(s), decree-holders, obtained a decree from the Civil Court in the Scheduled Areas, however, since the operation of Act No. 19 of 1972 is excluded from the Scheduled Areas of the State, they are unable to execute the decree. The High Court, in its impugned judgment, held that as the Act itself is not applicable in the Scheduled Areas, the decree passed by the Civil Court is null and void and inexecutable. It has been brought to our notice that now many non-Scheduled people are residing in the Scheduled Areas of the State including owners of commercial and business houses. That apart, many banks have been established including the Appellant banks, who are non-Scheduled people and they are being deprived of resolution of the disputes through the Civil Courts. Even in those cases which have been decided by the Civil Courts, the decrees could not be executed because the Civil Courts Act is not applicable and the decree passed by the Civil Courts in Scheduled Areas has been declared null and void. These are the contentions over which we have given our serious consideration.

A dispute may arise between the people of Scheduled Areas and non-Scheduled Areas in which case, in our view, the people of non-Scheduled Areas cannot be subjected to the methodology and the procedure adopted while resolving the dispute between the people of Scheduled Areas.

In our view, therefore, a mechanism has to be evolved in a case where the dispute involved is between the people of Scheduled Areas and non-Scheduled areas. One way of resolving this problem is by either issuing a notification or by an amendment in the Act to the extent that the Civil Courts Act shall be extended to the Scheduled Areas of the State except where the dispute involved is between people of Scheduled and non-Scheduled Areas. While saying this we also took note of the observation made by the High Court. The High Court, while allowing the petition, also took note the submission of the counsel for the Appellant that it is necessary to confer the jurisdiction over the Scheduled Areas on the Civil Courts also. The High Court observed that it is for the State Government to take expeditious steps as early as possible to issue a notification

extending the provisions of Civil Courts Act even with retrospective effect in the Scheduled Areas for the peace and good government and for the speedy disposal of the civil cases in the Scheduled Areas. Copy of the High Court order was also directed to be endorsed to Home Department, Government of Andhra Pradesh. It is unfortunate that no steps appears to have been taken pursuant to such observation.

In this view of the matter, we are now of the view that the matter requires serious consideration of the State Government at the earliest in terms of our suggestions as noted above. Mr. H.S. Gururaja Rao, learned senior counsel appearing for the State prays for three months' time for taking necessary steps in the matter and issuing appropriate notification in this regard.

List these matters after three months. Registry shall send a copy of this order to Registrar General of the Andhra Pradesh High Court who shall coordinate with the State Government for doing the needful.

5. Pursuant to the above order, the State Government started deliberating on the issues raised by this Court.

6. On November 1, 2011, when the matter came up before this Court, further time was prayed on behalf of the State of Andhra Pradesh for doing the needful, particularly issuance of Notification for resolution of the disputes as projected in the order dated January 23, 2008. This Court was not inclined to grant further time but wanted to ascertain the reasons for delay from the Principal Secretary, Law, Government of Andhra Pradesh. In the order dated November 1, 2011 this Court also recorded, inter alia, that an application seeking impleadment and for vacation/modification of the order dated January 23, 2008 has been made. The matter was kept for December 8, 2011 and the Principal Secretary, Law, State of Andhra Pradesh, was directed to remain present.

7. Pursuant to order dated November 1, 2011, on December 8, 2011 Mr. A. Shankar Narayana, Secretary (Law), State of Andhra Pradesh was present. Mr. R. Venkataramani, learned senior counsel appearing for the State of Andhra Pradesh, informed the Court on that day that extensive meetings had taken place between him and the Secretary and they had tried to work out modalities so that the order passed by this Court on January 23, 2008 could be implemented. Mr. R. Venkataramani, learned senior counsel, informed the Court that he had given three alternatives to the Government of Andhra Pradesh and the Government was being asked to appoint a High Power Committee headed by the Chief Minister of the State so that the procedure for implementation of the order dated January 23, 2008 could be worked out. This Court felt that some procedure had commenced and, accordingly, eight weeks time was granted to the State of Andhra Pradesh.

8. The High Power Committee headed by the Chief Minister of the State and comprising of Minister for Tribal Welfare, Minister for Law, Chief Secretary to Government, Principal Secretary to Government Tribal Welfare, Principal

Secretary to Government Social Welfare, Principal Secretary to Government Home, Secretary to Government Law & Justice, Secretary to Government Legal Affairs, Member of Legislative Assembly Rampachodavaram, Commissioner Tribal Welfare and Lawyer and President, Girijana Yuvajana Samkshema Sangam, R.C. Varam met on July 24.2012 and, after extensive deliberations and having regard to the relevant facts and circumstances, decided to accept one of the alternatives suggested by Mr. R. Venkataramani, learned senior counsel, namely, retention of the existing system as obtaining in the Scheduled Areas in complete substitution of the Civil Courts Act.

9. Mr. R. Venkataramani, learned senior counsel for the State of Andhra Pradesh, submits that the decision taken by the High Power Committee is in accord and conformity with the notification issued on October 30, 1972 effective from November 1, 1972 declaring that the 1972 Act does not apply to the Scheduled Areas of the State.

10. We have carefully considered the matter and we are satisfied that the judgments under challenge in this group of Civil Appeals do not require any interference.

11. It is, however, clarified that those persons who have decrees, orders or judgments in their favour passed by the Civil Court(s) may lay their claim before the agency court(s). In the event of such claims being laid before the agency court(s), the same shall be decided by the agency court(s) uninfluenced by any judgment, decree or order passed by the Civil Court(s).

12. Civil Appeals are dismissed with no order as to costs.

13. In view of the above, no order needs to be passed in the pending interlocutory applications and these interlocutory applications stand disposed of.

Transfer Petition (Civil) No. 1052 of 2012

14. In view of dismissal of Civil Appeals as above, no order needs to be passed in the Transfer Petition and it stands dismissed.