
(2006) 10 AP CK 0019
In the Andhra Pradesh High Court
Case No : SA No. 441 of 1996

Phool Chand Gupta and Another	Vs	APPELLANT
Agricultural Market Committee		RESPONDENT

Date of Decision : 24-10-2006

Acts Referred:

Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 — Section 12, 7

Citation : (2007) 2 ALD 140 : (2007) 4 ALT 281

Hon'ble Judges : G. Yethirajulu, J

Bench : Single Bench

Advocate : Vedula Venkataramana, for the Appellant; K. Madhava Reddy, SC, for the Respondent

Final Decision : Dismissed

Judgement

G. Yethirajulu, J.—This second appeal has been preferred by the plaintiffs in O.S. No. 169 of 1981 on the file of the Principal District Munsif at Bobbili and the respondent herein/Agricultural Marketing Committee is the defendant in the suit. The suit was filed for declaration that the Marketing Committee has no right to demand or levy market fee as contemplated under the provisions of the Andhra Pradesh (Agricultural Produce and Live Stock) Market Act, 1966 (for short "the Act") and for consequential injunction restraining the defendant from enforcing provisions of the Act against the plaintiffs and for the costs of the suit.

2. In the plaint, the plaintiffs averred that since the Marketing Committee has not provided any amenities for their trade, the levy of fee is violative of the legal principle of quid pro quo, therefore, they sought the relief as prayed for. The defendant, being Agricultural Marketing Committee, mentioned in the written statement that the plaintiffs conducting the trade in the notified area as required under the provisions of the Act and they are trading in agricultural produce notified by the Government and the defendant provided whatever amenities that are possible to be provided within the financial resources, therefore, the plaintiff

is not entitled to seek any declaration that the marketing committee is not entitled to levy the market fee cess against the plaintiffs. The trial Court decreed the suit by observing that DW-1 admitted that there is no godown and other amenities at the disputed marketing yard by delineating the duties of the Marketing Committee as provided under the provisions of the Act.

3. Being aggrieved by the judgment and decree of the trial Court dated 23-2-1989, the Marketing Committee preferred A.S. No. 12 of 1989 on the file of the Subordinate Judge, Bobbili and the learned Subordinate Judge allowed the appeal by setting aside the judgment and decree of the trial Court by observing that there are catena of decisions to the effect that the plaintiffs have no right to question the demand for services from the Marketing Committee unless they are paying market fee etc., which was upheld by the Supreme Court in *Kewal Krishan Puri and Others Vs. State of Punjab and Another*, and in *Sreenivasa General Traders and Others Vs. State of Andhra Pradesh and Others*, . The demand of the Marketing Committee is in accordance with the statutory power vested in it. The Marketing Committee provided some facilities and as the Marketing Committee was at the initial stage it cannot be expected to provide much more facilities and there cannot be any declaration that the demand of levy is illegal simply on the ground that the Marketing Committee failed to provide the facilities. Being aggrieved by the judgment and decree of the appellate Court dated 22-2-1996, the plaintiffs preferred the present second appeal.

4. At the time of admission of the second appeal, no substantial question of law has been framed, but from the grounds of appeal it is noted that the substantial question is as follows:

Whether the Marketing Committee has levied the market fee under the provisions of the Act for not providing amenities to the licensed traders in the marketing yard.

5. The Marketing Committee is created under a statute. The powers are also given to the Marketing Committee to levy the fee as provided under Sections 7 and 12 of the Act. The Marketing Committee is undisputedly within the notified area. The business of the plaintiffs is within the notified area of the Marketing Committee though there is an obligation on the part of the Marketing Committee to provide amenities to the traders and agriculturists who bring their agricultural produce for sale to the Marketing Committee. But, unless the traders, who purchase the agricultural produce, pay the market fee, it is not possible for the Marketing Committee to provide the amenities.

6. The evidence of the defendant/Marketing Committee that they provide some amenities in the Marketing Committee is not denied by the plaintiffs and the plaintiffs contended that the Marketing Committee has not provided all the facilities as provided the provisions of the Act. The non-providing of the amenities by itself is not a ground to the plaintiffs to avoid payment of the market fee. I do not find any substantial question of law to be considered by this

Court. The appellate Court came to conclusion that the grounds on which the plaintiffs sought for declaration is not maintainable and no such relief can be granted to the plaintiffs. After going through the oral and documentary evidence and the judgment of the appellate Court, I do not find any grounds to interfere with the judgment of the appellate Court.

7. In the result, the second appeal is dismissed in all respects by confirming the judgment and decree of the appellate Court dated 22-2-1996 in A.S. No. 12 of 1989. No costs