
(1965) 01 AP CK 0010
In the Andhra Pradesh High Court
Case No : C.M.P. No. 280 of 1964

Pingali Sivakumar and Others	Vs	APPELLANT
Doli Sivaiah and Others		RESPONDENT

Date of Decision : 25-01-1965

Acts Referred:

Hyderabad Tenancy and Agricultural Lands Act, 1950 — Section 93
Limitation Act, 1963 — Section 31, 5

Citation : AIR 1966 AP 14

Hon'ble Judges : Gopal Rao Ekbote, J;Basi Reddy, J

Bench : Division Bench

Advocate : M. Lakshmanarao, for the Appellant; B.P. Jeeven Reddy, for the Respondent

Final Decision : Dismissed

Judgement

Basi Reddy, J.—The question raised here is, whether Section 5 of the Indian Limitation Act -- 36 of 1963 -- which has come into force on 1-1-1964 -- applies to the present revision petition, which was filed on 1-1-1964, on which date the period of limitation, namely, sixty days prescribed for such revisions u/s 93 of the Hyderabad Tenancy and Agricultural Lands Act, had expired. It has been well settled by a series of decisions of this Court that Section 5 of the old Limitation Act of 1908 had no application to appeals or revisions filed under the Hyderabad Tenancy and Agricultural Lands Act. Since the period of limitation had expired by the date on which the present revision was filed, obviously the delay in filing the revision, could not have been condoned under the old Limitation Act.

2. But the contention of the learned Advocate for the petitioners is that Section 31 of the new Act, by implication, attracts Section 5 of the Limitation Act even to appeals and revisions filed u/s 93 of the Hyderabad Tenancy and Agricultural Lands Act, because according to the learned Advocate, Clause (a) of Section 31 speaks only of matters with regard to which a period of limitation is prescribed by the Indian Limitation Act, 1908 and not to matters in regard to which a period

of limitation is fixed by any local or special Act. But even a cursory reading of Clause (b) of that very section, namely, Section 31 of the new Act, cuts at the root of the argument of the learned Advocate and makes it abundantly clear that the new Act is only prospective in its operation and not retrospective and applies to both classes of cases. Section 31 bears the heading "provisions as to barred or pending suits etc", and reads thus:

"31. Nothing in this Act shall-- (a) enable any suit, appeal or application to be instituted, preferred or made, for which the period of limitation prescribed by the Indian Limitation Act, 1908 -- 9 of 1908 -- expired before the commencement of this Act: or (b) affect any suit, appeal or application instituted, preferred or made before, and pending at, such commencement."

3. it will be seen that under Clause (b) a suit, appeal or application, which had been filed even before the coming into force of the new Act and which was pending at that time, would not attract Section 5 of the Limitation Act. If Section 5 is not applicable even to pending matters which had become barred by limitation under the provisions of any law including a special or local law, a fortiori a revision petition, which was filed after the coming into force of the new Limitation Act and after the period of limitation prescribed by the Hyderabad Tenancy and Agricultural Lands Act had expired, cannot claim the benefit of Section 5 of the new Limitation Act. It is also to be noted that while Clause (a) of Section 31 relates to matters for which the period of limitation prescribed by the old Limitation Act had expired before the commencement of the new Act, Clause (b) applies to any suit, appeal or application for which the period of limitation is prescribed under the old Limitation Act or under any other law, special or local. That being the true legal position, the contention of the learned Advocate that Section 5 of the new Limitation Act is applicable to this revision petition, is clearly untenable and the petition is, therefore, dismissed.