

(2001) 01 AP CK 0074

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No's. 615, 620, 625, 643, 663, 966 and 1586 of 1998

Pinka Dhanrjuna Rao and Another

APPELLANT

Vs

State of A.P. and Others

RESPONDENT

Date of Decision : 25-01-2001

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 20
Civil Procedure Code, 1908 (CPC) — Section 141
Limitation Act, 1963 — Section 5

Citation : (2001) 2 ALD 448 : (2001) 2 ALT 401 : (2001) 1 APLJ 342

Hon'ble Judges : S.B. Sinha, C.J

Bench : Single Bench

Advocate : V.L.G.K. Murthy, for the Appellant;

Final Decision : Dismissed

Judgement

S.B. Sinha, C.J.—These revision petitions raise an interesting question as regards applicability of Section 5 of the Limitation Act, 1963 (hereinafter referred to as "the Act" for the sake of brevity) in a proceeding before the Land Reforms Appellate Tribunal (hereinafter referred to as "the Tribunal" for the sake of brevity).

2. An appeal was filed u/s 20 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, (hereinafter referred to as "the Reforms Act" for the sake of brevity). Section 20 of the Reforms Act reads thus:

20. Appeal:--

1. The Government may, by notification, constitute as many appellate Tribunals as may be necessary for the purposes of this Act, and shall specify in such notification, the jurisdiction of each such Appellate Tribunal.

2. Each Appellate Tribunal constituted under sub-section (1) shall consist of not

more than three members, of whom one shall be a person who holds or has held a civil post under the State, not below the rank of a District Revenue Officer, or a person who holds or has held or is qualified to hold the post of a District Judge, and such person shall be the Chairman of the Tribunal.

3. An appeal shall lie against an order passed by the Tribunal or the Revenue Divisional Officer to the Appellate Tribunal within thirty days of the date of communication of the order, and the Appellate Tribunal shall pass such orders on the appeal as it deems fit and such order shall, subject to revision u/s 21 4. The provisions of sub-sections (3), (4) and (5) of Section 6 shall apply in relation to an Appellate Tribunal as they apply in relation to the Tribunal with the substitution of references to the Appellate Tribunal for references to the Tribunal.

5. Where the Government are aggrieved by an order passed by the Tribunal or the Revenue Divisional Officer, they may file an appeal to the Appellate Tribunal against that order.

3. A revision against the order passed by the appellate authority lies before the High Court.

4. The question which arises for consideration is whether the Tribunal constituted u/s 20 of the Reforms Act would be a "Court" within the meaning of the provisions of the Act or not?

5. The Act does not define a "Court". However, by reason of the provisions of Section 141 of the Code of Civil Procedure, the provisions thereof shall apply in all proceedings in any Court of civil jurisdiction.

6. In terms of the aforementioned provisions, thus, the procedure to be followed before the Tribunal would be governed by the provisions of the Code of Civil Procedure.

7. In terms of the provisions of Section 20 of the Reforms Act a Tribunal is to be constituted. Such types of Tribunals are also constituted under Motor Vehicles Act, as regards the claim for compensation arising out of an accident by reason of use of motor vehicles.

8. Whether the "Tribunal" comes within the purview of definition of "Court" or not would depend upon the question as to whether such a Tribunal would be under the control of the High Court under Article 235 of the Constitution of India. As noticed herein before, in terms of Section 21 of the Reforms Act a revision would lie before this Court. Thus, there cannot be any doubt whatsoever that the Tribunal which is presided over by a District Judge would be a "Court" and not a "persona designata".

9. It may be that for the purpose of preferring an appeal under the Reforms Act a specific period of limitation has been prescribed, but that by itself cannot be a ground for coming to the conclusion that having regard to the provisions of Section 29 (2) of the Act, the provisions of Section 5 thereof shall not apply. In

MUKRI GOPALAN v. C.P.ABOOBACKER¹ the Supreme Court inter alia held that the District Judge acting as an appellate authority under the Kerala Buildings (Lease and Rent Control) Act would be a "Court" and not a "persona designata". The Apex Court in the aforementioned judgment has clearly come to a conclusion that for the purpose of invoking the provisions contained in Sections 4 to 24 of the Act only the following two conditions are required to be satisfied viz.,

9. ...

i) In such a case S. 3 of the Limitation Act would apply as if the period prescribed by the special or local law was the period prescribed by the schedule.

ii) For determining any period of limitation prescribed by such special or local law for a suit, appeal or application all the provisions containing Ss. 4 to 24 (inclusive) would apply insofar as and to the extent to which they are not expressly excluded by such special or local law.

10. It was observed that if the aforementioned two requirements were satisfied, the consequences contemplated u/s 29(2) of the Act would automatically follow. Like the Kerala Buildings (Lease and Rent Control) Act, there cannot be any doubt that the Reforms Act is a special Act or a local law. It is further evident that the appeal u/s 20 of the Reforms Act provides for a period of limitation, which is different from the period prescribed by the Schedule appended to the Act. In that view of the matter, the provisions of the Reforms Act also fulfil the requirements laid down u/s 29 of the Act.

11. This aspect of the matter has also been considered by a Division Bench of this Court in MAHENDRA KUMAR GOYAL v. ADDL. COMMISSIONER OF CIVIL SUPPLIES² wherein MUKRI GOPALAN's case (1 supra) has been followed.

12. The learned counsel for the petitioners, however, has placed strong reliance upon a decision of the Apex Court in OFFICER ON SPECIAL DUTY (LAND ACQN.) v. SHAH MANILAL CHANDULAL³. In that case, the Apex Court was considering the provisions of the Land Acquisition (Amendment) Act, 1984, whereby period of limitation was prescribed for the purpose of Sections 4, 6 and 11 thereof and thereby the time occupied due to interim stay granted by the Courts was also excluded. The Apex Court observed:

17. It is to be remembered that the Land Acquisition (Amendment) Act (68 of 1984) was enacted prescribing the limitation to exercise the power under Sections 4, 6 and 11 and also excluded the time occupied due to stay granted by the courts. Taking cognizance of the limitation prescribed in proviso to sub-section (2) of Section 18, the provisions of the Limitation Act were not expressly extended. Though Section 29(2) of the Limitation Act is available, and the limitation in proviso to sub-section (2) of Section 18 may be treated to be special law, in the absence of such an application by Land Acquisition (Amendment) Act (68 of 1984), the Act specifically maintains distinction between the Collector and the Court and the Collector/LAO performs only statutory duties under the Act,

including one while making reference u/s 18. It is difficult to construe that the Collector/LAO while making reference u/s 18, as statutory authority still acts as a Court for the purpose of Section 5 of the Limitation Act.

13. Thus, the said decision, instead of supporting the contention of the petitioners, runs counter thereto.

14. For the reasons aforementioned, this Court does not find any merit in these applications, which are accordingly dismissed. But, in the facts and circumstances, there shall be no order as to costs.