
(2001) 09 AP CK 0122

In the Andhra Pradesh High Court

Case No : Writ Petition No"s. 15377/86 and 20448/98

S. Kishan Rao

APPELLANT

Vs

State of A.P. and Others

RESPONDENT

Date of Decision : 21-09-2001

Acts Referred:

Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 — Section 4, 4(4), 5, 6, 7

Constitution of India, 1950 — Article 19(1), 31(2), 31A

Citation : (2001) 09 AP CK 0122

Hon'ble Judges : E. Dharma Rao, J; Bilal Nazki, J

Bench : Division Bench

Advocate : G. Ramakrishnaiah, for the Appellant; P. Venkat Rama Reddy and G.P., for the Respondent

Final Decision : Dismissed

Judgement

Bilal Nazki, J.—In both these Writ petitions Act 16 of 1986 which amends A.P (Telangana Area) Abolition of Inams Act, 1955 has been challenged as ultra vires. The Writ petition No. 15377/86 was earlier dismissed on the ground that it had become infructuous, later on the order was reviewed and the matter was listed for fresh hearing. For the purpose of facts and the submissions we would be referring Writ petition No. 15377/86.

2. It is submitted that, by Amending Act 16 of 1986 the State sought to reduce the family holdings area from three family holdings to one family holding by deleting sub-section (4) of section 4 of the A.P. (Telangana Area) Abolition of Inams Act, 1955 retrospectively. It is submitted that, inams were granted by then rulers to the ancestors of the petitioners for the services rendered by them to the rulers and the people at that time. For continuity of the services the rulers had to provide the means and for that purpose inam lands were granted to the ancestors of the petitioners. The successor Governments have recognized their title and the grants were regularized under the provisions of Hyderabad Athiyat

Act, 1952, Muntakabs were issued in favour of the petitioners. The Inams Abolition Act was passed in the year 1955 but it was enforced on 20th October, 1973. Section-4 of the A.P (Telangana Area) Abolition of Inams Act, 1955 lays down;

"4. Registration of inamdars as occupants - (1) Every inamdar shall, with effect from the date of vesting, be entitled to be registered as an occupant of all inam lands other than-

(a) lands set apart for the village community, grazing lands, mines and quarries, tanks, tank beds and irrigation works, streams and rivers;

(b) lands in respect of which any person is entitled to be registered under sections 5,6,7 and 8 of the Act;

(c) lands upon which have been erected buildings owned by any person other than the inamdar.

* which immediately before the date of vesting, were under his personal cultivation and which, together with any lands he separately owns and cultivates personally are equal to four and a half times the "family holding".

(2) No inamdar shall be registered as an occupant of any land under sub-section (1) unless he pays to the Government as premium an amount equal to twenty five times the difference between the judi or quit-rent, if any, paid by him and the land revenue payable in respect of such land. The amount of premium shall be payable in not more than ten annual instalments along with the annual land revenue and in default of such payment, shall be recoverable as arrears of land revenue due on the land in respect of which it is payable.

(3) The inamdar shall be entitled to compensation from the Government as provided for under this Act in respect of inam lands in his possession in excess of the time limit specified in sub-section (1) whether cultivated or not.

(4) Should the lands for the purpose of registration of inamdar as occupant be required to be resumed to make up the deficiency to the extent of 3 family holdings, the same shall be resumed under the provisions of the Hyderabad Tenancy and Agricultural lands Act,1950 in the following order-

(i) firstly from out of non-inam lands.

(ii) Secondly from out of uncultivated inam lands other than those specified in clauses (a) and (c) of sub-section (1); and

(iii) Thirdly from out of the inam lands in the possession of his tenants and without prejudice to their tenancy rights in the following order-

(a) from out of the lands of the non-protected tenants;

(b) from out of the lands of the protected tenants and

(c) from out of the lands of the permanent tenants."

3. Now, by amendment sub-section (4) of Section-4 has been dropped by incorporating the following;

"In the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955, in section 4, sub-section (4) shall be and shall be deemed always to have been omitted."

4. The main attack on the amendment is that it takes away the rights of the petitioners with respect to the property of which they had become owners. The State on the other hand filed their counter and insisted that since the amending Act was a piece of legislation concerning agrarian reforms therefore it was not open to the petitioners to challenge it. One of the submissions made by the learned counsel for the petitioner was that, since Presidential assent has not been obtained under Article 31A of the Constitution of India before passing of the Act therefore the legislation was not saved under Article 31A. In this connection he referred to several judgments which need not be gone into in view of the fact that amending Act itself discloses that it had been promulgated only after the Presidential assent had been received on 25th June, 1986. The reference in this connection to the judgment in Inamdars of Sulhnagar Colony and Others Vs. Government of Andhra Pradesh and Another, is therefore misplaced. The learned counsel also referred to Division Bench judgment of this Court in Jagannatha Rao Vs. State of A.P., 1972 (1) ALT 270. This judgment differentiates rural and urban areas for the purpose of application of Article 31A. Presently we are not concerned with it because such a distinction has not been pointed out while making submissions before this Court. Even otherwise the Supreme Court has already held that Inams Abolition Act is an Act for the purposes of agrarian reforms. The third judgment to which reference was made is Mahant Sankarshan Ramanuja Das Goswami etc., etc. Vs. The State Of Orissa and Another, . This judgment merely lays down the principle on the basis of which relationship of landlord and tenant could be ascertained for the purposes of the Act. It nowhere states that the Act was not a piece of legislation in furtherance of agrarian reforms. Another judgment to which a reference was made is Vij Resins Pvt. Ltd. and Others Vs. State of Jammu and Kashmir, . This judgment related to rights to exploit or utilise particular forest produce and the Court held that it amounts to property and entitled to protection under Article 19(1)(f) and Article 31(2) of the Constitution and this right could not be taken away without providing for compensation. The other judgment to which a reference has been made is Dy. Collector and Another Vs. S. Venkata Ramanaiah and Another, This was a case in which provisions of A.P. (Scheduled Area) Land Transfer Regulation, 1959 were subject matter of dispute and it was held that A.P. Scheduled Areas Land Transfer (Amendment) Regulation, 1970 was not retrospective but prospective in operation. The Court held that the amending Act was not retrospective in its operation because the Act had not said so. In this judgment, the Court relied on the observations made in Garikapatti Veeraya Vs. N. Subbiah Choudhury, which are reproduced;

"The golden rule of construction is that, in the absence of anything in the enactment to show that it is to have retrospective operation, it cannot be so construed as to have the effect of altering the law applicable to a claim in litigation at the time when the Act was passed."

5. In the present case the amendment has been made retrospectively operative. There is another judgment which is relied upon by the learned counsel for the petitioner reported in V.S.R. Murthy and Others Vs. Engineer-in-Chief (Irrigation Wing), I and C.A.D. Department, Govt. of A.P. and Others, . This judgment is also not relevant. On the other hand, the learned counsel for the respondents have relied on two judgments of Supreme Court one is Peddinti Venkata Murali Ranganatha Desika Iyengar and others Vs. Government of Andhra Pradesh and another, . This was a case from Andhra Pradesh whereby an explanation added to Section 76 and section 2 (22) of the A.P. Charitable and Hindu Religious Institutions & Endowments Act was challenged. In this case, the explanation added to section 2 (22) and Section 76 of the A.P. Endowments Act amounted to taking away the rights of ryotwari to certain persons which had been granted to them under A.P. Inams (Abolition and Conversion into Ryotwari) Act, therefore it became necessary for the Court to consider the impact and nature of A.P. Inams Abolition Act. In para-5 the Supreme Court held;

"The competency of the legislature to make this law, its deep impact on vested rights and its sweep would be properly gazed and appreciated when we would look into the provisions of the Inams Abolition Act which is a part of agrarian reform forming part of the scheme to abolish an estate and conferment of ryotwari patta on the tiller of the soil and the institution respectively and creation of direct relationship of him with the State paying revenue assessment thereof. The Inams Abolition Act was enacted under Entry 18 of List- II of the Seventh Schedule of the Constitution viz., Rights in or over the land, land tenure including the relationship of the landlord and the tenant, transfer and alienation of agricultural lands etc.". The preamble of the Inams Abolition Act envisages "an Act to abolish and convert certain inam lands into ryotwari lands." The title of the Act itself indicates abolition of the inam lands and conversion thereof into ryotwari lands. The Act had come into force on December 14, 1956 and it has been amended from time to time. Similar provision is available in Talangana area of Andhra Pradesh."

6. It is not a question for debate as to whether the Inams Abolition Act is an Act for the purpose of agrarian reforms or not. It is held by the Supreme Court that it is a piece of legislation under entry 18 of List II of the seventh schedule of the Constitution. Since the impugned legislation has received the Presidential assent and a procedure has been laid down for determination, apportionment and payment of compensation under chapter-III of the Act, therefore it will not be subject to any challenge for violation of rights guaranteed under Part-III of the Constitution. The learned counsel for the respondents relied on a judgment in Prem Nath Raina and Others Vs. State of Jammu and Kashmir and Others, . In

this case the Supreme Court held that where any Act is a measure of agrarian reforms the Court has to see the dominant purpose of the Act. If the dominant purpose is agrarian reforms it is saved by Article 31A. Since the Supreme Court has already held that Inam Abolition Act is an Act for the purpose of agrarian reforms, therefore this amending Act which is to further cause of agrarian reforms, by reducing land holding which could be retained by the inamdar, cannot be challenged.

7. For these reasons, we do not find merit in these Writ petitions which are accordingly dismissed. We uphold the constitutional validity of Act 16 of 1986.