

(1996) 02 SC CK 0050

In the Supreme Court Of India

Case No : Civil Appeal No. 267 of 1984

State of A.P. and Others

APPELLANT

Vs

Merit Enterprises and Others

RESPONDENT

Date of Decision : 14-02-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 8 SCC 749

Hon'ble Judges : S. C. Sen, J; M. M. Punchhi, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The respondents were served with notice u/s 7 of the Andhra Pradesh Land Encroachment Act (for short "the Act") on the premise that the land under encroachment belonged to the Government and that the respondents were unauthorisedly occupying the same and proceeding to raise a building thereon. Right at the initiation of such proceedings, the respondents approached the High Court praying for a suitable writ/direction or order so as to quash that notice and proceedings. The High Court entertained the writ petition and granted an interim stay of further proceedings. The said interim order was questioned by the State of Andhra Pradesh in this Court. Here another interim order directing suspension of the said order of the High Court, pending the SLP, was passed. The SLP however, was dismissed in default; as a result whereof undisputedly the respondents were able to construct the building. The High Court when dealing with the main matter, took into account some government documents and on reconciling them with others, deduced that the land in dispute was not owned by the Government and hence initiation of proceedings u/s 7 of the Act was uncalled for. This has given rise to the instant appeal.

2. Learned counsel for the appellant-State raises a fundamental issue contending that it was not the domain of the High Court to undertake such a fact-finding enquiry in proceedings under Article 226 of the Constitution. It has further been

contended that the land in dispute was shown in the revenue records as belonging to the Government and thus should have predominantly been viewed over other government documents so as to establish the title of the Government. On the other hand, it has been contended that the High Court is empowered under its extraordinary jurisdiction under Article 226 of the Constitution to widen or limit the parameters of any controversy it is dealing with. It is asserted that when the High Court chose to examine the entire matter inclusive of the factual side, the State without demur participated in it and it cannot now question the discretion or jurisdiction of the High Court when a decision has gone against it. Otherwise also, it has been countered that the State has no explanation to the documents in which the land in dispute was shown to be in private ownership and not in State ownership.

3. Having heard learned counsel on both sides on the aspects afore-focused, we find that the High Court was perfectly justified in going into the question of ownership as that was a jurisdictional question on the basis of which alone proceedings u/s 7 of the Act could be initiated. The High Court having done so and the appellant-State having participated in the enquiry, it is futile for it to be contending that the High Court travelled beyond its jurisdiction. Otherwise, on merit of the matter regarding ownership, nothing has been suggested to us whereupon we could be persuaded to take a view different than the one taken by the High Court. We thus find no reason to interfere in the order of the High Court.

4. The appeal therefore fails and is hereby dismissed.

5. No costs.