(2002) 03 AP CK 0102

In the Andhra Pradesh High Court

Case No : CRP. No. 4231 of 1998

The Agricultural Market Committee — APPELLANT

Vs

K.S.R. Ramachandra Rao — RESPONDENT

Date of Decision : 07-03-2002

Acts Referred:

Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 — Section 12(1)
Andhra Pradesh (Agricultural Produce and Livestock) Markets Rules, 1969 — Rule 74, 74(1)

Citation : (2002) 3 ALD 759 : (2002) 4 ALT 210 : (2002) 1 APLJ 404

Hon'ble Judges : Dubagunta Subrahmanyam, J

Bench : Single Bench

Advocate : Posani Venkateswarlu, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

Dubagunta Subrahmanyam, J.—This is a revision petition filed against the judgment and decree dated 2.7.1998 in SC.No.74 of 1993 on the file of the Junior Civil Judge, Gudivada by the defendant in the above suit. The respondent-plaintiff was served with notice in this CRP. However, he did not choose to appear before this Court and contest this revision petition.

2. Necessary and relevant facts for the disposal of this revision petition are as follows: The revision petitioner-defendant is an Agricultural Market Committee, Gudivada. The respondent-plaintiff is a Trader in black-grams etc. at Gudivada. He had obtained a licence from the revision petitioner. For the assessment year 1990-91, the revision petitioner passed an assessment order regarding the market fee payable by the respondent. The respondent paid a total sum of Rs.51,872/- as market fee to the revision petitioner. The respondent claimed certain exemptions. The revision petitioner granted some partial exemptions and refused to exempt a sum of Rs.3,778/- from the assessment order. The said amount of Rs.3,778/- was paid by the respondent-plaintiff at the check-post at

Vijayawada under proper receipts. According to the plaintiff, as he paid the said amount at Vijayawada check-post as market fee, he is not liable to pay the said amount to the revision petitioner-Market Committee, and thus, the defendant-revision petitioner is liable to refund the said amount of Rs.3,778/- to the plaintiff. He filed the suit to recover the said amount. The defendant resisted the suit by filing a written statement. He pleaded that the plaintiff is not entitled to claim exemption regarding the said amount of Rs.3,778/-. The revision petitioner questioned the jurisdiction of the Civil Court to entertain the suit. At the initial stage, the Trial Court dismissed the suit on the ground that it has no jurisdiction to entertain the suit. However, the said order of the Trial Court was set aside by this Court in a revision petition filed previously. After remand by this Court, the Trial Court held that as the plaintiff paid Rs.3,778/- at Vijayawada check-post, the defendant is not entitled to collect the said amount again from the plaintiff. Accordingly, the Trial Court decreed the suit with costs. Aggrieved by that order, this revision petition is filed by the defendant.

3. The plaintiff-respondent is claiming refund invoking the provision in Rule 74 of the Andhra Pradesh (Agricultural Produce & Livestock) Markets Rules, 1969 (for short ''the Rules''). Rule 74 (1) of the Rules reads as follows:

"74. Market Fees:-- (1) The fees leviable under sub-section (1) of Section 12 on notified agricultural produce, livestock and products of livestock if paid to a market committee within the State shall not be collected by another Market Committee when such notified agricultural produce, livestock or products of livestock are brought into the notified market area of another market committee for the purpose of processing, pressing, packing, storage, export and on sales effected in the course of commercial transactions between the licensed traders, and the licensed traders and consumers subject to production of such evidence as may be prescribed in the bye-laws about the payment of market fees from where it was brought."

4. There is no dispute from the plaintiff that it purchased black-gram within the notified area of Gudivada Market Committee and the defendant is entitled to levy and collect the market fees on the above transaction. According to the plaintiff, it exported the produce purchased by it to another notified area outside the limits of Gudivada Market Committee notified area; as he paid the market fee at Vijayawada Check-post, he is entitled to recover the said amount from the defendant. According to the learned counsel for the revision petitioner, Rule 74(1) applies to a transaction of import and not to a transaction of export. A reading of the judgment of the Trial Court shows that the learned Junior Civil Judge relied upon a Division Bench Judgment of this Court in HYDERABAD FRUIT COMMISSION AGENTS-MERCHANTS-TRADERS ASSN. Vs. GOVT. OF A.P.1, wherein this Court held that if the fruits purchased by the purchasers were subjected to market fees and if the purchasers transport the same outside the market area, the same shall not be once again subjected to market fee, provided the purchaser adduces proof of payment of market fee on the fruits purchased.

5. In my considered opinion, the learned Junior Civil Judge did not understand in correct perspective the proposition of law laid down in the above decision. It is already noticed that there is no dispute from the plaintiff that he is liable to pay the market fee to the Gudivada Market Committee, as he purchased the black-gram within the notified area of Gudivada Market Committee. He is claiming the exemption on the ground that he paid the said market fee to another Market Committee at the check-post in Vijayawada. It is necessary to remember that the plaintiff had admittedly paid the said amount later to the Gudivada Market Committee. He is now claiming refund of the said amount on the ground that he paid the market fee on the same transaction to a different Market Committee at Vijayawada. A careful reading of Rule 74(1) of the Rules and the above Division Bench Decision of this Court clearly indicate that he has to pay the market fee to the Gudivada Market Committee, and then, if he transports the goods outside the Gudivada Market Committee and if another Market Committee demands payment of market fee on the same transaction to it, by invoking Rule 74(1) of the Rules, he can claim exemption from payment of the market fee from other Market Committee. A careful reading of Rule 74(1) of the Rules makes the position very clear that the fees levied u/s 12(1) of the A.P. (Agricultural Produce and Livestock) Markets Act on notified agricultural produce etc., if paid to a Market Committee, shall not be collected by another Market Committee, when such notified agricultural produce etc. are brought into the notified market area of another Market Committee for different purposes mentioned in that provision; and a condition is also laid down that the market fee need not be paid before another Committee subject to production of such evidence about the payment of market fee from where it was brought. This provision is intended to prevent collection of market fee by different Market Committees on the same transaction. If a person wants to invoke this provision, he has to pay the market fee to the 1st Market Committee, and then, if he takes the produce etc. to another market area for any purpose, he can seek exemption from the 2nd Market Committee. It is not vice versa. In the present case, the plaintiff was legally bound to pay market fee to Gudivada Market Committee within whose jurisdiction he purchased the produce, and then claim exemption from paying market fee either to Vijayawada Market Committee or to any other Market Committee, if he takes the goods to another Market Committee outside Gudivada Market Committee area by producing necessary proof regarding payment of market fee to Gudivada Market Committee. As rightly pointed out by the learned counsel for the revision petitioner that if the goods purchased within the limits of Gudivada Market Committee are taken out of Gudivada Market Committee area without payment of market fee to Gudivada Market Committee, there is every scope of the trader or commission agent escaping from payment of market fee at the check-post where the goods are allowed to move out without collecting market fee. The right conduct of the plaintiff should have been to pay the market fee at Gudivada Market Committee, produce those receipts at other check-posts outside Gudivada Market Committee area and seek exemption from payment of market fee, if other Market Committees demand payment of market fee. In my considered

opinion, the ruling relied upon by the learned Junior Civil Judge is not helpful to the plaintiff. The plaintiff had voluntarily paid the market fee of Rs.3,778/- to Gudivada Market Committee, and as he is liable to pay that amount legally to Gudivada Market Committee, at a later stage, he is not entitled to seek refund of the said amount from Gudivada Market Committee on the ground that the market fee paid by him is excess market fee and on the other ground that he had paid the said amount at Vijayawada check-post. In the circumstances of the present case, the suit filed by the plaintiff seeking refund of the said amount on the ground that the said amount represents excess fee paid by him is not maintainable. In fact, he has not made excess payment to Gudivada Market Committee. Legally, he is bound to make that payment to Gudivada Market Committee. After making that payment, he is not entitled to seek refund of that amount from Gudivada Market Committee. I, therefore, feel satisfied that the decree and judgment of the Trial Court are liable to be set aside.

6. In the result, the revision petition is allowed without costs. The judgment and decree in SC.No.74 of 1993 on the file of the Junior Civil Judge, Gudivada are set aside. The said suit is dismissed but in the circumstances without costs.