

Maddada Chayanna

Vs

Karnam Narayana and Another

Civil Appeal Nos. 1760-1763 of 1969

(D. A. Desai. O. Chinnappa Reddy JJ)

14.02.1979

JUDGMENT

CHINNAPPA REDDY J.

1. The petitioner who lost before the Subordinate Tribunals and the High Court is the appellant in this appeal by special leave. Alleging that he was the landlord and that the respondents were his tenants in respect of certain lands in Bhommika village, the appellant filed a petition before the Tehsildar, Pathapatnam, under Section 13 of the Andhra Tenancy Act for the eviction of the respondents on the ground of default in payment or rent. The respondents pleaded that the lands were situated in an Inam Estate which had been taken over by the Government under the provisions of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948, and that, they and their ancestors, who had occupancy rights were always in cultivating possession of the lands. It was also pleaded that after the taking over of the estate by the Government there was no longer any relationship of landlord and tenant between the petitioner and the respondents. The Tehsildar dismissed the petition for eviction on the ground, among others, that the respondents had occupancy rights in the land. The landlord preferred an appeal before the Revenue Divisional Officer, Tekkali. The Revenue Divisional Officer rejected the appeal on the ground that the petition for eviction was not maintainable since the question as to who was the lawful ryot in respect of any holding in an estate had to be decided by the Settlement Office under Section 56(1)(c) of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, and that the decision of such question was within the exclusive competence of the Settlement Officer. A Revision petition filed before the High Court of Andhra Pradesh under Article 227 of the Constitution was dismissed by the High Court again for the reason that the question as to who was entitled to the grant of ryotwari patta had to be decided by the Settlement Officer under Section 56 of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act and that the decision of such question was within the exclusive jurisdiction of the Settlement Officer. The appellant has preferred this appeal by special leave of this Court.

2. Shri Vepa P. Sarathi, learned Counsel for the appellant argued that the view expressed by the High Court regarding the exclusive jurisdiction of the Settlement Office to decide the question as to who was the lawful ryot of a holding was not good law in view of the decision of a Full Bench of three Judges of the Andhra Pradesh High Court in Cherukuru Muthayya v. Gadde Gopalakrishnayya (AIR 1974 AP 85 : (1973) 2 AP LJ 209).

3. It is not disputed that the lands are situated in Bhommika village. It is not also disputed that Bhommika village was an Inam estate and that it was taken over by the Government under the provisions of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari)

Act. The appellant claims that he is the lawful ryot of the lands in dispute and that the respondents are his tenants. On the other hand the respondents claim that they are the lawful ryots of the holding. The question at issue between the parties therefore is, whether the appellant or the respondents are the lawful ryots of the holding. Under Section 56(1)(c) of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act "where, after an estate is notified, a dispute arises as to (a) whether any rent due from a ryot for any fasli year is in arrear, or (b) what amount of rent is in arrear, or (c) who the lawful ryot in respect of any holding is, the dispute shall be decided by the Settlement Officer". Section 56(2) provides for an appeal to the Estates Abolition Tribunal against the decision of the Settlement Officer and further Abolition Tribunal against the decision of the Settlement Office and further provides that the decision of the Tribunal shall be final and shall not be liable to be questioned in any Court of law. Prima facie, therefore, the question as to who is the lawful ryot of any holding, if such question arises for decision after an estate is notified, has to be resolved by the Settlement Officer and by the Estates Abolition Tribunal under Sections 56(1)(c) and 56(2) of the Andhra Pradesh Estates Abolition Act. The Andhra Pradesh Estates Abolition Act is a self-contained code in which provision is also made for the adjudication of various types of disputes arising after an estate is notified, by specially constituted Tribunals. On general principles, the special Tribunals constituted by the Act must necessarily be held to have exclusive jurisdiction to decide the disputes entrusted by the statute to them for their adjudication.

4. Shri Vepa P. Sarathi's submission was that Section 56(1) (c) did not enable the Settlement Officer to decide the question as to who was the lawful ryot of a holding every time such question arose and for all purposes but only when such question arose in connection with the matters dealt with the Section 55 and Section 56(1)(a) and (b). In other words the argument was that Section 56(1)(c) was controlled by Section 55 and Section 56(1)(a) and (b) and that an enquiry into the question as to who was the lawful ryot of a holding under Section 56(1)(c) was permissible only for the purpose of identifying the person liable to pay the arrear of rent which had accrued in respect of the holding before the taking over of the estate. The submission of Shri Vepa P. Sarathi is supported by the decision of the Full Bench of the Andhra Pradesh High Court in *Cherukuru Muthayya v. Gadde Gopalakrishnayya* (supra). We are, however, unable to see any justification for restricting the scope of Section 56(1)(c) in the manner suggested by Shri Sarathi. We will briefly indicate our reasons for holding that the scope of Section 56(1)(c) is not to be restricted as was done by the Full Bench of Andhra Pradesh High Court in *Cherukuru Muthayya v. Gadde Gopalakrishnayya*. We are fortunately relieved of the necessity of considering the matter more elaborately in view of the fact that the decision in *Cherukuru Muthayya v. Gadde Gopalakrishnayya* on this part of the case has since been overruled by a Full Bench of five Judges of the High Court of Andhra Pradesh in *T. Munuswami Naidu (died) v. R. Venkata Reddy* (AIR 1978 AP 200) after a thorough and exhaustive consideration of the question. We may also add here that until the decision in *Cherukuru Muthayya v. Gadde Gopalakrishnayya*, for several years it was understood that Section 56(1)(c) conferred complete and exclusive jurisdiction on the Settlement Officer to decide rival claims of ryots for the grant of ryotwari patta and Section 55 or 56(1)(a) and (b) were never understood as controlling Section 56(1)(c).

5. A brief resume of the provisions of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act relevant for our present purpose is permissible here. As stated in the preamble the Act was enacted to provide for the repeal of the Permanent Settlement, the acquisition of the Rights of landholders in permanently settled and certain other estates and in introduction of the ryotwari settlement in such estates. Section 1(4) provides for the notification of estates and Section 3 enumerates the consequences of notifying an estate under Section 1(4) of the Act. In particular Section 3(b) provides that the entire estate shall stand transferred to the Government and

vest in them free of all encumbrances. Section 3(c) provides that all rights and interests created in/or over the estate by the landholder shall cases and determine as against the Government. Section 3(d) empowers the Government to take possession of the estate but saves from dispossession any person who the Government considers is prima facie entitled to a ryotwari patta until the question whether he is actually entitled to such patta is decided by the Settlement Officer in the case of a ryot or by the Settlement Officer and the Tribunal on appeal in the case of a landholder. Section 3(f) provides that the relationship of the landholder and ryot shall, as between them, be extinguished. Section 3(g) provides that ryots in the estate shall, as against the Government be entitled only to such rights and privileges as are recognised or conferred on them by or under the Act. Section 11 confers on every ryot in an estate the right to obtain a ryotwari patta in respect of ryoti land which was included or ought to have been included in his holding on the notified date. Sections 12, 13 and 14 confer on the landholder the right to obtain a ryotwari patta in respect of private land in a Zamindari, Inam and Undertenure estate respectively. Section 15(1) provides for enquiry by the Settlement Officer into claims by a landholder for a ryotwari patta, under Section 12, 13 and 14. Section 15(2) provides for an appeal to the Tribunal from the decision of the Settlement Officer and it declares that the decision of the Tribunal shall be final and not liable to be questioned in any Court of law. Section 16 imposes on every person, whether a landholder or a ryot who becomes entitled to a ryotwari patta under the Act in respect of any land, the liability to pay to the Government the assessment that may be lawfully imposed on the land. Sections 21 to 23 provide for the survey of estates, the manner of effecting ryotwari settlement and the determination of the land-revenue. Sections 55 to 68 occur under the heading "Miscellaneous". Section 55 provides for the collection of rent which had accrued before the notified date. Section 56 provides for the decision of certain disputes arising after an estate is notified. It provides for the decision of a dispute as to (a) whether any rent due from a ryot for any fasli year is in arrear, or (b) what amount of rent is in arrear, or (c) who the lawful ryot in respect of any holding is. The dispute is required to be decided by the Settlement Officer. Against the decision of the Settlement Officer, an appeal is provided to the Tribunal and the decision of the Tribunal is declared final and not liable to be questioned in any Court of law.

6. Now the Act broadly confers on every tenant in an estate the right to obtain a ryotwari patta in respect of ryot lands which were included or ought to have been included in his holding before the notified date and on the landholder the right to obtain a ryotwari patta in respect of lands which belonged to him before the notified date as his private lands. The Act makes express provision for the determination of claims by landholders for the grant of ryotwari patta in respect of the alleged private lands. If there is provision for the determination of the claims of a landholder for the grant of ryotwari patta in respect of his alleged private lands, surely, in an Act aimed at the abolition of intermediary and the introduction of ryotwari settlement, there must be a patta. Section 56(1) is clearly such a provision. But, in *Cherukuru Muthayya v. Gadde Gopalakrishnayya* it was held that an enquiry as to who was the lawful ryot was permissible under Section 56(1)(c) for the limited purpose of fastening the liability to pay arrear of rent which had accrued before a notified date and for no other purpose. The conclusion of the Full Bench was based entirely on the supposed context in which the provision occurs. The learned Judges held that Section 56(1)(c) occurred so closely on the heels of Section 55 and Section 56(1)(a) and (b), that the applicability of Section 56(1) (c) must be held to be "intimately and integrally connected" with those provisions. We think that the approach of the Full Bench was wrong. Apart from the fact that Sections 55 and 56(1) (a), (b) and (c) occur under the heading "Miscellaneous", and, therefore, a contextual interpretation may not be quite appropriate, the Full Bench overlooked the serious anomaly created by its conclusion. The anomaly is that while express provision is found in Section 15 of the Act for the adjudication of claims by landholders for the grant of ryotwari pattas, there is, if the Full Bench is correct, no

provision for the adjudication of claims by ryots for the grant of ryotwari pattas. It would indeed be anomalous and ludicrous and reduce the Act to an oddity, if the Act avowedly aimed at reform by the conferment of ryotwari pattas on ryots and the abolition of intermediaries, is to be held not to contain any provision for the determination of the vital question as to who was the lawful ryot of a holding. The object of the Act is to protect ryots and not to leave them in the wilderness. When the Act provides a machinery in Section 56(1)(c) to discover who the lawful ryot of a holding was, it is not for the Court to denude the Act of all meaning by confining the provision to the bounds of Sections 55 and 56(1)(a) and (b) on the ground of "contextual interpretation". Interpretation of a statute, contextual or otherwise must further and not frustrate the object of the statute. We are, therefore, of the view that *Cherukuru Muthayya v. Gadde Gopalakrishnayya* was wrongly decided in so far as it held that ambit of Section 56(1)(c) was controlled by Section 55 and Section 56(1)(a) and (b). We do not think it necessary to consider the matter in further detail in view of the elaborate consideration which has been given to the case by the later Full Bench of five Judges of the High Court of Andhra Pradesh in *T. Munuswami Naidu (died) v. R. Venkata Reddi (supra)* except to add that to adopt the reasoning of the Full Bench of three Judges in *Cherukuru Muthayya v. Gadde Gopalakrishnayya* would lead to conflict of jurisdiction and the implementation of the Act would be thrown into disarray.

7. In this connection we may quote the observation of Subba Rao, Chief Justice, who said as follows in *Appanna v. Sriramamurty* :

Where a special Tribunal, out of the ordinary course is appointed by an Act to determine questions as to rights which are the creation of that Act, then except so far as is otherwise expressly provided or necessarily implied, that tribunal's jurisdiction to determine those questions is exclusive. Under the Act, old rights were abolished and new rights were created. A lawful ryot is entitled to a patta. When a question arises whether a person is a lawful ryot or not, that question falls to be decided by the special Tribunal created by the Act.

8. In view of the above discussion the appeal is dismissed with costs.

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