

Government of A. P. and Others

Vs

Kalleti Chengaiah

Civil Appeal No. 4422 of 1996

(K. Ramaswamy, G.B. Pattanaik JJ)

01.03.1996

JUDGMENT

1. Leave granted.

2. This appeal by special leave arises from the order of the Division Bench of the High Court of Andhra Pradesh dated 28-7-1993 made in Writ Appeal No. 752 of 1992. The Director of Settlement by his order dated 25-10-1990 suo motu exercised power under Section 5(2) of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (26 of 1948) (for short "the Act") and set aside the order of the Settlement Officer dated 7-2-1983 granting ryotwari patta under Section 11(a) of the Act to the respondent. When the order was challenged by way of writ petition, the learned Single Judge set aside the order holding that the exercise of the power after long lapse of time was arbitrary; there was no material produced to show circumstances under which the power came to be exercised and that, under those circumstances, the order setting aside the grant of ryotwari patta is illegal.

3. It is seen that Section 5(2) of the Act gives power as under:

"5. (2) Every Settlement Officer shall be subordinate to the Director and shall be guided by such lawful instructions as he may issue from time to time; and the Director shall also have power to cancel or revise any of the orders, acts or proceedings of the Settlement Officer, other than those in respect of which an appeal lies to the Tribunal."

4. It is settled law that the power of suo motu revision can be exercised within reasonable time. When it is held that the power may be exercised from time to time, what would be the reasonable time depends upon facts of each case. It is seen that in this case the orders were issued by the Settlement Officer contrary to the provisions and it was not known till an enquiry was held and until it came to light that the exercise of power by the Settlement Officer under Section 11(a) of the Act was clearly in contravention of the provisions of the Act. Under those circumstances, the Director was constrained to exercise the power. It is also seen that when the record was called for it came to light that the record was destroyed. It would be obvious that the persons behind the scheme had managed to see that the records were destroyed. Considered from this perspective, we are of the view that the High Court was clearly in error in interfering with the order of the Director of Settlement.

5. The appeal is accordingly allowed. The orders of the Single Judge and the Division Bench are set aside and that of the Director of Settlement stands restored. No costs.