

Muddada Chayana vs Karnam Narayana And Anr. Etc on 14 February, 1979

Equivalent citations: 1979 AIR 1320, 1979 SCR (3) 201, AIR 1979 SUPREME COURT 1320, 1979 (3) SCC 42, (1979) 2 APLJ 35, 1979 UJ(SC) 459, (1979) 2 SCJ 425

Author: O. Chinnappa Reddy

Bench: O. Chinnappa Reddy, D.A. Desai

PETITIONER:

MUDDADA CHAYANA

Vs.

RESPONDENT:

KARNAM NARAYANA AND ANR. ETC.

DATE OF JUDGMENT 14/02/1979

BENCH:

REDDY, O. CHINNAPPA (J)

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REDDY, O. CHINNAPPA (J)

DESAI, D.A.

CITATION:

1979 AIR 1320 1979 SCR (3) 201

1979 SCC (3) 42

CITATOR INFO :

R 1980 SC 133 (2)

F 1984 SC 1726 (7)

D 1986 SC 794 (15)

ACT:

Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act (A.P. Act 26 of 1948), Sections 56(1)(c) 55, 11 and 15-Whether operation of Section 56(1)(c) is limited only to the purposes of sections 55 and 56(1)(a) and (b)-Interpretation of a statute.

HEADNOTE:

Under Section 56(1)(c) of the Andhra Pradesh (Andhra Area) Estates (Abolition and conversion into Ryotwari) Act, 1948, "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) of the Act provides for an appeal to the Estates Abolition Tribunal against the decision of the Settlement Officer whose decision was final and not to be questioned in any court of law.

The petition filed before the Tahsildar, Pathapatnam under section 13 of the Andhra Tenancy Act by the appellant, for the eviction of the respondents on the ground of default in payment of rent was dismissed on the ground, among others that the respondents had occupancy rights in the land. The appeal before the Revenue Divisional Officer Tekkali was dismissed 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 Officer 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. In the revision petition filed before it under Art. 227 of the Constitution, the High Court of Andhra Pradesh agreed with the appellate order.

Dismissing the appeal by special leave the Court,

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HELD: 1. Interpretation of a statute contextual or otherwise must further and not frustrate the object of the statute. [207 D]

The object of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 is to protect ryots and not to leave them in 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 provisions to the bounds of Section 55 and 56(1) (a) and (b) on the ground of "contextual interpretation". [207 C-D]

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2. The scope of section 56(1)(c) cannot be restricted to mean that it was controlled by Section 55 and 56(1)(a) and (b) and that an enquiry into the question as to who was the lawful ryot of a holding under that section 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. [204 E-G]

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 ryotwary 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. Section 56(1)(c) is indeed such a provision. A contextual interpretation may not be

quite appropriate in view of the fact that Sections 55 and 56(1)(a) and (b) occur under the heading 'Miscellaneous'. Any other interpretation would lead to conflict of jurisdiction and the implementation of the Act would be thrown into disarray. [206 F, 207 A, B-C]

Munuswami Naidu (died) & Ors., v. R. Venkata Reddy and Ors., A.I.R. 1978 A.P. 200 (F.B.); approved.

3. The Andhra Pradesh Estates Abolition Act is a self contained Code in which a 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 disputes entrusted by the statute to them for their adjudication. [204 D-E]

Appanna v. Sriramamurthy, [1958] 1 Andh. W.R. 420; approved.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 1760- 1763/69.

Appeals by Special Leave from the Judgment and Decree dated 25-10-1967 of the Andhra Pradesh High Court in Civil Revision Application Nos. 342-345/64.

Vepa P. Sarathi and A. V. Rangam for the Appellant. Ex-parte for the Respondent.

The Judgment of the Court was delivered by CHINNAPPA REDDY, J.-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 petition before the Tehsildar, Pathapatnam under Section 13 of the Andhra Tenancy Act for the eviction of the respon-

dents on the ground of default in payment of 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 Officer 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.

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 Officer 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 & Ors.*

It is not disputed that the lands are situated in Bhommika village. It is not also disputed that Bhommika village was in 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)(e) 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 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 Section 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 disputes entrusted by the statute to them for their adjudication.

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 by 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 & Ors. (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 & Ors. (supra). 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 & Ors. on this part of the case has since been over-ruled by a Full Bench of five Judges of the High Court of Andhra Pradesh in I. Munuswami Naidu (died) & Ors. v. R. Venkata Reddy & Ors. after a thorough and exhaustive consideration of the question. We may also add here that until the decision in Cherukuru Muthayya v. Gadde Gopalakrishnayya & Ors., 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).

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 land-holders in permanently settled and certain other estates and the 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 land-holder shall cease 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 land-holder. 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 the holding on the notified date. Sections 12, 13 and 14 confer on the land-holder the right to obtain a ryotwari patta in respect of private land in a Zamindari, Inam and Under-tenure estate respectively. Section 15(1) provides for enquiry by the Settlement Officer into claims by a land-holder for a ryotwari patta, Under Sections 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 land-holder 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. Section 21 to 23 provide for the survey of estates, the manner of affecting 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.

Now the Act broadly confers on every tenant in an estate the right to obtain a ryotwari patta in respect of ryoti lands which were included or ought to have been included in his holding before the notified date and on the land-holder 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 intermediaries and the introduction of ryotwari settlement, there must be a provision for the determination of the claims of ryots for the grant of ryotwari patta. Section 56(1) is clearly such a provision. But in *Cherukuru Muthayya v. Gadde Gopalakrishnayya & Ors* (supra) 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 Section 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 over looked 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 land-holders 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 has, it is not for the Court to denude the Act of all meaning by confining the provision to the bounds of Section 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 & ors.* (supra) 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. Muniswami Naidu (died) & Ors v. R. Venkata Reddi & Ors. (supra) except to add that to adopt the reasoning of the Full Bench of three Judges in Cherukuru Muthayya v. Gadde Gopalakrishnayya & Ors. would lead to conflict of jurisdiction and the implementation of the Act would be thrown into disarray.

In this connection we may quote the observations 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".

In view of the above discussion the appeal is dismissed.

S.R.

Appeal dismissed.