

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

CIVIL REVISION PETITION NO.1959 OF 2024

Between:

Chavan Prakash

...Petitioner

AND

1. Allampally Surender Reddy and two others

...Respondents

ORDER PRONOUNCED ON: 23.08.2024

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE K.SARATH

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

JUSTICE K.SARATH

+CIVIL REVISION PETITION No.1959 of 2024

%Dated 23.08.2024

Chavan Prakash

...Petitioner

AND

\$ Allmpally Surender Reddy and two others

...Respondents

! Counsel for Petitioner : Sri R.Mangulal

^ Counsel for Respondents : Sri A.Srinivas

< GIST :

> HEAD NOTE :

? Cases referred :

1. 2001 (1) ALT 396
2. 2000 (4) ALT
3. (2013) 11 SCC 367

THE HON'BLE SRI JUSTICE K.SARATH

CIVIL REVISION PETITION No.1959 of 2024

ORDER:

1. This Civil Revision Petition is filed under Article 227 of the Constitution of India, questioning the orders passed in I.A.No.3 of 2023 in Case No.A4/CPC/1541/2022 on the file of Additional Agent to Government & Project Officer, ITDA, Adilabad, Headquarters at Utnoor.

2. Heard Sri R.Mangulal, learned Counsel for the petitioner and Sri A.Srinivas, learned Counsel for respondents.

3. The petitioner herein filed suit for injunction on the file of Additional Agent to Government and Project Officer, Integrated Project Development Agency (for short 'ITDA') under Order VII, Rule-1, read with Section 151 of Civil Procedure Code and Rule 42 of Agency Rules, 1924

and it was numbered as Case No.A4/CPC/1541/2022. In the said suit, the petitioner filed I.A.No.3 of 2023 in Case No.A4/CPC/1541/2022 to send certain documents to handwriting expert, was dismissed. Being aggrieved by the same, the present Civil Revision Petition is filed.

4. At the time hearing the Civil Revision, this Court surprised to see that the Additional Agent to Government & Project Officer, ITDA, Utnoor is entertaining Civil Suits under Telangana Agency Rules, 1924, without having any power and jurisdiction.

5. Therefore, on 12.07.2024 this Court directed the Agent to Government/District Collector, Adilabad and the Additional Agent to Government and Project Officer, ITDA, Utnoor to submit a detailed report with regard to entertainment of Civil Suits by the Additional Agent to Government and Project Officer/ITDA, Utnoor.

6. In compliance of the direction of this Court dated 12.07.2024, the Agent to Government/District Collector, Adilabad submitted a report to this Court through RC No.F1/732/2024, dated 31.07.2024 and the relevant portion of the said letter is as follows:

“ In compliance with the above mentioned orders, it is to submit that as per the powers vested in G.O.Ms.No.193, Revenue (Serv.I) Department, dated 17.04.2002 and G.O.S.No.274, General Administration (Special.A) Department dated 15.06.2002, the Agent to Government and the then District Collector, Adilabad, vide Rc.No.D4/1246/2002 dated 17.12.2002 has requested the Project Officer, Integrated Tribal Development Agency, Utnoor to entertain fresh appeals and suits filed under APSALTR/Agency Rules and subsequently vide District Collector, Adilabad Rc.No.D/694/2003 dated 28.05.2003 all the agency suits/appeals pending at Collectrate (erstwhile Adilabad District) have been transferred to Project Officer, ITDA, Utnoor.

In accordance with the above, the Project Officer, Integrated Tribal Development Agency, Utnoor has been entertaining all fresh suits/appeals filed under APSALTR/Agency Rules of erstwhile Adilabad District, i.e. including Adilabad, Nirmal, Mancherial and Kumuram Bheem-Asifabad District”

7. The above report clearly shows that as per the directions of the then Agent to Government/District

Collector, Adilabad vide R.C.No.D4/1246/2002 dated 17.12.2002, the Additional Agent to Government and Project Officer, ITDA, Utnoor is entertaining the Civil Suits filed under Agency Rules, 1924 of erstwhile Adilabad District i.e. areas including Adilabad, Nirmal, Mancherial and Kumram Bheem Asifabad Districts.

8. The G.O.Ms.No.193, Revenue (Ser.I) Department dated 17.04.2002 was issued delegating powers to the Project Officer/ITDA, under Para 5(1) of the Fifth Scheduled to the Constitution of India read with Section 3 of the Andhra Pradesh District Collectors Powers (Delegation) Act, 1961 (Act.No.XXXII of 1961) and in modification of the Notification issued in G.O.Ms.No.19, Revenue (W) Department dated the 08.01.1987, the Governor of Andhra Pradesh authorized the Project Officers, Integrated Tribal Development Agencies, Srikakulam, Vizianagaram, Visakhapatnam, East

Godavari, West Godavari, Khammam, Warangal and Adilabad Districts in so far as the Scheduled Area is concerned, to exercise all the powers vested in the District Collectors by or under the laws mentioned below:-

- (1) The Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation No.1 of 1959)
- (2) The Andhra Pradesh (Scheduled Areas) Money Lenders Regulation 1960 (Regulation No. I of 1960).
- (3) The Andhra Pradesh (Scheduled Tribes) Debt Relief Regulation 1960 (Regulation No.II of 1960).
- (4) The Andhra Pradesh (Scheduled Tribes) Debt Relief Regulation 1970 (Regulation No.II of 1970).
- (5) The Andhra Pradesh Mahals (Abolition and conversion into Ryotwari) Regulation 1969 (Regulation No.I of 1969).
- (6) The Andhra Pradesh Muttas (Abolition and conversion into Ryotwari) Regulation 1969 (Regulation No. II of 1969)
- (7) The Andhra Pradesh Scheduled Areas Ryotwari Settlement Regulation, 1970 (Regulation No.II of 1970) (Regulation No.II of 1970).

9. After issuing G.O.Ms.No.193, Revenue (Ser.I) Department dated 17.04.2002, the State Government issued G.O.Ms.No.274, General Administration (Special.A) Department, dated 15.06.2002, streamlining the administration in Tribal Sub Plan Areas to gear up

implementation of development programs and strengthening of single line administration issued comprehensive orders delegating powers of the District Collectors/Joint Collectors/District Revenue Officers, to the Project Officers of ITDAs. The appendix annexed to the said G.O., reads as follows:

APPENDIX

(G.O.Ms.No.274, General Administration (Special.A) Department, dated 15.06.2002, Powers of District Collectors, Joint Collectors and District Revenue Officers delegated to Project Offices, Integrated Tribal Development Agencies)

(1) Public Servants

1. Confidential Reports of all Gazetted Officers in the Revenue Department including the Mandal Revenue Officers in sub plan area
2. Confidential Reports of all Gazetted Officers of other Departments within sub plan area, including Police, Forest Departments etc
3. Enquiry into allegations against the Gazetted Officers in the sub plan area

(2) Planning and Development

1. All works relating to planning and development within sub plan area
2. Control and supervision over officers doing development work within sub plan area as Project Executive Officers and Block Development Officers

(3) Agency

1. In the capacity of Addl. Agent to Govt., he will attend to the following duties.

(a) Agency administration and development

(b) He will appellate authority over the orders passed by the Special Deputy Collector (TW) on LTR

(c) The Collector will continue to retain the power of appellate authority and interfere with the orders if he so chooses

2. The AP Scheduled Areas Land Transfer Regulation, 1959 (AP Regulation No. 1 of 1959)

3. The AP (Sch. Tribes) Money Lenders Regulation 1 of 1960

4. The AP (Sch. Tribes) Debt Relief Regulation 11 of 1960

5. The AP Mahals (Abolition and Conversion into Ryotwari) Regulation 1960 and 1970

(4) Inspection

1. Inspection of works of all Departments situated in sub plan area

(5) Magisterial Powers of Additional District Magistrate

1. Powers under Criminal Procedure Code in the sub plan area

(6) Forests

1. Andhra Pradesh (Andhra Area) Preservation of Private Forest Act (Act XII of 1954) in sub plan area

2. The Andhra Pradesh Forest Manual in sub plan area

3. The Andhra Pradesh Act, 1967 (Act 1 of 1967) in sub plan area

(7) Epidemics

1. The Andhra Pradesh Public Health Act (Act. III of 1983)

(8) Miscellaneous

1. Cooperative Societies Act

2. Weights and Measures

3. Fisheries

10. A perusal of the above G.Os clearly shows that the powers of the Agent to Government and District Collector under A.P.Agency Rules, 1924 are not delegated to the Project Officer and Additional Agent to Government, ITDA. But, without any power or jurisdiction the then District Collector/Agent to Government, Adialabad issued Proc.No.D4/1246/2002 dated 17.12.2002 delegating his powers to the Additional Agent to the Government and Project Officer, ITDA, Utnoor to entertain fresh appeals and suits filed under Agency Rules, 1924 which is contrary to the G.O.Ms.No.193, Revenue (SER.I) Department dated 17.04.2002 and G.O.Ms.No.274, General Administration (Special.A) Department, dated 18.06.2002.

11. This Court in **Kodimi Rajamma Vs. Principal Secretary, Home (Courts-A) Department**¹ dealt with the particulars and jurisdiction of the Courts in Scheduled

¹ 2001 (1) ALT 396

Areas and its pecuniary jurisdiction in Telangana Agency

Rules, 1924 and the relevant portion is as follows:

“ Under Section 6 of the Scheduled Districts Act, 1874 the Governor made The A.P. Agency Rules, 1924 (for short ‘Agency Rules’) for the administration of Agency Tracts and for regulation of the procedure of the officers appointed to administer them. As per the Agency Rules, 3-tier system of the Agency Tracts are contemplated i.e., Agency Munsee, Agency Divisional Officer and Agent to the State Government. The Collector of the concerned District of the concerned Scheduled Area is designated as Agent to the State Government. The Agency Courts have the power to try all suits of civil nature excepting the suits of which their cognizance is either expressly or impliedly barred. As per the pecuniary jurisdiction conferred on the Agency Courts, the Agency Munsee shall have cognizance of suits for moveable and immoveable properties not exceeding in value of Rs. 500/-, Agency Divisional Officer not exceeding the value of Rs. 5,000/- and exceeding the value of Rs. 5,000/- the Agent to the State Government.

“ As per the Scheme of the Scheduled Districts Act and the Agency Rules made thereunder by the Governor for the administration of Agency tracts and for regulation of the procedure of the officers appointed to administer them, the Agency Munsif, Agency Divisional Officer and the Agent to the State Government are alone vested with the respective judicial powers in the Scheduled areas and none else can exercise the judicial powers in the Scheduled areas excepting the Agency Munsif, Agency Divisional Officer and Agent to the State Government”.

12. This Court while dealing with the issue

entertaining of Civil Suits in the scheduled areas by the Civil Courts in ***Makadam Venakteswara Rao and others Vs., Subordiante Judge, Kothagudem, Khammam District and another²***, held as follows:

“6. XXXX

“.....Under Article 244 of the Constitution of India, the provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in the State. Fifth Schedule deals with the provisions as to the administration and control of Scheduled Areas and Scheduled Tribes. Paragraph 5 of the Fifth Schedule reads as follows:

“5. Law applicable to Scheduled Areas:—(1) Notwithstanding anything in this Constitution, the Governor may by public notification direct that any particular act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State subject or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given as to have retrospective effect.

(2) The Governor may make regulations for the

² 2000 (4) ALT 163

peace and good Government of any area in a State which is for the time being a Scheduled Area.

In particular and without prejudice to the generality of the foregoing power, such regulations, may,—

- (a) Prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area;
 - (b) Regulate the allotment of land to members of the Scheduled Tribes in such area;
 - (c) Regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.
- (3) In making any such regulation as is referred to in sub-paragraph (2) of this paragraph, the Governor may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.
- (4) All regulations made under this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.
- (5) No regulation shall be made under this paragraph unless the Governor making the regulation has, in the case where there is a Tribes Advisory Council for the State, consulted such Council.”

As seen from the paragraph 5 of the Fifth Schedule, the Governor may by public notification direct that particular act of the Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof.

The Tribal areas are mainly inhabited by tribes, who by fact of their being primitive and innocence, are extremely vulnerable to exploitation by plains people. The

tribals, besides them, having been governed by tribal customs and laws, cannot be brought under the laws that govern the plains men. Those particularities of the tribal areas have been taken into consideration by the makers of the Indian Constitution and special provisions have been enacted for administration and control of the Scheduled Areas and Scheduled Tribes in the Fifth Schedule of the Constitution. Scheduled Areas are popularly known as Agency Areas. The Governor, who is responsible for the administration of the Scheduled Areas, functions through the District Collector, who acts as Agent of the Government, so far as the Scheduled Areas in the Districts are concerned. Scheduled Areas are under immediate control of the Agent (District Collector). Several enactments have been made for the administration and control of the Scheduled Areas and Scheduled Tribes. These enactments only govern over the Scheduled Areas which are also known as Agency Areas. One of such enactments is the Scheduled District Act, 1874 (Act 14 of 1874). Section 6 of the Scheduled District Act reads as follows:

“6. Appointment of Officers and regulation of their procedure—The local Government may from time to time—
(a) appoint officers to administer Civil and Criminal justice and to superintend the settlement and collection of public revenue, and all matters relating to rent and otherwise to conduct the administration, within the Scheduled Districts.
(b) regulate the procedure of the officers so as to appoint: but not so as to restrict the operation of any enactment for the time being in force in any of the said districts.

(c) *Direct by what authority any jurisdiction, powers or duties incident to the operation of any enactment for the time being in force in such district shall be exercised or performed.”*

Under Section 6 of the Scheduled District Act, 1874, the Governor is pleased to make the Andhra Pradesh Agency Rules, 1924 for administration of Agency Tracts and for regulation of the procedure of the officers appointed to administer them. Civil justice and jurisdiction of the Courts have been entrusted to the concerned Agency Courts and Agency Munsif, Agency Divisional Officer and Agent to the Government have been conferred the territorial and pecuniary jurisdiction under the Rules. The concerned Courts are empowered to try and adjudicate the suits and there is also provision for transfer of the suits to the concerned Agency Courts. Different rules have been framed relating to the institution, trial and determination of the suits, transfer of suits, engaging the pleaders in the agency Courts, service of process, appearance of parties and consequences of nonappearance, execution of decrees and orders, investigation of claims and objections to execution, interim protection of the property, appeals are also provided under the rules .

The above Judgment was upheld by the Hon’ble Supreme Court ***in Nagarjuna Grameena Bank Vs. Medi Narayana and another***³

³ (2013) 11 SCC 367

13. This Court as well as the Hon'ble Supreme Court in the above referred Judgments held that the Civil Suits in the Scheduled Areas shall be instituted as per Agency Rules, 1924. In the said rules it is clearly mentioned about the value of the suits and the Officer who has to entertain such civil suits. The then Agent to Government and District Collector, Adilabad without verifying the Agency Rules, 1924 delegated his powers to Additonal Agent to the Government and Project Officer, ITDA, Utnoor to entertain the Civil Suits and also deleted the powers of Agency Divisional Officers/Revenue Divisional Officers. In view of the same, the said action of the then Agent to Government/ the District Collector, Adilabad is arbitrary and illegal and contrary to the Telangana Agency Rules, 1924.

14. As per the pecuniary jurisdiction conferred on the Agency Courts, the Agency Munsiff shall have cognizance of suits for moveable and immoveable properties not

exceeding in value of Rs.500/-, Agency Divisional Officer not exceeding the value of Rs.5,000/- and exceeding the value of Rs.5,000/- the Agent to the State Government.

15. The Agent to Government can transfer a particular suit to his subordinates as per Rule 11 (2) of the Telangana Agency Rules, 1924. But, the Agent to Government, Adilabad has delegated his powers to the Additional Agent to Government/Project Officer, ITDA, Utnoor in his proceedings dated 17.12.2002 to entertain the Civil Suits, without any prior sanction of the Governor of the State/the State Government and the same is without power and jurisdiction.

16. In view of the above finding, entertaining of the Civil Suits by the Project Officer-ITDA, Utnoor is without any power and lack of jurisdiction. The impugned order dated 02.03.2024 passed in I.A.No.3 of 2023 in case No.A4/CPC/1541/2022 on the file of Additional Agent to

Government and Project Officer, ITDA, Utnoor is liable to be set aside and accordingly the same is hereby set aside and the Additional Agent to Government and Project Officer, ITDA, Utnoor is directed to transmit the suit in Case No.A4/CPC/1541/2022 to the Agent to Government, Adilabad and after receiving the same the Agent to Government, Adialabad is directed to hear afresh after issuing notices to both sides and pass appropriate orders.

17. In view of the above circumstances, the Additional Agent to Government and Project Officer, ITDA, Utnoor is directed not to proceed further in all the suits filed under Telangana Agency Rules, 1924 pending before him hereinafter.

18. The Additional Agent to Government and Project Officer, ITDA, Utnoor is further directed to transmit the pending suits filed under Telangana Agency Rules, 1924

to the respective Agents to Government/District Collectors within one month from today. After receipt of the said cases, the respective Agents to Government/District Collectors of Adilabad, Mancherial, Nirmal and Kumram Bheem-Adilabad Districts are directed to issue notices to both parties and proceed further in the matters from the stage where the suits were transferred to their respective courts.

19. The Agents to Government and District Collectors of Adilabad, Mancherial, Nirmal and Kumaram Bheem-Asifabad Districts and the Agency Divisional Officers/Revenue Divisional Officers of the respective Districts are hereby directed to entertain the Civil Suits as per Telangana Agency Rules, 1924 hereinafter.

20. The Registrar-General, High Court for the State of Telangana, Hyderabad, is directed to call for the report from the respective Agents to Government-District

Collectors i.e., Adilabad, Mancherial, Nirmal and Komuram Bheem-Asifabad Districts as per Rule-57 of Telangana Agency Rules, 1924 and also obtain compliance reports from the Additional Agent to Government and Project Officer, ITDA, Untoor within two (2) months from today and place before this Court.

21. With the above direction, the Civil Revision Petition is disposed of.

22. Miscellaneous petitions pending, if any in this Civil Revision Petition shall stand closed. No order as to costs.

JUSTICE K.SARATH

Date:23/08/2024

Issue CC today

LR copy to be marked

Note:

The Registry is directed to communicate copy of this order to:

1. The Registrar-General, High Court for the State of Telangana, Hyderabad.

2. The Agent to Government and District Collector, Adilabad.
3. The Agent to Government and District Collector, Mancherial.
4. The Agent to Government and District Collector, Nirmal.
5. The Agent to Government and District Collector, Komuram Bheem-Asifabad District.
6. The Agency Divisional Officer/Revenue Divisional Officer of Adilabad.
7. The Agency Divisional Officer/Revenue Divisional Officer of Untoor
8. The Agency Divisional Officer/Revenue Divisional Officer of Mancherial.
9. The Agency Divisional Officer/Revenue Divisional Officer of Bellampally
10. The Agency Divisional Officer/Revenue Divisional Officer of Nirmal.
11. The Agency Divisional Officer/Revenue Divisional Officer of Bhainsa
12. The Agency Divisional Officer/Revenue Divisional Officer of Asifabad.
13. The Agency Divisional Officer/Revenue Divisional Officer of Kagaz Nagar

14. The Additional Agent to Government and Project Officer, ITDA, Utnoor.

15. The Chief Secretary to Government, Government of Telangana, Secretariat, Hyderabad

16. The Principal Secretary to Government of Telangana, Revenue, Secretariat, Hyderabad

17. The Principal Secretary to Government, General Administration Department, Government of Telangana, Secretariat, Hyderabad

18. The Secretary, (LA & J), Law Department, Government of Telangana, Secretariat, Hyderabad.