

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION No.7250 OF 2017

DATED : 22.12.2017

Between :

Nagampelli Babu S/o.Veeraiah,
Aged about 38 yrs Occu : Agriculturist,
R/o.Pegadapalli Village, Hamlet Kothur Village,
Mulug Mandal, Warangal District.

.. Petitioner/Plaintiff

And

Gatti Narsaiah S/o.Lachaiah,
Aged 62 yrs, Occu : Agriculturist,
R/o.Rainigudem Hamlet of
Kothur Village of Mulug Mandal,
Warangal District & others.

.. Respondents/Defendants



This court made the following :

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ORDER :

Petitioner/Plaintiff filed suit before the Agent to State Government at Warangal, praying to grant decree for recovery of possession of suit schedule property in his favour by evicting the respondents/defendants. In para 2 of the plaint, the plaintiff stated that the land in Sy.No.112 admeasuring Ac.6-00 is in Kothur Village of Mulug Mandal, Jayashankar Bhupalpally District and the said village comes within the schedule area (Part-B) and therefore, the Agency Court has jurisdiction.

2. The District Collector, who is Agent to the Government by memo dated 16.12.2014 informed the petitioner to approach the Project Officer, ITDA, Eturunagaram, as the powers of adjudication in Agency area were transferred to the Project Officer. The Special Deputy Collector (Tribal Welfare), ITDA, Eturunagaram, Jayashankar Bhupalapally District, by the order impugned in this revision, dismissed the suit holding that the subject property does not fall within the Agency area and therefore, the Agent to Government has no Jurisdiction.

3. Learned counsel for the petitioner submits that petitioner earlier filed O.S.No.83 of 2011 in the Court of Junior Civil Judge, Mulug and the Court granted decree. Seeking enforcement of the decree, petitioner filed E.P.No.1/2012. But the said E.P., was returned by order dated 25.08.2014 holding that as the village falls within the schedule area, the Civil Court has no jurisdiction. In view of the same, the suit is instituted in the Agency Court.

4. Learned counsel for the petitioner also submits that as held by the Hon'ble Supreme Court in **Nagarjuna Grameena Bank and others Vs Medi Narayana and others¹**, civil Court has no jurisdiction to adjudicate civil disputes in the Agency areas and decree passed by the civil Court is a nullity and submits that he cannot approach the civil Court, more so, in view of the order of the civil Court in refusing to entertain E.P.No.1/2012.

5. As per the order of Junior Civil Judge at Mulug dated 25.08.2014, Kothur village falls within the schedule area. Therefore, the civil Court has no jurisdiction to entertain the suit. Without examining these relevant facts and without considering whether Kothur Village is forming part of the scheduled area, mechanically the Special Deputy Collector dismissed the suit instituted before him. As per material placed on record, the Kothur Village is within scheduled Area.

6. On the face of it, the said decision is *ex-facie* illegal and is liable to be set aside and is accordingly set aside. The matter is remitted to the Special Deputy Collector (Tribal Welfare), I.T.D.A, Eturunagaram, Jayashankar Bhupalpally District, to entertain the suit and to consider the suit on merits. It is made clear that there is no finding recorded on merits of the case and the defendants are entitled to raise all the pleas as available in law.

7. The Civil Revision Petition is accordingly allowed. There shall be no order as to costs.

¹ (2013) 11 Supreme Court Cases 362

Miscellaneous petitions, if any, pending in this civil revision shall stand closed.

P.NAVEEN RAO,J

22nd December, 2017
Rds

