

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

**A.S.NOs.1649 OF 2002 AND 2525 OF 2003 &
CROSS-OBJECTIONS (SR) NO.102383 OF 2003**

COMMON JUDGMENT

Since both the appeals arise out of the same judgment, and the parties are common, they are heard together and are being disposed of by this common judgment.

2. Brief facts of the case are that on the eve of Mahashivaratri festival at Sirpur (U) village, Mandal Sirpur, Adilabad district, there was jathara, and it is alleged that the defendant No.2 who is having a house with the jathara precincts, was running stall and organizing games in his house, and several persons visited his house for the purpose of entertainment, and the deceased Kanaka Rao also visited the said house on 3.3.1997. At that time, police constables by names Rajlingu and Rameshwar visited the said house and threatened the persons gathered there. As a result, persons started running helter-skelter due to the fear, and there was stampede. The deceased Kanaka Rao also ran, but to his misfortune, he fell in the well dug by the 2nd defendant and died. As the 2nd defendant did not take precautionary measures to guard the said well, and as the District

Administration did not take precautionary measures for the safety of general public attending jatara, the dependants of the deceased Kanaka Rao, filed O.S.No.5 of 1998 on the file of District Judge at Adilabad claiming compensation against the State, represented by its District Collector, and also against one Aatram Bhagwant Rao, who organized game in his house, claiming an amount of Rs.7,00,000/-, and also sought to make both the defendants jointly and severally liable.

3. The defendants filed written statements denying the liability.

4. The trial court, vide judgment and decree dated 18.02.2002 partly decreed the suit for an amount of Rs.4,09,500/- and made both the defendants jointly and severally liable to an extent of 50% each.

5. Assailing the judgment and decree of the trial court, the State, which is the 1st defendant in the suit filed A.S.No.1649 of 2002 and the 2nd defendant in the suit filed A.S.No.2525 of 2003.

6. This court on 30.07.2003 granted interim stay and subsequently on filing of a vacate petition by the claimants in CMP.No.1918 of 2004 in A.S.No.1649 of 2002, vide order dated

24.07.2006 directed the appellant to deposit 1/4th of the decretal amount, and the claimants were permitted to withdraw the same without furnishing any security.

7. The claimants have also filed Cross-Objections (SR) No. 102383 of 2003 seeking enhancement of the amount awarded by the trial court.

8. Now, both the appeals as well as cross-objections have come up for hearing.

9. Learned counsel for the appellants have mainly contended that the cause of action arose in Scheduled Area, and hence the civil court has no jurisdiction to entertain the suit and hence the decree passed by it, is a nullity. In support of his contention, learned counsel relied on the judgment of the Supreme Court in **NAGARJUNA GRAMEENA BANK v. MEDI NARAYANA**¹.

10. Sri Satish Desh Pande, learned counsel appearing for the appellants did not dispute the above submission of the learned counsel appearing for the appellants.

¹ (2013)4 SCC 362

11. In the judgment of the Apex Court cited supra, it was held that courts established under Andhra Pradesh civil Courts Act, 1972 have no jurisdiction over the scheduled areas and the decrees passed by the Civil Courts were nullity in relation to cases where whole cause of action arose in the Scheduled Areas, and that the persons, who have decrees, orders or judgments in their favour passed by the civil Court(s) may lay their claim before the Agency Court(s), and in the event of such claims being laid before the Agency Court(s), the same shall be decided by the Agency Court(s), uninfluenced by any judgment, decree or order passed by the civil Court(s). The relevant portion of the judgment is thus:

“1. Before the High Court in a group of civil revision petitions filed under Section 115 of the Code of Civil Procedure, 1908 the issue under consideration was the applicability of the Andhra Pradesh Civil Courts Act, 1972 (Act 19 of 1972) (for short “the 1972 Act”) to the Scheduled Areas of the State of Andhra Pradesh. One of the contentions raised before the High Court was that the courts established under the 1972 Act cannot be conferred any territorial jurisdiction over the Scheduled Areas and the decrees passed by the civil courts were nullity in relation to cases where whole cause of action arose in the Scheduled Areas.

2. The High Court, by the impugned judgments dated 27-6-2000 [*Medi Narayana v. Nagarjuna Grammena Bank*, CRP No. 2888 of 1998, decided on 27-6-2000 (AP)] , 2-8-2000 and 25-8-2000 [*Mohd. Monthazeer v. Sri Pragathi Chit Funds*, CRP No. 2723 of 2000, decided on 25-8-2000 (AP)] , has declared the jurisdiction of the civil courts functioning in the Scheduled Areas from 1972 onwards as illegal and void. It was declared consequently that all the judgments, decrees and orders passed by the civil courts in the Scheduled Areas from 1972 onwards were null and void.

3. The above judgments of the High Court are impugned in these civil appeals.

. . . .

9. We have carefully considered the matter and we are satisfied that the judgments under challenge in this group of civil appeals do not require any interference.

10. It is, however, clarified that those persons who have decrees, orders or judgments in their favour passed by the civil court(s) may lay their claim before the agency court(s). In the event of such claims being laid before the agency court(s), the same shall be decided by the agency court(s) uninfluenced by any judgment, decree or order passed by the civil court(s).

11. The civil appeals are dismissed with no order as to costs.”

12. In view of the law laid down by Apex Court it is clear that the civil court has no jurisdiction where the cause of action arose in the scheduled areas. In the present case there is no dispute that cause of action arose in the scheduled area, and hence the civil court has no jurisdiction to entertain the suit, and the decree passed by it is a nullity.

13. Having regard to the facts and circumstances of the case and for the foregoing reasons, the impugned judgment and decree of the trial court is set aside, and the appeals are accordingly allowed, relegating the respondents / claimants to lay their claim before the agency court, which shall be decided in accordance with law as expeditiously as possible, preferably within a period of eight weeks

from the date of filing of the claim petition, uninfluenced by the impugned judgment and decree.

14. In view of the setting aside of the impugned judgment and decree, no orders are required to be passed in the cross-objections, and they are accordingly closed, giving liberty to the claimants to file the same as and when necessity arises.

15. Interlocutory Applications pending, if any, shall stand closed. No order as to costs.

M.G.PRIYADARSINI,J

DATE: 01—07--2022
AVS