DOKISEELA RAMULU A

v.

SRI SANGAMESWARA SWAMY VARU & OTHERS

(Civil Appeal No. 11306 of 2016)

NOVEMBER 29, 2016 B

[JAGDISH SINGH KHEHAR AND ARUN MISHRA, JJ.]

Land laws and Agricultural Tenancy:

Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 – ss. 3 and 11 – Suit by appellant claiming to be cultivating tenant of the suit land much prior to Notification u/s. 3 of the Act and thus, was a 'Ryotwari Pattadar' of the land – Also sought for injunction so as to restrain the erstwhile landlord (respondent No. 1 – Diety) from interfering with his possession – Estate Officer, Devasthanam also filed a suit asserting that diety-respondent No. 1 was the absolute owner of the land and the appellant was cultivating the land as its tenant and on coming into force of Endowments Act, 1987, the rights of the appellant would stand automatically terminated by virtue of s. 82 thereof – Suit of the appellant was decreed and that of respondent No. 1 was dismissed – Held: The Revenue Estate where the property in question was situated was duly declared 'Inam Estate' by Notification u/s 3 – It was proved that the appellant was in continuous possession of the land well before the notified date – Thus, appellant automatically became entitled to "Ryotwari Patta" – s. 82 of Endowments Act is inapplicable in the present case – Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 – s. 82. C D E F

Allowing the appeal, the Court

HELD: 1. Consequent upon issuance of a notification under Section 3 of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari), Act 1948 on 17.01.1959, the agricultural land in question in the revenue Estate of Sangam Agraharam village, was duly declared as an 'Inam Estate'. The right of the appellant in the aforesaid 'Inam Estate' is dependent on the determination of the tenancy claim of the appellant prior G H

A to 17.01.1959, i.e., the notified date. While decreeing the suit filed by the appellant, it was duly declared that the appellant was in possession of the land in question. The appellant and his ancestors were also held to be in continuous possession of the land in question, well before the notified date – 17.01.1959. That being the position, in terms of Section 11 of the 1948 Act, the appellant automatically became entitled to a "ryotwari patta". [Para 14][472-G-H; 473-A-B]

2. Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 is inapplicable to the present controversy, because the appellant cannot be treated as a lease holder of agricultural land belonging to, or given, or endowed for purpose of any institution or endowment, subsisting on the date of commencement of the 1987 Act, namely, on 21.04.1987. The above position also emerges from the dismissal of the Suit filed by the Estate Officer, Devasthanam, wherein the assertion made on behalf of respondent No. 1 that there existed a landlord tenant relationship with the appellant, on the basis of an alleged kadapa (rent-deed) dated 29.11.1970, was rejected. The aforesaid finding admittedly assumed finality between the parties. [Para 15][473-E-F]

Muddada Chayanna v. Karnam Narayana, 1979 (3) SCR 201 : AIR 1979 SC 1320 – distinguished.

3. It is not correct to say that the judgment and decree dated 31.10.1977 passed in the suit filed by the appellant, was not binding on respondent No. 1 as civil courts jurisdiction was barred. [Para 16][473-H; 474-A]

State of Tamil Nadu v. Ramalinga Samigal Madam, 1985 (1) Suppl. SCR 63 : (1985) 4 SCC 1 – relied on.

4. It is also not correct to say that the claim raised by the appellant was barred by limitation. It was never in dispute between the parties, that the appellant was in possession of the land. Only that, respondent No.1 claimed that the appellant was in possession of the land, as its tenant. The appellant had preferred Execution Application No. 18/2007 when respondent No.1 allegedly tried to interfere with the possession of the agricultural land in question, on 06.07.2005. There was no justification for

determining limitation, with reference to the date when the decree in Original Suit No.32/1974 was passed. The relevant date for determining limitation was 06.07.2005, when the appellant's possession was allegedly threatened. [Para 17][476-B-C]

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Case Law Reference

1979 (3) SCR 201	**distinguished**	**Para 15**
1985 (1) Suppl. SCR 63	**relied on**	**Para 16**

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 11306 of2016.

From the Judgment and Order dated 3.8.2009 of the High Court of A. P. at Hyderabad in Civil Revision Petition No. 258 of 2009.

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Y. Raja Gopala Rao, K. Sharat Kumar, Advs. for the Appellant.

K. Shivraj Choudhuri, G. V. R. Choudary, A. Chandra Sekhar, Advs. for the Respondents.

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The Judgment of the Court was delivered by

JAGDISH SINGH KHEHAR, J. 1. Leave granted.

2. The present controversy admittedly relates to 1 acre and 80-1/2 cents of agricultural land. Out of the above land, 33-1/2 cents is in Survey No.123/5, and the remaining 1 acre and 47 cents is in Survey No.129/2, of the revenue estate of Sangam Agraharam Village in Vangana Mandal, Srikakulam District, in the State of Andhra Pradesh. It is the case of the appellant before this Court, that he is a poor landless person, and that, his family has been in occupation of the above land for many years. In fact, it is the appellant's case, that his forefathers had been cultivating the above land, which eventually passed on to him, and members of his joint family.

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3. The Rent Reduction Act was applied to Sangam Agraharam Village vide G.O.M.S.No.3724 dated 31.03.1950. As indicated above, the land in question was a part of Sangam Agraharam village. Sangam village was declared as an 'Inam Estate', within the meaning of Section 3(2)(d) of the Madras Estates Land Act. Eventually the same, was abolished through the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari), Act 1948 (hereinafter referred to as 'the 1948 Act').

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A 4. The State Government notified Sangam Agraharam village, under Section 3 of the 1948 Act, vide Notification No.28 dated 17.01.1959. It is not a matter of dispute, that the land which is subject matter of the instant controversy, was notified and published in Part-I of the State of Andhra Pradesh Gazette, under the 1948 Act.

B 5. On 25.02.1959, the notified land in Sangam Agraharam village, was taken over by the State Government. The appellant, and before him, his forefathers were cultivating tenants in respect of the land in question, for many years prior to the taking over of the above land/ estate, by the State Government. On and with effect from the notified date, the landlord and tenant relationship between the appellant and the C erstwhile landlord – respondent no.1 (– Sri Sangameswara Swamy Varu) herein, therefore, stood terminated statutorily. The landlord's right thereafter, was only limited to compensation. Possession of such lands, was also transferred to the State Government, except land in possession of persons entitled to a "ryotwari patta". A cultivating tenant was entitled D to "ryotwari patta", under Section 11 of the 1948 Act. In order to demonstrate the position, as expressed hereinabove, Sections 3 and 11 of the said Act, are being extracted hereunder:

> "3. Consequences of Notification of estate:-- With effect on and from the notified date and save as otherwise E expressly provided in this Act-
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> (a) the Andhra Pradesh (Andhra Area) Permanent Settlement Regulation, 1802, the Estates Land Act, and all enactments applicable to the estate as such except the Andhra Pradesh (Andhra Area) Estates Land (Reduction F of Rent) Act, 1947, shall be deemed to have been repealed in their application to the estate;
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> (b) the entire estate (including minor inams (post-settlement or pre-settlement) included in the assets of the zamindari estate at the permanent settlement of that estate; all G communal lands and porambokes; other non-ryoti lands; waste lands; pasture lands; lanka lands; forests; mines and minerals; quarries; rivers and streams; tanks and irrigation works; fisheries; and ferries), shall stand transferred to the Government and vest in them, free of all encumbrances; and the Andhra Pradesh (Andhra Area) Revenue Recovery

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Act, 1864, the Andhra Pradesh (Andhra Area) Irrigation Cess Act, 1865 and all other enactments applicable to ryotwari areas shall apply to the estate;

(c) all rights and interests created in or over the estate before the notified date by the Government cease and determine;

(d) the Government may, after removing any obstruction that may be offered, forthwith take possession of the estate, and all accounts, registers, pattas, muchilikas, maps, plans and other documents relating to that estate which the Government may require for the administration thereof:

Provided that the Government shall not dispossess any person of any land in the estate in respect of which they consider that he is prima facie entitled to a ryotwari patta –

(i) if such person is a ryot, pending the decision of the Settlement Officer as to whether he is actually entitled to such patta;

(ii) if such person is a landholder pending the decision of the Settlement Officer and the Tribunal on appeal, if any, to it, as to whether he is actually entitled to such patta;

(e) the principal or any other landholder and any other person whose rights stand transferred under clause (b) or cease and determine under clause (c), shall be entitled only to compensation from the Government as provided in this Act;

(f) the relationship of landholder and ryot shall as between them, be extinguished;

(g) ryots in the estate and persons holding under them shall, as against the Government, be entitled only to such rights and privileges as are recognized or conferred on them by or under this Act, and any other rights and privileges which may have accrued to them in the estate before the notified date against the principal or any other landholder thereof shall cease and determine and shall not be enforceable against the Government or such landholder.

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A 11. Lands in which ryot is entitled to ryotwari patta :-

Every ryot in an estate shall, with effect on and from the notified date, be entitled to a ryotwari patta in respect of –

(a) all ryoti lands which, immediately before the notified date were properly included or ought to have been properly
B included in his holding and which are not either lanka lands or lands in respect of which a landholder or some other person is entitled to a ryotwari patta under any other provision of this Act; and

(b) all lanka lands in his occupation immediately before the
C notified date, such lands having been in his occupation or in that of his predecessors-in-title continuously from the 1st day of July, 1939;

Provided that no person who has been admitted into possession of any land by a landholder on or after the first
D day of July, 1945 shall, except where the Government, after an examination of all the circumstances otherwise direct, be entitled to a ryotwari patta in respect of such land.

Explanation:— No lessee of any lanka and no person to whom a right to collect the rent of any land has been leased
E before the notified date, including an jaradar or a farmer on rent, shall be entitled to ryotwari patta in respect of such land under this section."

(emphasis supplied)

6. The appellant having felt threatened of being dispossessed from
F the above agricultural land, over which he was a "ryotwari pattadar", filed Original Suit No.32/1974 before the District Munsif, at Palakonda. The appellant prayed for a declaration, that the land in question, was a part of Sangam Agraharam village, to which the Rent Reduction Act had been applied vide G.O.M.S.No.3724 dated 31.03.1950, and further, that Sangam Agraharam village was an 'Inam Estate' within the meaning
G of Section 3(2) of the Madras Estates Land Act, and hence, was subject to the provisions of the 1948 Act. And that, the 'Inam Estate' stood abolished after the enactment of the 1948 Act. The appellant also prayed for an injunction, so as to restrain the erstwhile landlord – respondent no.1 (– Sri Sangameswara Swamy Varu) from interfering with the
H appellant's possession.

7. Simultaneously, Suit No.73/1974 was filed by the Estate Officer, Devasthanam, asserting that the deity Sri Sangameswara Swamy Varu – respondent no.1, was the absolute owner of the land in question, situated in Sangam Agraharam village. It was also the case of the Devasthanam, that the appellant was inducted into the above land, at an agreed rent of Rs.103-78 per year. It was the case of Devasthanam, that the appellant had executed a kadapa (rent-deed) in favour of the Devasthanam, on 29.11.1970. And that, the appellant had been cultivating the above land as a tenant under, the Devasthanam. Since the appellant had allegedly failed to pay rent for the years 1970-71 to 1972-73, despite several demands made by the Devasthanam, the above suit was filed for the recovery of an amount of Rs.311-34 being rent/damages, for use of the land in question, and also, for interest and cost thereon.

8. In Original Suit No.32/1974, filed by the appellant, the following issues were framed:

"1. Whether the plaintiff is entitled to the injunction prayed for?

2. Whether the suit is framed is not maintainable?

3. To what relief?"

7. The following additional issue is framed on 1-8-77:-

"Whether the plaintiff is entitled for the declaration prayed in the suit?"

9. In Suit No.73/1974, filed by respondent no.1, the following issues were framed:-

"1) Whether the plaintiff is entitled to collect rents from the defendant?

2) Whether the defendant acquired occupancy rights over the lands for which rent is claimed?

3) To what relief?"

10. Both the above suits were clubbed together. Evidence was recorded in Original Suit No.32/1974, whereupon, it was held, that the appellant was a cultivating tenant in respect of the above agricultural land, long prior to the notified date (-17.01.1959), and that, the appellant had occupancy rights over the above land, prior to taking over of the 'Inam Estates' by the State Government, under the 1948 Act. And

A further that, with effect from the notified date – 17.01.1959, the relationship of landlord and tenant, between the erstwhile landowner Sri Sangameswara Swamy Varu – respondent no.1, and the ryot stood terminated. And that, the appellant was entitled to a "ryotwari patta" for the suit land. This determination was recorded in Original Suit No.32/74, consequent upon the appellant being able to establish the above position, through the evidence of an "archaka" and a "trustee" (P.W.2 and P.W.3 respectively), of the temple in question. The appellant was also able to demonstrate, that the appellant and his predecessors-in-interest, were cultivating tenants of the suit land, long prior to the notified date – 17.01.1959. It is in the aforesaid view of the matter, that Original Suit No.32/1974 came to be decreed.

11. As against the above, the Estate Officer, Devasthanam, could not establish the execution of the alleged rent deed (kadapa), dated 29.11.1970, in favour of the appellant. And as such, the Devasthanam could not establish the relationship of landlord and tenant, between Sri Sangameswara Swamy Varu and the appellant, as alleged. It was therefore, that Suit No.73/1974 was dismissed. The judgment and decree in Original Suit Nos.32/1974 and 73/1974 were passed on 31.10.1977. It is not a matter of dispute between the rival parties, that the aforesaid determination attained finality between the parties.

12. Whilst the claim of the appellant before this Court, was based on a collective reading of Sections 3 and 11 of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (already extracted above), the claim of the Estate Officer, Devasthanam (on behalf of Sri Sangameswara Swamy Varu) was based on Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (hereinafter referred to as 'the 1987 Act'). Section 82 aforementioned, is being extracted hereunder:

> "82. Lease of Agricultural Lands:-(1) Any lease of agricultural land belonging to or given or endowed for the purpose of any institution or endowment subsisting on the date of commencement of this Act shall, notwithstanding anything in any other law for the time being in force, held by a person who is not a landless poor person stand cancelled.
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> (2) In respect of leases of agricultural lands other than those lands situated in Municipalities and Municipal Corporations

held by landless poor person for not less than six years continuously, such person shall have the to purchase such lands for a consideration of seventy five per centum of the prevailing market value of similarly situated lands at the time of purchase and such consideration shall be paid in four equal instalments in the manner prescribed. Such sale may be effected otherwise than by tender-cum-public auction:

Provided that if such small and marginal farmers who are not able to purchase the land will continue as tenants provided, if they agree to pay at least two third of the market rent for similarly placed lands as lease amount.

Explanation:- For the purpose of this sub-section 'landless poor person' means a person whose total extent of land held by him either as owner or as cultivating tenant or as both does not exceed 1.011715 hectares (two and half acres) of wet land or 2.023430 hectares (five acres) of dry land and whose monthly income other than from such lands does not exceed thousand rupees per mensum or twelve thousand rupees per annum. However, those of the tenants who own residential property exceeding two hundred square yards in Urban Area shall not be considered as landless poor for the purpose of purchase of endowments property.

Explanation II:- For the purpose of this sub-section, small and marginal farmer means a person who being a lessee is holding lands in excess of acres 0.25 cents of wet land or acres 0.50 cents of dry land over and above the ceiling limits of acres 2.50 wet or acres 5.00 dry land respectively they may be allowed to continue in lease subject to payment of 2/3rd of prevailing market rent and excess land held if any more than the above limits shall be put in public auction.

(3) The authority to sanction the lease or licence in respect of any property or any or interest thereon belonging to or given or endowed for the purpose of any charitable or religious institution or endowment, the manner in which and the period for which such lease or licence shall be such as may be prescribed.

A (4) Every lease or licence of any immovable property, other than the Agricultural land belonging to, or given or endowed for the purpose of any charitable or religious institution or endowment subsisting on the date of the commencement of this Act, shall continue to be in force subject to the rules as may be prescribed under sub-section (3).

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(5) The provisions of the Andhra Pradesh (Andhra Area) Tenancy Act, 1956 (Act XVIII of 1956) and the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (Act XXI of 1950) shall not apply to any lease of land belonging to or given or endowed for the purpose of any charitable or religious institutions or endowment as defined in this Act."

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(emphasis supplied)

The case of respondent no.1 – Sri Sangameswara Swamy Varu is, that any lease of agricultural land belonging to, or given, or endowed for the purpose of any institution or endowment, subsisting on the date of commencement of the instant Act, shall stand cancelled. Based on Section 82, it was asserted, that all existing rights in the appellant would automatically stand terminated on the coming into force of the 1987 Act.

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13. In order to support his aforestated contention, learned counsel for the respondent institution placed reliance on Muddada Chayanna v. Karnam Narayana, AIR 1979 SC 1320, on the following:

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"3. 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 Sec. 56(1)(c) 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

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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 Secs. 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.

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5. 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 Sec. 3 enumerates the consequences of notifying an estate under Sec. 1(4) of the Act. In particular Sec. 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

A 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 his 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 Secs. 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. Sections 21 to 23 provide for the survey of estates, the manner of affecting ryotwari settlement and the determination of the land-revenue. Secs. 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

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Tribunal is declared final and not liable to be questioned in any Court of law. A

6. 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. B 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 C 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 D provision. But in Cherukuru Muthayya v. Gadde Gopalakrishnayya (AIR 974 Andh Pra 85) (FB) 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. E The conclusion of the Full Bench was based entirely on the supposed context in which the provision occurs. The learned Judges held that Sec. 56(1)(c) occurred so closely on the heels of S. 55 and S. 56(1)(a) and (b), that the applicability of Sec. 56(1)(c) must be held to be "intimately and integrally F connected" with those provisions. We think that the approach of the Full Bench was wrong. Apart from the fact that Secs. 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 overlooked the serious anomaly created by its conclusion. G The anomaly is that while express provision is found in Sec. 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

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A 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 was, it is not for the Court to denude the Act of all meaning by confining the provisions to the bounds of Secs. 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 (supra) was wrongly decided in so far as it held that ambit of Sect. 56(1)(c) was controlled by Sec. 55 and S. 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. Munnaswami Naidu v. R. Venkata Reddi (AIR 1978 Andhra Pra 200) except to add that to adopt the reasoning of the Full Bench of three Judges, in Cherukuru Muthayya v. Gadde Gopalakrishnayya would lead to conflict of jurisdiction and the implementation of the Act would be thrown into disarray."

(emphasis supplied)

14. We have given our thoughtful consideration to the submissions advanced at the hands of the learned counsel for the rival parties. First and foremost, it needs to be determined, whether there is an existing lease of agricultural land between the appellant and respondent no.1 – Sri Sangameswara Swamy Varu. It is only if there was a subsisting lease when the 1987 Act was promulgated, Section 82 can be invoked. We are satisfied, that consequent upon issuance of a notification under Section 3 of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari), Act 1948 on 17.01.1959, the agricultural land in question in the revenue Estate of Sangam Agraharam village, was

duly declared as an 'Inam Estate'. The right of the appellant in the aforesaid 'Inam Estate' is obviously dependent on the determination of the tenancy claim of the appellant prior to 17.01.1959, i.e., the notified date. Insofar as instant issue is concerned, Original Suit No.32/1974 was decreed in favour of the appellant, and it was duly declared that the appellant was in possession of the land in question. The appellant and his ancestors were also held to be in continuous possession of the land in question, well before the notified date – 17.01.1959. That being the position, in terms of Section 11 of the 1948 Act, the appellant automatically became entitled to a "ryotwari patta". We say so because, it is only when the possession and occupation of the agricultural land is subsequent to the first day of July, 1945, that the State Government would examine the circumstances of each case, and thereupon, in an appropriate case, issue a direction, that "ryotwari patta" was to be extended to the tenant of such agricultural land. However, since Original Suit No.32/1974 clearly declared, that the agricultural land in question was under the tenancy of the appellant and his ancestors well prior to the notified date – 17.01.1959, the appellant was automatically entitled to "ryotwari patta", in respect of the land in question.

15. Having concluded as above, we are satisfied, that Section 82 of the 1987 Act, is inapplicable to the present controversy, because the appellant cannot be treated as a lease holder of agricultural land belonging to, or given, or endowed for purpose of any institution or endowment, subsisting on the date of commencement of the 1987 Act, namely, on 21.04.1987. The above position also emerges from the dismissal of Suit No.73/1974 filed by the Estate Officer, Devasthanam, wherein the assertion made on behalf of Sri Sangameswara Swamy Varu, that there existed a landlord tenant relationship with the appellant herein, on the basis of an alleged kadapa (rent-deed) dated 29.11.1970, was rejected. The aforesaid finding admittedly assumed finality between the parties. For the above reason, the reliance placed on the judgment in the Muddada Chayanna case (supra), is of no avail to the respondent institution, because in the above judgment the undisputed position noticed in paragraph 3 (extracted above) was, that the appellant was the lawful ryot of the lands in dispute, and that, the respondents were his tenants. The appellant herein, is not the tenant of Sri Sangameswara Swamy Varu.

16. It is also relevant for us to notice, that in order to escape the binding liability emerging out of the judgment and decree dated 31.10.1977

A (passed in Original Suit Nos. 32 of 1974 and 73 of 1974), wherein the relationship between the appellant and the Sri Sangameswara Swamy Varu, was held to be not as of tenant and landlord, learned counsel for respondent no.1, vehemently contended, that the civil courts had no jurisdiction in the matter, and as such, the appellant could not derive any benefit from the above judgment. It is not necessary for us to deal in any detail, with the provisions relied upon by learned counsel, because the precise submission advanced on behalf of respondent no.1, was examined in State of Tamil Nadu v. Ramalinga Samigal Madam, (1985) 4 SCC 10, wherein this Court held as under:

> "12. Now turning to the question raised in these appeals for our determination (it is true that Section 64-C of the Act gives finality to the orders passed by the Government or other authorities in respect of the matters to be determined by them under the Act and sub-section (2) thereof provides that no such orders shall be called in question in any court of law. Even so, such a provision by itself is not, having regard to the two propositions quoted above from Dhulabhai's case (1968) 3 SCR 662, decisive on the point of ouster of the Civil Court's jurisdiction and several other aspects like the scheme of the Act, adequacy and sufficiency of remedies provided by it etc., will have to be considered to ascertain the precise intendment of the Legislature. Further, having regard to the vital difference indicated above, in between the two sets of provisions dealing with grant of ryotwari pattas to landholders on the one hand and ryots on the other different considerations may arise while deciding the issue of the ouster of Civil Court's jurisdiction to adjudicate upon the true nature of character of the concerned land. Approaching the question from this angle it will be seen in the first place that Section 64-C itself in terms provides that the finality to the orders passed by the authorities in respect of the matters to be determined by them under the Act is "for the purposes of this Act" and not generally nor for any other purpose. As stated earlier the main object and purpose of the Act is to abolish all the estates of the intermediaries like Zamindars, Inamdars, Jagirdars or under-tenure holders etc. and to

convert all land-holdings in such estates into ryotwari settlements which operation in revenue parlance means conversion of alienated lands into non-alienated lands, that is to say, to deprive the intermediaries of their right to collect all the revenues in respect of such lands and vesting the same back in the Government. The enactment and its several provisions are thus intended to serve the revenue purposes of the Government, by way of securing to the Government its sovereign right to collect all the revenues from all the lands and to facilitate the recovery thereof by the Government and in that process, if necessary, to deal with claims of occupants of lands, nature of the lands, etc. only incidentally in a summary manner and that too for identifying and registering persons in the revenue records from whom such recovery of revenue is to be made. The object of granting a ryotwari patta is also to enable holder thereof to cultivate the land specified therein directly under the Government on payment to it of such assessment or cess that may be lawfully imposed on the land. Section 16 is very clear in this behalf which imposes the liability to pay such ryotwari or other assessment imposed upon the land to the Government by the patta-holder. The expression "for the purposes of this Act" has been designedly used in the section which cannot be ignored but must be given cogent meaning and on a plain reading of the section which uses such expression it is clear that any order passed by the Settlement Officer either granting or refusing to grant a ryotwari patta to a ryot under Section 11 of the Act must be regarded as having been passed to achieve the purposes of the Act, namely, revenue purposes, that is to say for fastening the liability on him to pay the assessment or other dues and to facilitate the recovery of such revenue from him by the Government; and therefore any decision impliedly rendered on the aspect of nature or character of the land on that occasion will have to be regarded as incidental to and merely for the purpose of passing the order of granting or refusing to grant the patta and for no other purpose."

(emphasis supplied)

A For reason of the above legal position declared by this Court, it is not possible to accept, that the judgment and decree dated 31.10.1977, was not binding on the Sri Sangameswara Swamy Varu.

17. It is also not possible for us to accept, that the claim raised by the appellant was barred by limitation. It was never in dispute between B the parties, that the appellant was in possession of the land. Only that, respondent no.1 claimed that the appellant was in possession of the land, as its tenant. Our instant determination on the issue of limitation emerges from the fact, that the appellant had preferred Execution Application No.18/2007 when respondent no.1 allegedly tried to interfere with the possession of the agricultural land in question, on 06.07.2005. There C was no justification for determining limitation, with reference to the date when the decree in Original Suit No.32/1974 was passed. The relevant date for determining limitation was 06.07.2005, when the appellant's possession was allegedly threatened. Viewed as above, the claim raised by the appellant, was certainly not barred by limitation.

D 18. Having concluded as above, we are of the view, that the instant appeal deserves to be allowed, and the same is accordingly allowed, and the impugned order passed by the High Court is set aside.

E Kalpana K. Tripathy Appeal allowed.