IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

Friday the Fourth day of December, 4 Dec 1981
One thousand nine hundred and Eighty one.

Present:-

The Honourable Mr.P.R. GOKULAKRISHNAN,
Officisting Chief Justice

and

The Honourable Mr.Justice VENUGOPAL

WRIT PETITION NO.2118 of 1976.

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1. Challapalli Sugars Ltd.,
Indian Chamber Buildings,
Esplanade, Madras-1, represented by Y. Ankineedu Prasad
Managing Director.

2. K.S. Venkataratnam .. Petitioners

Vs.

1. State of Andhra Pradesh represented by Chief Secretary,
Secretariat Buildings,
Hyderabad, Andhra Pradesh.

2. The Land Reforms Tribunal,
constituted under the Andhra
Pradesh Land Reforms (Ceiling
on Agricultural Holdings) Act
Act 1/73, Machilipatnam,
Krishna District, Andhra Pradesh .. Respondents.

Petition under Article 226 of the Constitution of India, Praying that in the circumstances stated therein and in the affidavit filed there with the High Court will be pleased to issue a Writ of Mandamus forbearing the respondents from implementing the provisions of the Andhra Pradesh Land Reforms Ceiling on Agricultural Holdings Act - Act 1/73 infra to the sugar forms of the 1st Petitioner's company.

Order:- This Writ Petition coming on for hearing on Monday the 9th, Tuesday the 10th, Wednesday the 11th, Monday, the 16th, Tuesday the 17th and Monday the 30th days of November, 1981, upon perusing the petition and the affidavit filed in support thereof,

the order of the High Court dated 25.5.1976 and made herein and the supplementary counter affidavits filed supplementary counter affidavit and the records in and relating to the prayer as aforesaid on the file of the respondents, comprised in the return of the respondent to the Writ made by the High Court, and upon hearing the arguments of Mr. V.P. Raman, and Mr. G.R. Lakshmanan, Advocates for the petitioners and of the Advocate General on behalf of the Respondents, and having stood over for consideration till this day, the Court made the following order:

(The Judgment of the Court delivered by the Hon'ble the Officiating Chief Justice).

. . .

Challapalli Sugars Limited, through its Managing Director, has filed the Writ Petition for the issue of a Writ of Mandamus or any other appropriate writ or direction forbearing the respondents from implementing the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act - Act I of 1973 - to the sugarcane farms of the first petitioner - company.

The first petitioner is a public limited company incorporated under the Companies Act, having a large number of shareholders drawn from public. The company was granted a licence in 1952 under the Industries (Development and Regulation) Act, 1951 (Act 65 of 1951) for setting up a sugar mill for manufacture of sugar in Andhra Pradesh. The first petitioner owns and runs a sugar factory at Lakshmipuram and carries on the business of manufacturing sugar and selling the same, at its registered office at Madras. The authorised share-capital of the first petitioner is Rs. 2 crores, of which Rs. 66,19,490 is subscribed. About 700 persons are employed in the first petitioner's factory at Lakshmipuram. The raw material for the manufacture

of sugar in sugarcane and the work of manufacture in the factory consists of crushing the sugarcane and crystalize the same after purifying the juice. For the purpose of uninterrupted and adequate supply of the principal raw material required by the first petitioner, namely, sugarcane, the first petitioner itself started a sugarcane farm on about 2,500/- acres of land belonging to it for growing sugarcane on a scientific and economic basis. The farm and the lands measuring about 2,500 acres are in Divi Taluk, Krishna District, Andhra Pradesh. There are other similar sugar manufacturing concern in the country manufacturing sugar, which grow sugarcane themselves on their own lands for getting the raw material for their factory.

In 1961, the State of Andhra Pradesh enacted the Andhra Pradesh Ceiling on Agricultural Holdings Act of 1961 (Act X of 1961) (hereinafter in this Judgment-referred to as the Act). The Act was made applicable to all lands as defined by the Act. The scheme of the Act clearly showed that its object was to distribute agricultural holdings which were used dominantly for agricultural purposes and not lands used as ancillary to industry like the sugarcane lands of the first petitioner, which have been used only to supply the raw material to the first petitioner's factory. TheAct was designed to affect only lands which were used to grow agricultural produce and to sell the same, and not to affect industrial production to which particular lands may be thrown. Where land was held for a non-agricultural purposes, viz., produce raw materials for industry, and integrated to its use, such land would not be 'land' within the meaning of the Act. The whole object of agrarian reform, as explained in the various reports and publications of the Planning Commissioner, was to distribute agricultural lands held as agricultural lands by the owners for agricultural purposes equitably and purely among people

employed in agriculture. Any and every legislation touching the land would not be legislation for agrarian reform.

The first petitioner further states that he was under the impression that when the first petitioner company made vast investment in the factory, the exemption afforded under Section 16(g) of the Act would continue to be enjoyed and that lands thrown to Industrial use would not be brought within the definition of the Act.

It is the further case of the petitioners that the Act was not intended to affect industrial land integrated to industrial production like the farm lands of the first petitioner. Sugar cane farms owned by sugar factories were rightly exempted from the operation of the Act under Section 16 (g). The State Legislature of Andhra Pradesh passed the Act 14 of 1971. That Act (hereinafter referred to in this judgment as the Amending Act) received the assent of the President on 2.6.1971 and the same was published on 5.6.1971 in the Andhra Pradesh Gazette. By the Amending Act various amendments were introduced and the exemption in favour of sugarcane farms operated by sugar factories was withdrawan by deleting Section 16 (g). The Amending Act was made retrospective in its operation as and from 18.2.1970. By virtue of the Amended Act, the petitioners state that the lands of the first petitioner used in its sugarcane farms, which were specifically exempted under the said Section 16, were sought to be brought within the Act with retrospective effect.

It is further stated by the petitioners that these lands cannot be regarded as lands envisaged in Entry 18 of List II and Entry 42 of List III of the Seventh Schedule to the Constitution. The control of sugar industry has been taken over by the Union by the law made by Parliament. It is submitted

that Entry 52 of List I of the Seventh Schedule governs the present case. Hence the state legislature has no legislative competence to enact the impugned legislation. The Petitioners further submit that the Under Section 23 (4) of the impugned Act, lands covered by tea, coffee, cocoa, cardomam and rubber plantation have been denied the exemption though originally sugarcane also enjoyed the exemption. This discrimination, clearly offends Article 14 of the Constitution.

The Petitioner further attack the legislation as violation of Article 301 of the Constitution. They further contend that the impugned legislation creates an artificial definition of 'family' and deprives the lands owners of property and does not fulfil the purpose of Article 31-A of the Constitution.

The petitioners also attack the compensation provision in the impugned Act and state that the compensation provision has to be struck down as being arbitrary. The principles adopted under the impugned Act are wholly outside the realm of reasons which do not have any relationship to the value of the property and this is unconstitutional and violative of Article 31(2). Since the fixation of the amount of compensation is arbitrary and discriminatory, it is violative of Article 14 also.

The petitioners further contend that the State Legislation lacks legislative competence to withdraw the exemption to sugarcane farms which form an industrial unit with the sugar industry and as the operations carried on the lands are 'industry' in itself, the Act is not applicable to the lands held and owned by the first petitioner. There is no justification to discriminate between the sugarcane farm lands owned by the first petitioner's company and those owned by exempted corporations under the impugned Act, and such a discrimination

is violative of Article 14 of the Constitution. The petitioners submitted that the assent got from the President is not valid since there was no proper application of mind before granting such assent. The Legislation of this nature is particularly directed against the first petitioner to deprive the industry from possessing these lands on which they grow their raw-material, namely, sugarcane.

With the above said pleas, the petitioners prayed for a writ of mandamus as stated above.

The Secretary to the Government, Revenue Department, Government of Andhra Pradesh filed a counter-affidavit on behalf of both the respondents inter alia contending that this Court has no jurisdiction to issue the writ prayed for, that there is no merit whatsoever in the contention that the lands used for the production of sugarcane for the first petitioner's factory are integrated to the factory as an essential part of its manufacturing sugar and cannot be regarded as lands used for purposes of agriculture dominently, that the Andhra Pradesh Legislature had undoubted competence to pass Andhra Pradesh Act 14 of 1971 deleting the exemption granted under Section 16 (g) of Andhra Pradesh Act 10 of 1961 as well as to enable Andhra Pradesh Act 1 of 1973 affecting such lands, and that it is too much to contend that Entry 52 of List I of the Seventh Schedule is applicable to sugarcane Lands. It is submitted that Entry 18 of List II will be applicable to the lands in question. It is further contended that by virtue of Article 31 (B) of the Constitution the impugned Act has been put into the Ninth Schedule of the Constitution by the 34th Amendment. Hence the petitioners are precluded from raising any contention based on violation of fundamental rights since the impugned Act enjoys total immunity from any such attack by virtue of Article 31 (B). Regarding the petitioner's

allegation that the impugned Legislation offends Article 301 of the Constitution, it is submitted that the impugned legislation being an agrarian reform, it will not come under the purview of Article, 301 of the constitution. Therefore, the contention that it infringed on the freedom of trade and commerce is based on a misapprehension as to the scope and effect of Article 301 of the Constitution. It is categorically denied by the respondents that the impugned Act has anything to do with the subject of 'Industry' listed as item 52 of the Union List in the Seventh Schedule. All agricultural lands fall within the legislative head under Entry 18 of List II and Entry 42 of List III of the Seventh Schedule, irrespective of the fact whether the agricultural produce of such land is utilised for any industry or otherwise. It has been further contended that the impugned legislation is a pure and simple measure of 'agrarian reform', falling within the purview of Article 31-A of the Constitution. The Impugned Act cannot be questioned in relation to fundamental rights, since it is included in the Ninth Schedule of the Constitution. The impugned legislation is not at all a colourable exercise of power and its main object, according to the respondents, is to take over lands inexcess of the ceiling fixed and the law was validly passed under Entry 18 of List II of the Seventh Schedule. Finally, the respondents have submitted that the assent given by the President cannot be questioned and the correspondence between the State Government and the Central Government in this regard cannot be disclosed. With the above contention, the respondents prayed for dismissal of the Writ Petition.

At the time of filing the Writ Petition, there was Presidential Rule under the notification issued by the President of India under Article 359. The averments, though stated in the original affidavit

but reserved due to the declaration of Emergency at the time, was reiterated by way of a supplementary affidavit. Under Section 23 (b) of the impugned Act, lands covered by tea, coffee, cocoa, cardomom and rubber plantations have been granted exemption, while sugarcane farm has not been granted. This, according to the petitioners, is discrimination offending Article 14 of the Constitution. The petitioners further contended that the inclusion of the Act in the Ninth Schedule is so far as it denies to the petitioners the constitutional guarantee under Article 14 itself unconstitutional. Equality has been recognised as part of the basis structure of the Constitution and to the extent that the Constitution 34th Amendment Act denies to the petitioners the right to challenge the velidity of Andhra Pradesh Act I of 1973, is itself liable to be struck down as violative of the basis structure of the Constitution. The petitioners further submitted that exemption granted to Government company without conferring the very same benefit to the petitioner's company is discriminatory in character and squarely offends Article 14 of the Constitution. The classification also is unreasonable and there is no nexus to the object sought to be achieved. Finally, in the supplementary affidavit has been submitted that in as much as the Government by G.O. Ms. No. 1637 dated 14.12.1977, has stated that the term 'Person' occurring in Section 8 (1) of the Act does not include a company, the whole writ petition has to be allowed.

Countering these contentions raised in the supplementary affidavit, the respondents filed a further counter-affidavit alleging that the impugned Act is not liable to be challenged on the ground of violation of Article 14 since the Act enjoys complete immunity from such challenge because of its inclusion in the Ninth Schedule to the Constitution by the 34th

Amendment Act, 1974. Relying on the decision in Kesavananda Bharati case (A.I.R. 1973 S.C. 146) the respondents submitted that as the Supreme Court has upheld the validity of Article 31-B it is not open to the petitioners to contend that the inclusion of any Act in the Ninth Schedule is violative of any basis feature of the constitution. As regard the contention that the Act is violative of Article 14 of the Constitution because of the discrimination between public limited companies and Government companies, the respondents submitted that it is untenable since the classification is made upon rational basis having a reasonable nexus to the object of legislation. As regards G.O.Ms.No. 1637, Revenue, dated 16.12.1977, referred to in the supplementary affidavit filed by the Petitioners, the respondents submitted that clarification was issued to the effect that the expression 'Person' occurring in Section 8(1) of the Andhra Pradesh Act 1 of 1973 cannot be taken as including a 'company'. This was owing to the decision of the Andhra Pradesh High Court in C.R.P.No. 603 of 1976. The said G.O. cannot be taken as a judicial decision binding upon any body, and it is for the court to decide whether the petitioners will come under the definition of section 8(1) of the Act. With these contentions, the respondents prayed for dismissal of the Writ petition.

Mr. V.P. Raman, learned counsel appearing for the petitioners, submitted the following contentions for the purpose of the present writ petition;

(1) The State Legislature of Andhra Pradesh has no legislative competence to enact the impugned Act in respect of lands used for industrial purposes, which industry is declared by the Parliament as an essential industry, and that the legislation on hand is not a legislation strictly for agrarian reform.

(2) The impugned Act infringes Article 301 of the Constitution, since there is unreasonable restriction on freedom of trade and commerce.

(3) Withdrawal of exemption affected by the impugned Act offends Article 14 of the Constitution, in as much as such exemption continues to be benefit other factories similarly situated as the first petitioner's. It is only the first petitioner's factory that is singled out.

(4) In as much as G.O.Ms.No. 1637, Revenue, dated 14.12.1977 of Andhra Pradesh has been "Issued to the effect that 'person in Section 8(1) of the Act cannot include a company, the first petitioner's company cannot be proceeded against.

(5) Article 14 of the Constitution being part of the basic structure of the constitution, the inclusion of the impugned Act as item 67 of the Ninth Schedule will not save the Act from attack as being ultra varies Article 14 of the Constitution. This contention, according to Mr.V.P. Raman, gets fortification from the decision in Minerva Mill case (A.I.R. 1980 S.C. 1789)

We shall first take up the question of jurisdiction. The question of jurisdiction raised by the learned Advocate - General cannot be sustained in view of Article 226 (2) of the Constitution, which reads as follows.

> "The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or

> in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories".

In our case the registered office of the first petitioner - company is situate at Madras. The first petitioner carries on the business at its registered Office at Madras where the impact and effect of the impugned legislation is felt and part of the cause of action arose in Madras. Hence this Court has jurisdiction to entertain this Writ Petition. The decision cited by the learned Advocate-General reported in State of Madras V.C.P. Agencies (AIR 1960 SC 1309), in our view, will not have any bearing on the question of jurisdiction. In view of the facts stated above and on the strength of Article 226 (2) of the Constitution, we hold that this court has jurisdiction to try this writ petition..

The major question that has to be decided in this case is whether the Andhra Pradesh Legislature has competence to enact the impugned Act. According to Mr. V.P. Raman, the learned counsel appearing for the petitioners, if the agricultural produce grown by a person in his land is used in his own industry as raw-material, that land will not come under the definition of 'land' under Section 3(j) of the Act. Section 3 (j) of the Act reads as follows.

> "3. In this Act, unless the context otherwise requires:-
>
> (j) 'Land' means land which is used or is capable of being used for purposes of agriculture, or for purposes ancillary thereto, including horticulture, forest land, pasture land, waste land, plantation and tope; and includes land deemed to be agricultural land under this Act;

Explanation I. Where any land is held held under ryotwar settlement it shall, unless the contrary is proved, be deemed to be land under this Act;

Explanation II. 'Land' shall not include the land appurtenant to a building'

Mr. V.P. Raman further contended that growing of sugarcane which is the raw material for the sugarc. industry is part of the industry and that is the first step in the petitioners' industry and therefore that will come under Entry 52 of List I of the Seventh Schedule. If so, the learned counsel, urged that the State Legislature under the guise of 'agrarian reform' cannot legislate in respect of the lands belonging to the first petitioner. After referring to the provisions in the Andhra Pradesh Acts 10 of 1960 and 14 of 1971, the learned Counsel submitted that the present legislation is a colourable exercise of power by the State Legislature and therefore Act I of 1973 has to bestruck down.

In Tika Ramji V. State of U.P. (AIR 1956 SC 676) the question of legislative competence of the Utter Pradesh Sugarcane (Regulation of Supply and Purchase) Act (24 of 1953) was considered. It was contended in that case that the legislation would come under Entry 52 of List I and therefore, the State Legislature had no competence to legislate the Act and that the legislation would not come under Entry 27 of List II, which is subject to Entry 33 of List III. In that case, an aggument was advanced to the effect that the word 'industry was a word of wide import and should be construed as including not only the process of manufacture or production but also activities antecedent thereto such as acquisition of raw materials and subsequent thereto such as disposal of the finished products of that industry.

It was further contended that the process of acquiring raw materials was an integral part of the industrial process and was, therefore, included in the connotation of the word 'Industry' and when the Central Legislature was invested with the power to legislate in regard to sugar industry which was a controlled industry by Entry 52 of List I, that legislative power included also the power to legislate in regard to the raw material of the sugar industry, that is sugarcane, and the production, supply and distribution of sugarcane was, by reason of its being the necessary ingredient in the process of manufacture or production of sugar, within the legislative competence of the Central Legislature. The various definitions of 'Industry' were pressed into service to bring the legislation under Entry 52 of List I of the Seventh Schedule. In that case it was also suggested that item 52 of List I comprised not only legislation in regard to sugar industry but also in regard to sugarcane which was an essential ingredient of the industrial process of the manufacture of production of sugar and was, therefore, ancillary to it and was covered within the topic.

Adverting to various other Entries in the different Lists, the Supreme Court observed in AIR 1956 S.C. 676, "Industry in the wide sense of the term would be capable of comprising three different aspects: (1) raw materials which are in an integral part of the industrial process, (2) the process of manufacture or production, and (3) the distribution of the products of the industry. The raw materials would be goods comprised in Entry 27 of List 2. The process of manufacture or production would be comprised in Entry 24 of List 2 except where the industry was a controlled industry when it would fall within Entry 52 of List 1 and the products of the industry would also be comprised in Entry 27 of

List 2 except where they were the products of the controlled inlustries when they would fall within Entry 33 of List 3.

This being the position, it cannot be said that the legislation which was enacted by the Centre in regard to sugar and sugarcane could fall within Entry 52 of List I. Before sugar inlustry became a controlled Industry, both sugar and sugarcane fell within Entry 27 of List 2 but, after a declaration was made by Parliament in 1951 by Act 65 of 1951, sugar industry became a controlled industry and the product of that industry, viz., sugar, was comprised in Entry 33 of List 3 taking it out of Entry 27 of List 2. Even so, the Centre as well as the Provincial Legislatures had concurrent jurisdiction in regard to the same.

In no event could the legislation in regard to sugar and sugarcane be thus included within Entry 52 of List I. The pith and substance argument also cannot be imported here for the simple reason that, when both the Central as well as the State Legislatures were operating in the concurrent field, there was no question of any tresspass upon the exclusive jurisdiction vested in the Centre under Entry 52 of List 1".

The Supreme Court in that decision, further observed -

"The only provision which was retained by the State Government in the impugned Act for the protection of the sugarcane growers was that contained in S.17 which provided for the payment of price of sugarcane by the occupier of a factory to the sugarcane growers. It could be recovered from such occupier as if it were an arrear of land revenue. This comparision goes to show that the

impugned Act merely confined itself to the regulation of the supply and purchase of sugarcane required for use in sugar factories and did not concern itself at all with the controlling or licensing of the sugar factories, with the production or manufacture of sugar or with the trade and commerce in, and the production, supply and distribution of sugar . . .

If that was so, there was no question whatever of lists trenching upon the jurisdiction of the Centre in regard to the sugar industry which was a controlled industry within Entry 52 of List I and the U.P. Legislature had jurisdiction to enact the law with regard to sugar-cane and had legislative competence to enact the impugned Act.

It is clear from the above decision that even if sugar industry is a controlled industry, legislation relating to land producing sugar cane will not come under Entry 52 of List I. No doubt, the three aspects of it are mentioned, namely, raw materials which are an integral part of the industrial process, the process of manufacture or production, and the distribution of the products of the industry. But, in our opinion, that would not take the lands in question out of the definition under Section 3 (j). The definition of 'land' under that section, as we have noticed already, would take in lands belonging to an industry on which sugarcane is grown for the purpose of using the produce as the raw material for the industry.

The learned Advocate-General submitted that the impugned legislation comes under Entry 18 of List II of the Seventh Schedule. He would point out Entry 42 of List II and state that there is legislative competence for enacting the impugned Act by the Andhra Pradesh Legislature. In this connection, he referred to the decision reported in M. Venkata Rao V. State (AIR 1975 A.P. 315 - F.B) This Full Bench decision

actually deals with the Andhra Pradesh Land Reform (Ceiling on Agricultural Holdings) Act (I of 1973), which is the Act impugned in this writ proceedings before us. The Full Bench, after observing that the Entries in the three Lists only give the outline of the subject-matter of Legislation, that the words in the Entries are to be construed in their widest amplitude and that the field of legislation covered by the Entries is not to be narrowed down in any way unless there is anything in the entry itself which defines the limits thereof, referred to the decision of the Supreme Court in L. Jagannath V. Authorised Officer, Land Reforms, Madurai (AIR 1972 SC 425), wherein it has been held that the acquisition of land would not directly be covered by Entry 18 but read with Entry 42 in List III the State has the competence to acquire surplus land so as to give effect to the policy in Article 39 of the Constitution. Finally, the Full Eench held that the impugned Act fell under Entry 18 of List II of the seventh Schedule.

L. Jagannath V. Authorised Officer L.R. Madurai (AIR 1972 SC 425) very succinctly put as to what are the matters that would come under Entry 18 of List II. In paragraph 29 of the judgment, the decision states:

"In our view, entry 18 in List II like any other Entry in the three lists only gives the outline of the subject matter of legislation and therefore the words in entry are to be construed in entry are to be construed in their widest simplitude. The field of legislation coveredby the entry is not to be narrowed down in any way unless there is anything in the entry itself which defines the limits thereof. Entry 18 in our opinion is meant to confer the widest powers on the State Legislature with regard to rights as between landlords and tenants or the collection

of rents. The words which follow the expression 'rights in or over land' aremerely by way of illustration. The specification itself shown that the genus of the rights mentioned is not the one which landlords have vis-a-vis their tenants or vice versa. All kinds of legislation regarding transfers and alienations of agricultural land which may effect the rights therein of landlords and tenants are envisaged by the entry as also improvement of land and colonisation of such land. If the State Government seeks to enforce a measure by which the condition of barren or unproductive lands can be improved, it can do so even if the measure curtails the rights of landlords and tenants over them. If the State wants to enforce a measure of acquiring lands of people who held areas over a certain ceiling limit so as to be able to distribute the same among the landless and other persons, to give effect to the directive principles in Article 29 (b) and (c) of the constitution, it is not possible to say that the same would be outside the scope of Entry 18 in List II read with Entry 42 of the List III. Such a measure can aptly be described as a measure of agrarian reform or land improvement in that persons who have only small holdings and work on the lands themselves would be more likely to put in greater efforts to make the land productive than those who held large blocks of land and are only interested in getting a return without much effort. The measure does not transgress the limits of the legislative field because it serves to remove the disparity in the ownership of land. Persons who loss the ownership of lands in excess of the ceiling imposed are compensated for the lands acquired by the State and distributed among others. Acquisition of land would not directly be covered by Entry 18 but read with Entry 42 in List III the State has the competence to acquire surplus land so as to give effect to the policy in Article 39 of the Constitution.

To counter the contention of Mr.V .P.Raman, that the impugned legislation in effect deals with 'industry, the learned Advocate - General cited the following case law. In Kannan Devan Hills Co. V. Kerala (AIR 1972 SC 2301), the Kannan Devan Hills (Resumption of Lands) Act, 1971 (Kesala Act 5 of 1971) came up for consideration.

The competence of the State Legislature to enact the said law was questioned stating that the Act would fall under Entry 52 of List I and that it would not have protection of Art. 31-A of the Constitution. The petitioner in that case contended that the provisions of the Act in effect regulate the carrying on of tea industry within the competence of Parliament, by controlling the land available for tea plantation. The petitioner said it is impossible to run an efficient plantation except by having sufficient land (1) for purposes ancillary to cultivation and plantation of the crop and (2) for the preparation of the same for the market. The petitioner further contended that it is also necessary to have land interspersed within the boundaries of the area cultivated with plantation for the preservation of the existing plantation. If the effect of the legislation is to control the working of the tea plantation, it was contended the legislation must be regarded as legislation with respect of Entry 52 of List I. The further contention was that the plantation was a self contained unit of organisation and therefore any legislation in respect thereof would come only under Entry 52 of List I. Repelling these contentions, the Supreme Court held -

"It seems to us clear that the State has legislative competence to legislate an entry 18 of List II and entry 42 of List III. This power cannot be denied on the ground that it has come effect on an industry controlled under entry 52 List I. Effect

is not the same thing as subject matter. If a State Act, otherwise valid, has effect on a matter in List I it does not cease to be a legislation with respect to an entry in List II or List III. The object of as 4 and 5 seems to be to enable the State to acquire all the lands which do not fall within the categories (a), (b) and (c) of S.4(i). These provisions are really incidental to the exercise of the power of acquisition. The State Government cannot be denied a power to ascertain what land should be acquired by it in the public interest "

In that decision, the Supreme Court, after referring to the decisions reported in Harakchand Banthia V. Union of India (1970) I SCR 479), State of Maharashtra V. Madhavarao Damodar Patilchand (1968) 3 SCR 712), and Canadian Pacific Railway Company V. Attorney General (1950) S.C. 122, 123, 140), observed that the fact that the plantation is run as a integrated unit was strongly relied on but this cannot impinge upon and take away the legislative power of the State in respect of List II, Entry 18.

Mr. V.P.Raman, learned Counsel, tried to distinguish, the decision in Kannan Devan Hills Co. V. Kerala (AIR 1972 SC 2301) stating that in that case lands which have not been converted as coffee plantations were sought to be taken under the legislation. According to Mr. V.P.Raman, that decision cannot be applied to the facts of this case. We are unable to agree with the said contention. As correctly stated in Kannan Devan Hills case (AIR 1972 SC 2301), these lands in question may have some effect on sugar industry, but the subject matter will definitely come under Entry 18 of List II of the Seventh Schedule. The decision noticed above amply explains the purport of 'Industry' which can be brought under Entry 52 of List I. The Full Bench

decision of the Andhra High Court in M.Venkata rao V. State (AIR 1975 A.P. 315), noticed above, squarely applies to this case and we are in respectful agreement with the reasonings stated therein. We, Therefore, hold that the Legislature of Andhra Pradesh State has competence to legislate the impugned Act.

Mr. V.P.Raman next contended that this legislation is ultra vires Article 14 of the Constitution. Under Section 23 (c) (i), lands held by Government companies have been exempted from the operation of the impugned Act. Under Section 23 (d), lands covered by tea, coffee, cocoa, cardomom or rubber plantations have been exempted. According to the learned counsel, the petitioners' lands on which are grown sugarcane for the purpose of use as raw materials for their own sugar industry, has been singled out and discriminated against, when especially Government companies' lands and coffee, tea, cocoa, cardomom or rubber plantations have been exempted. The learned counsel, no doubt, said that if the lands held by the Government have been exempted in such manner, it cannot be agitated as discriminatory, but, in this case, the first petitioner's company has been singled out when at the sametime Government companies which deal with sugar industry have been exempted.

In Charanjit Lal V. Union of India (AIR 1951 SC 41), the Supreme Court, dealing with Article 14 or the Constitution, has observed that there could certainly be a law applying to one person or one group of persons and it cannot be held to be unconstitutional if it is not discriminatory in character. The Legislature, according to the Supreme Court, undoubtedly has a wide field of choice in determining and classifying the subject of its laws, and if the law deals alike with all of a certain class, it is normally not abnoxious

to the charge of denial of equal protection; but the classification should never be arbitrary. It has been further held that it must always rest upon some real and substantial distinction bearing a reasonable and just relation to the things in respect of which the classification is made; and classification made without any substantial basis should be regarded as invalid.

Under Section 23 (c) (i) of the Act, there is no doubt exemption for the lands held by Government companies as defined in Section 617 of the Companies Act, 1956, The last proviso to Section 23 reads as follows:-

> "Provided also that the exemption under Item (i) of clause (c) shall be available only in respect of such part of the land as may be relatiable to the share held by a State or the Central Government in such Government company, and for this purpose, the share of the land so relatable shall be deemed to be extent of the land which would have been allotted to the said Government on a winding up of the company.

From this it is clear that in the Government company such of the lands held by the State or the Central Government as its share will alone be exempted. The lands in question in this proceedings belong to a private body. IT is therefore clear that there is a reasonable classification in exempting the lands covered under section 23 (c) (i) of the Act. Section 23 (1) also clearly classifies lands for which the exemption is available. Sugarcane cannot be equated to tea, coffee, cocoa, cardomom or rubber plantations. Hence the non-availability of exeiption for lands on which sugarcane is grown is a reasonable classification. In these circumstances, we are of the view that the classifi-

cation is on rational basis and therefore does not offend any of the fundamental rights guaranteed under the Constitution .

The learned Advocate-General contended that the impugned legislation comes under the protective umbrella of Article 31A, 31B, and 31C of the constitution and hence there cannot be any complaint against the legislation under Article 14, 19 or 31 of the Constitution. To substantiate this contention the learned Advocate-General cited the Full Bench decision of the Andhra Pradesh High Court reported in M. Venkatarao v. State (AIR 1975 A.P. 315) already noticed by us in a different context, which dealt with the Act impugned herein.

The impugned Act I of 1973 of Andhra Pradesh was intended to consolidate and amend the law relating to the fixation of ceiling on agricultural holdings and taking over a surplus lands and to provide for the matters connected therewith. The definition of 'land' in Section 3(j) of the Act clearly makes out that it is a land used for agriculture or intended to be used for agriculture or for purposes ancillary thereto, including horticulture etc. The surrendered land, according to the Act, woule vest with the Government. Under Section 13, special provision has been made for protected tenants, Section 14 deals with disposal of lands vested in the Government. According to this section, the lands so vested will be allotted for use as house-sites for agricultural labourers, village artisans or other poor persons owning no houses or housesites, or transferred to the weaker sections of the people dependent on agriculture for purpose of agriculture or for purposes ancillary thereto in such manner as may be prescribed. Provision has also been made under that section for allotment of land to the members of the Scheduled castes and the Scheduled Tribes. These provisions in the

Act clearly make out that the Act is one squarely coming under Article 31-A of the constitution.

The petitioners in the case before the Full Bench, in questioning the validity of the legislation impugned immunity conferred by Article 31A, 31B, and first part of Article 31C of the constitution by submitting that Article 14, 19 and 31 of the constitution being the basic structure or an essential feature of the Constitution, the Act, in spite of its immunity has to satisfy that it does not offend Articles 14, 19 and 31. The petitioners also submitted that the Act is unconstitutional for want of legislative competence. We have already discussed and decided that the Andhra Pradesh State Legislature had the legislative competence to enact this legislation. What constitutes 'Agrarian reform' has been discussed in full in the above Full Bench decision of the Andhra High Court. After referring to Sri Ram Narian V. State of Bombay (AIR 1959 SC 459) The Kannan Devan Hills Produce Co. Ltd., Vs. State of Kerala (AIR 1972 SC 2301), State of Kerala V. G.R. Silk Mfg. (Wvg) Co. (AIR 1973 SC 2734) and KH. Fida Ali V. State of Jammu and Kashmir (AIR 1972 SC 1522) the full Bench of the Andhra Pradesh High Court held that the whole Act including the definition of 'family Unit' is covered by Article 31-A of the constitution. The purport of the impugned Act and the provisions contained therein clearly establish that it is one intended for agrarian reform and hence it squarely comes under the protective umbrella of Article 31-A of the Constitution. Proceedings further, the Full Bench, elaborately discussed Kesavananda Bharati case (AIR 1973 SC 1461) and finally come to the conclusion that the law has the protection of Article 31-A, 31-B and the first part of 31-C and hence it cannot be challenged on the ground that it offends Article 14, 19 or 31. We are in respectful agreement with the reasoning and finding of the Full Bench decision in K.Venkatarao V. State (AIR 1975 A.P. 315).

The above said Principle has been reiterated in respect to the present Act impugned now, in the decision reported I.N. Rao V. state (AIR 1977 Andhra Pradesh 178). In that decision, the High Court of Andhra Pradesh held ---

> "Provisions of Law providing for the conferral of power characterised as unreasonable, arbitrary or discriminatory are liable to be attacked on the ground that they are inconsistent with Article 14 of the Constitution. The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings Act, 1973, is a law enacted by the State of Andhra Pradesh Legislature for the purpose of consolidating and amending the law relating to the fixation of ceiling on agricultural holdings and taking over of surplus lands and to provide for the matters therewith. This Act is enacted with a view to giving effect to the policy of the state towards securing the principles specified in cla.(b) and (c) of Art. 39 of the Constitution. It provides for making available surplus lands over the ceiling area for the purpose of securing its distribution by the Government for use as house-sites for agricultural labourers, village artisans or otherpoor persons owning no houses or house-sites or for the purpose of transferring to the weaker sections of the people depending upon agriculture for purposes of agriculture or for purposes ancillary thereto in the prescribed manner. The law made by the State in its legislative capacity here applying the Directive principles of State policy mentioned in part IV of the constitution is not in any way inconsistent with or takes away or abridges the rights mentioned in part III of the Constitution including those mentioned in Article 14 of the Constitution nor is such law justiciable in a court of law in the sense that its validity can be questioned."

The next decision cited by the learned Advocate-General, in support of his contention that the impugned legislation has the protective umbrella of Articles 31-A, 31-B, and 31-C is the one reported in T. Venkaiah, V. State of A.P. (AIR 1980 SC 1568). In this decision, the Supreme Court, dealing with the same legislation impugned now before us, observed:-

Then a contention was advanced on behalf of the landlords that the definition of 'family unit' was violative of Article 14 of the Constitution in as much as it made an unjust discrimination between a minor son and a major son by including a minor son in the 'family unit' while exclusing a major son and treating him as a separate unit. This contention has already been dealt with by one of us (Tulzapurkar, J.) in the Judgment delivered by him today in the Haryana Land Ceiling matters and we need not repeat what has already been stated there while repelling this contention. Moreover, this contention is no longer open to the landholders since the Andhra Pradesh Act is admittedly an agrarian reform legislation and it is protected against challenge on the ground of infraction of Articles 14, 19 and 31 by the protective umbrella of Art.31-A, the constitutional validity of which has been upheld by us in the Maharashtra Land Ceiling cases."

The Learned Advocate-General next cited the decision reported in Nand Lal V. State of Haryana (AIR 1980 SC 2097), which considered the Haryana ceiling on Land holdings Act (26 of 1972). It was questioned in that case that the artificial definition of 'family' in section 3 (f) of the Act and adoption of a double standard in section 4, on the basis of discriminatory material produced by the state, were violative. Repelling these contentions, the Supreme Court held that they were not violative of Article 14. As regards the immunity of the said

legislation, since it was an enactment in relation to agrarian reform, the Supreme Court observed -

"It is manifestly clear that the Principal Act (26 of 1972) together with all the amendments made therein, which essentially is meant for imposition of ceiling on agricultural holdings and acquisition and distribution of the surplus area to landless and weaker sections of the society, is in substance and reality an enactment dealing with agrarian reform and squarely falls within Art.31A of the Constitution and as such will enjoy the immunity mentioned above."

In Ambika Prasad V. State of U.P. (AIR 1980 SC 1762), the constitutional validity of the Utter Pradesh Imposition of Ceiling on Land Holdings Act (I of 1961), came up for consideration. The Supreme Court after examining the anatomy of the Act, referring to the preamble of the same and considering the relevant provisions of the law, held:

> "Thus we get the statutory perspective of agrarian reform and so, the constitutionality of the Act has to be tested on the touchstone of Article 31A which is the relevant protective armour for land reform laws."

As regards the attack on Article 31-A, the Supreme Court, in this decision, has categorically stated that a catena of decisions of the Supreme Court has clearly held that Article 31-A has stood judicial scrutiny of being declared that it does not offend any of the fundamental rights guaranteed under the Constitution.

Mr. V.P.Raman, learned counsel, citing the decision in Minerva Mills Ltd., V. Union of India (AIR 1980 SC 1789), contended that the impugned legislation, even if it is construed to come under the protective umbrella of Articles 31-A, 31-B and 31-C, it has to be tested for its reasonableness.

This decision cited by Mr. V.P.Raman is to the following effect:-

> "At the highest, courts can, under Article 31-C, satisfy themselves as to the identity of the law in the sense whether it bears direct and reasonable nexus with a directive principle. If the court is satisfied as to the existence of such nexus, the inevitable consequence provided for by Article 31-C must follow. Indeed, if there is one topic on which all the 13 judges in Kesavananda Bharati (AIR 1973 SC 1461) were agreed, it is this: , that tye only question open to judicial review under the unamended Article 31C was whether there is a direct and reasonable nexus between the impugned law and the provisions of Article 39(b) and (c). Reasonableness is evidently regarding the nexus and not regarding the law. It is therefore impossible to accept the contention that it is open to th courts to undertake the kind of enquiry suggested by the Additional solicitor General. The attempt therefore, to drape Article 31C into a democratic outfit under which an extensive judicial review would be permissible must fail".

Continuing, the Supreme Court has said that there is a significant qualitative difference between the two Articles, namely, Articles 31A, and 31C. Article 31-A, the validity of which has been recognised over the years, excludes the challenge under Articles 14 and 19 in regard to a specified category of laws. If by a constitutional amendment, the application of Articles 14 and 19 is withdrawn from a defined field of legislative activity, which is reasonably in public interest, the basic frame work of the constitution may remain unimpaired. But if the protection of those

Articles is withdrawn in respect of an uncatalogued variety of laws, fundamental freedoms will become a 'parchment in a glass case' to be viewed as a matter of historical curiosity.

Quoting the abovesaid decision, Mr. V.P. Raman further stated that the impugned legislation has to be tested for its reasonableness and Articles 31-A, 31-B, and 31-C cannot confer an absolute power to pass any legislation and the Constitution will come to the rescue of those who argue that the basis structure of the Constitution is being abrogated by such legislations assuming that the protective umbrella under Articles 31-A, 31-B, and 31-C is available to the legislature.

In Waman Rao, V. Union of India (AIR 1981 SC 271) the Constitutional Bench of the Supreme Court, after referring to Kesavananda Bharati case (AIR 1973 SC 1461, which was decided on 24th April, 1973 held -

> "We do not pronounce upon the validity of such subsequent constitutional amendments except to say that if any Act or Regulation included in the 9th Schedule by a constitutional amendment made after April, 24, 1973, is saved by Article 31-A, or by Article 31-C as it stood prior to its amendment by the 42nd Amendment, the challenge to the validity of the relevant Constitutional amendment by which that Act or Regulation is put in the 9th schedule, on the ground that the Amendment damages or destroys a basic or essential feature of the Constitution or its basic structure as reflected in Articles 14, 19 or 31, will become otiose.

In wamana Rao case (AIR 1981 SC 271) the Supreme Court took up for decision the question whether section 4 of the Constitution First Amendment

Act, 1951, by which Article 31-A was introduced into the Constitution, damages or destroyes the basis structure of the Constitution. After elaborately discussing the purpose for which it has been brought in and that too immediately after the promulgation of the Constitution as First Amendment to the same, the Supreme Court held that the same is to make the Constitution stronger and as such it does not destroy the basic structure of the Constitution. Accordingly, the Supreme Court upheld the Constitutional validity of Article-31-A

On the validity of Article 31B, the Supreme Court, in the same judgment, held -

> "Thus, in so far as the validity of Article 31B, read with the Ninth Schedule is concerned we hold that all Acts and Regulations included in the Ninth Schedule Prior to April 24, 1973 will receive the full protection of Article 31-B. Those laws and regulations will not be open to challenge on the ground that they are inconsistent with or take away or abridge any of the rights conferred by any of the provisions of Part III of the Constitution. Acts and Regulations which are or will be included in the Ninth Schedule on or after April 24, 1973 will not receive the protection of Article 31 B for the plain reason that in the face of the judgment in Kesavananda Bharati (AIR 1973 SC 1461) there was no justification for making additions to the Ninth Schedule with a viewto conferring a blanket protection on the laws included therein. The various constitutional amendments, by which additions were made to the Ninth Schedule on or after April 24, 1973 will be valid only if they do not damage or destroy the basic structure of the Constitution."

The Supreme Court, in that decision, has further observed:

A small, though practically important, clarification seems called for an the end of this discussion of the validity of Articles 31A, 31B and 31C. We have held that laws included in the Ninth Schedule on or after April, 24, 1973, will not receive the protection of Article 31 B ipso facto. Those laws shall have to be examined individually for determining whether the constitutional amendments by which they were put in the Ninth Schedule, damage or destroy the basis structure of the Constitution in any manner. The clarification which we desire to make is that such an exercise will become otiose if the laws included in the Ninth Schedule on or after April 24, 1973 fall within the scope and purview of Article 31A or the unamended Article 31C. If those laws are saved by these Articles, it would be unnecessary to determine wh ther they also receive the protection of Article 31B read with the Ninth Schedule. The fact that Article 31 B confers protection on the Schedule-Laws against any provisions' of Part III and the other two articles confer protection as against Articles 14 and 19 only, will make no real difference to this position, since, after the deletion of Article 31, the two provisions of Part III, which would generally come into play on the question of validity of the relevant laws, are Articles 14 and 19" .

Finally, the Supreme held in that decision:
"(1) The Constitution (First Amendment) Act, 1951 which introduced Article 31A into the Constitution with restrospective effect, and Section 3 of the Constitution (Fourth Amendment) Act, 1955 which substituted a new clause (1) sub-clauses (a) to (e) for the original clause (1) with restrospective effect, do not damage any of the basic or essential

features of the constitution or its basic structure and are valid and constitutional, being within the constituent power of the Parliament. (2) Section 5 of the Constitution (First Amendment) Act 1951 introduced Article 31B into the Constitution which reads thus:

31 B: x x x x x x x x x x

In Keshavananda Bharati (AIR 1973 SC 1461) decided on April 24, 1973 it was held by the majority that Parliament has no power to amend the Constitution so as no power to amend the Constitution so as to damage or destroy its basic or essential features or its basic structure. We hold that all amendments to the Constitution which were made before April 24, 1973 and by which the 9th Schedule to the Constitution was amended from time to time by the inclusion of various Acts and Regulations therein, are valid and Constitutional. Amendments to the Constitution made on or after April, 24, 1973 by which the 9th Schedule to the Constitution was amended from time to time by the inclusion of various Acts and Regulation therein, are open to challenge on the ground that they, or any one or more of them, are beyond the constituent power of the Parliament since they damage the basic or essential features of the Constitution or its basic structure. We do not pronounce upon the validity of such subsequent constitutional amendments except to say that if any Act or Regulation included in the 9th Schedule by a constitutional amendment made on or after April 24, 1976 is saved by Article 31A, or by Article 31C as it stood prior to its amendment by the 42nd Amendment, the challenge to the validity of the relevant Constitutional Amendment by which that Act or Regulation is put in the 9th Schedule, on the ground that the Amendment damages or destroys a basic or essential features of the Constitution or its basic structure as reflected in Articles 14,

19 or 31, will become otiose. (3) Article 31-C of the Constitution as it stood prior to its amendment by Section 4 of the Constitution (42nd Amendment Act, 1976, is valid to the extent to which its constitutionality was upheld in Keshavananda Bharati. Article 31C, as it stood prior to the Constitution (42nd Amendment) Act does not damage any of the basic or essential features of the Constitution or its basic structure...."

Thus, the decision in Waman Rao case (AIR 1981 SC 271) will squarely apply to the facts of the present case also. We have held in paragraph supra that the Act, in pith and substance, is relatable to 'agrarian reform'. Hence it is entitled to have the protective umbrella of Article 31-A. The nature of the Act impugned, which we have discussed already, will definitely come under the Directive Principles of Articles 31C and therefore, the Act has the protection under Article 31-C, Following the reasoning in Waman Rao Case (Air 1981 SC 271) in as much as the impugned legislation is saved by Article 31A and by Article 31C as it stood prior to its amendment, a discussion on the applicability of Article 31 B will become otiose.

Finally, Mr. V.P. Raman, learned counsel for the petitioners advanced arguments on compensation provided under the Act. According to Mr. V.P.Raman, the compensation provision is illusory and as such the said provision has to be struck down. The lands covered by this writ proceeding which come under the impugned Act, is 2,651--49 acres. The value of these lands situated in various villages, according to the petitioners, comes to Rs. 2,97,81,340. Section 15 of the Act provides for amount payable for lands vested in the Government in accordance with the second Schedul According to the second schedule, the maximum amount that could be paid irrespective of the acreage of

lands coming under the legislation is Rs.1,00,000/- In support of his contention, Mr. V.P.Raman cited the decision reported in R.C.Cooper v.Union of India (AIR 1970 SC 564). At the time when this decision was rendered, Article 31 which since stands repealed as and from 30.6.1979 by the 44th Amendment to the constitution, was in force and was to the effect that in cases of compulsory acquisition of property compensation has to be paid. The word 'compensation' had been there in Article 31(2). Dealing with this Article, the Supreme Court in the above decision, said that Article 31 (2) before and after it was amended guaranteed a right to compensation for compulsory acquisition of property and by giving to the owner, for compulsory acquisition of this property, compensation which was illusory, or determined by the application of principles which were irrelevant, the constitutional guarantee of compensation was not complied with. The Supreme Court further held that the principle specified by the law for determination of compensation is beyond the pale of challenge, if it is relevant to the determination of compensation and is a recognized principle applicable in the determination of compensation for property compulsorily acquired and the principle is appropriate in determining the value of the class of property sought to be acquired.

Subsequent to Cooper case (AIR 1979 SC 564), the 25th Amendment to the Constitution came to be made. Accordingly, in Article 31(2) for the word 'Compensation', the word 'amount' was substituted. After the amendment, Article 31 (2) read as follows.

> 31(2) No property shall be compulsorily acquited or requisitioned save for a public purpose and save by authority of a law which provides for acquisition or requisitioning of the property for an amount which may be

fixed by such law or which may be determined in accordance with such principles and given in such manner as may be specified in such law; and no such law shall be called in question in any court on the ground that the amount so fixed or determined is not adequate or that the whole or any part of such amount is to be given otherwise than in cash...."

After the above amendment, the Supreme Court, in Keshavananda Bharati case (AIR 1973 SC 1461), upheld the constitutional validity of the said 25th Amendment and held that under the new clause the State has power to acquire or requisition property for amount named in the Act and that amount is not justicable. It further held that in respect of laws made under Article 31(2), the provision of Article 19(1) (f) relating to the right to acquire, hold and dispose of property was made inapplicable. Relying on both these decisions, Mr. V.P.Raman submitted that whether it be 'amount' or 'compensation', if the provision providing for compensation is illusory, the said provision has to be struck down. As far as the present legislation is concerned, Mr. V.P. Raman referring the Tahsildar's valuation, which comes to Rs. 2,97,81,240/- for the lands in respect of which the legislation gives maximum of a sum of Rs. 1,00,000/- as compensation, submitted that the amount fixed is illusory and as such the provision has to be struck down. Mr. V.P.Raman further states that Petitioners' valuation is more than 3 crores. In the Act, elaborate procedure has been laid down for determining the amount to be paid for such requisitioning of lands. Thus, there is some principle for fixing the amount payable for the lands requisitioned. If such amount is fixed on certain principles, the question of illusory payment, in our opinion, cannot arise. As per the 25th Amendment, it is only the amount that

has to be fixed by such law and it is not compensation as it stood before the 25th Amendment. This makes all the difference. Rightly, the learned Advocate-General pointed out that in as much as the Article mentions 'amount' and since there is a proper procedure and principle envisaged for determining such amount, the question of illusory nature of the amount fixed will not arise. It is true that compensation cannot be illusory; but the amount determined by the legislature on certain principles cannot be attacked on the ground of illusory nature of the amount fixed. Further, the legislation comes under the protective umbrella of Article 31-A, 31-B, and 31-C, and as such the adequacy or illusory, nature of the amount fixed in the legislation cannot be gone into. This has been made clear in the decision reported in Waman Rao case (AIR 1981 SC 271) which we have already extracted. Thus, we are of the view that the amount fixed for the requisitioning of these lands cannot be gone into as offending Article 14 or Article 19 of the Constitution; nor can the relevant provision be struck down on the ground that the amount is illusory.

In these circumstances, we hold that the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 and the Rules made thereunder; are saved by the protective umbrella of Article 31-A, 31-B and 31-C of the Constitution; that in view of such protection the legislation cannot be questioned as offending either Article 14, or Article 19 or Article 31 (as it stood than) of the Constitution, and that the Andhra Pradesh State Legislature has competence to enact the said legislation since it comes under Entry 18 of List II of the Seventh Schedule. Therefore the Writ petition is dismissed without Costs.

THE HONOURABLE OFFICIATING CHIEF JUSTICE:

Mr. V.P. Raman, learned counsel appearing for the petitioners submits that by this decision, number of workers will be affected. Who are working in the factory and as such this order may be suspended for a period of three weeks in order to enable him to move the Supreme Court to get appropriate orders.

Accordingly, this order is suspended for a period of three weeks.

Sd. K.V.Ramachandran
Asst. Registrar (Addl.)

// True Copy //

Sd./-
for Sub-Asst.Registrar(AS)

To

1. The Chief Secretary to Govt. of Andhra Pradesh, Secretariat Buildings, Hyderabad, Andhra Pradesh. (with records if any to follow)

2. The Land Reforms Tribunal, Krishna District, Andhra Pradesh.

Two C.Cs. to Mrs. Jayanthi Natarajan Advocate on payment of charges.

one c.c. to the Govt. pleader on payment of charges.

(true Copy)

Agricultural Workers' Militant Struggle for Challapalli Lands in Andhra Pradesh

By M. SRIHARI RAO

THE ZAMINDAR OF CHALLAPALLI WAS ONE of the biggest and notorious pro-imperialist landlords of Andhra Pradesh. Before the abolition of the zamindari system, he illegally usurped 17000 acres of communal and government land in his name. In 1948 the zamindari abolition act came into force. The government declared that out of this, 7000 acres of land did not belong to the zamindar. In spite of this, the zamindar, anticipating land ceiling laws, sold away most of the lands and minted money.

In the Andhra Pradesh Ceiling Law of 1961, lands belonging to the sugar mills were exempted. Taking advantage of this loophole he transferred 2777 acres to the Challapalli Sugars Ltd., which is his family concern. The remaining land was also alienated by benami transfers to the other family members. According to the new land ceiling law of AP which came into force in 1973, the exemption given to the sugar factory lands was taken away.

In order to circumvent the act, the zamindar filed a writ petition in the Madras High Court, arguing that the registered head office of the Challapalli Sugars was at Madras and therefore the Andhra Act should not apply to these lands and only Madras Act should apply. He obtained a stay order from the Madras High Court preventing declaration of the land as surplus.

Upto 1977 he was supporting the congress which was in power, and afterwards when the Janata party came to power he changed the loyalties. The Janata party prime minister Morarji Desai wrote a letter on January 23, 1978 to the then chief minister of Andhra Pradesh, J. Vengala Rao, and another letter to the next chief minister M. Chenna Reddy on April 13, 1978, asking them to help the zamindar by exempting his lands from the AP land ceiling act and if it was not possible at least see that higher compensation was paid to him.

In the course of the struggle for the distribution of these surplus lands many sacrifices were made by the agricultural workers and other rural poor of that area. On September 9, 1973 a top CPI and agricultural workers' leader of this land struggle, M. Balabhaskara Rao, was murdered in the broad daylight by the hired goondas of the zamindar.

As a part of the all-India land struggle launched by the CPI and Bharativa Khet Mazdoor Union, a massive movement was launched for the distribution of these surplus lands, State CPI leader N. R. Desari and many other BKMU leaders were arrested and sent to jail in this connection.

In 1978, a big land struggle was conducted under the leadership of BKMU and the agricultural workers union led by CPI(M). In four centres hundreds of acres of land was occupied. Mass demonstrations and public meetings were conducted. The BKMU President G. Yallamanda Reddy, state BKMU president Vanka Satyanarayana, P. Subba Rao, M. Srihari Rao and others led the movement. This galvanised the whole class of agricultural workers and rural poor in the area.

To bring the struggle to a successful end a broad-based all-party action committee was formed. Under its leadership on November 10, 1978, a convention was held at Challapalli. The convention in a resolution demanded that the state government without any delay takeover the nearly 3000 acres of surplus land of the zamindar and distribute it to the landless.

The convention also demanded that the sugar factory should be taken over by the government as the management failed to pay the money to the Kisans for the cane they supplied to the factory. An all-party action committee in which the main political parties and mass organisations, including the agricultural workers union, was represented, with D. Dutt as convenor, was formed to take steps to implement the resolutions of the convention. Sustained struggle was being conducted under the leadership of the committee in which BKMU is also playing an active role.

In the land occupation struggle thousands of agricultural workers and poor peasants participated. 14 cases were registered on the participants of the struggle. As a part of this struggle, a plot of 8¼ acres of surplus land in Vakkalagadda village, adiascent to the harijanawada, was occupied by the harijan agricultural workers and 135 huts were erected. The goondas of the Zamindar on November 3, 1979, set fire to all the huts.

On November 4, 1981, the Madras High Court dismissed the zamindar's writ petition and declared that the Challapalli sugar factory lands also would come within the purview of the AP Land Ceiling Act.

On May 15 1982, a high power delegation on behalf of the state agricultural workers union met AP chief minister and submitted a memorandum in which they demanded that the government take necessary steps to hasten the proceedings at the land tribunal court at Machilipatnam. The delegation included Vanka Satyanarayana, president, K. Subba Rao, general secretary, Ch. V. Rama Rao, secretary AP Agricultural workers union, K. L. Mahendra, general secretary, AITUC, Ch. Rajeswara Rao, Poola Subbaiah, Secretary, AP Kisan Sabha, K. Devasundara Rao, President and M. Srihari Rao, Vice-President of the Krishna District Agricultural workers union.

Afterwards the land tribunal at Machilipatnam struck off the petition of the zamindar and declared the 2777 acres land of the zamindar as surplus.

Since then the zamindar is making tremendous efforts to save the land from distribution. The then state

On Page 6

Zamindar's appeal in Supreme Court was dismissed on 5-3-82

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congress (I) government dodged the whole affair and took no interest to take further necessary steps. The new Telugu Desam government also has not taken any positive steps for the distribution of the surplus land so far. Recently the AP chief minister, N. T. Rama Rao, who was silent at the time of the elections on the land reforms issue, came out against the ceiling on land holdings which is a great disappointment to the mass of the landless.

The all-party action committee, the Krishna district CPI Council, and the district agricultural workers union are making brisk preparations for launching direct action from May Day onwards.