



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(s). OF 2026

(Arising out of SLP(C) No(s).....@Diary No. 21610 of 2022)

MUKKERA VENKATA RATNAM & ORS ...APPELLANT(S)

Versus

VANTASALA CHINA VENKATESWARLU & ORS.

... RESPONDENT(S)

J U D G M E N T

SANJAY KAROL, J.

1. Delay Condoned.

2. Leave Granted.

3. Under challenge is the judgment and order¹ passed by the High Court for the State of Telangana on 1st February 2022 by a learned Single Judge, setting aside the judgment in First Appeal² dated 1st December 2008 by the Principal Senior Civil Judge, Kothagudem, allowing the appeal suit and thereby overturning the judgment and decree³ dated 29th October 2003, which dismissed

¹ In SA No. 1225 of 2009

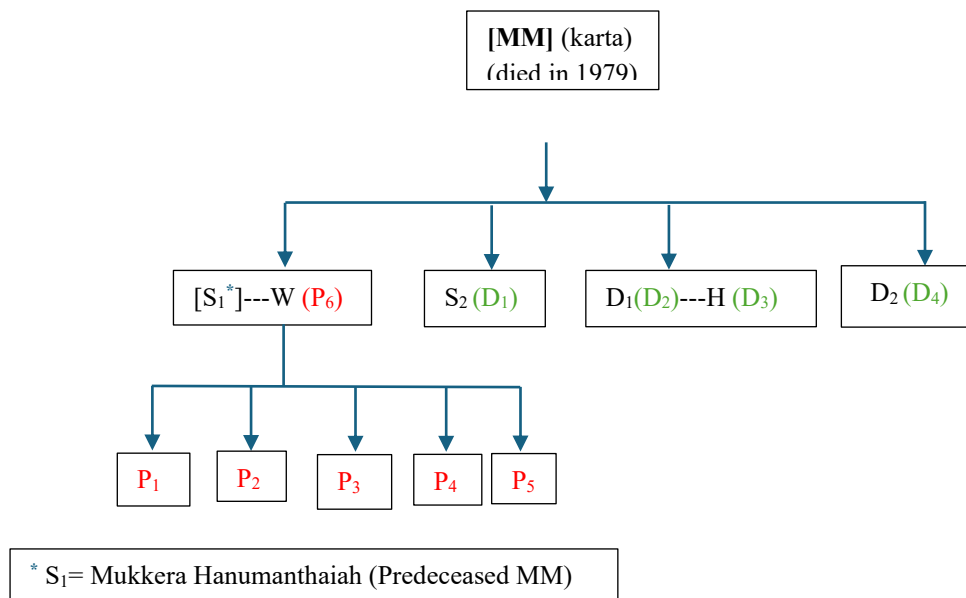
² AS No. 9 of 2004

³ In OS No. 307 of 1999

the plaintiffs (present appellants') suit for partition and separate possession.

4. All the parties to the dispute are members of the family of a common ancestor, namely Mukkera Muthaiah⁴ who died in 1979. Plaintiffs 1-5 are his grandsons (sons of Hanumanthaiah); plaintiff No. 6 is their mother; defendant no. 1 is the younger son; defendant no. 2 is the eldest daughter; defendant no. 4 is his youngest daughter of MM. Defendant No. 3 is defendant no.2's husband. A family chart is placed hereinbelow for ease of understanding:

ORIGINAL P/Fs AND D/Fs IN TRIAL COURT :



Plaintiffs set the law in motion on 6th July 1998 by filing a civil suit after they apparently learnt about the extent of land holdings of MM. The defendants resisted the same by filing written statements. The issues as framed by the Civil Court and their corresponding findings are represented below in this table:

⁴ MM

ISSUES	FINDING
1. Whether the plaintiffs are entitled to partition of the suit scheduled property?	The court determined that the partition of property among the co-sharers of Mukera Muthaiah occurred during his and Mukkera Hanumanthaiah's lifetime, with each branch having distinct possession since 1975-76 and separately paying land revenue. Consequently, there being no question of a joint family property, the plaintiffs were not entitled to claim 1/3 rd share of the property. Answered against the plaintiffs.
2. Whether the plaintiffs are entitled to perpetual injunction, restraining the defendants from alienating the suit schedule property?	Since the co-sharers of Mukerra Muthaiah family are enjoying the suit schedule property separately and the parties to the suit are in peaceful possession and enjoyment of their respective properties. Hence, the plaintiffs cannot claim the relief of permanent injunction.
3. Whether after the death of late Mukkera Muthaiah partitioned joint family properties had taken place and the properties fell to the share of each branch?	Partition occurred during the lifetime of Mukkera Muthaiah and Mukkera Hanumanthaiah, not after their death as pleaded by defendant no. 1.
4. Whether Sy. No.250 to an extent of Ac.4.20 gts was sold to one S.Narayana and K.Laxmaiah by plaintiffs 1 to 5 and they inturn sold the same to a Tribal by name Bhukya Arja?	Admissions of PWs-1 and 2 indirectly support the conclusion that Mukkera Hanumanthaiah did sell the land to Laxmaiah and Narayana.
5. Whether Ac.2-30 gts, Sy.No.178/A in seethampeta which is part of Item No.1 of suit schedule property fell to the share of defendant No.1 in the said partition?	Evidence establish that this land was allocated to defendant no. 1 in the partition.
6. Whether late Muthaiah grand-father of plaintiffs in his life time gave Item Nos. 1, Ac. 1-10gts of land to respondent No. 2 towards her "Pasupu Kumkuma"?	Though there was no registered settlement deed, one acre in Sy.No.163 was allotted to defendant No.2 in the partition in recognition of the services she rendered to Mukkera Muthaiah in his old age. Answered in favour of the defendants and against the plaintiffs.

7. Whether this Hon'ble Court has no jurisdiction to entertain the present suit?	Since both parties were non-tribals and no tribal interest was involved, Section 9 CPC vested it with jurisdiction.
8. Whether the suit is undervalued?	The valuation and fee paid were found to be proper.
9. Whether the suit is barred by limitation?	Suit barred by limitation as plaintiff no. 1, manager of the family, was 42 years old as on the date of filing of the suit, whereas under Article 110 of the Limitation Act the plaintiffs should have filed the suit after plaintiff no. 1 attaining majority.
10. To what relief?	Suit barred by limitation, thus dismissed.

(emphasis supplied)

5. Against the dismissal of the civil suit, plaintiffs filed an appeal, in which, two points for consideration were framed by the Court and answered respectively in the following manner, decreeing the same in favour of the plaintiffs:

ISSUES	FINDING
1) Whether suit properties are joint family properties?	Documents relied on by the trial court to infer partition were held to be uncertified and unreliable Held that properties are joint family properties. Relying on a High Court judgment held that Civil Court has jurisdiction to entertain dispute connected to the properties situated in scheduled areas.
2) Whether judgment and decree of the trial court from any irregularity illegality?	The court held that the trial court came to a wrong conclusion that partition was already effected , thus liable to be set aside.

(emphasis supplied)

6. Aggrieved thereby, the defendants filed a second appeal before the High Court. The sole point on which the finding of the First Appellate Court was overturned was the judgment of this

Court in ***Nagarjuna Gramin Bank v. Medi Narayana***,⁵ which, as per the Court, had observed that from 1972 onwards, the jurisdiction of the Civil Courts, illegal and void.

7. With that background, this appeal asks us to decide whether the dispute *inter partes* was within the jurisdiction of the Civil Court in the state of Andhra Pradesh, currently Telangana.

8. We have heard Mr. Amit Pai, learned counsel for the appellant, and Mr. Vikas Bansal, learned counsel as *amicus curiae*. Devina Sehgal, learned AOR, was heard for the State of Telangana.

9. The first question which we must address is whether the judgment in ***Nagarjuna supra*** is a binding precedent or not?

9.1 In ***Read and others v. The Bishop Of Lincoln Respondent***,⁶ the Judicial Committee of the Privy Council observed that:

“Whilst fully sensible of the weight to be attached to such decisions, their Lordships are at the same time bound to examine the reasons upon which the decisions rest, and to give effect to their own view of the law.”

9.2 The majority of a three-judge Bench in ***Abdul Kayoom v. CIT***⁷, speaking through ***Hidayatullah J.***, as he then was, observed:

“21. ... Each case depends on its own facts, and a close similarity between one case and another is not enough, because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid

⁵ CA 5037-5038 of 2004

⁶ [1892] A.C. 644

⁷ 1961 SCC OnLine SC 244

the temptation to decide cases (as said by Cordozo) [(1960) 3 SCR N 681] by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, its broad resemblance to another case is not at all decisive. What is decisive is the nature of the business, the nature of the expenditure, the nature of the right acquired, and their relation inter se, and this is the only key to resolve the issue in the light of the general principles, which are followed in such cases.”

[**See also:** V. Senthil Balaji v. State, (2024) 3 SCC 51]

9.3 State of Gujarat v. Utility Users’ Welfare Assn.⁸, held as under:

113. In order to determine this aspect, one of the well-established tests is “the Inversion Test” propounded inter alia by Eugene Wambaugh, a Professor at The Harvard Law School, who published a classic text book called The Study of Cases [Eugene Wambaugh, The Study of Cases (Boston: Little, Brown & Co., 1892).] in the year 1892. This textbook propounded inter alia what is known as the “Wambaugh Test” or “the Inversion Test” as the means of judicial interpretation. “the Inversion Test” is used to identify the ratio decidendi in any judgment. The central idea, in the words of Professor Wambaugh, is as under:

“In order to make the test, let him first frame carefully the supposed proposition of law. Let him then insert in the proposition a word reversing its meaning. Let him then inquire whether, if the court had conceived this new proposition to be good, and had it in mind, the decision could have been the same. If the answer be affirmative, then, however excellent the original proposition may be, the case is not a precedent for that proposition, but if the answer be negative the case is a precedent for the original proposition and possibly for other propositions also. [Eugene Wambaugh, The Study of Cases (Boston: Little, Brown & Co., 1892) at p. 17.] ”

114. In order to test whether a particular proposition of law is to be treated as the ratio decidendi of the case,

⁸ (2018) 6 SCC 21

the proposition is to be inversed i.e. to remove from the text of the judgment as if it did not exist. If the conclusion of the case would still have been the same even without examining the proposition, then it cannot be regarded as the ratio decidendi of the case. This test has been followed to imply that the ratio decidendi is what is absolutely necessary for the decision of the case. “In order that an opinion may have the weight of a precedent”, according to John Chipman Grey [Another distinguished jurist who served as a Professor of Law at Harvard Law School.] , “it must be an opinion, the formation of which, is necessary for the decision of a particular case”.

9.4 A coordinate Bench succinctly captured the principle in ***Career Institute Educational Society v. Om Shree Thakurji Educational Society***⁹, in the following words with reference to earlier judgments:

“7. In *Jayant Verma* [*Jayant Verma v. Union of India*, (2018) 4 SCC 743 : (2018) 3 SCC (Civ) 207] , this Court has referred to an earlier decision of this Court in *Dalbir Singh v. State of Punjab* [*Dalbir Singh v. State of Punjab*, (1979) 3 SCC 745 : 1979 SCC (Cri) 848] to state that it is not the findings of material facts, direct and inferential, but the statements of the principles of law applicable to the legal problems disclosed by the facts, which is the vital element in the decision and operates as a precedent. Even the conclusion does not operate as a precedent, albeit operates as *res judicata*. Thus, it is not everything said by a Judge when giving judgment that constitutes a precedent. The only thing in a Judge's decision binding as a legal precedent is the principle upon which the case is decided and, for this reason, it is important to analyse a decision and isolate from it the obiter dicta.”

9.5 In the light of the pronouncements referred to *supra*, let us consider the holding in ***Nagarjuna supra***. Here itself it be noted that the reason why Mr. Pai submits that this is not a binding precedent is because the conclusion was not

⁹ (2023) 16 SCC 458

based upon a legal analysis of the provisions of the Andhra Pradesh Civil Courts Act 1972¹⁰ and instead was on the basis of the decision taken by the high-powered committee of the State. The relevant paras thereof are as follows:

“7. The high-powered committee headed by the Chief Minister of the State and comprising of the Minister for Tribal Welfare; Minister for Law; Chief Secretary to Government; Principal Secretary to Government, Tribal Welfare; Principal Secretary to Government, Social Welfare; Principal Secretary to Government Home; Secretary to Government, Law and Justice; Secretary to Government, Legal Affairs; Member of Legislative Assembly, Rampachodavaram; Commissioner, Tribal Welfare and Lawyer and President, Girijana Yuvajana Samkshema Sangam, R.C. Varam met on 24-7-2012 and, after extensive deliberations and having regard to the relevant facts and circumstances, decided to accept one of the alternatives suggested by Mr R. Venkataramani, learned Senior Counsel, namely, retention of the existing system as obtaining in the Scheduled Areas in complete substitution of the Civil Courts Act.

8. Mr R. Venkataramani, learned Senior Counsel for the State of Andhra Pradesh, submits that the decision taken by the high-powered committee is in accord and conformity with the Notification issued on 30-10-1972 effective from 1-11-1972 declaring that the 1972 Act does not apply to the Scheduled Areas of the State.”

(emphasis supplied)

9.6 In order to appreciate these observations, it is also necessary to, in *toto*, quote the previous order passed in ***Nagarjuna Grammena Bank v. Medi Narayana***¹¹, which reads as follows:

“1. These appeals have been filed by the decree-holders. In the midst of hearing of these appeals, a peculiar problem has been brought to our notice by the learned counsel appearing for the parties that under the Andhra Pradesh Civil Courts Act, 1972 (hereinafter

¹⁰ 1972 Act

¹¹ (2013) 11 SCC 367

for short “Act 19 of 1972”) a notification has been issued by the Governor in exercise of powers under sub-section (3) of Section 1 of Act 19 of 1972 by which the jurisdiction of the Civil Courts has come into force in the whole State of Andhra Pradesh except in the Scheduled Areas of the State.

2. It is contended by Mr P.S. Narasimha, learned counsel appearing for the appellant(s) that even before coming into force of the Act, the Civil Courts had been established in the Scheduled Areas and they have been functioning since 1950. The appellant(s) decree-holders obtained a decree from the Civil Court in the Scheduled Areas, however, since the operation of Act 19 of 1972 is excluded from the Scheduled Areas of the State, they are unable to execute the decree. The High Court, in its impugned judgment [*Meda Narayana v. Nagarjuna Grameena Bank*, CRP No. 2888 of 1998, order dated 27-6-2000 (AP)] , held that as the Act itself is not applicable in the Scheduled Areas, the decree passed by the Civil Court is null and void and inexecutable. It has been brought to our notice that now many non-Scheduled people are residing in the Scheduled Areas of the State including owners of commercial and business houses. That apart, many banks have been established including the appellant Banks, who are non-Scheduled people and they are being deprived of resolution of the disputes through the Civil Courts. Even in those cases which have been decided by the Civil Courts, the decrees could not be executed because the Civil Courts Act is not applicable and the decree passed by the Civil Courts in the Scheduled Areas has been declared null and void. These are the contentions over which we have given our serious consideration.

3. A dispute may arise between the people of the Scheduled Areas and non-Scheduled Areas in which case, in our view, the people of the non-Scheduled Areas cannot be subjected to the methodology and the procedure adopted while resolving the dispute between the people of the Scheduled Areas. In our view, therefore, a mechanism has to be evolved in a case where the dispute involved is between the people of the Scheduled Areas and non-Scheduled Areas. One way of resolving this problem is by either issuing a notification or by an amendment in the Act to the extent that the Civil Courts Act shall be extended to the Scheduled Areas of the State except where the dispute involved is between the people of the Scheduled and non-Scheduled Areas.

4. While saying this we also took note of the observation made by the High Court. The High Court, while allowing the petition, also took note of the submission of the counsel for the appellant that it is necessary to confer the jurisdiction over the Scheduled Areas on the Civil Courts also. The High Court observed that it is for the State Government to take expeditious steps as early as possible to issue a notification extending the provisions of the Civil Courts Act even with retrospective effect in the Scheduled Areas for peace and good governance and for the speedy disposal of the civil cases in the Scheduled Areas. A copy of the High Court order was also directed to be endorsed to the Home Department, Government of Andhra Pradesh. It is unfortunate that no steps appear to have been taken pursuant to such observation.

5. In this view of the matter, we are now of the view that the matter requires serious consideration of the State Government at the earliest in terms of our suggestions as noted above. Mr H.S. Gururaja Rao, learned Senior Counsel appearing for the State prays for three months' time for taking necessary steps in the matter and issuing appropriate notification in this regard.

6. List these matters after three months. The Registry shall send a copy of this order to the Registrar General of the Andhra Pradesh High Court who shall coordinate with the State Government for doing the needful.”

(emphasis supplied)

9.7 It appears that the situation presented in this case was contemplated by this Court in para 3 of the order immediately above. The suggestion put forward by the Court was either an amendment or a notification addressing the scenario. It is thereafter, that the order relied on by the High Court in the impugned judgment came to be passed. The stand of the State after the meeting of the committee was clear, that the 1972 Act does not and would not apply to the scheduled areas and such a view had been carried forward to the present case also.

However, to us, there appears to be merit in the submission of Mr. Pai. This is for the reason that if ***Nagarjuna supra*** is to be held to be deciding a point of law, it is obviously requisite that the provision, the intent, the objective thereof be discussed in light of the judgments extracted in Para 8.1 to 8.4 *supra*. This was clearly absent. It was rather a case of a judicial deference to the executive/legislature, because the question involved is ordinarily within that domain i.e., extending or taking away jurisdiction of a particular court. It was not a case of either adjudicating or returning a positive finding on a proposition of law.

10. Having concluded thus, we must now consider whether the Civil Court was correct in adjudicating the suit for partition and separate possession, when the undisputed position is that though the land subject matter of dispute fell within Scheduled Areas without any fetters, but the parties are non-tribals?

11. In 1874, the Government enacted Act no XIV of 1874 being the Scheduled Districts Act, 1874. The interpretation clause thereof reads as under:

“Interpretation clause.-

In this Act the term "Scheduled Districts" means the territories mentioned in the first schedule hereto annexed; and, from the date fixed in the resolution next hereinafter mentioned, it shall also include any other territory to which the Secretary of State for India, by resolution in Council, may declare the provisions of the thirty-third of Victoria, Chapter III, Section 1, to be applicable.”

Section 6 thereof, permits the appointment of officers and regulation of procedures. It reads as under:

- “6. The Local Government may from time to time-
- (a) appoint officers to administer civil and criminal justice, and to superintend the settlement and collection of the public revenue and all matters relating to rent, and otherwise to conduct the administration within the Scheduled Districts,
 - (b) regulate the procedure of the officers so appointed; but not so as to restrict the operation of any enactment for the time being in force in any of the said Districts,
 - (c) direct by what authority any jurisdiction, powers, or duties incident to the operation of any enactment for the time being in force in such District shall be exercised or performed.”

It is under this power that the Andhra Pradesh Agency Rules 1924 were promulgated. The objects and reasons clause thereof, is as under:

“Under Section 6 of the Scheduled Districts Act 1874, the Governor is pleased to make the following rules for the administration of the Agency tracts¹² of the State of Andhra Pradesh and the regulation of the procedure of the officers appointed to administer them.”

These Rules were promulgated in connection with the adjudication of civil disputes and provided for a detailed exposition on the powers and procedures to be exercised by the Courts functioning in ‘agency tracts’. Discussion with respect to other provisions will not be of aid to the present dispute.

¹² Defined in the Agency Tracts Interest and Land Transfer Act, 1917 as follows: 2(a) "Agency tracts" means the scheduled districts as defined in Acts XIV and XV of 1874 and included within the districts of Ganjam, Vizagapatam and Godavari.

HISTORY OF CONSTITUTIONAL PROTECTION TO THE TRIBALS AND TRIBAL AREAS

12. The history of this legislation, its enactment and subsequent judicial developments have been noted by **K. Ramaswamy J.** in ***Samatha v. State of A.P.***¹³:

“Legislative intervention — Enforcement ineffectiveness

14. The Ganjam and Vizagapatnam Act of 1839 declared the Agency areas of the Madras Presidency, comprising parts of Southern Orissa and seven present Andhra Pradesh districts for special administration. In 1874, the Scheduled Districts Act XIV (Central Act) was passed. Thereunder, Scheduled Districts were defined to mean the territories mentioned in the First Schedule and parts thereof; they also include any other territory to which the Secretary of State for India by resolution in council, may declare. Subsequently, the Act was extended to the Taluk of the then Bhadrachalam in East Godavari District which is now a part of Khamman District together with the districts covered under the 1839 Act. The Provincial Government issued rules prescribing the procedure to be followed by the officers appointed thereunder to administer Agency tracts. Later on, the Agency Tracts and Land Transfer Act 1 of 1917 came to be passed. Thereunder, to mitigate the hardships of the tribals from the wiles of moneylenders and other migrants from plain areas, provision was made so that rate of interest would not exceed 24% per annum and compound interest would not be charged nor any collateral advantage would be taken by the moneylenders. The total interest allowed or decreed should not exceed the principal amount. The “Scheduled Districts” defined in the 1874 Act were reconfirmed in the 1917 Act. Section 4 thereof prohibited transfer of land in the Agency tracts which read as under:

“4. Transfer of immovable property by a member of a hill tribe.—(1) Notwithstanding any rule of law or enactment to the contrary, any transfer of immovable property situated within the Agency tracts by a member of a hill tribe shall be absolutely null and void unless made in favour of another member of a hill tribe, or with the previous consent in writing of the Agent or of any other prescribed officer.

¹³ (1997) 8 SCC 191

(2) Where a transfer of property is made in contravention of sub-section (1), the Agent or any other prescribed officer may, on application by anyone interested, decree ejectment against any person in possession of the property claiming under the transfer and may restore it to the transferor or his heirs.

(3) Subject to such conditions as may be prescribed an appeal against a decree or order under sub-section (2) if made by the Agent shall lie to the Governor General-in-Council and if made by any other officer shall lie to the Assistant Agent or to the Agent as may be prescribed.”

15. The Montague and Chelmsford Report, 1918 briefly touched the administration of tribal areas and political reform and excluded them from the reformed Provincial Governments. The Government of India Act, 1919 divided the area into two parts — “wholly excluded and partially excluded areas for reform”. The former were small and the latter were given joint responsibility of the Governor and the Governor General-in-Council. The Montague Chelmsford Report of 1918 suggested that the backward areas where primitive tribes live should be excluded from proposed political reform and administration was entrusted to the Governors of the Provinces.

16. Pursuant to Simon Commission Report, the Government of India Act, 1935 dealt with excluded and partially excluded areas as per 1936 Order issued under Section 91 of the Government of India Act, 1935. Simon Report is worth extracting here and reads thus:

“There were two dangers to which subjection to normal laws would have specially exposed these peoples, and both arose out of the fact that they were primitive people, simple, unsophisticated and frequently improvident. There was a risk of their agricultural land passing to the more civilized section of the population, and the occupation of the tribals was for the most part agricultural: and, secondly, they were likely to get into the ‘wiles of the moneylenders’. The primary aim of government policy then was to protect them from these two dangers and preserve their tribal customs; and this was achieved by prescribing special procedures applicable to these backward areas.”

17. Therein also, “Scheduled Districts” defined in 1874 Act were treated as excluded and partially excluded areas. The administration thereof was exclusively vested in the Governor of the Province under Section 92 of the Government of India Act, 1935 and sub-sections (1) and (2) which are relevant for our purpose read as under:

“92. (1) The executive authority of a Province extends to excluded and partially excluded areas therein, but, notwithstanding anything in this Act, no Act of the Federal legislature or of the Provincial legislature shall apply to an excluded area or a partially excluded area, unless the Governor by public notification so directs; and the Governor in giving such a direction with respect to any Act may direct that the Act shall in its application to the area, or to any special part thereof, have effect subject to such exceptions or modifications as he thinks fit.

(2) The Governor may make regulations for the peace and good government of any area in a Province which is for the time being an excluded area, or a partially excluded area, and any regulations so made may repeal or amend any Act of the Federal legislature or of the Provincial legislature or any existing Indian law, which is for the time being applicable to the area in question.

Regulations made under this sub-section shall be submitted forthwith to the Governor General and until assented to by him in his discretion shall have no effect, and the provisions of this Part of this Act with respect to the power of His Majesty to disallow Acts shall apply in relation to any such regulations assented to by the Governor General as they apply in relation to Acts of a Provincial legislature assented to by him.”

18. The Government of India (Adoption of Indian Laws) Order, 1937 repealed 1874 Act and brought excluded and partially excluded areas directly under the governance of the Governor under Section 92 of the Government of India Act, 1935. Thus they became Scheduled Areas by virtue of the Scheduled Areas (Part ‘A’ States) Order, 1950 issued by the President of India. After the advent of the Constitution, Fifth and Sixth Schedules were engrafted as part of the scheme of the Constitution by the founding fathers. Fifth Schedule empowers the President of India who thereunder issued

Scheduled Areas (Part 'A' States) Order, 1950 declaring specified areas therein to be Scheduled Areas within the States specified in Part 'A' of the First Schedule to the Constitution of India. Therein also East Godavari, West Godavari and Visakhapatnam Agencies (Vizianagaram and Srikakulam Districts are part of it) were declared to be Scheduled Areas in Madras Province. Equally, by Scheduled Areas (Part 'B' States) Order, 1950 which became effective from 7-12-1950, the President exercised the power declaring certain specified areas as Scheduled Areas in Part 'B' States including the State of Hyderabad (Adilabad, Karimnagar, Nizamabad, Warangal, Khammam, Mahaboobnagar Districts).

19. It would, thus, be clear that right from the inception of colonial administration, the Agency areas were treated distinctly from other areas. Tribals were protected from exploitation; their rights and title to enjoy the lands in their occupation and their autonomy, culture and ecology were preserved; infiltration of the non-tribals into tribal areas was prohibited. Sugalis, i.e., Khanabadosh, non-tribals, by migration became in due course, tribals. Even those migrant non-tribals were prohibited to purchase the lands in Agency areas from the tribals except with the prior sanction of the officer appointed by the Government in that behalf. However, with the connivance and fabrication of revenue records, non-tribals got hold of the lands and exploited the tribals.”

12.1 When the country attained independence, one of the multitude of concerns that occupied the constitutional framers was the protection of tribal people. Some of the discussion¹⁴, irrespective of its final conclusion in the Constituent Assembly in this regard, demonstrating the high level of concern exhibited by the learned members is reproduced below:

9.132.101	Jaipal Singh	The idea behind this amendment is similar to what I have already said before and it is that any benefits we might want to confer on the scheduled tribes should not be limited or circumscribed by the areas, that they
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¹⁴ <https://www.constitutionofindia.net/debates/05-sep-1949/>

		should extend to the entire State or wherever the scheduled tribes may be.
9.132.105	Jaipal Singh	As I have already stated, there are only two principles involved in my five amendments: first, that the Scheduled Tribes, all of them, should be benefited by the provisions of the Fifth Schedule and, secondly, that the Tribes Advisory Council should be a reality and not a farce. Let us not give it a big name, without any powers to do things.
9.132.108	Yudhishtir Mishra	...the Scheduled tribes are backward and therefore deserve the special attention and care of the Government both in the Centre and the provinces and I think it is for this reason that some areas are specified as Scheduled areas and some tribes have been described as Scheduled tribes...
9.132.131	Shibban Lal Saxena	... Sir, the existence of the scheduled tribes and the Scheduled areas are a stigma on our nation just as the existence of untouchability is a stigma on the Hindu religion. That these brethren of ours are still in such a sub-human state of existence is something, for which we should be ashamed. Of course, all these years this country was a slave of the British, but still we cannot be free from blame. I therefore think Sir, that these scheduled tribes and areas must as soon as possible become a thing of the past. They must come up to the level of the rest of the population and must be developed to the fullest extent. I only want that these scheduled tribes and scheduled areas should be developed so quickly that they may become indistinguishable from the rest of the Indian population and that this responsibility should be thrown on the Union Government and on the Parliament.....
9.132.161	Brajeshwar Prasad	... What the tribals want is not a Council but a guarantee by the Constitution that means of livelihood, free education and free medical facilities shall be provided for all tribals. This is not an impossible demand which I am making. I am not making this demand for all the citizens of this country but for only twenty five million people. The provinces being weak in economic resources are not in a position to shoulder this responsibility. Hence I plead that the Centre should take command of the tribal areas. The Government of India has no right to exist if it cannot undertake to guarantee means of livelihood and free educational and medical facilities even for such a small number of people. ...
9.132.179	Jadubans Sahay	The problem, or rather the treatment of the problem of the tribal people is a very difficult and delicate one,

		and hence in dealing with these problems we have got to see that we should not tie down the hands of those who want to do good to them. It is true, and we are all, each one of us, here and outside, determined and agreed that this problem of the tribals is not of recent making. Their exploitation, their poverty, their economic backwardness, their social backwardness, all the things deserve the special attention not only of the provincial Governments, but also of the Central Government. ...
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12.2 Part X of the Constitution of India deals with “Scheduled Tribes and Tribal Areas”. The application of the Fifth Schedule, which is meant for the administration and control of Scheduled Areas and Scheduled Tribes for states other than Assam, Meghalaya, Tripura, Mizoram, is provided for in Article 244(1). It vests power with the Governor of the State having such scheduled areas, within the territory of the State, to make regulations for the good of the area. The President may, whenever they desire, seek a report from the Governor, or the Governor may annually send a report to the President. It has specifically been provided in the Fifth Schedule, over and above the general power as referred to above, the power to restrict transfer of land by or among members of the scheduled tribes; regulate allotment of land (both these factors found their place in the Constitution because the Constituent Assembly debates reveal the sense of urgency felt by the members to protect the land of the tribals in the scheduled areas and restricting transfer thereof to non-tribals¹⁵) and the practice of moneylending. What constitutes a scheduled area wherein the government may

¹⁵ Para159 by S. Saghir Ahmad J. in *Samatha v. State of A.P.*, (1997) 8 SCC 191

exercise such powers is to be decided by the President by way of a public notification.

12.3 It flows from the above that the protection of tribals and enablement for them to develop and thrive, has been a clear and continuous concern. Specifically with respect to land, which is a vehicle for social status, dignity, economic empowerment and justice, provisions have been inserted. All of these aspects have been sought to be secured while keeping preservation of customs and tribal autonomy at the centre. It also seeks to integrate them into mainstream society, which was a pressing concern at the time of independence.

In the 1970s, with the aim of enhancing the pecuniary jurisdiction of the Civil Courts within the state, the legislature of the state of Andhra Pradesh introduced the 1972 Act, which came into effect on 1st November 1972 in all areas, except those notified to be scheduled areas. It is with reference to this exclusion that it is contended by the learned counsel for the State as also the amicus curiae that the Civil Courts established under this Act did not have the jurisdiction to entertain the suit. Relevant extract of the said Act is:

“1. Short title, extent and commencement:--

(1) This Act may be called the Andhra Pradesh Civil Courts Act, 1972.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force in such area and on such date as the Government may, by notification, appoint, and they may appoint different dates for different areas and for different provisions of this Act.¹

¹ All the provisions came into force on 1-11-1972 in the whole of the State of A.P. except in the Scheduled

Areas of the State. Vide G.O. Ms. No. 1573, dt. 30-10-1972.

2. Definitions - In this Act, unless the context otherwise requires,

(a) "Court" means a Civil Court established or deemed to be established under this Act;...

PART II

Establishment and constitution of courts for the District of Hyderabad

3. Establishment of a City Civil Court - (1) The Government may, after consultation with the High Court, by notification, establish a court to be called the City Civil Court with jurisdiction to receive, try and dispose of, subject to the provisions of this Act, all suits and proceedings of a civil nature arising in the district of Hyderabad.

(2) The City Civil Court existing on the date of the commencement of this Act shall be deemed to have been established under sub- section (1)."

(emphasis supplied)

12.4 The 1972 Act concerns the establishment of Civil Courts in the State of Andhra Pradesh. The legislation was to consolidate and amend the law relating thereto. Such courts were defined under Section 2(a) as being a Civil Court. Section 3 discussed the establishment of such Civil Courts and provided that all suits and proceedings of a civil nature shall be under the jurisdiction of these Courts. The 1972 notification of the Governor dated 30-10-1972 excluded the application thereof to the Scheduled Areas.

12.5 It is undisputed that the land with which the present suit is concerned falls within such Scheduled Areas. As already noted, the important intention of a particular area being notified as a scheduled area is to protect the tribal population which is in that area. There can be no dispute with this proposition. These areas have been notified so that there

isn't unnecessary imposition of 'modern' rules and regulations, in latent disregard for age-old customs, practices and rituals that have been practiced for centuries. This is a testament to the inclusivity of the constitution, making rules and regulations while still retaining space for communities to thrive, but still maintain their sense of community.

12.6 The necessary conclusion is that the notification of Scheduled Areas is specifically directed towards the people of the Scheduled Tribes living in that area. Merely because the word 'area' has been used, it cannot be said that any and everything that falls within that geographical area pertains to scheduled tribes.

13. We have arrived at this view for a very simple reason. When the object sought to be achieved by agency courts continuing in the Scheduled Areas is to protect the tribal people, the tribal property, their customs and practices, what is achieved by subjecting non-tribal people in that area to such special procedure? There is only one answer. Nothing. Admittedly, both the parties to this dispute are non-tribals. Then, what is the rational nexus of asking them to abide by procedures not intended for them? Rational nexus, as it is well known, is one of the grounds which is to be considered when looking at a particular dispute through the lens of Article 14 of the Constitution. Being a part of the golden triangle of the Constitution, this article provides for equality before the law and equal protection of the law. The principle is that all persons subject to the legislation should be placed on the same pedestal regarding

privileges and liabilities conferred and imposed by the statute, respectively, provided that the circumstances governing them are also the same. On the face of it, Article 14 would be violated since it is specifically intended for securing the rights of indigenous communities but is being applied to people not amongst them. It does not bear nexus to the object, which indubitably was to protect people from these communities from exploitation by those who are worldly wise. Since in the present facts, neither of the parties is a member of the Scheduled Tribe, nor are there any fetters of succession and partition amongst the co-sharers, it does not concur with reason to treat them as if they were members of the tribes solely on account of the land in question. The circumstances governing them cannot be called '*like circumstances*'.

13.1 **Patanjali Sastri CJ** in ***State of Madras v. V.G. Row***¹⁶, made pertinent observations:

23. It is important in this context to bear in mind that the test of reasonableness, wherever prescribed, should be applied to each individual statute impugned, and no abstract standard, or general pattern of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict. In evaluating such elusive factors and forming their own conception of what is reasonable, in all the circumstances of a given case, it is inevitable that the social philosophy and the scale of values of the Judges participating in the decision should play an important part, and the limit to their interference with legislative judgment in such cases can only be dictated by their sense of responsibility and self-restraint and the

¹⁶ (1952) 1 SCC 410

sobering reflection that the Constitution is meant not only for people of their way of thinking but for all, and that the majority of the elected representatives of the people have, in authorising the imposition of the restrictions, considered them to be reasonable.

13.2 **A.N. Grover J.** for the Constitution Bench in ***Chitra Ghosh v. Union of India***¹⁷ observed:

“8. As laid down in *Ram Krishna Dalmia v. S.R. Tendolkar* [1958 SCC OnLine SC 6 : 1959 SCR 279] , Article 14 forbids class legislation; it does not forbid reasonable classification. In order to pass the test of permissible classification two conditions must be fulfilled—(i) that the classification is founded on intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) that differentia must have a rational relation to the object sought to be achieved. ...”

13.3 **Dr. D.Y. Chandrachud C.J.**, in the seven-judge Bench known as ***State of Punjab v. Davinder Singh***¹⁸, in the context of sub-classification of ‘other backward classes’ observed:

“85. The Constitution permits valid classification if two conditions are fulfilled. *First*, there must be an intelligible differentia which distinguishes persons grouped together from others left out of the group. The phrase “intelligible differentia” means difference capable of being understood. [See, *State of W.B. v. Anwar Ali Sarkar*, (1952) 1 SCC 1 : AIR 1952 SC 75] The difference is capable of being understood when there is a yardstick to differentiate the class included and others excluded from the group. [*Anwar Ali Sarkar case*, (1952) 1 SCC 1 : AIR 1952 SC 75 (Das, J., SCC para 66)] In the absence of the yardstick, the differentiation would be without a basis and hence, unreasonable. The basis of classification must be deducible from the provisions of the statute;

¹⁷ (1969) 2 SCC 228

¹⁸ (2025) 1 SCC 1

surrounding circumstances or matters of common knowledge. [*Ram Krishna Dalmia v. S.R. Tendolkar*, 1958 SCC OnLine SC 6, para 12 : AIR 1958 SC 538 : 1959 SCR 279] In making the classification, the State is free to recognise degrees of harm. [*Ram Krishna Dalmia case*, 1958 SCC OnLine SC 6; *Special Courts Bill, 1978, In re*, (1979) 1 SCC 380] Though the classification need not be mathematical in precision, there must be some difference between the persons grouped and the persons left out, and the difference must be real and pertinent. [*Moorthy Match Works v. CCE*, (1974) 4 SCC 428] The classification is unreasonable if there is “little or no difference”. [*Deepak Sibal v. Punjab University*, (1989) 2 SCC 145 : 1989 SCC (L&S) 284] *Second*, the differentia must have a rational relation to the object sought to be achieved by the law, that is, the basis of classification must have a nexus with the object of the classification. [*Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217 (Reddy, J., SCC para 643); *State of Kerala v. N.M. Thomas*, (1976) 2 SCC 310 : 1976 SCC (L&S) 227; *Ram Krishna Dalmia v. S.R. Tendolkar*, 1958 SCC OnLine SC 6 : AIR 1958 SC 538 : 1959 SCR 279; *Budhan Choudhry v. State of Bihar*, (1954) 2 SCC 791 : (1955) 1 SCR 1045]

...

93. *Nakara* [*D.S. Nakara v. Union of India*, (1983) 1 SCC 305 : 1983 SCC (L&S) 145] goes a step further than *Triloki Nath* [*State of J&K v. Triloki Nath Khosa*, (1974) 1 SCC 19 : 1974 SCC (L&S) 49] to state that the scope of sub-classification does not hinge on the yardstick which is used to integrate groups into a class but on the issue of whether the class is homogeneous or integrated for the specific objective of the law. When a law integrates a class, such as diploma and degree-holders, it integrates the class for the purpose of that specific law and not for all purposes. Thus, a class which is not similarly situated for the purpose of the law can be further classified. The test that the Court must follow to determine the validity of the sub-classification of a class is as follows:

- (a) Whether the class is “homogeneous” or “similarly situated” for the purpose of the specific law;
- (b) If the answer to (a) above is in the affirmative, the class cannot be sub-classified;

(c) If the answer to (a) above is in the negative, the class can be sub-classified upon the fulfilment of the following standard:

(i) There must be a yardstick (or intelligible differentia) further classifying the class; and

(ii) The yardstick must have a rational nexus with the object of the statute.”

[**See also: *T.N. Medical Officers Assn. v. Union of India***¹⁹,
(Constitution Bench)]

13.4 Considering these judgments and particularly the observations in **VG Row supra** it is clear to us that while the salutary object of protection of scheduled tribe people and their property is important and deserves to be given due importance, there is no basis for it there to be a blanket exclusion of Civil Courts in as much as, it pertains to civil disputes of succession between exclusively non-tribal parties although the property is situated within scheduled areas. We therefore hold that the Civil Court had the requisite jurisdiction to entertain the dispute. The High Court erroneously held the Civil Court not to have jurisdiction because of the exclusion of the application of the 1972 Act to the scheduled areas. In our view, the application thereof to the parties that are not in any way connected to its purpose would be incorrect use of law.

14. We clarify that the effect of the conclusion shall apply only to pending cases and those that arise in future. The jurisdiction of the Civil Courts shall stand restored in so far as civil

¹⁹ (2021) 6 SCC 568

transactions involving exclusively non-tribal parties are concerned.

15. It is clarified that even if one party to the dispute would be a tribal residing in the Scheduled Areas, then the Agency Courts would retain the jurisdiction. In that view of the matter, ‘*Scheduled Areas*’, although referring to a specific geographical area, cannot be taken to mean, in view of the object and intent of Schedule V to the Constitution, to be applicable to non-tribal parties. We hold that ***Nagarjuna supra*** did not lay down any proposition of law, much less to be a binding precedent. The impugned judgment is set aside, and the second appeal is restored to the file of the High Court to be decided on the merits in a manner consistent with this judgment. Parties to appear before the High Court on 24.08.2026. Hearing expedited.

16. The appeal is allowed. Pending application(s), if any, shall stand disposed of. No costs.

.....J.
(SANJAY KAROL)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

**New Delhi;
August 06, 2026**