

**R. Channappa and ors. Vs. the State of Mysore and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/371839](http://sooperkanoon.com/371839)

**Court :** Karnataka

**Decided On :** Sep-12-1956

**Reported in :** AIR1957Kant48; AIR1957Mys48; (1957)35MysLJ88

**Judge :** Venkataramaiya, C.J. and ;Hombe Gowda, J.

**Acts :** [Constitution of India](#) - Article 226

**Appeal No. :** Writ Petn. Nos. 73, 76, 78, 84, 85 and 87 to 89 of 1953 and 7 of 1954

**Appellant :** R. Channappa and ors.

**Respondent :** The State of Mysore and anr.

**Advocate for Pet/Ap. :** G.S. Ullal, Adv.

**Judgement :**

Venkataramaiya, C.J.

1. The orders by which Sales Tax is levied on the transactions of petitioners in hides and skins and as works contracts are questioned as illegal in petitions filed under Article 226 of the [Constitution of India](#). Contentions raised by others solely against the levy regarding hides and skins have been dealt with in Writ Petitions Nos. 83, 86, 90 of 1953, 35, 36, 37, 41, 48 of 1954 and 24 of 1936, and those regarding works contracts in Writ Petitions Nos. 65, 74, 75, 76, 89, 92, 93, 115,

116, 134 and 152 of 1954, 8, 23, 32, 56, 62, 66, 72, 117, 122, 142, 150, 17S, 186 of 1955, 1, 4, 28, 29, 63, 69, 72, 107 and 144 of 1956.

2. These petitions are grouped separately though the grounds urged are similar to those in the two sets above mentioned as there is dispute as to what is the appropriate order to be passed. As a result of the decisions in the aforesaid cases, the petitions are to be allowed so far as the assessment on work contract is concerned and to be dismissed as regards the taxation with respect to hides and skins. But the learned counsel for petitioners contends that such an order cannot be made and the only course open is to allow or dismiss the petitions wholly.

3. The contention would have had force if the assessment was based on the total of the turnover of works contract and dealings in hides and skins. It is admitted that these are not clubbed together and that the tax payable in regard to each is determined independently of the other. The decision about one cannot therefore affect the liability for the other. Article 226 provides for making orders suited to the circumstances of a case. Learned Counsel have not cited any authority against the grant of partial relief.

4. The principle of separability applied to provisions of statutes found to be invalid may be adopted if petitioners are not prejudiced thereby. The petitioners cannot make out how this will affect them adversely or offend any rule. It is represented that petitioners have maintained the accounts relating to transactions in hides and skins separately from those pertaining to Works Contract and that if the orders are declared illegal in entirety and turnover on hides and skins are to be taxed afresh for the years in question, petitioners will escape liability owing to lapse of time.

5. in view of all this, the orders of levy so far as they relate to Works Contract are quashed and upheld in other respects. As Petitioners have succeeded and failed in part, we direct the parties to bear their own costs in all the cases.

6. Petition partly allowed.