IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No.12338 OF 2005

Between:

G.Shahikala Reddy

... Petitioner

And

Joint Collector, R.R.District and others

... Respondents

JUDGMENT PRONOUNCED ON: 18.07.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers may be allowed to see the Judgment? : yes

2. Whether the copies of judgment may be marked to Law Reporters/Journals? : yes

3. Whether Their Lordships wish to see the fair copy of the Judgment? : yes

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SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.12338 OF 2005

% 18.07.2023

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..... Petitioners

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... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioners : Mr B.Venkata Rama Rao

^ Counsel for Respondent No.1: G.P. for Revenue

^ Counsel for Respondent No.2: Mr P.Prabhakar

^ Standing Counsel for the respondent No.5: Kiran Kumar Gattu

? Cases Referred:

1. J.T.2009 (13) SC 69
2. (2005) SCC ONLINE AP 291
3. (2015) 3 SCC 695
4. (2002) 5 ALD 398

HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.12338 OF 2005

ORDER:

Heard the Learned Counsel for the Petitioner and Government Pleader for Revenue.

2. This Writ Petition is filed praying to issue a Writ of Certiorari, declaring the impugned order dated 05.03.2005 in file no. D5/3349/2004, passed by the 1st respondent, as illegal, arbitrary and call for the entire records and quash the Impugned Order.

3. The case of the Petitioner, in brief, is as follows:

a) Petitioner is the absolute owner of the lands admeasuring Ac.12.17 guntas in Sy.No. 435 of Mankhal Village, Maheshwar Mandal, Ranga Reddy District purchased vide registered sale deed No. 3823/1998 dated 02.12.1998.

b) The original owner and possession of the said land had sold an extent of Ac.6.08 guntas out of Ac.12.17 guntas in Sy.No.435 vide document no. 1316/86 to respondent no. 4 herein. The respondent no. 4 herein had in-turn sold the sold the same to the petitioner vide document No. 3824/1998 dated 02.12.1998.

c) Similarly, an extent of Ac.6.08 guntas in Sy.No.435 were sold to the respondent no. 3 herein vide document no. 1317/1986 dated 12.08.21986 and the 3rd respondent in-turn had sold the same to the petitioner vide document no.3824/1988 dated 02.12.1988 and thus in all, the petitioner came to acquire the title, possession, of the total extent of Ac.12.17 guntas in Sy.No. 435 under 2 (Two) separate registered sale deeds.

d) Pursuant to acquiring title and possession, the name of the petitioner had been mutated in the revenue records as pattadar and possessor in respect of the said lands vide proceedings no. 891/1989 and have been enjoying the possession ever since.

e) While the matter stood thus, 2nd respondent approached the Revenue Divisional Officer, Ranga Reddy, with an application for rectification of entries under the provisions of A.P. Record of Rights in the Lands and Pattedar Pass Books Act, 1971 to effect 2nd respondent's name as possessor against the said land for the year 1986-87 of Mankhal Village.

f) The Revenue Divisional Officer after conducting enquiry as per the provisions of the A.P. Record of Rights in the Lands and Pattedar Pass Books Act, 1971, vide orders in File no. A2/2262/2002 dated 24.05.2002 refused to incorporate the name of the 2nd respondent in the pahanies against the Sy.No.135.

g) Aggrieved by the order of the Revenue Divisional Officer, 2nd respondent preferred a revision u/s.9 of A.P. Record of Rights in the Lands and Pattedar Pass Books Act, 1971 before the 1st respondent.

h) The 1st respondent without taking into consideration petitioner's entitlement to possess the land as owner had allowed the revision vide impugned order in File No.D5/3349/2004 dated 05.03.2005. Hence the Writ Petition.

4. The Counter-Affidavit filed by the 2nd respondent is as under:

a) Respondent no. 2 admits that, respondent no. 2 was mislead by his other family members and initiated proceedings, but now knowing the real facts, the 2nd respondent is no more interested in the subject lands and admits that the possession and ownership of the said lands are in possession of the petitioner.

5. The Counter-Affidavit filed by the 5th respondent is as under:

a) On verification of Bhoodan Records, it is evident that Fakeer Mohammed had donated the said lands as mentioned in the said Survey No. to the Bhoodan Yagna Samithi on 19.08.1955 and the same had been accepted and mutated in favour of Bhoodan Yagna Samithi by then Tahsildhar vide Lr.No.E1/1048/63 dated 23.03.1963 to an extent of Ac.15 guntas.

b) As per the record available on the Telangana Bhoodan Yagna Board, Sri. A. Ramachandraiah had filed an appeal under Section 5 (5) of A.P. Rights in Lands and Pattadar Pass Books Act before the Revenue Divisional Officer against the mutation order passed by Mandal Revenue Officer vide order dated 24.05.2004 and the same had been allotted to Sri Ankamgari Laxmaiah and his family.

c) Moreover, the alleged sale deeds obtained by the Writ Petitioner will not have any bearing on the title of the answering respondent, since all transactions entered by the petitioner with the allotees are illegal and hence all the transactions are void ab initio.

d) Even if the land is donated, the allotees have no right to sell the land, as since the allotment under Bhoodan and Gramdhan Act, 1965 is not transferable but heritable and hence, the 2 (Two) separate sale deed transferring the said land to the petitioner is in total violation of Bhoodan and Gramdhan Act, 1965.

e) The allotees (unofficial respondents herein) sold away the allotted land to the petitioner with a evil design to knock away the valuable property of TBYB, as respondent no 2 through out the revision before the Joint Collector had contended that the subject lands are Bhoodan Lands and questioned the Mutation orders passed by Tahsildhar dated 18.05.1989.

f) The order of the Joint Collector passed vide Case No.D5/3349/2004 DATED 05.03.2005 is correct and holds good in the interest of justice.

g) It appears that, the 2nd respondent and the petitioner have colluded and got issued the memo dated 20.02.2008 alleged to have been issued by the Board in File No.B/32/08 for their illegal gains with the only motive to show that the subject lands are not Bhoodhan Lands and further to establish that the orders of the Joint Collector are passed without verifying the records. Hence the Writ Petition is devoid of merits and is liable to be dismissed.

<u>PERUSED THE RECORD</u> :

6. The counter affidavit filed by respondent No.2, in particular, paras 2 and 3 read as under:

> "2. I humbly submit that the above writ petition was filed by the petitioner questioning the order of the 1st respondent/Joint Collector dated 05.03.2005 in File No.3349/2004 on the ground that subject survey numbers i.e. 435 admeasuring Ac-17 Gts in Mankhal Village, Maheshwaram Mandal, Ranga Reddy District are not Bhoodan Lands. After filing the above Writ Petition, I have ascertained the said fact from the office of Bhoodan Board whether the said land is Bhoodan Land or not and also with regard to the acquisition of property by my father **Laxmaiah. And I came to know that the said lands are not Bhoodan Lands from the office of the Bhoodan Board. The Bhoodan Board Officials have already informed the same to the Tahsildar, Maheshwaram through a memo vide Lr.No.B/32/2008 dated 20-2-2008. In view of the said memo dated 20-2-2008 and also in view of the fact that myself and my family members having already sold the subject property for valuable consideration under registered sale deeds dated 12-08-1986 vide document No.1316/86 and 1317/86 in favor of the Respondent No.3 and 4 and who inturn sold the same under registered sale deeds of even date 2-12-1988 for valuable consideration to the Writ Petitioner.**

3. I humbly submit that under a mistake of fact, I was mislead by my other family members and initiated proceedings but now after knowing the real facts as to the nature of land we are no more interested in the subject lands and giving up all our contentions made in the proceedings in question in this Writ Petition. **I admit the ownership and possession of the Writ Petitioners over the subject lands.**

7. The counter affidavit filed by the 5th respondent, in particular, para 4 reads as under:

"4. In reply to paras 2 & 3 of the petitioners affidavit, it is to submit that the contention of the petitioner that she own and possess the land admeasuring Ac. 12-17gts in Sy.No. 435 of Mankhal Village, Maheshwaram Mandal, Ranga Reddy District by virtue of purchase under Registered Sale Deed document No. 3823/98 and 3824/98, dated 02-12-1998 for a valuable consideration and is in physical possession of the said property is not correct. As a matter of fact, on verification of the available Bhoodan Record, it is evident that one Sri Fakeer Mohammed S/o. Mohammed Imam has donated the said lands to the Bhoodan Yagna Samithi on 19-08-1955 as per Danapatram and the said land has been accepted and mutated in favour of Bhoodan Yagna Samithi by the then Tahsildar. East Taluka, Hyderabad District vide Lr. No. E1/1048/63, dated 23-03-1963 to an extent of Ac. 15-00 in Sy.No. 435 of Mankhal Village, Maheshwaram Mandal and this land has

<u>been allotted/distributed to the following beneficiaries by the then Bhoodan Board and their details are as viz.</u>

Sl.No.	Name of the allottee	Father's name	Village	Sy. No.	Extent (Ac.-Gts	Procdg. No. & Date
1.	Sri Ankamgari Laxmaiah	Maisaiah	Mankhal	435	2-19	3386 & 3.1.1979
2.	Sri Ankamgari Balaiah	Laxmaiah	Mankhal	435	2-19	3387 & 3.1.1979
3.	Sri Ankamgari Yadaiah	Laxmaiah	Mankhal	435	2-19	3388 & 3.1.1979
4.	Sri Ankamgari Narsimha	Laxmaiah	Mankhal	435	2-20	3389 & 3.1.1979
5.	Sri Ankamgari Ramachandraiah	Laxmaiah	Mankhal	435	2-23	3390 & 3.1.1979

It appears from the record made available to the Telangana Bhoodan Yagna Board (TBYB) that out of the above allottees, Sri A. Ramachandraiah (ie. the Respondent- 2 herein) had initially filed an appeal under Sec. 5 (5) of A.P Rights in Lands and Pattadar Pass Books Act before the R.D.O, Ranga Reddy East Division vide No. A2/2262/2002, di. 24/05/2004 against the mutation orders dated 18.05.1989 in file Nos, C/1237/87, C/1238/87 and 891/89 passed by the Mandal Revenue Officer, Maheswaram (M), Ranga Reddy District, which was ended in dismissal vide under order dated 24.05.2004. Thereafter, it appears that A. Ramachandraiah (i.e., the Respondent- 2 herein) had filed a Revision Petition U/Sec. 9 of A.P Rights in Lands and Pattadar Pass Books Act. 1971 before the Joint collector, Ranga Reddy District, aggrieved by the orders of the R.D.O.. Ranga Reddy East Division vide order No. A2/2262/2002, dt. 24/05/2004. The Joint Collector, Ranga Reddy District vide order dated 05-03-2005 in file No. D5/3349/2004 passed order stating that as per the Bhoodan & Gramdhan Act/Rules 1965, the land in question is not transferable, but shall be heritable. Therefore, the orders passed in Jamabandi for the year, 1986-87 in respect of Mankhal Village are illegal as such, are liable to be quashed. Accordingly the entries in Faisal Patti for the year, 1986-87 of Mankhal Village in respect of land bearing Sy.No. 435 extent 12-16 acres are hereby expunged. Consequently the order issued by the Mandal Revenue Officer, Maheshwaram in File No. 891/1989, dated 18-05-1989 is hereby set aside. The Revenue Divisional Officer, Ranga Reddy East has not examined the aspect of the land in question being allotted under the Andhra Pradesh Bhoodan and Gramdan Act, 1965, as such the order in appeal is not well founded and therefore, it is also liable to be set aside and accordingly is hereby set aside. The Mandal Revenue Officer, Maheshwaram Mandal is directed to take action to enter the grant of subject land in the Village Register of conditional assignment, so that when violations come to the notice of the Revenue Officers, the fact of such violations shall forthwith be reported to the Bhoodan Yagna Board by the Mandal Revenue Officer as provided U/rule 9 of the Andhra Pradesh Bhoodan and Gramdan Rules, 1965'. Therefore the averments made in these paras are hereby denied as false and incorrect and are not tenable. I humbly submit that the sale deeds alleged to have been obtained by the writ petitioner will not have any bearing on the title of this answering respondent since all the transactions entered into to by her with the allottees are illegal hence all the sale transactions entered in to by them are void ab initio and no legal prudence can be given to such illegal transactions."

8. Paras 4 and 5 of the reply affidavit filed by the petitioner reads as under:

"4. In reply to the counter of 5th respondent it is emphatically denied that the allegation of the 5 respondent that the subject lands were donated by Fakir Mohamad to the Bhoodan Board under a Dhanapatram on 19-8-1955 is absolutely false and incorrect. The said Dhanapatram produced before the court doesn't show that it pertains to subject survey no. 435 and the extent of Ac.15 that is appearing in the Dhanapatram also doesn't tally with the actual extent of the survey no. 435 admeasuring Ac. 12- 17 Gts, therefore the alleged Dhanapatram doesn't pertain to the subject land. The 5th respondent on the basis of the said so called Dhanapatram cannot claim subject land is bhoodan land. I emphatically deny all the allegations made in the affidavit of the 5th respondent under reply and the 5th respondent is put to strict proof of the allegations made therein. Therefore any subsequent record/proceedings relied upon by the 5th respondent claiming subject land as bhoodan land are far from truth and cannot form basis to claim the subject land as bhoodan land. Further it is submitted that the 5th respondent has issued a memo dt. 28-02-2008 in file no. B/32/2008 addressed to the Revenue Authorities as well as to the writ petitioners stating that the subject land Sy. No. 435 admeasuring Ac.12-17gts, of Mankal village is not bhoodan land. The said memo may be treated as part of record. The rest of the allegations made by the 5th respondent opposing the writ as stated above are outside the ambit of ROR Act. In the circumstances if the 5th respondent has any grievance as to the entries in the record of the rights their remedy lies elsewhere and they cannot question the existing entries that are appearing in favour of the writ petitioners in this writ proceedings which arose on account of an appeal preferred by 2nd respondent. It is submitted that the settled rights of the writ petitioners under the provisions of ROR Act cannot be unsettled after lapse of more than 30 years.

5. It is submitted that the 2nd respondent who was the appellant before the Revenue Divisional Officer, off-late filed a counter affidavit IN THE ABOVE WRIT PETITION before this Hon'ble High Court stating that "Bhoodan Board Officials have already informed that the subject lands are not bhoodan lands to the Tahsildar, Maheshwaram through a memo vide Lr. No. B/32/2008 dt. 20-2-2008.In view of the said memo dt. 20-2-2008 and also in view of myself and my family members having already sold the subject property for valuable

consideration under register sale deeds dt. 12-08-1986 vide document No. 1316/86 and 1317/86 in favour of the respondent No. 3 & 4 and who in turn sold the same under registered sale deeds of even date 2-12-1988 for valuable consideration to the writ petitioner."

Further the 2nd respondent stated that "under mistake of fact he made a claim questioning the mutation and after knowing the real facts he is no more interested in the subject lands and admits ownership and possession of the writ petitioners over the suit land".

As such in view of 2nd respondent giving up his claim the revisional order/ impugned order needs to be set aside as there is no lis between the writ petitioner and their predecessor in title/2nd respondent

9. The order impugned dated 05.03.2005 in Case No.D5/3349/2004, passed by the Joint Collector, Ranga Reddy District, 177-Khairatabad Hyderabad – 04:

"Perused the material papers placed before this court by both the parties and also verified the lower court record. It is seen that the land in question is allotted the father of the petitioner under the Andhra Pradesh Bhoodan and Gramdan Act, 1965 Section 22 of the said Act is read as below:

22. Allotment of land by Gram Sabha

The allotment of land in Gramdan Village for cultivation shall be subject to the following conditions, namely:-

(a). The allottee shall, unless specifically exempted by the Gram Sabha, cultivate the land personally,

(b). The allottee shall not transfer his interest in the land allotted, but such interest shall be heritable

Explanation: For the purpose of this sub-section and Section 24, land shall not be deemed to be cultivated personally unless the person himself or any member of his family puts in such minimum labour of the land as may be laid down by the regulations made by the Gram Sabha.

As per the above rule position the land in question is not transferable but such interest shall be heritable: Therefore, the orders passed in Jamabandi for the year, 1986-87 in respect of Mankhal Village are illegal and as such are liable to be quashed. Accordingly the entries in Faisal Patti for the year, 1986-87 of Mankhal Village in respect land bearing Sy No.435 extent 12-16 acres are hereby expunged. Consequently the order issued by the Mandal Revenue Officer, Maheshwaram in File No.891/1989, Dated: 18-05-1989 is hereby set aside. The Revenue Divisional Officer, RR. East has not examined the aspect of the land in question being allotted under the Andhra Pradesh Bhoodan and Gramdan Act, 1965, as such the order in appeal is not well founded and therefore, it is also liable to be set aside and accordingly is hereby set aside. The Mandal Revenue Officer, Maheshwaram Mandal is directed to take action to enter the grant of subject land in the Village Register of conditional assignment, so that when violations come to the notice of the Revenue Officers, the fact of such violations shall forthwith be reported to the Bhoodan Yagna Board by the Mandal Revenue Officer as provided U/R 9 of the Andhra Pradesh Bhoodan and Gramdan Rules, 1965.

In result the revision is allowed.

DISCUSSION AND CONCLUSION:

10. A bare perusal of the order impugned in Case No.D5/3349/2004 passed by the 1st respondent clearly indicates that the orders passed in Jamabandi for the year 1986-87 in respect of Mankhal Village and the entries in Faisal Patti for the year 1986-87 of Mankhal Village in respect of land bearing Sy.No.435, extent Ac.12.16 gts., are expunged and the order issued by the Mandal Revenue Officer, Maheshwaram in File No.891/99 is set aside, **without assigning any reasons except stating that as per Sec.22 of the Andhra Pradesh Bhodhan and Gramdhan Act, 1965, the land in question is not transferable, but such interest shall be heritable.**

11. The impugned orders dated 05.03.2005 in Case No. D5/3349/2004, passed by the 1st respondent herein pertained to entries in Faisal Patti for the year 1986-87 of Mankhal Village, in respect of land bearing Sy.No.435 to

an extent Ac.12.16 gts., and the same was set aside and bare perusal of the said proceedings clearly indicate that in the revision petition filed by the second respondent, under Section 9 of the Andhra Pradesh, Rights in Land and Pattadar Passbooks Act, 1971 the said orders had been passed by the 1st respondent without considering the issue of limitation at all.

12. It is the specific case of the Petitioner, that the Petitioner purchased land from Respondent No.3 and Respondent no.4 through Registered Sale Deeds vide Doc. Nos.3823/1988 and 3824/1988, dated 02.12.1988, registered at the 0/0. Sub-Registrar, Ibrahimpatnam, Ranga Reddy District. It is further the case of the Petitioner that the Vendors of the Petitioner herein had purchased the said land from one Laxmaiah who is the father of the 2nd Respondent herein who is also made party to the said Sale Deed through Registered Sale Deed No.1316/1986 and 1317/1986, registered in the 0/o. Sub-Registrar, Ibrahimpatnam, Ranga Reddy District and the said Sale Deed was executed by the father of the 2nd Respondent herein, the 2nd Respondent herein and also the brother of the 2nd Respondent herein. The Respondents No.3 and 4 herein after their purchase of the said land applied for mutation of their

names in pahanies and the Mandal Revenue Officer, Maheshwaram mutated their names vide Proceedings No.C/1237/87, and the Petitioner herein purchased the subject land in the year 1988 from the Respondents No.3 and 4 herein and applied for mutation before the Mandal Revenue Officer, Maheshwaram and after due enquiry the Mandal Revenue Officer mutated the name of the Petitioner herein as pattedar and possessor vide Proceedings No.891/89, dated 18.05.1989.

13. In an Appeal filed under Section 5(5) of the Andhra Pradesh Rights in Land and Pattedar Passbooks Act, 1971, by the 2nd Respondent herein aggrieved by the orders passed by the Mandal Revenue Officer, Maheshwaram in File No.C/1237/1987, C/1238/1987 and 891/1989, dt. 18.05.1989 in respect of land bearing Sy.No.435 to an extent Ac.18.16 gts., situated in Mankhal Village, Maheshwaram Mandal, Ranga Reddy District, the Special Grade Dy. Collector and Revenue Divisional Officer, R.R. District, East Division, passed orders observing as under:

> The mutation of the land in Sy.No.435 @ Ac.6-08 gts., each of Mankal Village in favour of the Respondents No.1 & 2 was sanctioned in Mandal Office. File Nos. No.C/1237/1987, C/1238/1987 in pursuance of the Reg.

Sale Deeds bearing No.1316/86, dt. 12.08.1986, 1317/86, dt. 12.08.1986 executed by the father of the Appellant Laxmaiah and his two sons Yadaiah & Ram Chandraiah (the Appellant herein). The mutations so sanctioned were approved in the Jamabandi Faisal Patti for the year 1986-87.

The appellant herein has filed very belated appeal after (16) years and the same could have been rejected at the admission stage only. The appellant ought to have fled an appeal against Jamabandi approving the mutation but instead he resorted to file appeal under the provisions of the R.O.R. Act.

Regarding dispute of veracity of the Reg. Sale Deeds, that they are forged and fabricated, as they are executed much time after death of the original Pattadar Laxmaiah that they did not bear the signature of the appellant and his brother these questions are not within the ambit of this court and the same are to be appealed before the competent civil Court.

In view of the above, the appeal is dismissed."

14. This Court opines that it is strange that the order impugned dated 05.03.2005 of the Joint Collector, Ranga Reddy District, Khairatabad, in Case No.D5/3349/2004, not only quashed the orders passed in Jamabandi for the year 1986-87 in respect of Mankhal Village, expunging the entries in Faisal Patti for the year 1986-87 of Mankhal Village, in respect of land bearing Sy.No.435, extent

Ac.12.16 gts., but also set aside the order dt. 24.05.2004 in proceedings No.A2/2262/02, of the Special Grade Dy. Collector and Revenue Divisional Officer, Ranga Reddy East Division without assigning any reasons applying Section 22 of the Andhra Pradesh Bhoodan and Gramdan Act, 1965 which in fact, cannot be applied to the facts of the present case since the same is outside the ambit of the provisions of Telangana Rights in Land and Pattedar Act, 1971 or Rules made thereunder as evidenced from Rule 9(1) (iv) of the A.P. Rights in Land and Pattadar Pass Books Rules, 1989 for grant or confirmation of mutation which reads as under:

> "9(i) (iv) No order shall be passed for the change of registry or splitting of joint pattas unless the recording Authority is satisfied that the change of Registry or Splitting of Joint Patta is not in contravention of any of the provisions of :-
>
> 1) The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Act 1 of 1973);
>
> (2) The Urban Land (Ceiling and Regulation) Act, 1976 (Central Act 33 of 1976);
>
> (3) The Andhra Pradesh Assigned Land (Prohibition of Transfers) Act, 1977 (9 of 1977);
>
> (4) [x x x];

(5) [x x x];

(6) The Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (1 of 1959);

(7) [x x x];

(8) [x x x];

(9) [x x x].

[(b)(i)After due completion of enquiry referred to in Rule 6 the Recording Authority shall also pass orders for registering the names of claimants in respect of all cases of claims of] [tenancy, mortgage and occupancy] where there is no dispute.
(c) (i) All disputed cases of transfer of registry, splitting of joint pattas, registering the names of [tenants, mortgagee and occupants] shall be submitted by the Recording Authority after the confirmation of the Record of Rights to the Mandal Revenue Officer for disposal in due course.

(ii) In respect of cases falling under Rule 9(1)(a)(i), the Mandal Revenue Officer shall hold a summary enquiry as to who has the right to succeed to the property of the deceased registered holder, according to the principles of the Law of Succession which govern the case and give notice to all persons known or believed to be interested to the effect that the registry will be made in the name of the person found to be entitled, unless a declaration if filed, within three months from the date of the notice, by any person objecting to the registry, stating that he has instituted a suit in a Civil Court to establish his superior title and an authenticated copy of the plaint in the suit is produced. If no declaration is filed, the registry should be made as stated in the notice, at the expiration of three months. If a declaration is filed, the result of the suit should be awaited before taking further action.

(iii) In respect of cases falling under Rule 9(1)(a)(ii) if the chain is not complete, the Mandal Revenue Officer can consider other evidence such as statements of respective ryots, kist receipts etc., and take decision. One month's time shall be allowed for filing objections if any, and an enquiry be held in respect of the same. Thereupon, transfer of registry shall be ordered unless the objection is found to be valid.

(iv) No order shall be passed by the Mandal Revenue Officer for the change of registry, splitting of joint pattas, recording the names of Tenants and Mortgagees in possession, unless he is satisfied that the change so ordered is not in contravention of any of the provisions of the Acts referred to in Rules 9 (1)(a)(iv) [x x x].

(2) After the passing of the orders under sub-rule 1(a) or 1(b), the Recording Authority shall prepare or cause to be prepared a Draft Record of Rights/Draft Record of Rights made up-to-date in land in the Village in Form I and such draft Record of Rights shall be kept in the custody of Village Assistant in the Office.

15. This Court opines that the impugned order of the 1st respondent, revisional Authority under Section 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 in exercising power to decide the nature of land as bhoodan land is outside the scope and ambit of enquiry under Section 9 of R.O.R. Act.

16. This Court opines that the Revision preferred U/s.9 of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 before the 1st respondent, in a revision petition filed by the 2nd respondent, aggrieved by

the order of the Revenue Divisional Officer, R.R. East Division in File No.A2/2262/2002, dated 24.05.2004, passed in an Appeal preferred by the 2nd respondent under Section 5 (5) of the Revenue Records Act, 1971, aggrieved against the order of the Mandal Revenue Officer, Maheshwaram Mandal in File Nos.C/1237/1987, C/1238/1987 and 891/1989, dated 18.05.1989, in respect of land bearing Sy.No.435 to an extent Ac.12.16 gts., situated in Mankal Village and vide the orders impugned dated 05.03.2005 in Case No.D5/3349/2004, passed by the 1st Respondent herein the orders passed in Ja Mabandi for the Year 1986-87 in respect of Mankhal village had been held to be illegal and quashed, further the entries in the faisal pattas for the year 1986-1987 of Mankhal village in respect of land bearing Sy.No 435 to an extent of Ac.12.16 gts had been expunged, and consequently, the order issued by the Mandal Revenue Officer, Maheshwaram in File No.891/89, dated 18.05.1989 is set aside and also the order under revision before the 1st respondent dated 24.05.2004 of the Special Deputy Collector and Revenue Divisional Officer, R.R. East Division is set aside.

17. This Court opines that in view of the settled position of law that finality attached to an order cannot be deprived by exercise of revisional jurisdiction conferred by subsequent amendment and the Joint Collector cannot reopen the matter and cases in exercise of revisional power U/s.9 of the ROR Act in relation to the order passed by the Mandal Revenue Officer in exercise of power under Section 5(A) of the Act, long prior to the conferring of such revisional power of Joint Collector. U/s.9 of the ROR Act as Amended by Act of 1994 w.e.f. from 03.10.1993 the Joint Collector cannot reopen the matter and cases which till then deemed to be finally decided and that the finality attained to the order passed by the Mandal Revenue Officer cannot be taken away.

18. Section 9 of the ROR Act, does not prescribe the time within which an application has to be made to the Joint Collector against the order passed by the Mandal Revenue Officer or the Revenue Divisional Officer, U/secs. 3, 5, 5-A or 5-B of the ROR Act. Against any order passed by the Mandal Revenue Officer U/s.5(1) of the ROR Act, an appeal lies to the Revenue Divisional Officers U/s.5(4) of the ROR Act. Against any order passed U/s.5-A of the ROR Act, by the Mandal Revenue Officer, an

Appeal would lie to the Revenue Divisional Officer, U/s.5-B of the ROR Act and the law prescribes time limit of 30 days. **Though Section 9 confers vast powers in the Joint Collector, to modify, to annual or reverse or remit for reconsideration any order passed by the Mandal Revenue Officer or the Revenue Divisional Officer, the same does not prescribe any time within which such power has to be exercised. In such cases, it is well settled that question of propriety of exercising power with reference to the long delay depends on facts and circumstances of each case. In the absence of necessary jurisdictional facts, the Joint Collector cannot revise the orders passed by the Mandal Revenue Officer or Revenue Divisional Officer after a long lapse of time, especially when rights are crystallized under Section 5-A of the ROR Act. Section 5-A was introduced to validate transfer of land made otherwise than under a Registered document keeping in view of the object of the Act itself. Therefore the exercise of revisional jurisdiction by the Joint Collector especially after long lapse of time under Section 9 of the ROR Act on the ground that the order in Appeal is not well founded and therefore it is liable to be**

set aside and is accordingly set aside since the same cannot be sustained.

19. In State of Gujarat Vs. Patel Raghav, M/s. Hindustan Times Vs. Union of India and Jai Mangal Oraon Vs. Mira Nayak, the Apex Court held that where a statute is silent as to time limit, the power must be exercised within a reasonable time. This Court opines that the 1st Respondent exercised revisional power U/s. 9 of the ROR Act after a lapse of 19 years to set aside the mutation granted in favour of the Petitioner's predecessors in title and this Court opines that the same is not permissible.

20. The Apex Court in the judgement reported in J.T. 2009 (13) SC 69 in Santoshkumar Shivagonda Patil and Others Vs. Balasaheb Tukaram Shevale & Others, in particular, at paras 15 and 16 observed as under :

> **"15. Recently, in the case of State of Punjab and Others v. Bhatinda District Cooperative Milk Producers Union Ltd.3 while dealing with the power of revision under Section 21 of 2 (1997) 6 SCC 71 3 (2007) 11 SCC 363 the Punjab General Sales Tax Act, 1948, it has been held:**

"17. A bare reading of Section 21 of the Act would reveal that although no period of limitation has been prescribed therefore, the same would not mean that the *suo motu* power can be exercised at any time.

18. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.

19. Revisional jurisdiction, in our opinion, should ordinarily be exercised within a period of three years having regard to the purport in terms of the said Act. In any event, the same should not exceed the period of five years. The view of the High Court, thus, cannot be said to be unreasonable. Reasonable period, keeping in view the discussions made hereinbefore, must be found out from the statutory scheme. As indicated hereinbefore, maximum period of limitation provided for in sub-section (6) of Section 11 of the Act is five years."

16. It seems to be fairly settled that if a statue does not prescribe the time limit for exercise of revisional power, it does not mean that such power can be exercised at any time; rather it should be exercised within a reasonable time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. Where the legislature does not provide for any length of time within which the

power of revision is to be exercised by the authority, suo motu or otherwise, it is plain that exercise of such power within reasonable time is inherent therein. Ordinarily, the reasonable period within which power of revision may be exercised would be three years under Section 257 of the Maharashtra Land Revenue Code subject, of course, to the exceptional circumstances in a given case, **but surely exercise of revisional power after a lapse of 17 years is not a reasonable time.** Invocation of revisional power by the Sub- Divisional Officer under Section 257 of the Maharashtra Land Revenue Code is plainly an abuse of process in the facts and circumstances of the case assuming that the order of Tehsildar passed on March 30, 1976 is flawed and legally not correct. Pertinently, Tukaram Sakharam Shevale, during his lifetime never challenged the legality and correctness of the order of Tehsildar, Shirol although it was passed on March 30, 1976 and he was alive upto 1990. It is not even in the case of Respondent Nos.1 to 5 that Tukaram was not aware of the order dated March 30, 1976. There is no finding by the Sub-Divisional Officer either that order dated March 30, 1976 was obtained fraudulently.

21. The Division Bench of Andhra Pradesh High Court at Hyderabad in WA No.674/2004 and Batch decided on 13.04.2005 reported in (2005) SCC Online AP 291 , at para 21 observed as under :

“Section 9 of the Pattadar Pass Books Act 1971 confers power upon the Joint Collector that he may either suo motu or on an application made to him, call for and examine the record of any recording authority, Mandal Revenue Officer, or Revenue Divisional Officer, in respect of any record of rights prepared or maintained to satisfy himself as to the regularity, correctness, legality and propriety of any decision taken, or order passed or proceedings made by the said authorities. It is true that there is no period of limitation, as such, prescribed for exercising revisional power. It is very well settled that suo motu power of revision even where no limitation is prescribed must be exercised within a reasonable time and what is reasonable time has to be determined on the facts of each case. In the instant case, the suo motu power is sought to be exercised by the Joint Collector after a long lapse of more than 14 years after disposal of the appeal/representation by the Tahsildar and in fact 19 years were passed by the time the impugned order, dated 07-04-2000, was passed by the Joint Collector. There is no convincing explanation forthcoming as to why the authority waited for such a long time and as to how it could have permitted a stranger to invoke the revisional jurisdiction in such casual manner. The Municipality having suffered the order did not raise its little finger for a period of more than 14 years and all of a sudden filed revision in the company of a stranger. There is no explanation whatsoever, much less, any convincing one offered by the Municipality as to why it had waited for such a long period to challenge the order of the Tahsildar, dated 03-04-1981. There is no allegation of any fraud played by the writ petitioners in obtaining the order, dated 03-04-1981, from the Tahsildar. Admittedly, the writ petitioners did not play any fraud. **In the absence of any fraud exercising suo motu revisional powers by the Joint Collector after a lapse of 14 years is arbitrary and illegal. Even in case of fraud, the revisional power can be exercised within a reasonable time from the date of detection and discovery of the fraud.**

22. The Apex Court in the judgement reported in (2015) 3 SCC 695 in Joint Collector, Ranga Reddy District & Another Vs. D.Narsing Rao & Others, with Chairman, Joint Action Committee of Employees, Teachers & Workers, Andhra Pradesh, in its judgement dt. 13.01.2015 at para 31 observed as under:

"To sum up, delayed exercise of revisional jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs, which is not the policy of law. Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third party rights, that cannot be trampled by a belated exercise of a discretionary power especially when no cogent explanation for the delay is in sight. Rule of law it is said must run closely with the rule of life. Even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent will not extend the time for its correction to infinity; for otherwise the exercise of revisional power would itself be tantamount to a fraud upon the statute that vests such power in an authority.

23. In a judgement reported in (2002) 5 ALD 398 in Sri Bhavana Rishi Co-op. Vs. Joint Collector and Others dated 16.07.2002 an issue came for consideration before the Court where under the Petitioner which is a co-operative society registered under A.P. Co-op. Societies Act, 1964 questioned the order dt. 05.03.2001 which is an order passed by the 1st Respondent Joint Collector U/s.9 of the A.P. Rights in Land and Pattadar Passbooks Act, 1971, where under the 1st Respondent cancelled the validation of two sale transactions in relation to the Society's land at the order and at the instance of the 2nd Respondent thereunder and the said Writ Petition had been allowed declaring the impugned order dt. 05.03.2001 thereunder passed by the 1st Respondent as being illegal and without jurisdiction. In Sri Bhavana Rishi Co-op. Vs. Joint

Collector's case, in particular para 42 and 48, it was held as follows:

> **"42. Therefore, in law, there is a valid transfer of immoveable property under agreements of sale. The power under Section 5-A of the ROR Act is to validate or regularise all transfers of land made "otherwise" than by registered documents. The transfer, therefore, of the property in question, made in favour of the petitioner-Society under the agreements of sale dated 26-12-1982 squarely falls within the ambit of Section 5-A of the ROR Act. Having regard to the non obstante clause in Section 5-A(i), any assumption that an agreement of sale operates in personam, is clear misdirection in law. The impugned orders of the 1st respondent suffers from the vice of illegality, and therefore, cannot be sustained.**

24. This Court opines that the Petitioner's vendors i.e., Respondent No.3 and 4 having obtained mutation of subject land by Nazim Jamabandi as back as in the year 1986-87 by way of sanction in Faisal patti under Record of Rights in Lands Regulation Act, 1358 Fasli and the said Faisal patti entries having attained finality, the Revenue Divisional Officer/the Appellate Authority under ROR Act having rightly held that it has no jurisdiction to entertain

the Appeal under ROR Act to question mutation granted under ROR Regulation and further the Appellate Authority having held that the Appeal cannot be entertained 16 years after grant of mutation by Nazim Jamabandi in its order dated 24.05.2004 but curiously ignoring all the above referred facts, the 1st Respondent passed the impugned order dated 05.03.2005 in Case No.D5/3349/2004 setting aside the order under revision dated 24.05.2004 vide No.A2/2262/02 of the Special Grade Deputy Collector and Revenue Divisional Officer, Ranga Reddy East Division and the same suffers from incurable legal infirmities as well as factual errors which are as under :

> **i. The revisional jurisdiction would not be exercised by the 1st Respondent herein in purported exercise of power U/s.9 of the Pattadar Passbook Act, 1971 after more than 16 years.**
>
> **ii. The order passed by the 1st Respondent is vitiated for the reason of non-application of mind, since the 1st Respondent failed to notice even the admitted facts that are evident from the record.**
>
> **iii. The order passed by the 1st Respondent is outside the ambit of the provisions of Telangana**

Rights in Land and Pattadar Passbook Act, 1971 since the observation of the 1st Respondent that the subject lands are Bodhan lands was no more an issue before the recording authorities since the Faisal patti entries have attained finality way back in the year 1986-87 and the settled rights of the writ petitioner under the provisions of ROR Act cannot be unsettled after lapse of more than 30 years.

iv. The 1st Respondent failed to take into consideration the contents of the Memo dt. 28.02.2008 in File No.D/32/2008 addressed to the Revenue Authorities as well as to the Writ Petitioner stating that the subject land in Sy.No.435 admeasuring Ac.12.17 gts., of Mankal Village is not Bodhan land.

v. A bare perusal of the order impugned dt. 05.03.2005 of the 1st Respondent herein in Case No.D5/3349/2004 indicates that the order under Appeal dt. 24.05.2004 vide No.A2/2262/02 is set aside by the 1st Respondent and the recorded findings of the Appellate Authority passed U/S.5(5) of the ROR Act by the Special Grade Deputy Collector and R.D.O., R.R. District East Division are reversed by the 1st Respondent, which had in fact, dismissed the very Appeal filed by the 2nd Respondent herein on the ground that it is a belated Appeal filed after 16 years, the 1st Respondent however, curiously does not refer the delay aspect in its order dated 05.03.2005, but however, without

any justification or jurisdiction quashes the orders passed in Jamabandi for the year 1986-87 in respect of Mankhal Village holding the same as illegal.

vi. This Court opines that the 1st Respondent is an Authority under ROR Act and while exercising the revisional jurisdiction under ROR Act exceeded its jurisdiction and dealt with the provisions of a different statute i.e., Bhodhan, Gramdhan and the same is without jurisdiction, and the same is outside the scope and ambit of enquiry under Section 9 of R.O.R. Act, 1971.

25. Taking into consideration of all the above said facts and circumstances and as per the discussion and reasoning explained above and duly considering the law laid down in the judgments referred to and discussed above (i) The Apex Court judgement reported in J.T. 2009 (13) SC 69 in Santoshkumar Shivagonda Patil and Others Vs. Balasaheb Tukaram Shevale & Others, (ii) The Division Bench Judgement of Andhra Pradesh High Court at Hyderabad in WA No.674/2004 and Batch decided on 13.04.2005 reported in (2005) SCC Online AP 291, (iii) The Apex Court judgement reported in (2015) 3 SCC 695 in Joint Collector, Ranga Reddy District & Another Vs. D.Narsing Rao & Others, with Chairman, Joint Action

Committee of Employees, Teachers & Workers, Andhra Pradesh, in its judgement dated 13.01.2015, (iv) In a judgement of Andhra Pradesh High Court, reported in (2002) 5 ALD 398 in Sri Bhavana Rishi Co-op. Vs. Joint Collector and Others dated 16.07.2002, and duly considering the averments made in paras 4 & 5 of the reply affidavit filed by the Writ Petitioner (referred to and extracted above), the Writ Petition is allowed as prayed for. The impugned order dated 05.03.2005 in File No.D5/3349/2004 passed by the 1st Respondent is quashed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

MRS JUSTICE SUREPALLI NANDA

Dated: 18.07.2023
Note: L.R. copy to be marked
b/o Kvrm