

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR**

**+ WRIT APPEAL No.1875 of 2013**

% Date: 26.09.2023

# The Government of Andhra Pradesh,  
Rep. by Secretary, Revenue Department, Secretariat,  
Hyderabad,  
and others

... Appellants

**v.**

\$ V.Tulasiram,  
and others.

... Respondents

! Counsel for the appellants:

Mr. B.S.Prasad,  
Advocate General

^ Counsel for respondents No.1 to 6:

Dr. Adithya Sondhi,  
Learned Senior Counsel  
representing  
M/s. Bharadwaj Associates.

< GIST:

➤ HEAD NOTE:

? CASES REFERRED:

1. AIR 1960 SC 862
2. (2010) 5 SCC 203
3. AIR 1967 SC 1274
4. (2018) 12 SCC 527
5. 1995 SCC OnLine AP 423 : (1995) 3 ALD 594 :

- (1995) 3 ALT 330
- 6. (2002) 5 SCC 685
- 7. (1987) 2 SCC 179
- 8. (2004) 3 SCC 440
- 9. (2006) 12 SCC 33
- 10. (2007) 13 SCC 270
- 11. (1997) 6 SCC 71
- 12. (2016) 2 SCC 123
- 13. (2023) 2 SCC 643
- 14. AIR 1957 SC 529
- 15. AIR 1964 SC 1419

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR**

**WRIT APPEAL No.1875 of 2013**

**JUDGMENT:** *(Per the Hon'ble the Chief Justice Alok Aradhe)*

This intra court appeal emanates from an order dated 05.06.2009 by which the writ petition preferred by respondents No.1 to 6 (hereinafter referred to as, "the land owners") has been allowed and the memo dated 21.06.2005 issued by the Joint Collector-I, Ranga Reddy District, has been quashed. In order to appreciate the challenge of the appellants to the impugned order passed by the learned Single Judge, relevant facts need mention which are stated infra.

2. The land owners had purchased the land bearing Survey Nos.122 to 126, 143 to 150, 152/A, 152/B, 153 and 154 admeasuring Acs.185.18 guntas situated at Sultanpally Village, Shamshabad Mandal, Ranga Reddy

District (hereinafter referred to as, “the subject land”) vide registered sale deeds in the year 1982 from the original pattadars, namely Syed Shabuddin and Syed Karar Hyder Hussain. The land owners claim to be in possession of the subject land and have been issued pattadar pass books and title deeds.

3. After abolition of the jagir and announcement of survey and settlement of the village, the kancha land was auctioned by the Tahsildar in the year 1950-51 for Rs.1000.00 in favour of one Sri Prabhu Lingam. An appeal was filed by the jagirdar before the Additional Collector which was allowed by an order dated 12.08.1950 and the auction was set aside. It was directed that the subject lands be recorded as patta lands in the name of the jagirdar. Against the aforesaid order, said Sri Prabhu Lingam preferred an appeal before the Board of Revenue. The Board of Revenue by an order dated 19.07.1951 allowed the appeal. The jagirdar filed a revision before the Minister for Revenue who by an order dated 18.11.1952

dismissed the revision and upheld the order passed by the Board of Revenue.

4. The commutation award was passed by the Jagir Administrator in the name of jagirdar Syed Shabuddin Hussain in Khata No.737 for an amount of Rs.60,000.00. A House Committee was constituted by the Legislative Assembly on 17.08.1987, to implement directions of the Board of Revenue.

5. The State of Andhra Pradesh claimed the subject land as jagir land as per the provisions of the Andhra Pradesh (Telangana Area) (Abolition of Jagirs) Regulation, 1358 Fasli (hereinafter referred to as, "the Jagir Regulation"). The Revenue Divisional Officer issued a memo on 21.06.1993 and held that the subject land is a jagir land and not a patta land.

6. The land owners challenged the validity of the aforesaid memo dated 21.06.1993 in a writ petition, namely W.P.No.12631 of 1993. The said writ petition was allowed by a learned Single Judge by an order dated

24.03.2000 primarily on the ground that the State Government could not have unilaterally decided the question of title of the subject land. Against the aforesaid order, the State Government filed an intra court appeal, namely W.A.No.732 of 2000.

7. A Division Bench of this Court vide judgment dated 11.11.2002 dismissed the aforesaid appeal preferred by the State Government and granted the liberty to it to approach the civil court or statutory forum for adjudication of the issue whether the subject land is a jagir land or a patta land.

8. Thereafter the Mandal Revenue Officer approached the Commissioner and Director of Settlement and Jagir Administrator with a prayer that the subject land should be declared as jagir land. The Commissioner and Director of Settlement and Jagir Administrator by an order dated 31.03.2005 dismissed the prayer made on behalf of the Mandal Revenue Officer.

9. However, the Joint Collector-I, Ranga Reddy District, issued a notice dated 21.06.2005 by which the land owners were informed that the case was taken up for hearing under Section 166-B of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli (hereinafter referred to as, “the Land Revenue Act”) and Section 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (hereinafter referred to as, “the Pattadar Pass Books Act”), and scheduled for hearing on 01.07.2005 before the Joint Collector. The land owners therefore were required to be present before the Joint Collector-I, Ranga Reddy District, in support of their claim along with documents, following which the land owners were informed that the matter will be decided on the basis of the material available on record.

10. The land owners challenged the aforesaid notice dated 21.06.2005 in a writ petition, namely W.P.No.14038 of 2005, and sought a writ of prohibition restraining the authorities of the State Government, particularly the Joint Collector, from proceeding further, with the enquiry in pursuance of the impugned notice dated 21.06.2005.

11. The learned Single Judge by an order dated 15.06.2009 allowed the writ petition *inter alia* on the ground that the Joint Collector or the authorities of the State Government cannot adjudicate the question whether the subject land is a jagir land or patta land. It was further held that as per Regulation 21(2) of the Jagir Regulation, it is only civil court which has the jurisdiction. Learned Single Judge therefore issued a writ of prohibition restraining the Joint Collector from proceeding further with the notice dated 21.06.2005. However, learned Single Judge granted the liberty to the State to file a suit seeking the relief of declaration in respect of the subject land. The learned Single Judge did not record any finding on the merits as to whether the subject land is jagir land or patta land. In the aforesaid factual background, this intra court appeal arises for our consideration.

12. Learned Advocate General, at the outset, pointed out that the validity of the Jagir Regulation was challenged before the Hon'ble Supreme Court and the validity of the



said Regulation has been upheld by the Hon'ble Supreme Court in **Sarwanlal v. State of Hyderabad**<sup>1</sup>.

13. It is contended that there is no material on record to show that the subject land is a private patta land of jagirdar. It is submitted that the entire land situated at Sultanpally Village was a jagir land. It is further submitted that in the earlier round of litigation, the land owners vide order dated 10.05.2005 were granted liberty to establish their title and possession. However, the land owners did not avail of the appropriate remedy. It is urged that the State Government has power under Section 166-B of the Land Revenue Act to correct the entries made in the revenue records. Our attention has also been invited to the findings of the House Committee. It is contended that the land owners have no title in respect of the land in question and the learned Single Judge erred in quashing the notice issued to the land owners. In support of the submissions made, learned Advocate General has placed reliance on the

---

<sup>1</sup> AIR 1960 SC 862

decision of the Hon'ble Supreme Court in **R.Hanumaiah v. State of Karnataka**<sup>2</sup>.

14. On the other hand, learned Senior Counsel for the land owners has submitted that the impugned notice has been issued for implementation of the order of the Board of Revenue dated 20.07.1951 which does not apply to the case of the land owners. In this connection our attention has been invited to the order dated 24.03.2000 passed in W.P.No.12631 of 1993. It is pointed out that the aforesaid order has been upheld in an appeal. It is further pointed out that the notice has been issued after an inordinate delay of 54 years for which no explanation has been offered. It is contended that the power of revision under Section 166-B of the Land Revenue Act can be exercised *qua* an order of the subordinate authority and in the instant case, the proceeding under Section 166-B of the Land Revenue Act, has been initiated without an order of the subordinate authority.

---

<sup>2</sup> (2010) 5 SCC 203

15. In view of the aforesaid submission, reliance has been placed on the decision of the Hon'ble Supreme Court in **S.Govinda Menon v. Union of India**<sup>3</sup>, **Chhedi Lal Yadav v. Hari Kishore Yadav**<sup>4</sup> and the decision of the Andhra Pradesh High Court in **Smt. P.Mangamma v. The Women's Co-operative Housing Society Limited, Hyderabad**<sup>5</sup>.

16. By way of rejoinder, the learned Advocate General submitted that the land owners started asserting their rights in respect of the subject land in the year 1982 and thereafter on 17.08.1987, a House Committee was constituted and thereafter a memo was issued on 21.06.1993 which was assailed in a writ petition. Eventually, in pursuance of the order dated 31.03.2005 passed by the Commissioner and Director of Settlements and Jagir Administrator, a notice dated 21.06.2005 was issued to the land owners and therefore, there is no delay in the facts of the case. It is urged that in the matter of

---

<sup>3</sup> AIR 1967 SC 1274

<sup>4</sup> (2018) 12 SCC 527

<sup>5</sup> 1995 SCC OnLine AP 423 : (1995) 3 ALD 594 : (1995) 3 ALT 330

pursuing a right, doctrine of delay and laches cannot be invoked. It is further urged that in the previous round of litigation between the parties, rights of the parties have been kept open to be agitated before the appropriate forum. Our attention has also been invited to Section 3 and Section 9 of the Pattadar Pass Books Act and it has been contended that in fact, the remedy of the land owners is to approach the civil Court and in a writ petition filed against a notice, merely on the basis of an apprehension of the land owners, no relief can be granted. It is also urged that the notice has been issued to correct the revenue entries. It is contended that in law, a presumption of title is in favour of the State and the land owners have to establish their title before appropriate forum. In support of the aforesaid submissions, reliance has been placed on the decision of the Hon'ble Supreme Court in **Indian National Congress (I) v. Institute of Social Welfare**<sup>6</sup>.

17. We have considered the rival submissions made on both sides.

---

<sup>6</sup> (2002) 5 SCC 685

18. Before proceeding further, it is apposite to deal with the scope of challenge to a notice in a writ petition. The Hon'ble Supreme Court in **State of U.P v. Brahm Datt Sharma**<sup>7</sup> has held that the Court should be reluctant to interfere with the notice, unless the notice is shown to have been issued palpably without any authority of law. In **Special Director v. Mohd. Ghulam Ghouse**<sup>8</sup>, the Hon'ble Supreme Court again reiterated the aforesaid principle and held that unless the High Court is satisfied that the show cause notice which was issued was totally *non est* in the eye of the law for absolute want of jurisdiction of the authority, the writ petitions should not be entertained for the mere asking and as a matter of routine. In **Siemens Ltd. v. State of Maharashtra**<sup>9</sup>, it was *inter alia* held that ordinarily a writ court may not exercise its discretionary jurisdiction in entertaining a writ petition questioning a notice to show cause, unless the same *inter alia* appears to have been without jurisdiction. The issue of entertaining

---

<sup>7</sup> (1987) 2 SCC 179

<sup>8</sup> (2004) 3 SCC 440

<sup>9</sup> (2006) 12 SCC 33

the writ petition at the stage of show cause notice was once again examined by the Hon'ble Supreme Court in **Union of India v. VICCO Laboratories**<sup>10</sup>, and it was held that abstinence from interference at the stage of issuance of show cause notice in order to relegate the parties to the proceedings before the authorities concerned is the normal rule. However, the said rule is not without exceptions. It has further been held that where a show cause notice is issued either without jurisdiction or in an abuse of process of law, certainly in such a case, the writ court would not hesitate to interfere even at the stage of issuance of show cause notice.

19. In the instant case, the Revenue Divisional Officer has issued the memo dated 21.06.1993 by which it was held that the subject land is a jagir land and not a patta land. The land owners challenged the validity of the aforesaid memo dated 21.06.1993 in a writ petition, namely W.P.No.12631 of 1993, which was allowed by the

---

<sup>10</sup> (2007) 13 SCC 270

learned Single Judge by an order dated 24.03.2000. The relevant extract of the said order reads as under:

From this judgment it is to be noted that the Committee constituted by the legislative Assembly felt that the Government ought to have implemented the directions of the Board of Revenue and that land in Sy.Nos. 122,126,143,150 and 152/A, 152/B, 153 and 154 belong to Government. Aggrieved by the proceedings of the House Committee, the petitioners filed W.P.No.14257 of 1989, since the Assembly itself was dissolved, the writ petition was withdrawn with a liberty to agitate the same if it was warranted. However, the Government issued a Memo dated:21.6.1993 tracing out the aforesaid history and directing the Collector to adjudicate on the following issues.

- (i) Whether the Jagirdar is entitled to Ryotwari Patta with reference to the land as per the provisions of Jagir Abolition Regulation Act, 1358 Fasli?
- (ii) Whether the ryota have acquired occupancy right in respect of the land in their possession.

It is conceded that the regulations come into force from 15.8.1949. Under the Andhra Pradesh (Telangana Area) (Abolition of Jagirs) Regulation 1358 Fasli (for brief "Regulations") all the Jagirs stood vested in the Jagir administrator by virtue of Section 5 of the

Regulations, from the appointed date the jagirdar shall make over the management of the Jagir to the Jagir Administrator. Jagir Administrator was appointed under Section 3 of the Act and the Jagirs so vested shall be under the control of the Jagir Administrator and it shall be included in the Diwani until it is included in the districts constituted under the Andhra Pradesh (Telangana Area) Land Revenue Act, it shall be administered by the Jagir Administrator. Under Section 18, the personal properties of the Jagirdar are excluded. Section 18 reads as follows.

“Personal property and liabilities not effected:-

Nothing in this Regulation shall affect:-

- (a) The personal property of a jagirdar or Hissedar or any property other than the Jagir held by a Jagirdar on behalf of the Hissedars, or
- (b) Any liability of a Jagirdar or Hissedar in respect of any loan taken from Government.”

Under section 20 of the Regulations, any party aggrieved by the Jagir Administrator under the regulation, may appeal to the Government or to such other authority. Under Section 21, no Civil or Criminal proceedings shall be initiated against Jagir Administrator except with the consent of the Government. Under section (2) claims relating to Jagir or any share in the income, thereof whether arising under section 145 Criminal Procedure Code and Civil



suits still pending between the parties, it is established that they are the private properties of the Jagirdars. Even in the report submitted by the Revenue Divisional Officer, Chevella, dated 14.9.1983 as per the records after incorporation of Jagir. it was found that Syed Shabuddin Hussain name was appearing as Pattedar in respect of S.Nos.122 to 125, 143 to 150, 152-A, 152-3, 153 and 154. In 1982 Jagirdars and the protected Tenant holders who became owners sold certain lands to the petitioners under certain registered sale deed and the necessary mutation was also affected and the same was implemented in Jamabandi 1982-83. Therefore, from the sequence of the events, it appears that the entire proceedings were emanated on the basis of the observations made by this court W.P.No.2027 of 1986, wherein some of the petitioners sought for implementation of the orders of the Board of Revenue Dated:20.7.1951. But, as can be seen from the order of the Board of Revenue Dated:20.7.1951, there was no mention about the survey numbers and it was only an observation made by the learned member of a Board of Revenue. He did not specifically state that the land situated in Sy.Nos. 122 to 125, 143 to 150, 152-A, 152-B, 153 and 154 formed part of Jagir village. In any event, the power of the Government to direct the collector to adjudicate the matter under the provisions of the Jagir Abolition Act, is the question to be decided. As already stated, any claims relating to Jagir lands or any share in the income arising under the regulation or otherwise subject to the regulation are required to be decided by an appropriate Civil Court. Thus, it is clear that there must be claim relating to Jagir arising under

the Regulation. But, in the instant case, nobody is claiming Jagir or share in the income. Admittedly, Syed Shaabuddin Hussain was Jagirdar owning some private lands, a part of which was also went to Seetal Singh and others who were protected tenants, who also sold some of the land to the petitioners. The lands forming part of Jagir vested with the Jagir administrator and thus they merged with the Diwani. Under these circumstances, two important questions would arise for consideration (1) whether the Government has got power to initiate such an action as referred in the impugned memo; (2) whether it would be open for the Government to conduct inquiry after lapse of nearly 50 years?

...

3. The following points have to be adjudicated upon.

- (i) Whether the Jagirdar is entitled to Ryotwari Patta with reference to the land as per the provisions of Jagir Abolition Regulation Act, 1358 Fasli?
- (ii) Whether the ryots have acquired occupancy rights in respect of the lands in their possession?

4. The Collector, Ranga Reddy District is, therefore, requested to make a due enquiry in the matter and decide the above point after giving notice to all the parties concerned keeping in view the fact that the relevant date to be considered in this enquiry is the date

of coming into force of (Telangana Area) Abolition of Jagir Regulation Act, 1358 Fasli."

The Government is proceeding as if the lands in question were Jagir lands and vested in Government, which *ex facie* misconceived. Further, there is no provision for adjudicating the respective rights under the regulation. In such an event, it has to be adjudicated only in a civil court as contained in Section 21 of the Regulation. It is further to be noted that under the provisions of the regulation, there is no such provision as to conduct omnibus enquiry and that too by the Collector. To exercise certain functions under the statute, the authority should be vested with such power. If no such power is traceable, it would be an exercise in futility and such action of the authorities will be declared *ultra vires* the powers being without jurisdiction. Accordingly, there is no power in the regulation authorizing the Government to direct the Collector to adjudicate the matter as to whether Jagirdars were entitled for Ryotwari patta in the absence of such a power, it would not be appropriate for the Government to initiate proceedings under the Regulation. An action which is impermissible under the statute cannot be allowed to be initiated in the guise of administrative power, which cannot be achieved directly cannot be allowed to achieve indirectly. Whether Jagirdars are entitled for Ryotwari patti or whether ryots have acquired occupancy rights, cannot be adjudicated under the provisions of the regulation and it is only a civil suit which has to be filed and the matter to be decided by the appropriate civil court. Admittedly civil

disputes are pending between alleged ryota and the petitioners. Further, there is no provision in the regulation to Suo-motu revise or review the orders passed under the regulation. Even if such a statutory power is vested, it is held by catena decisions of the apex court that such power should be exercised within a reasonable period. The matters were settled four decades ago. Therefore, by virtue of present proceedings, it cannot be allowed to be unsettled at this distant of time. Moreover, the revenue authorities recognized the sale deed executed by the Jagirdar and also protected tenant holder, who acquired ownership rights and names of the petitioners were mutated and their names were also entered in the revenue records.

The learned Government Pleader lastly submits that there is no mention about the lands held by the petitioners and therefore, the petitioners have no cause of action. I am unable to accept this contention. The entire events right from the time of filing the Writ Petition and also the report of the committee constituted by the Legislative Assembly would indicate that the proceedings relate to the lands held by Jagirdars which were in turn sold to the petitioners.

Under these circumstances, I have to necessarily hold that the impugned Memo is incompetent, without jurisdiction and arbitrary. Accordingly the Writ petition is allowed. No costs.

20. Thus, from perusal of the aforesaid relevant extract of the order passed by the learned Single Judge, it is evident that the learned Single Judge held that the power to initiate a proceeding has to be exercised within a reasonable time and therefore, the learned Single Judge found that the initiation of proceedings by issuing a memo dated 21.06.1993 is incompetent, without jurisdiction and arbitrary. It was further held that the assumption of the Government that the land in question was jagir land and was vested in the State Government was *ex facie* misconceived.

21. Admittedly, the aforesaid order was challenged by the State Government in a writ appeal, namely W.A.No.732 of 2000. The Division Bench of this Court by a judgment dated 11.11.2002 affirmed the order passed by the learned Single Judge. However, it was observed that the factual findings recorded by the learned Single Judge on the merits of the matter would not in any way influence or bind either the civil Court or any other statutory forum or authority which may be called upon to decide the basic

issue whether the subject lands constitute 'jagir' within the meaning of that term as defined under Regulation 2(f) of the Regulation and such issue should be resolved solely on the basis of the evidence that may be led before such Court or forum or authority, as the case may be. The relevant extract of the judgment of the Division Bench reads as under:

On issuance of a notification envisaged under sub-section (1) by the government, by virtue of the provisions of sub-section (2), every jagirdar is obligated to make over the management of the '*jagir*' to the Jagir Administrator and if a '*jagirdar*' fails to carry out the obligation, then, sub-section (3) provides that the jagir administrator could pursue coercive steps to take over the management of the '*jagir*'. Thus, it could be seen that in a case, where steps envisaged under sub-section (1) of Section 5 have been taken against a person and that person who is considered to be a '*jagirdar*' by the government comes before the Jagir Administrator and contends that the land in respect of which the government has issued the notification is not a '*jagir*', but a private patta land of the '*jagirdar*', the jagir administrator may be required to decide such incidental issue in order to effectuate the provisions of the Regulation. Be that as it may, the learned Government Pleader as well as Mr.V.Ravinder Rao were not in a position to refer to any of the provisions of the Regulation or the Rules framed thereunder, to show that

the government has the power to decide the question whether a land is '*jagir*' or patta land in case of a dispute. It is well-settled that when the law-maker designates an authority and confers certain statutory power to do certain thing, that authority can alone exercise that power and not any other authority, whether superior or inferior, and if any external authority exercises the power vested in a statutory authority, the action would be condemned as *ultra vires* the statute. Therefore, it is not permissible for the State Government to determine the rights of the parties. Realizing the difficulty to sustain the impugned action of the government, the learned Government Pleader as well as Mr.V.Ravinder Rao would maintain that the impugned action is not an action taken under the Regulation, but it is an administrative action taken in exercise of the executive power of the State and, therefore, no exception could be taken to the impugned action. This contention of the learned counsel should be noticed only to be rejected, because, it is well settled, as stated above, it is not permissible for the Executive Government to meddle with the statutory provisions in the purported exercise of executive power. The Executive Government by exercising executive power can only supplement and it cannot supplant statutory provisions. It is not a case where the statute is silent and the executive government has stepped in and issued administrative instructions or guidelines to fill in the gap in the statute.

In conclusion, we cannot find any substantive or weighty reasons to interfere with the order of the learned

single Judge. However, we find some force in the grievance of the learned Government Pleader and Sri V.Ravinder Rao that certain findings recorded and observations made by the learned single Judge in the course of the order relating to the merits of the matter were unwarranted and unjustified. According to the learned counsel, the learned Judge having held that the impugned proceeding could not be sustained for want of power in the State Government ought to have quashed the impugned proceeding only on that ground, reserving liberty to the parties to work out their remedies before the appropriate Court or the forum and ought not to have recorded findings on merits of the case. It is true that the learned single Judge in the course of the order has held that having regard to the earlier proceedings taken under Section 145 Cr.P.C and the source between the parties etc., the subject lands could not be regarded as '*jagir*'. We think that there was no necessity for this Court to foreclose the issue by recording findings on merits. The factual questions should not and could not have been decided only on the basis of the affidavits and counter-affidavits in a summary proceeding under Article 226. Further, we do not find any clinching proof to sustain the factual findings.

In the result, we dismiss the writ appeal with no order as to costs. However, we direct that the factual findings recorded by the learned single Judge on merits of the matter would not in any way influence or bind either the Civil Court or any other statutory forum or authority which may be called upon to decide the basic issue whether the subject lands constitute '*jagir*' within



the meaning of that term, as defined under clause (f) of Section 2 of the Regulation and such issue should be resolved solely on the basis of the evidence that may be led before such Court or Forum or Authority, as the case may be.

With these observations and directions, the writ appeal is disposed of and accordingly the order of the learned single Judge shall stand modified.

22. Thus, the Division Bench of this Court noted that the Government Pleader was unable to refer to any of the regulation or rules to indicate that the Government has power to decide the question whether the land is a jagir or patta land in case of a dispute. It was further held that it is not permissible for the State Government to determine the rights of the parties. Admittedly, the aforesaid judgment has attained finality and has not been assailed further.

23. Before proceeding further, it is apposite to notice relevant statutory provisions. The power of revision conferred under Section 166-B of the Land Revenue Act deals with the power of the Collector or the Settlement

Commissioner of land records. Section 166-B of the Land Revenue Act is reproduced below for facility of reference.

**166-B. Revision:-** (1) Subject to the provisions of the Telangana Board of Revenue Regulation, 1358F, the Government or any Revenue Officer not lower in rank to a Collector the Settlement Commissioner of Land records may call for the record of a case or proceedings from a subordinate department and inspect it in order to satisfy himself that the order or decision passed or the proceedings taken is regular, legal and proper and make suitable order in that behalf:

Provided that no order or decision affecting the rights of the ryot shall be modified or annulled unless the concerned parties are summoned and heard.

(2) Every Revenue Officer lower in rank to a Collector or Settlement Commissioner may call for the records of a case or proceedings from a subordinate department and satisfy himself that the order or decision passed or the proceedings taken is regular, legal and proper and if, in his opinion, any order or decision or, proceedings should be modified or annulled, he shall put up the file of the case with his opinion to the Collector or Settlement Commissioner as the case may be. Thereupon the Collector or Settlement Commissioner may pass suitable order under the provisions of sub-section (1).

(3) The original order or decision or an authentic copy of the original order or decision sought to be revised shall be filed along with every application for revision.

24. Section 9 of the Pattadar Pass Books Act which deals with power of revision of the Collector reads as under:

**9. Revision:-** The Collector 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 under Sections 3, 5, 5-A or 5-B, in respect of any record of rights prepared or maintained to satisfy himself as to the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof and if it appears to the Collector that any such decision, order or proceedings should be modified, annulled or reversed or remitted for re-consideration, he may pass orders accordingly:-

Provided that no such order adversely affecting any person shall be passed under this section unless he had an opportunity of making a representation.

25. Thus, from a conjoint reading of the aforesaid provisions, it is evident that the aforesaid provisions deal with the power of revision of Collector/Revenue Settlement Commissioner of Land records. The power under Section

9 of the Pattadar Pass Books Act can be exercised either *suo motu* or on an application, whereas the power under Section 166-B of the Land Revenue Act can be exercised by the Collector or the Settlement Commissioner of land records *suo motu*.

26. The impugned notice dated 21.06.2005, before the learned Single Judge, is extracted for facility of reference.

**IN THE COURT OF JOINT COLLECTOR-I,  
RANGA REDDY DISTRICT**

No.F1/7417/1990

Dated: 21-06-2005

Between

Mandal Revenue Officer,  
Shamshabad Mandal.

.... Appellant

A N D

1. V. Tulasiram, S/o. Narayana Swamy
2. V.T. Prakash, S/o. Tulasiram
3. Smt. V. Bharathi, W/o. Tulasiram
4. V. Jagathkumar, S/o. Narayana Swamy
5. N. Narsinga Rao, S/o. Kistaiah
6. Smt. S.K. Saria W/o. Gnaneshwar

.... Respondents

N O T I C E

In order to implementation of the orders passed by the then Board of Revenue, Hyderabad in file No.313/87/1950, appeals Hyderabad dated: 20.07.1951 and the orders passed by the then Hon'ble Minister for Revenue, Government of Hyderabad in file No.A-

1/148/1951, No.(54), dated 18.11.1952 read with under rule 4 of rules regarding grant of pattadari rights in non-khalsa village published in Gazette No.32 dated: 19thir 1356 F. Circular No.2 Revenue Department, dated 18.10.49 and Circular No.12 Jagir administration dated 03.11.1949 in respect of the land bearing Sy.No.9/2, 26, 33, 44, 42, 46, 47, 78 & 79 admeasuring Ac.307-35 gts, New Sy. Nos.210, 1, 4, 118, 119, 120, 121, 122, 123, 124, 154, 42, 5151, 152, 153, 125, 126, 127, 128, 143, 144, 145, 146, 148 & 149 admeasuring Ac.307-35 situated Sultanpally Village, Shamshabad Mandal.

Therefore the case is taken up for hearing U/s. 166-B of AP (TA) Land Revenue Act 1317F & Section 9 of A.P. Rights in Land and Pattadar Pass Books Act 1971 and posted for hearing on 01.07.2005 at 3.00 P.M. before Joint Collector-I, Ranga Reddy District at O/o. Collector, R.R. District at Lakdikapul, Hyderabad. Therefore, you are required to be present before this Court either in person or through an advocate on the said date and time along with supporting documents in their favour, failing which the matter will be decided on the material available on record.

Sd/-  
Joint Collector-I,  
Ranga Reddy District.

To  
Mandal Revenue Officer, Shamshabad Mandal.

27. Thus, it is evident that the impugned notice has been issued to implement the orders passed by the Board of

Revenue as well as by the Minister for Revenue, dated 18.11.1952. From a perusal of the impugned notice, it is evident that the powers of revision under Section 9 of the Pattadar Pass Books Act and under Section 166-B of the Land Revenue Act have not been invoked to examine the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof. Therefore, invocation of powers under Section 166-B of the Land Revenue Act and under Section 9 of the Pattadar Pass Books Act is *de hors* the provisions of the said Acts and the same is not only in contravention of the decision of the learned Single Judge and Division Bench decision of this Court in previous round of litigation but is *per se* without jurisdiction.

28. It is well settled legal proposition that where no time limit is prescribed in exercise of power under the statute, the same does not mean that it can be exercised at any time. The power conferred under the statute has to be exercised within reasonable time. In this connection, reference may be made to the decision of the Hon'ble

Supreme Court in **Mohd. Kavi Mohamad Amin v. Fatmabai Ibrahim**<sup>11</sup>, as well as the decision of the Hon'ble Supreme Court in **B.S. Sheshagiri Setty v. State of Karnataka**<sup>12</sup> (Also see **SEBI v. Sunil Krishna Khaitan**<sup>13</sup>).

29. In the present case, admittedly, the impugned notice has been issued on 21.06.2005 to implement the order dated 20.07.1951 passed by the Board of Revenue. The aforesaid notice has been issued after a delay of 54 years. It is pertinent to note that the Mandal Revenue Officer had filed a petition before the Commissioner and Director of Settlement and Jagir Administrator requesting to conduct the enquiry and to declare the subject land as belonging to the Government. The aforesaid petition was dismissed by the Commissioner and Director of Settlement and Jagir Administrator by an order dated 31.03.2005. The relevant extract of the order dated 31.03.2005 reads as under:

The M.R.O., Shamshabad, R.R.District has filed a petition requesting to conduct enquiry and to declare the lands in survey Nos.122 to 126 and 143 to 150 and

---

<sup>11</sup> (1997) 6 SCC 71

<sup>12</sup> (2016) 2 SCC 123

<sup>13</sup> (2023) 2 SCC 643

152/B as vested with the government. He has stated that the competent authority to decide this issue is, the Jagir Administrator under Section 24(i) of Jagir Abolition Regulation 1358 Fasli.

The M.R.O., has contended that Sri Syed Shabuddin Hussaini (Jagirdar) seemingly got his name entered in Revenue records as Pattadar of survey Nos.9/2, 26, 33, 42, 44, 46, 47, 78 and 79 totalling to Ac.307-35 guntas in the year 1950 after abolition of Jagirs. It is stated that after the abolition of jagirs the then Tahsildar auctioned the Kancha Lands in the year 1950-51 in the name of Sri Prabhulingam and an appeal by the Jagirdar before the Additional Collector requesting to set aside the auction was dismissed. A second appeal filed before the Board of Revenue was also dismissed with observation that the lands in question were already established as part of Jagir and were not the private property of the jagirdar, by virtue of fact that the Jagirdar had already included its income of Kancha in the income statement and received compensation.

The petition filed by the Mandal Revenue Officer, Shamshabad has been examined and it is found that it is frivolous and ill-prepared. Section 24(1) of the Hyderabad (Abolition of Jagir) Regulation 1358 Fasli talks about the rule making powers of the government and does not confer any power on Jagir Administrator to decide such matter as contended by the Mandal Revenue Officer in his petition. Secondly, if the land which petition talks about is same land as covered by the Board's order mentioned in the petition, the matter



has already been conclusively settled and there is nothing left for this authority to adjudicate. If the records are not been in conformity with the Board's orders the M.R.O ought to take proper action to correct them rather than filing such frivolous petitions.

With these observation, the petition is dismissed.

30. No action was taken by the State Government to challenge the order dated 31.03.2005. The aforesaid order passed by the officer of the Government, namely the Commissioner and Director of Settlement and Jagir Administrator, Andhra Pradesh, Hyderabad, binds the State Government.

31. It is pertinent to note that initiation of proceeding on 21.06.1993 was held, vide learned Single Judge's order dated 24.03.2000 in the earlier round of litigation, to be not within reasonable time. In the instant case, the impugned notice has been issued after a period of 54 years to implement the order dated 20.07.1951 passed by the Board of Revenue which by no stretch of imagination can be said to be reasonable. On this ground also, the notice cannot be sustained in the eye of law.

32. It is trite law that in exercise of powers under Article 226 of the Constitution of India, the Court cannot examine the question of title. A Constitution Bench of the Hon'ble Supreme Court in **Sohan Lal v. Union of India**<sup>14</sup>, while dealing with the question of title, held that civil suit is an appropriate remedy and the question of title cannot be examined in a proceeding under Article 226 of the Constitution of India. Similar view has been taken by another Constitution Bench of the Hon'ble Supreme Court in **Thansingh Nathmal v. Superintendent of Taxes, Dhubri**<sup>15</sup>. In view of the enunciation of law by two Constitution Benches of the Hon'ble Supreme Court, it is evident that the question of title cannot be examined in a writ petition. Therefore, the contention of the learned Advocate General that the land owners have no title in respect of the land in question cannot be examined in the writ petition.

---

<sup>14</sup> AIR 1957 SC 529

<sup>15</sup> AIR 1964 SC 1419

33. The State Government cannot proceed on the assumption that the land in question is a jagir land. Therefore, the contention of the learned Advocate General that the land owners did not avail of the appropriate remedy does not deserve acceptance. It is pertinent to note that the Mandal Revenue Officer had filed a petition before the Commissioner and Director of Settlement and Jagir Administrator seeking to conduct enquiry and to declare the subject land as belonging to the Government. The said petition was dismissed by the Commissioner and Director of Settlement and Jagir Administrator by an order dated 31.03.2005. The aforesaid order binds the appellants. However, despite the aforesaid order, the impugned memo dated 21.06.2005 was issued. Therefore, the contention that the power under Section 166-B of the Land Revenue Act can be exercised in the facts of the case is misconceived.

34. For the aforementioned reasons, we concur with the view taken by the learned Single Judge.

35. The writ appeal is accordingly dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

---

**ALOK ARADHE, CJ**

---

**N.V.SHRAVAN KUMAR, J**

26.09.2023

Note: LR copy to be marked.

B/o.  
vs/gbs