IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P. Nos. 12031 of 2014

Between:

Syed Kazim Ali Ghazi and others

... Petitioners

And

State of A.P, Rep. by its Secretary and others

... Respondents

JUDGMENT PRONOUNCED ON: 29.01.2024

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

W.P. Nos. 12031 of 2014

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... Respondents

< **Gist**:

> Head Note:

? Cases Referred:

1. (2022) Livelaw SC 704
2. (2001) 5 SCC 664
3. (2010) 8 SCC 496
4. (1951) SCC 1088
5. (1978) 1 SCC 248
6. AIR 2009 Sup.SC 561
7. (1974) ICR 120 (NIRC)
8. (2010) SCC 732
9. AIR (1990) SC 1984
10. (1970) 3 SCR
11. (2003) 7 SCC 66
12. (2015) 3 SCC 695
13. (2006) 2 ALT 341
14. (1969) SC 1297
15. (2021) 5 ALD 477
16. (2015) 4 ALD 490
17. 2021 SCC Online SC 3422
18. AIR 1969 SC 193
19. AIR (1954) 340
20. (2003) 2 SCC 418

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P. Nos. 12031 of 2014

ORDER:

Heard the Learned counsel appearing on behalf of the Petitioners and the Learned Government Pleader for Revenue appearing on behalf of Respondents No.1 to 3 and Learned Counsel appearing on behalf of respondents.

2. The Petitioner approached the Court seeking prayer in W.P.Nos.12031 of 2014 as under :

> "to issue an appropriate writ, order or direction more especially one in the nature of writ of Mandamus declaring the order dated 01.02.2014 in Case No.F1/2200/2009, passed by the Court of Joint Collector-I, Ranga Reddy District, the 2nd Respondent as null and unsustainable, and consequently set aside the same.

PERUSED THE RECORD :

3. **The relevant portion of the orders impugned dated 01.02.2014 in Case No. F1/2200/2009, reads as under**:

The ORC holders are denying the claim of the appellants in both the appeals and even the Protected Tenancy of their ancestors. A Certified Copy of the P.T. Register for the year 1950 of Bowenpally Vg, relating to Old Sy. No.17 filed by the appellants issued by the Tahsildar, Balanagar Mandal reveals that in Col. No.9 of the said register meant for the PT. the names of the P.Ts are found recorded with the area of Ac.10-19 gts, each occupied by them as detailed in Col.No. 10 of the said P.T. Register. A perusal of the certified copy of the orders under appeal vide Ret.No.A1/1233/75 dt. 11.1975 and signed on 31.10.1975 by the RDO, Hyd. West Divn. shows that it categorically says that there are no protected tenants over the suit land. This version of the RDO is contrary to the contents of the said Certified Copy of P.T. Register relating to Old Sy.No.17 of Bowenpally. This position of the records is evident that proper enquiry was not conducted by the lower court before issuing the orders under appeal and that no notice was given to the appellants herein as well as to the LRs of the Inamdars and their lineal descendants also.

In the light of above position of facts & records I have no hesitation to set aside the order under appeal passed by the then RDO Hyd. West Divn. in File No.At/1233/75 dt. 11.1979 (signed by RDO on 31.10.1979) granting ORC in favours of the Inamdars / LRs being successors-in-interest in respect of land bearing Sy No.36 (Old Sy.No.17/1 & 17/2) and the same is hereby set aside and the matter is remanded to the Lower Court with a direction to conduct a fresh enquiry by issuing notices to all the appellants & Respondents in both the appeals including the legal heirs & co-parceners of the Inamdars as well as the appellants herein giving wide publicity of the enquiry & pass appropriate orders duly examining the aspect of protected tenancy claimed over the said lands. Accordingly both the appeals are disposed of."

4. <u>The relevant paragraph Nos. 5 and 7, of the counter affidavit filed by the Respondents No.6, 7 and 8</u>

herein in W.P.No.16686 of 2014, which had been filed by one D.S.N. Raju and 23 others seeking an identical relief as in the present writ petition for issuance of a writ of certiorari and to quash the orders impugned of the 1st Respondent in Case No.F1/2200/2009 and Case No.F1/7122/2009, dated 01.02.2014 whereby and where under the 2nd Respondent herein had set aside the Occupancy Rights Certificate in File No.A/1233/1975, dated 28.11.1979, reads as under :

> "5. I submit that our grandfather, Sri Nallolla Balaram died intestate leaving behind his four sons and one daughter namely 1) N. Rajaiah (Respondent No.1 herein), 2) N. Balapochaih (died), 3) N. Narsimha, 4. N. Narayana (died) & Smt. Yashoda as his legal heirs and successors-in-interest and subsequently N.Bala Pochaiah died leaving behind him his 5 daughters namely 1) N. Sasi Reskha, 2) N. Jyoti, 3) N. Vijayalakshmi, 4) N. Vasantha & 5) N. Amaravathi as his legal heirs and successors-in-interest and whereas N.Narayana died leaving behind him his son namely 1) Kumar (born through his first wife, Smt. Yellamma) and his 2nd wife namely Smt. N. Kamalamma and one daughter namely Mrs. N. Jyothi born through his second wife as his legal heirs and successors-in-interest. Since Smt. Yashoda relinquished her rights in and over the

1/3rd share of LateN.Balaram, thus our father and us are entitled to get 1/4th equal share in the 1/3t share of Late N.Balaram out of the subject land. As such, we and the Respondent No.4 have filed a Form-I application under the provisions of the A.P.(T.A) Abolition of Inams Act, 1975, which is hereinafter referred to as "the inams Act." before the Inam Tribunal-Cum-Revenue Divisional Officer, Chevella Division, R.R. District to get Occupancy Rights Certificate to us and to the Respondent Nos.8 to 10, who are my sisters. Besides this, we and the Respondent No.4 have filed an application on 8-12-2008 to the MRO, Balanagar seeking incorporation of their names in the revenue record in pursuance of the succession orders passed in File Nos. B/4074/89, B/4090/89 & B/4691/89 and the orders, dated 17-03-1990 passed in File No. B/ROR/2901/89 and we have also filed written arguments, dated 12-10-2009 when our petition was clubbed with the petition vide No. B/22973/2008 U/s. 5 of the A.P. Rights In Lands & Pattadar Pass Books Act, 1971 before the Respondent No.2 filed by one Smt.B.Lalitha and others for deletion of the wrong entries recorded in the possession column and to incorporate the names of them and others towards their father's 1/3d share. In fact, when an objection was raised by issuing a memo by the Respondent No.1 so far as the maintainability of the appeal after 30 years, we have explained the matter properly by filing a petition U/s.123 of the Limitation

Act, 1963. The Respondent No.28 and others have seriously contested the matter by filing their counters, but they have misrepresented the matter so far as the tenancy rights and possession of our father and us and the respondents Nos.8 to 12 is concerned. After heard the matter from both the sides and perused the documentary evidence available on record the Respondent No.1 has allowed the appeal filed by us and the above said Smt.B.Lalitha and others under the common orders passed in both the appeals on 01-04-2014 by setting aside the orders passed in File No.A1/1233/75 and remanding the matter to theInam Tribunal for conducting proper enquiry since we were not issued any notices in File No.A1/1233/75 and so far as the PTs is concerned wrong finding recorded holding that no PTs are in Sy.No.36. In fact, there was no huge, abnormal and unexplained delay in filing the aforementioned appeal and our appeal was not barred by delay and latches since we were not issued any notice in File No.A1/1233/75 and no proper enquiry was conducted except relying upon on the contentions of the above said Syed Ifthekar Ali, S/o. Wazir Ali and others, who have played fraud on us without making us as the parties and by suppressing the lawful tenancy rights and possession of us and our father in and over the subject land and thereby obtained the collusive and fraudulent orders behind our back.

7. In reply to the para Nos. 2 & 3 of the contents/allegations of the affidavit annexed with the above writ petition, it is submitted that the petitioners did not mention the names of the protected tenants to whom certificate, dated 30.03.2002 U/S.38A was sanctioned by the 2nd respondent and who were executed the regd. Sale Deed Nos. 1319, 6140 and 6141 of 2002, dated 25.09.2022 in respect of the land adm.Ac.5-26 gts., in Sy.No.36 of Old Bowenpally village in their favour and further they have malafidely withhold the documents, which were fraudulently and collusively brought into existence by the petitioners in collusion with their vendors that too prior to setting aside the orders passed in File No.1233/75. As a matter of fact, even during existence of the orders passed in File No. 1233/75 also the alleged inamdar namely Iftekar Ali has no lawful right to alienate the above said land only to the legal heirs of one of the PT namely Nallolla Pochaiah behind our back and moreover there was no partition effected among the legal heirs of the above said inamdars and Iftekar Ali. So, the alleged sale is illegal, false and fabricated and not binding on us and moreover after set aside the orders passed in File No.1233/75, the question of having ownership rights or possession by the petitioners based upon the above said false and fabricated documents, thus the Civil Suit vide O.S.No.57 of 2004 on the file of the Principal District Judge, Ranga Reddy District being filed by them

seeking declaration as absolute owner and possessor of the above said land and for permanent injunction to restrain the defendants in the said suit etc., was rightly dismissed on 12.3.2020. Besides this, I.A.No.1 of 2020 filed by them in A.S.No. 233 of 2020 being filed seeking interim injunction was also dismissed on 22-09-2020 by the Hon'ble Division Bench of this Hon'ble High Court, But they have malafidely and collusively succeeded to get compromise in the said case in collusion with the Respondent No.28 on 24-04-2022 in A.S.No.233 of 2020 contrary to the Staus-Quo orders passed by this Hon'ble Court on 21.04.2014 in W.P.No.12030 of 2014 & W.P.No.12031 of 2014 being filed by the Respondent No.28 and also in other writ petitions i.e., W.P.No.11059 of 2014, W.P.No.11079 of 2014, W.P.No.14112 of 2014, W.P.No.14568 of 2014 & W.P.No.38501 of 2017 on the different dates.

5. <u>The case of the Petitioner as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present W.P.No.12031 of 2014, in brief, is as under :</u>

a) The petitioner is a Society registered under the provisions, of A.P. Societies Registration (Telangana Area) Act, and had purchased lands from the original owners under four agreements of sale dated 12.7.1985 for total sale

consideration of Rs. 16,74,750. Out of the said sale consideration, Petitioner had already paid a sum of Rs.14,70,000 to the owners. Thereafter, the owners failed to register the plots and thus, the Petitioner filed a suit for Specific Performance under O.S. No.435 of 1989 and the said suit is still pending

b) Subsequent to the filing of Suit, Registered Sale Deeds were executed by the Original Owners in respect of Part of the Lands vide Document No.2251 of 2004 and 16509 of 2007, alongside, two more sale deeds were executed by the Owners in favour of the Petitioner Society and the same are pending for registration vide Document No. P32 of 2008 and P219 of 2008. While the matter stood thus, aggrieved by the orders passed in A1/ 1233/75, dated 28.11.1979 on the file of the Revenue Divisional Officer, Hyderabad West Division, presently Revenue Divisional Officer Chevella Division, R.R.District, the Respondent Nos. 4 to 7 claiming to be the legal heirs of late Nallolla Pochaiah and Nallolla Balaram, filed an appeal F1/2200 of 2009 before the 2nd Respondent and the said Appeal is filed on25.04.2009. Thus, without prejudice the aforementioned appeal is hit by delay and by limitation.

However, the 1st Respondent had not considered these aspects while passing the impugned order nor considered other proceedings initiated at the instance of the Petitioners or by their ancestors, which are dismissed by the concerned authorities.

c) Moreover, originally lands in Sy.No. 36 of Bowenpally Village, Balanagar Mandal, Ranga Reddy District are Inam Lands and M/s Akbar Ali, Mohd Ali and Syed Ahmed are the Inamdars of the aforesaid lands. The said Inamdars continued to cultivate the lands and their names have rightly appeared in all Revenue Records as Pattadars and Possessors and the said Inamdars continued to be in possession as on the date of vesting under the Inam Abolition Act.

d) After due enquiry, Inams Tribunal through orders dated 28.11.1979, has issued Occupancy Certificate in the names of the Inamdars and thereby Inamdars have become absolute owners of the lands in Sy.36 of Bowenpally Village, Balanagar Mandal, Ranga Reddy District. Thus, it is evident from the afore said proceedings that ancestors of Respondent Nos.4 to 7, including Respondent Nos.8 to 11 are not in possession of aforesaid lands.

e) Subsequently, the 3rd respondent vide orders dated 23.2.1991 had dismissed the application for restoration of possession and that order had become final. Thereafter, the said order was not challenged by the Respondents either in appeal or before this Court. But in the year 1994, another application dated 03.09.1994 was filed, seeking restoration of the possession of the land held by the ancestors as protected tenants. On filing such application, notice was issued by the 2nd Respondent calling upon the Petitioner to submit the reply. However, at that point the present writ petitioner had filed W.P.No. 19995 of 1994.

f) This Court vide orders Dated 19.08.2001 has allowed W.P No.19995 of 1994 stating that the application for restoration of possession is not maintainable. Thus, as against the order passed in the Writ Petition mentioned supra, filing of the appeal before the 2nd Respondent is illegal and the impugned order passed in F1/2200/2009 vide order dated 01.02.2014 is illegal, unsustainable and is without application of mind and, as such is liable to be set side.

g) Moreover, this Court held that the ancestors of Respondent Nos. 4 to 12 can avail their remedies as against the order dated 23.02.1991, i.e. order of dismissal by the 2nd Respondent passed in the application for restoration of possession. Admittedly, aggrieved party had not initiated any steps as against the orders 23.02.1991. Thus, the orders dated 23.02.1991 have become final and Respondent Nos.4 to 12 cannot claim any reliefs before the 1st Respondent without getting the orders dated 23.02.1991 set aside and as a matter of right, cannot challenge the orders passed in A1/1233/75 dated 28.11.1975 passed by the Inams Tribunal.

h) Thereafter, the ancestors of Respondent Nos.4 to 7 filed Impleading Application being I.A. No. 1000 of 1998 in O. S.No. 435 of 1989 to implead them as parties in the Suit filed by the Writ Petitioner for Specific Performance against its vendors. The said implead application is dismissed vide orders dated 11.12.1998, holding that Implead Petitioners have no right over the property as tenant much less protected tenant. Thereafter, CRP No. 1544 of 2004 was filed and the same was dismissed. Hence, the Revision Petitioners had challenged the dismissal CRP No. 1544 of 2004 in Special Leave Petition vide

SLP(Civil) No. 18081/2004 and the same was also dismissed as withdrawn on 13.09.2004.

i) Furthermore, the 3rd Respondent had rejected the claim of the ancestor of the Respondent Nos.4 to 11 in the proceedings initiated under Section 5 A of the A.P. Record of Rights of 1980 and has recognized the rights of the Writ Petitioner on conducting enquiry vide order dated 17.03.1990 in proceedings No. B/ROR/2901/89. The respondents claim is also hit by the orders passed by the 2nd respondent vide proceedings No. F1/1684 of 2004 dated 24.04.2004, wherein the said appeal was dismissed on the point of limitation. As such Appeal preferred by the Respondent Nos.4 to 7 is nothing but a collusive application with Respondent Nos. 8 to 11 and the orders dated 01.02.2014 are null and void. Hence this Writ Petition.

6. <u>The learned counsel appearing on behalf of the Petitioner mainly put-forth the following contentions</u>.

i) The 5th Respondent nor his predecessor had never been in possession of the property at any point of time and their earlier petition for restoration has been rejected as long

back as in the year 1993, holding clearly that they are not being protected tenants over the said subject lands.

ii) The land in question in Sy.No.36 is Inam land and Occupancy Rights Certificates were granted in the year 1979 vide Proceedings No.A1/1233/75, dated 28.11.1979 in favour of the father of the Petitioner, but after more than 30 years the 2nd Respondent entertained the Appeal filed by the Respondents No.5 to 8 erroneously without jurisdiction contrary to law inspite of dismissal of the earlier Appeals filed U/s.24 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 and restoration petition U/s.32 of the Andhra Pradesh (Telangana Area) Tenancy Act.

iii) The Respondents No.5 to 8 are not protected tenants and they were never in possession of the subject land at any point of time.

iv) As per the Revenue Authorities, Khasra pahani for the year 1954-55 is not available in the records as it was burnt in fire.

v) The Sisala Pahani for the years from 1955-56, 1956-57 and 1957-58 only show the possession of the Inamdars over the subject land and no tenant name is shown.

vi) All the pahanies from 1959 till 1973-74 only show the possession of the Inamdars and alleged tenants were never in possession of the subject land.

vii) The Respondents No.5 to 8 have not filed any protected tenancy certificate or any pahani showing possession by them as protected tenant before the Appellate Authority.

viii) The Respondents No.5 to 8 were in possession of the subject land as on 01.11.1973 and therefore they do not satisfy the requirement of the provision of Inam Abolition Act, 1955.

ix) The 2nd Respondent ignored the crucial aspect that it is settled principle of law that in respect of the Inams land, the provisions of Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 will apply and for grant of occupancy rights certificate it is necessary that the person should be in possession of the land and cultivating the land on relevant date.

x) The order of the 2nd Respondent is perverse.

xi) The 2nd Respondent totally ignored the fact as borne on record and did not take into consideration that the attempts of some of the Respondents/Tenants to come on record in the suits filed by the third party purchasers from Petitioners in O.S.No.435/1989 on the file of II Addl. Senior Civil Judge, Ranga Reddy District, for impleadment were dismissed long back and the various proceedings initiated including for restoration U/s.32 of the Tenancy Act were also rejected in the year 1993 and the same had become final.

Basing on the above said submissions the Learned Counsel appearing on behalf of the Petitioner contended that the writ petition should be allowed as prayed for.

7. The learned Counsel appearing on behalf of the Respondent Nos. 6, 7 & 8 mainly put-forth the following submissions :

i) The agricultural land bearing Sy.No.36 (Old Sy.No.17/1 and 17/2) admeasuring Ac.33.38 gts., situated at Old Bowenpally Village, Balanagar Mandal, Ranga Reddy District which is hereinafter referred to as the 'subject land' which is

the Dasthagardan Inam Land, which is governed by the Provisions of the Telangana Abolition of Inams Act, 1955, which is referred to as Inams Act and one Late Akbar Ali Sabu, Syed Ahmed and Mohammed Ali were its Inamdars and whereas the father of the Respondents No.6 to 8, and grandfather namely Nallolla Balaram and 2 others namely Sri Nuchu Swamy and Nallola Pochaiah had cultivated each 1/3rd equal share separately during their life time, thus they were declared as the protected tenants of the subject land under the Provisions of A.P. (T.A) Tenancy and Agricultural Lands Act, 1950 and cultivated and enjoyed their respective shares without surrendering either their lawful possession of tenancy rights to anyone.

ii) Respondents had not been issued any notice by Inam Tribunal while passing the order in File No.A1/1233/75, dated 28.11.1979 and therefore the plea of limitation does not arise at all according to Article 123 of the Limitation Act, 1963 and that the Respondents No.6, 7 and 8 had filed the Appeal within a period of 30 days from getting the date of knowledge.

iii) The occupancy rights certificate had been issued in the year 1979 by Appellate Authority without any reasons and without application of mind.

iv) The Respondents No.6, 7 and 8 had no knowledge about the alleged claim of the Petitioners who had colluded with Praga Tools Officers Co-Op. Housing Society, Rep. by its President P.Sambasiva Rao, and had fraudulently erected the iron sheets towards part of the subject land and also erected shed which compelled the Respondent No. 6 to file a complaint to the SHO, PS Bowenpally.

v) The Respondents No.6, 7 and 8 neither handed over the possession of the subject land nor surrendered the tenancy rights over the subject lands in favour of any other third party.

vi) The alleged grant of ORC is bogus, false and fabricated.

vii) The Petitioners or their vendors did not get any lawful title or possession in and over the subject land.

viii) The Form-III filed by the Petitioners alleged by the Petitioners as having been issued under Sec.4 r/w Sec.10 of

the A.P. (T.A.) Abolition of Inams Act, 1954 is false and fabricated one.

ix) The Petitioners have no *locus standi* to claim any rights with regard to the subject land under the guise of false and fabricated sale deeds said to have been possessed by them.

x) The principles of estoppels would not prevent the protected tenants from making a claim over the subject land.

xi) The Petitioners did not mention the names of the protected tenants to whom certificate, dated 30.03.2002 U/s.38A was sanctioned by the 2nd Respondent and who had executed the Registered Sale Deed Nos.1319, 6140 and 6141 of 2002, dated 25.09.2022 in respect of land admeasuring Ac.5.26 gts., in Sy.No.36 of Old Bowenpally Village in their favour and further they have malafidly withheld the documents which were fraudulently and collusively brought into existence by the Petitioners in collusion with their vendors that too prior to setting aside the orders passed in File No.1233/75.

xii) The alleged Inamdar Iftekar Ali has no lawful right to alienate the above subject land only to the legal heirs of the

one of the protected tenant Nallolla Pochaiah behind the back of Respondents No.6, 7 and 8 and moreover there was no partition effected among the legal heirs of the above said Inamdars and Iftekar Ali. Hence the alleged sale is illegal, false and fabricated.

Based on the above submissions the learned Counsel appearing on behalf of Respondents No.6, 7 and 8 contended that the Writ Petition needs to be dismissed.

DISCUSSION & CONCLUSION :

8. The facts not in dispute are as under :

(a) The Petitioners in all the Writ Petitions referred to above are concerned with certain extents of land in Sy.No.36 of Old Bowenpally Village, Ranga Reddy District. Few of the Petitioners had purchased the same under Registered Sale Deeds which were executed by the family members of the protected tenants and also the land holder/inamdar by name Iftekar Ali and in few cases father of the Petitioners

were granted occupancy rights after due enquiry in File No.A1/1233/75, dated 28.11.1979 and thereafter, the Petitioners had been in possession of the subject property inheriting the same and few of the Petitioners had also created third party interest over the subject property.

(b) It is further not in dispute that under Section 38A of the Hyderabad Tenancy Act, 1950 the Protected Tenants and Landholders had applied for Ownership Certificate and the same was granted on 30.03.2002 by the Competent Authority. The validity of the said ownership certificate dated 30.03.2002 was upheld by this Court in CRP No.1086 of 2004, dated 21.12.2012 affirming the said ownership certificate dated 30.03.2002 and few of the Petitioners had purchased few extents of the subject land in Sy.No.36 from the protected tenants and the Inamdar on the strength of the ownership certificate granted U/s.38A of the Tenancy Act. The said Sale Deeds of the said Petitioners are not challenged by either the Inamdar or the Protected Tenants till today. Thus all the

Petitioners in all the writ petitions referred to above are lawful owners in the capacity of bonafide purchasers, as children of holders of occupancy rights certificate and possessors of few extents of land in Sy.No.36 of Old Bowenpally Village.

(c) It is further not in dispute that the subject land is admittedly an Inam land under the Telangana Inam Abolition Act, 1955. The Inamdar and his family were granted Occupancy Rights Certificate in respect of large extent of Ac.28.07 gts., in Sy.No.36 of Old Bowenpally Village, U/s.10 of the said Act, by the Revenue Divisional Officer, Chevella, vide Proceedings No.A1/1233/75, dated 28.11.1979. The protected tenants have not even applied for grant of Occupancy Right Certificate at the relevant time. Thus the said ORC granted in favour of the Inamdar, Iftekar Ali and his family, had attained finality. The said ORC dt. 28.11.1979 had been challenged by some of the members of the branch of the Protected Tenants U/s.24 of the Telangana Abolition of Inams Act, before the Joint Collector, Ranga Reddy District, in File

No.F1/2200/2009 and F1/7122/2009 (without impleading few of the Petitioners in the present writ petitions) under section 24 of the Telangana Abolition of Inams Act, 1955, after about 30 years from the date of grant and Joint Collector, Ranga Reddy District, by the present impugned appellate judgment dt. 01.02.2014 had set aside the ORC dated 28.11.1979 and remanded the matter to the Revenue Divisional Officer for conducting a fresh enquiry. This Appellate order of the Joint Collector-I, Ranga Reddy District, Hyderabad, dated 01.02.2014 is impugned in all the writ petitions i.e., W.P.No.12030 of 2014, WP.No.12031 of 2014, W.P.No. 14112 of 2014, W.P. No. 14568 of 2014, W.P.No.16686 of 2014, W.P.No. 11059 of 2014 and W.P.No.11079 of 2014.

9. Section 7 read with Section 33 of the Telangana Abolition of Inams Act, 1955 reads as under :

> **Section 7: Registration of protected tenants as occupants.**
>
> 7. (1) Every protected tenant shall, with effect from the date of vesting, be entitled to be registered as an occupant of such inam lands in his possession as may

be left over after the allotment under section 4, which were under his personal cultivation and which, together with any lands he separately owns and cultivates personally, are equal to four and a half times the family holding‘.

(2) The protected tenant shall be entitled to compensation from the Government as provided for under this Act in respect of inam lands in his possession in excess of the limit specified in sub-section (1) whether cultivated or not:

Provided that—

(a) he continued to be a tenant of such inam lands until the date of vesting; or

(b) if he is not in possession, he has been unlawfully dispossessed of such lands by the inamdar between the 10th of June, 1950 and the date of vesting.

(3) No protected tenant shall be entitled to be registered as an occupant under sub-section (1) unless he pays to the Government as premium an amount equal to forty times the land revenue for dry land and thirteen times for wet land. The amount of premium shall be payable in not more than ten annual instalments along with the annual land revenue and in default of such payment shall be recoverable as arrears of land revenue due on the land in respect of which it is payable.

[Provided that the protected tenant who is a poor person shall be entitled to be registered as an occupant

under sub-section (1), without payment of any premium to the Government.]

Section 33. Savings.

33. Nothing in this Act shall in any way be deemed to affect the application of the provisions of 19[the Telangana Tenancy and Agricultural Lands Act, 1950] to any inam or the mutual rights and obligations of an inamdar and his tenants, save in so far as the said provisions are in any way inconsistent with the express provisions of this Act.

10. A bare perusal of the record indicates that the Appellants before the Joint Collector-I, Ranga Reddy District, Hyderabad, had not applied for grant of ORC at any point of time from 1979 to 2009 when the present Appeals had been filed before the Joint Collector-I, Ranga Reddy, Hyderabad. A bare perusal of Sec.7, r/w Sec.33 of the Telangana Abolition of Inams Act, 1955 clearly indicates that the Appellants before the Joint Collector-I, Ranga Reddy District, had a right to apply for grant of ORC U/s.10 of the said Act, but however, failed to do so and hence this Court opines that the Appellants do not have the locus to maintain the very

Appeal itself before the Joint Collector-I, Ranga Reddy District, Hyderabad.

11. A bare perusal of the order impugned dated 01.02.2014 in Case No.F1/2200/2009 passed by the Joint Collector-I, Ranga Reddy District, clearly indicates that i.e., the Appellate Authority has not recorded any reasons for setting aside the ORC granted by the Revenue Divisional Officer, Chevella Division, Chevella, Ranga Reddy District, in the year 1979 in File No.A1/1233/1975, dated 28.11.1979.

a) This Court opines that the reasons are the primary requirement for passing an order by any statutory authority. Reason is the soul of justice, reason is the heart beat of every conclusion, recording of reasons is principles of natural justice as it ensures transparency and fairness in decision making. The impugned order of the Joint Collector-I, Ranga Reddy District, in Case No.F1/2200/2009, dt. 01.02.2014 does not contain any valid and cogent/coherent reasons.

12. The Apex Court judgments on the requirement of recording reasons and the observations made there under in few cases is extracted hereunder :

Few Judgments of the Apex Court on the point of recording of reasons.

a. The Apex Court in the judgment reported in (2001) 5 SCC 664 in Tandon Brothers Vs. State of West Bengal & Others at para 34 observed as under :

> "**Governmental action must be based on utmost good faith, belief and ought to be supported with reason on the basis of the State of Law – if the action is otherwise or runs counter to the same the action cannot but be ascribed** to be malafide and it would be a plain exercise of judicial power to countenance such action and set the same aside for the purpose of equity, good conscience and justice. Justice of the situation demands action clothed with bonafide reason and necessities of the situation in accordance with the law."

b. The Apex Court in the judgment reported in (2010) 9 SCC 496 in Kranti Associates Private Limited & Another v. Masood Ahmed Khan & Others at para 47 observed as under :

Para 47 : *Summarising the above discussion, this Court holds:*

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

*(d) Recording of reasons also operates as a valid restraint on any * possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers.

Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny.

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making,

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons, for the decision is of the essence and is virtually a part of "due process".

c. The Supreme Court in case of <u>Commissioner of Police, Bombay Vs. Gordhandas Bhanji</u> reported in (1951) SCC 1088 observed as under :

"We are clear that the public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the Officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to effect the acting's and conduct of those to whom they are addressed and must be construed objectively <u>with reference to the language used in the order itself.</u>

d. Former Chief Justice of India, Late Justice Y.V. Chandrachud in judgment reported in (1978) 1 SCC 248 in Maneka Gandhi Vs. Union of India held that law cannot permit any exercise of power by an executive to keep the reasons undisclosed if the only motive for doing so is to keep the reasons away from judicial scrutiny.

e. The Apex Court in case of Steel Authority of India Limited Vs. Sales Tax Officer, Rourkela-I Circle, AIR 2009 Supplement SC 561 observed as under :

> **"Reason is the heart beat of every conclusion. It introduces clarity in an order and without the same it becomes lifeless".**

f. In Alexander Machinery (Dudley Limited) Vs. Crabtree reported in (1974) ICR 120 (NIRC) it was observed

> **"Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the**

decision reveals the "Inscrutable face of the sphinx" it can, by its silence, render it virtually impossible for the Courts to perform their Appellate function or exercise the power of judicial review in adjudging the validity of the decision."

g. The Apex Court in judgment reported in (2010) 3 SCC 732 in Secretary and Curator, Victoria Memorial Hall Vs. Howrah Ganatantrik Nagrik Samity & Others at para 41 observed as under :

"Reason is the heart beat of every conclusion, it introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute subjectivity by objectivity. Absence of reasons renders the order unsustainable particularly when the order is subject to further challenge before a higher forum".

h. The Apex Court in S.N. Mukherjee Vs. Union of India reported in AIR (1990) SC 1984 refering the judgment reported in (1970) 3 SCR in Travancore Rayon Ltd. V Union of India, observed as under:

"38. The object underlying the rules of natural justice "is to prevent miscarriage of justice" and secure "fair play in action." As pointed out earlier the requirement about recording of reasons for its

decision by an administrative authority exercising quasi judicial functions achieves this object by excluding chances of arbitrariness and ensuring a degree of fairness in the process of decision making. Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. The rules of natural justice are not embodied rules. The extent of their application depends upon the particular statutory framework whereunder jurisdiction has been conferred on the administrative authority. With regard to the exercise of a particular power by an administrative authority including exercise of judicial or quasi_judicial functions the legislature, while conferring the said power, may feel that it would not be in the larger public interest that the reasons for the order passed by the administrative authority be recorded in the order and be communicated to the aggrieved party and it may dispense with such a requirement. It may do so by making an express provision to that effect as those contained in the Administrative Procedure Act, 1946 of U. S. A. and the Administrative Decisions (Judicial Review) Act, 1977 of Australia whereby the orders passed by certain specified authorities are excluded from the ambit of the enactment. Such an exclusion can also arise by necessary implication from the nature of the

subject matter, the scheme and the provisions of the enactment. The public interest underlying such a provision would outweigh the salutary purpose served by the requirement to record the reasons. The said requirement cannot, therefore, be insisted upon in such a case.

39. For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision.

13. This Court opines that it is a settled proposition of law that when the proceedings are required to be initiated within a particular period provided under the statute, the same are required to be initiated within the said period. As per Sec.24 of the Telangana Abolition of Inams Act, 1955, Appeal U/s.24 of the said Act has to be filed within 30 days or such other time as enlarged by the Appellate Authority, but in the present case the Joint Collector-I, Ranga Reddy District, entertained the Appeal filed by the Respondents No.5 to 8 after a lapse of nearly 30 years challenging the

order dated 28.11.1979 passed by the Inam Tribunal granting ORC in favour of the legal heirs of the Original Inamdar. The Joint Collector-I, Ranga Reddy District without any application seeking condonation of delay and without assigning any reasons for such inordinate delay in filing the application allowed the Appeals filed after lapse of 30 years had set aside the order dated 28.11.1979 and remanded the matter back to the Revenue Divisional Officer, Chevella Division, Chevella, Ranga Reddy District for fresh consideration.

14. The Judgments of the Apex Court and other Courts dealing with the issue of exercise of powers by the authorities under the statute within a reasonable period and the relevant observations made there under in the said judgments is extracted hereunder :

a) The Judgment reported in (2022) Livelaw SC 704, in Union of India & Another Vs. City Bank, dated 24.08.2022, at para 19 observed as under :

> **"It is a settled proposition of law that when the proceedings are required to be initiated within a particular period provided under the Statute, the same are required to be initiated within the said period. However, where no such period has been**

provided in the Statute, the authorities are required to initiate the said proceeding within a reasonable period. No doubt that what would be a reasonable period would depend upon the facts and circumstances of each case. Reference in this respect could be made to the judgment given by a three-Judge Bench of this Court in the case of The State of Gujarat vs. Patil Raghav Natha and others4 , wherein this Court has held thus:

> "11. The question arises whether the Commissioner can revise an order made under Section 65 at any time. It is true that there is no period of limitation prescribed under Section 211, but it seems to us plain that this power must be exercised in reasonable time and the length of the reasonable time must be determined by the facts of the case and the nature of the order which is being revised."
>
> [emphasis supplied]

b) The Judgment of the Apex Court reported in (2003) 7 SCC 66, in Ibrahimpatnam Taluk Vyavasaya Coolie Sangam Vs. K.Suresh Reddy at paras 9, 13 and 19 observed as under :

> "**9.** Even before the Division Bench of the High Court in the writ appeals, the appellants did not contend that the suo motu power could be exercised even after a long delay of 13-15 years because of the fraudulent acts of the non-official respondents. The focus of attention before the Division Bench was only on the language of sub-section (4) of Section 50-B of the Act as to whether the suo motu power could be exercised at any time strictly sticking to the language of that sub-section or it could be exercised within reasonable time. In the absence of necessary and sufficient particulars pleaded as regards fraud and the date or period of discovery of fraud and more so when the contention that the suo motu power could be exercised within a reasonable

period from the date of discovery of fraud was not urged, the learned Single Judge as well as the Division Bench of the High Court were right in not examining the question of fraud alleged to have been committed by the non-official respondents. Use of the words “at any time” in sub-section (4) of Section 50-B of the Act only indicates that no specific period of limitation is prescribed within which the suo motu power could be exercised reckoning or starting from a particular date advisedly and contextually. Exercise of suo motu power depended on facts and circumstances of each case. In cases of fraud, this power could be exercised within a reasonable time from the date of detection or discovery of fraud. While exercising such power, several factors need to be kept in mind such as effect on the rights of the third parties over the immovable property due to passage of considerable time, change of hands by subsequent bona fide transfers, the orders attaining finality under the provisions of other Acts (such as the Land Ceiling Act). Hence, it appears that without stating from what date the period of limitation starts and within what period the suo motu power is to be exercised, in sub-section (4) of Section 50-B of the Act, the words “at any time” are used so that the suo motu power could be exercised within reasonable period from the date of discovery of fraud depending on facts and circumstances of each case in the context of the statute and nature of rights of the parties. Use of the words “at any time” in sub-section (4) of Section 50-B of the Act cannot be rigidly read letter by letter. It must be read and construed contextually and reasonably. If one has to simply proceed on the basis of the dictionary meaning of the words “at any time”, the suo motu power under sub-section (4) of Section 50-B of the Act could be exercised even after decades and then it would lead to anomalous position leading to uncertainty and complications seriously affecting the rights of the parties, that too, over immovable properties. Orders attaining finality and certainty of the rights of the parties accrued in the light of the orders passed must have sanctity. Exercise of suo motu power “at any time” only means that no specific period such as days, months

or years are not (*sic*) prescribed reckoning from a particular date**. But that does not mean that "at any time" should be unguided and arbitrary. In this view, "at any time" must be understood as within a reasonable time depending on the facts and circumstances of each case in the absence of prescribed period of limitation.**

13. In the light of what is stated above, we are of the view that the Division Bench of the High Court was right in affirming the view of the learned Single Judge of the High Court that the suo motu power under sub-section (4) of Section 50-B of the Act is to be exercised within a reasonable time.

19. It is also necessary to note that the suo motu power was sought to be exercised by the Joint Collector after 13-15 years. Section 50-B was amended in the year 1979 by adding sub-section (4), but no action was taken to invalidate the certificates in exercise of the suo motu power till 1989. There is no convincing explanation as to why the authorities waited for such a long time. It appears that sub-section (4) was added so as to take action where alienations or transfers were made to defeat the provisions of the Land Ceiling Act. The Land Ceiling Act having come into force on 1-1-1975, the authorities should have made inquiries and efforts so as to exercise the suo motu power within reasonable time. **The action of the Joint Collector in exercising suo motu power after several years and not within reasonable period and passing orders cancelling validation certificates given by the Tahsildar, as rightly held by the High Court, could not be sustained.**

c) The Apex Court in the judgment reported in (2015) 3 SCC 695, in Joint Collector, Ranga Reddy & Another Vs. D. Narsing Rao & Others at paras 16 and 31 observed as under :

16. No time-limit is prescribed in the above section for the exercise of suo motu power but the question is as to whether the suo motu power could be exercised after a period of 50 years. The Government as early as in the year 1991 passed an order reserving 477 acres of land in Survey Nos. 36 and 37 of Gopanpally Village for house sites to the government employees. In other words, the Government had every occasion to verify the revenue entries pertaining to the said lands while passing the Government Order dated 24-9-1991 but no exception was taken to the entries found. Further the respondents herein filed Writ Petition No. 21719 of 1997 challenging the Government Order dated 24-9-1991 and even at that point of time no action was initiated pertaining to the entries in the said survey numbers. Thereafter, the purchasers of land from Respondents 1 and 2 herein filed a civil suit in OS No. 12 of 2001 on the file of the Additional District Judge, Ranga Reddy District praying for a declaration that they were lawful owners and possessors of certain plots of land in Survey No. 36, and after contest, the suit was decreed and said decree is allowed to become final. By the impugned notice dated 31-12-2004 the suo motu revision power under Section 166-B referred to above is sought to be exercised after five decades and if it is allowed to do so it would lead to anomalous position leading to uncertainty and complications seriously affecting the rights of the parties over immovable properties.

31. 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.

d) The Division Bench judgment of the High Court of Andhra Pradesh in S.Santhanam & Others Vs. State of A.P., Revenue Department, reported in (2006) 2 ALT 341 at paras 16 and 17 observed as under :

16. Another judgment, on which reliance has been placed is Ibrahimpatnam Taluk Vyavasaya Coolie Sangham v. K. Suresh Reddy . This is a judgment out of **a case, which was decided by the Supreme Court in the year 2003 i.e. after this Court decided the matter earlier in 1995. This judgment has taken note of various previous judgments also and according to us, this judgment settles the controversy. Therefore, we would like to refer to this judgment somewhat in detail. The Supreme Court framed the following question for consideration** :--

Whether the Collector can exercise suo motu power under Sub-section (4) of Section 50-B of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 at any time or such power is to be exercised within a reasonable time. Supreme Court said, Exercise of suo motu power depended on facts and circumstances of each case. In cases of fraud, this power could be exercised within a reasonable time from the date of detection or discovery of fraud. **While exercising such power, several factors need to be kept in mind such as effect on the rights of the third parties over the immovable**

property due to passage of considerable time, change of hands by subsequent bona fide transfers, the orders attaining finality under the provisions of other Acts (such as the Land Ceiling Act). Hence, it appears that without stating from what date the period of limitation starts and within what period the suo motu power is to be exercised, in Sub-section (4) of Section 50-B of the Act, the words \"at any time\" are used so that the suo motu power could be exercised within reasonable period from the date of discovery of fraud depending on facts and circumstances of each case in the context of the statute and nature of rights of the parties. Use of the words \"at any time\" in Sub-section (4) of Section 50-B of the Act cannot be rigidly read letter by letter. It must be read and construed contextually and reasonably. If one has to simply proceed on the basis of the dictionary meaning of the words \"at any time\", the suo motu power under Sub-section (4) of Section 50-B of the Act could be exercised even after decades and then it would lead to anomalous position leading to uncertainty and complications seriously affecting the rights of the parties, that too, over immovable properties. Orders attaining finality and certainty of the rights of the parties accrued in the light of the orders passed must have sanctity. Exercise of suo motu power \"at any time\" only means that no specific period such as days, months or years are not prescribed reckoning from a particular date. But that does not mean that \"at any time\" should be unguided and arbitrary. In this view, \"at any time\" must be understood as within a reasonable time depending on the facts and circumstances of each case in the absence of prescribed period of limitation.

17. If the present case is seen in the light of this judgment, one can safely say that the respondents could have not exercised their power after 30 years. The original assignment was made in the year 1953. Large number of third parties have acquired rights and interest in the lands during the passage of 30 years. One of the

appellants is a Society, which purchased the lands from the original allottees. The layout plan was submitted by the Society to the Municipal Corporation, which was approved by the Municipal Corporation. Betterment charges were paid to the Corporation and this development of sanctioning the plan happened in the year 1969. Thereafter, the plots were allotted to the members of the Society, who appeared to be bonafide purchasers. Those purchasers have constructed buildings in their respective plots, investing huge sums of money and they are living in those houses. Even in one case, we were shown that the original pattedar sold land to a former Chief Justice of this Court and the Chief Justice sold it to another party. Now, if a person purchases the land from a former Chief Justice of the High Court, it would be reasonable for the purchaser to believe that the Chief Justice, who was selling the land, had the title over the land. In these circumstances, since the third parties interests got involved during the period of 30 years, therefore, in our view, the Government could not have exercised the power under Section 166- B of the Tenancy Act, after a lapse of 30 years.

e) The judgment of the Apex Court reported in AIR (1969) SC 1297 in State of Gujarat Vs. Patel Ragha Natha at paras 11 and 12 observed as under :

> **11. The question arises whether the Commissioner can revise an order made under Section 65 at any time. It is true that there is no period of limitation prescribed under Section 211, but it seems to us plan that this power must be exercised in reasonable time and the length of the reasonable time must be determined of the facts of the case and the nature of the order which is being revised.**

12. It seems to us that Section 65 itself indicates the length of the reasonable time within which the Commissioner must act under Section 211. Under Section 65 of the Code if the Collector does not inform the applicant of his decision on the application within a period of three months the permission applied for shall be deemed to have been granted. This section shows that a period of three months is considered ample for the Collector to make up his mind and beyond that the legislature thinks that the matter is so urgent that permission shall be deemed to have been granted. Reading Sections 211 and 65 together it seems to us that the Commissioner must exercise his revisional powers within a few months of the order of the Collector. This is reasonable time because after the grant of the permission for building purposes the occupant is likely to spend money on starting building operations at least within a few months from the date of the permission. In this case the Commissioner set aside the order of the Collector on October 12, 1961, i. e., more than a year after the order, and it seems to us that this order was passed too late.

f) In similar circumstances the High Court at Hyderabad in WP No.10188/2019 vide its orders dated 23.01.2020 in Chenngalla Jangaiah & 3 others Vs. State of Telangana considered an Appeal preferred before the Joint Collector Challenging the ORC granted after more than 35 years and held to be hit by delay and latches. W.A.No.242/2020 preferred by the said Chennagalla

Jangaiah was dismissed vide orders dt. 26.08.2020 upheld the order of the Learned Single Judge.

g) A Division Bench of High Court at Hyderabad in case of Vorla Ramchandra Reddy & Others Vs. Joint Collector-I, Ranga Reddy District, Lakidi-ka-pul and others reported in (2021) 5 ALD page 477, observed that whenever there is inordinate delay in invoking the provisions of a statute, an application should be rejected on that ground alone.

h) In a judgment reported in (2015) 4 ALD page 490 in Ithagani Lachaiah Vs. Joint Collector and Additional District Magistrate, Nalgonda at para 32 and 33 observed as under :

> "32. In the instant case, the dispute is not between the owner and the tenant. The dispute is between protected tenant, his nephew and the purchasers of the land from the nephew. He was not illegally dispossessed. No doubt right is vested in a protected tenant for possession and enjoyment of tenancy lands and primary objective of the Act is to protect the interest of the protected tenant. But, merely because the right is vested in a protected tenant, he cannot keep quiet, allow others to enjoy the property and sleep over the said right and wake up after long lapse of time without regard to the subsequent developments and apply for enforcement of the provision under Section 32 of the Act.

> 33. In the several decisions relied upon by the learned counsel for the petitioners, uniformly it is held that **whenever there is inordinate delay in invoking the provisions of a statute, an application should be rejected on that ground alone. Principle reiterated from time and again that even if no time limit is prescribed in the statute for exercise of power, such power has to be exercised within reasonable time and what is reasonable time depends on the facts of each case.** In the cases discussed above, the delay in filing an application for suo moto exercise of power ranged between five years in one case to 12 to 15 years in another case and delay of 20 years and more in other cases. The Supreme Court held it is unreasonable to exercise power in such cases."

15. This Court on perusal of records opines that no proper foundation is laid by the Appellants before the Joint Collector-I, Ranga Reddy District, Hyderabad, i.e., before the Appellate Authority or in this Writ Petition on the reasons for preferring the Appeal before the Joint Collector-I, Ranga Reddy District, Hyderabad, U/s.24 of the Act after a long lapse of time, since no cogent reasons are assigned by the Appellants before the Joint Collector-I, Ranga Reddy District, Hyderabad, for not preferring Appeal within the time prescribed in Sec.24 of the Act.

16. Section 24 of the Telangana Inams Abolition Act, 1955 reads as under :

> **Section 24: <u>Appeals from orders under Section 10 to prescribed authority</u>:. –**
>
> (1) Any person aggrieved by a decision of the Collector under Section 10 may, within thirty days from the date of decision, or such further time as the prescribed authority may for sufficient cause allow, appeal to the prescribed authority and its decision shall be final.
>
> (2) If any question arises whether any building or land falls within the scope of Section 9 the same shall be referred to the prescribed authority whose decision shall be final.

17. <u>It is settled law when a statute describes or requires a thing to be done in a particular manner it should be done in that manner or not at all</u>.

A) (M.Shankara Reddy Vs. Amara Ramakoteswara Rao reported in (2017) SCC Online Hyd. 426).

B) <u>The Division Bench of Apex Court in its judgment dated 04.10.2021 in Supertech Ltd., Vs. Emerald Court Owner Resident Welfare Association and Ors., reported in 2021 SCC Online SC 3422</u>, referring to Taylor Vs.

Taylor, 1875 (1) Ch D426, Nazir Ahmed Vs. King Emperor reported in (1936) L.R.63 Ind Ap372 and Parbhani Transport Co-operative Society Ltd., Vs. The Regional Transport Authority, Aurangabad & Ors., reported in AIR 1960 SC 801 at para 13 observed as under :

> "It is that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden. Hence when a statute requires a particular thing to be done in a particular manner, it must be done in that manner or not at all and other methods of performance are necessarily forbidden. This Court too, as adopted this maxim. This rule provides that an expressly laid down mode of doing something necessarily implies a prohibition on doing it in any other way.

18. A bare perusal of the proceedings No.B/3047/90, dated 23.02.1991 of the Mandal Revenue Officer, Balanagar, Ranga Reddy District, filed as Material Document in support of the Petitioners case indicates that the order of seeking restoration Under Section 32 of the Andhra Pradesh (Telangana Area) Tenancy Act, has become final vide Proceedings of the Mandal

Revenue Officer, Balanagar, dated 23.02.1991 in case No.B/3047/90, under Tenancy Act in respect of the land bearing Sy.No.36 admeasuring Ac.33.38 gts., situated in Boinpally Village, Balanagar Mandal, Ranga Reddy District, and hence this Court opines that the question of claiming any tenancy rights by any of the subsequent alleged successors, holders does not arise.

19. This Court is of the firm opinion that in the present case, the Joint Collector-I, Ranga Reddy District, Hyderabad, contrary to the statute, erroneously entertained the Appeals preferred by the Appellants before him under Section 24 of the (Telangana Area) Abolition of Inams Act, 1955 against the proceedings No.A1/1233/75, dated 28.11.1979 issued by the Revenue Divisional Officer, Chevella Division, under Section 10 of the Inam Abolition Act, 1955 and without any reasons, without application of mind, contrary to law, without inherent jurisdiction, without any justification and reasoning exceeded in its jurisdiction like a Civil Court akin to Order 41, Rules 23, 24 and 25 and remanded the matter back to the Revenue

Divisional Officer, Chevella Division, Chevella, Ranga Reddy District for conduct of fresh enquiry which is apparently perverse, patently illegal and irrational since the Joint Collector-I, Ranga Reddy District, Hyderabad, under Section 24 of the Telangana Inams Abolition Act, 1955 may either uphold the grant of ORC or set aside the same for cogent reasons but cannot exercise power of jurisdictional functioning of Civil Court and remand the matter back for remand enquiry to the Revenue Divisional Officer, Chevella Division, Chevella, Ranga Reddy District, therefore the same is unsustainable and hence this Court opines that the order impugned dated 01.02.2014, passed by the Joint Collector-I, Ranga Reddy District, Hyderabad should be treated as a nullity.

20. The Apex Court in the judgment reported in AIR (1969) SC 193, Chief Justice of A.P. Vs. L.V.A. Dikishitulu at para 23 observed as under :

> "23. As against the above, Shri Vepa Sarathy, appearing for the respective first respondents in C. A. 2826 of 1977 and in C.A. 278 of 1978 submitted that when his client filed a writ petition (No. 58908 of 1976) under

Article 226 of the Constitution in the High Court for impugning the order of his compulsory retirement passed by the Chief Justice, he had served, in accordance with Rule 5 of the Andhra Pradesh High Court (Original Side) Rules, notice on the Chief Justice and the Government Pleader, and, in consequence, at the preliminary hearing of the writ petition before the Division Bench the Government Pleader appeared on behalf of all the respondents including the Chief Justice, and raised a preliminary objection that the writ petition was not maintainable in view of Cl.6 of the Andhra Pradesh Administrative Tribunal Order made by the President under Article 371-D which had taken away that jurisdiction of the High Court and vested the same in the Administrative Tribunal. This objection was accepted by the High Court, and as a result, the writ petition was dismissed in limine. In these circumstances - proceeds the argument - the appellant is now precluded on principles of res judicata and estoppel from taking up the position, that the Tribunal's order is without jurisdiction. But, when Shri Sarathy's attention was invited to the fact that no notice was actually served on the Chief Justice and that the Government Pleader who had raised this objection, had not been instructed by the Chief Justice on their behalf, the counsel did not pursue this contention further. Moreover, this is a pure question of law depending upon the interpretation of Article 371-D. **If the argument holds good, it will make the decision of the Tribunal as having been given by an authority suffering from inherent lack of jurisdiction.**

21. The Apex Court in the judgment reported in AIR (1954) SC 340, in Kiran Singh & Others Vs. Chaman Paswan at para 6 observed as under :

> "6. The answer to these contentions must depend on what the position in law is when a Court entertain a suit or an appeal over which it has no jurisdiction and what the effect of Section 11 of the Suit Valuation Act is on that position. It is a fundamental principle well-established that a decree passed by a Court without jurisdiction is a nullity and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. **A defect of jurisdiction, whether it is pecuniary or territorial or whether, it is in respect of the subject-matter of the action, strikes at the very authority of the Court to pass any decree, and such a defect cannot be cured even by consent of parties**. If the question now under consideration fell to be determined only on the application of general principles governing the matter, there can be no doubt that the District, Court of Monghyr was coram non judice, and that its judgment and decree would be nullities. The question is what is the effect of Section 11 of the Suits Valuation Act on this position.

22. The Apex Court in the judgment reported in (2003) 2 SCC 418 in Bihar State Mineral Development Corporation Vs. Encon Builders Private Limited at Para 31 observed as under :

> "**31.** As the acts of bias on the part of the second appellant arose during execution of the agreement, the question as to whether the respondent herein entered into the agreement with his eyes wide open or not takes a back seat. **An order which lacks inherent jurisdiction would be a nullity and, thus, the procedural law of waiver or estoppel would have no application in such a situation.**

23. This Court in the batch of the present writ petitions had granted order of 'Status Quo' in the year 2014 and the same is in force as on date. Taking into consideration the fact that the impugned order eventually would lead to upset settled things after such long lapse of time, more so, when the delay and latches are staring at the Appellants before the Joint Collector-I, Ranga Reddy District, Hyderabad, this Court taking into consideration the fact that during the interregnum i.e., from 28.11.1979 till as on date several developments might have taken place in respect of the

lands in question and the Petitioners have altered their position based upon long length of time and hence this Court opines that it cannot be allowed to be nullified at such distance of time since it would amount to upsetting settled things after long lapse of time.

24. In view of the aforesaid discussion and reasoning this Court opines that the judgments relied upon by the Learned Counsel for the Respondents in all the writ petitions i.e., W.P.No.12030/2014, W.P.No.12031 of 2014, W.P. No. 14112/2014, W.P.No. 14568 of 2014, W.P.No.16686 of 2014, W.P.No. 11059 of 2014 and WP No.11079/2014, have no application to the facts of the case in the said writ petitions and hence, the pleas put-forth by the Learned Counsel appearing on behalf of the Respondents in all the aforesaid cases are untenable and hence, stand rejected.

25. Taking into consideration the aforesaid facts and circumstances of the case and the law laid down by the Apex Court and other Courts in the various judgments, referred to and extracted above, and again enlisted hereunder:-

1. The Apex Court judgment in Tandon Brothers v State of West Bengal and others reported in (2001) 5 SCC 664.

2. The Apex Court judgment in Kranti Associates Private Limited and another v Masood Ahmed Khan and others reported in (2010) 9 SCC 496.

3. The Apex Court judgment in Commissioner of Police, Bombay v Gordhandas Bhanji reported in (1951) SCC 1088.

4. The Apex Court judgment in Maneka Gandhi v Union of India reported in (1978) 1 SCC 248.

5. The Apex Court judgment in Steel Authority of India Limited v Sales Tax Officer, Rourkela-I reported in AIR 2009 Supl. SC 561.

6. The Apex Court judgment in Alexander Machinery (Dudley Limited) v Crabtree reported in (1974) ICR 120 (NIRC).

7. The Apex Court judgment in Secretary and Curator, Victoria Memorial Hall v Howrah Ganatantrik Samity and others reporte in (2010) 3 SCC 732.

8. The Apex Court judgment in S.N.Mukherjee v Union of India reported in (1990) SC 1984 referring the judgment in Travancore Rayon Ltd. V Union of India reported in (1970) 3 SCR.

9. The Apex Court judgment in Union of India and another v City Bank reported in (2022) Livelaw SC 704.

10. The Apex Court in Ibrahimpatnam Taluk Vyavasaya Coolie Sangam v K.Suresh Reddy reported in (2003) 7 SCC 66.

11. The Apex Court judgment in Joint Collector, Ranga Reddy and another v D.Narsing Rao and others reported in (2015) 3 SCC 695.

12. The Division Bench Judgment of the High Court of A.P in S.Santhanam and others v State of A.P., Revenue Department, reported in (2006) 2 ALT 341.

13. The judgment of the Apex Court in State of Gujarat v Patel Ragha Natha reported in (1969) SC 1297.

14. A Division Bench of High Court at Hyderabad in Vorla Ramchandra Reddy and othrs v Jint Collector-I, Ranga Reddy District, Lakidi-ka-pul and others reported in (2021) 5 ALD 477.

15. The judgment of the High Court in Ithagani Lachaiah v Joint Collector and Additional District Magistrate, Nalgonda reported in (2015) 4 ALD 490.

16. The Apex Court judgment in Chief Justice of A.P. v L.V.A Dikishitulu reported in (1969) SC 193.

17. The Apex Court judgment in Kiran singh and others v Chaman Paswan reported in AIR (1954) SC 340.

18. The Apex Court judgment in Bihar State Mineral Development Corporation v Encon Builders Private Limited reported in (2003) 2 SCC 418.

19. The Apex Court judgment in Supertech Ltd v Emerald Court Owner Resident Welfare Association and others reported in 2021 SCC online SC 3422.

20. The Apex Court judgment in Prabhani Transport Co-operative Society Ltd. V The Regional Transport Authority, Aurangabad and others reported in AIR 1960 SC 801.

The writ petition is allowed and the impugned order in Case No.F1/2200/2009, dated 01.02.2014 passed by the Joint Collector-I, Ranga Reddy District, Hyderabad,

is quashed and the ORC granted vide Proceedings No.A1/1233/75, dated 28.11.1979, by the Revenue Divisional Officer, Chevella Division, Chevella, Ranga Reddy District, is directed to be restored forthwith. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

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SUREPALLI NANDA, J

Dated: 29.01.2024
Note: L.R. copy to be marked
b/o
kvrm