

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No.2369 OF 2019

Between:

M/s. Laxmi Sai Breeding Farms Pvt. Ltd.

... Petitioner

And

The State of Telangana & others

... Respondents

JUDGMENT PRONOUNCED ON: 21.12.2023

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

IN THE HIGH COURT OF TELANGANA AT HYDERABAD**WRIT PETITION No.2369 OF 2019****% 21.12.2023****Between:**

M/s. Laxmi Sai Breeding Farms Pvt. Ltd.

... Petitioner**And**

\$ The State of Telangana & others

... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioner : Mr.L.Preetham Reddy

^ Counsel for Respondent No.1 to 4: G.P. for Revenue

^ Counsel for Respondent No.5 : Mr.Bobbili Srinivas

? Cases Referred:

- (1) 2020 (14) SCC 228
- (2) AIR 2015 SC 1021
- (3) 2017 (16) SCC 418
- (4) 1998 SC 688

HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 2369 of 2019****ORDER:**

Heard the learned counsel Mr.L.Preetham Reddy, appearing on behalf of the Petitioner and the learned Government Pleader for Revenue on behalf of respondents 1 to 4 and learned Counsel Mr. Bobbili Srinivas, on behalf of Respondent No.5.

2. PRAYER :

Petitioner approached the Court seeking prayer as under :

"This Writ Petition is filed praying to issue a Writ of Mandamus declaring initiating Suo moto proceedings No.F3/518/2018 and issuance of hearing notice dated 02.01.2019, on the file of 2nd respondent District Collector, Medak upon the recommendation of the 3rd respondent against the petitioner herein in Sy.No. 92, Nagasanipalli village, Kowdipally Mandal, Medak district after long lapse of time as arbitrary, unjust, without jurisdiction, violative of Article 14 and 21 of Constitution of India and contrary to the provisions of the Telangana Rights in Lands and Pattadar Pass Books Act, 1971."

3. Case of the Petitioner as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present writ petition in brief are as under:

The Petitioner is a Company under the style of M/s.Laxmi Sai Breeding Farms Private Limited, resident of Villa No.56, Mytri Enclave, Yapral, Secunderabad. The Petitioner herein had purchased land admeasuring Ac.120.00 under Registered Sale Deeds dated 29.10.1986 bearing Document No.200 to 205 of 1987 on the file of Sub-Registrar, Narsapur, from the original owners and obtained pattadar passbooks and title deeds bearing Patta No.112 and also got mutated their names in the Revenue Records under the provisions of A.P. Rights in Lands & Pattadar Passbooks Act, 1971. The Petitioner herein filed an application on 13.10.1987 seeking exemption U/s.18(2) of A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 for Poultry Development. The 2nd Respondent through its letter dated 02.11.1987 recommended the same to the Government through the Commissioner of Land Reforms and Urban Land Ceiling for grant of permission and the Government duly considering the same issued G.O.Ms.No.1166, Revenue Department, dated 28.11.1989 granting exemption to M/s. Basic Breeders Pvt., Ltd.,

in respect of land admeasuring Ac.206.00 in Sy.No.92, 93, 93/2 and 94 of Nagasanpally Village, Kowdipally Mandal, exempting the said land from the provisions of the Act. The Petitioner herein commenced the Poultry Breeding and Hatchery and obtained Power Release Certificate on 28.01.1989 and thereafter obtained Registration Certificate as a Small Scale Industrial Unit from the Department of Industries, Government of Andhra Pradesh on 17.04.1989. Petitioner also obtained recognition certificate on 22.08.1990 and established Poultry business by constructing sheds and other dwelling units.

It is further the case of the Petitioner that M/s. Basic Breeders Limited Company subsequently changed its name as M/s. Indian Poultry Private Limited and M/s. Indian Poultry Private Limited executed Sale Deed bearing Doc.No.980/2008, dated 11.02.2008 in favour of G.V. Aswin, S/o. G.V. Narappa Reddy for an extent of Ac.36.00 in Sy.No.92 of Nagasanpally Village from out of the said land and after the said purchase G.V. Aswin, applied for and obtained mutation proceedings No.C/371/2008, dated 25.02.2008 on the file of the Mandal Revenue Officer, Kowdipally and also obtained pattadar passbook and title deed bearing Patta No.175 under the Provisions of A.P. Rights in Land and Pattadar Passbooks Act No.26 of 1971 and

thereafter applied for and obtained permission for construction of Poultry Shed and quarters in the said land from the Gram Panchayat, Thimmapur, Kowdipally Mandal, on 12.03.2008 by paying necessary amount of Rs.13,240/- through Challan dated 13.06.2008 and further the said G.V. Aswin alienated an extent of Ac.16.00 and also an extent of Ac.20.00 (in all Ac.36.00) under two Registered Sale Deeds bearing Doc.Nos.3812/2010 and 3813/2010 both dated 11.10.2010 in favour of the Petitioner herein i.e., M/s. Laxmi Sai Breeding Farms Pvt., Ltd., and the writ petitioner is a company under the provisions of Companies Act, 1956, having obtained Certificate from the Registrar of Companies on 09.04.2010. Thereafter the Petitioner had applied for and obtained mutation proceedings on 11.04.2011 in Proceedings No.B/436 on the file of MRO, Kowdipally and also obtained pattadar passbook bearing Patta No.252 and also Title deed under the provisions of Act 26 of 1971 and the Petitioner's name entered in the pahanies as Pattadar and Possessor.

It is further the case of the Petitioner that the Petitioner obtained :

- i. Renewal of Registration Certificate to operate transport service under the Provisions of Motor Transport Workers Act.

- ii. License under the Factories Act, 1948 on 25.01.2016 from the Inspector of Factories.
- iii. Permission from the Gram Panchayat, Thimmapur, Kowdipally on 23.02.2011.
- iv. Extension of power supply of 74 HP from the Central Power Distribution Company Ltd., of A.P. Medak at Sangareddy by paying necessary amounts on 03.11.2011.

It is further the case of the Petitioner, that the 5th Respondent made a frivolous representation dated 26.06.2015 to the 3rd Respondent without enclosing any documents requesting to enter his name along with his brother R.Ranga Rao and Radha Manohar Rao, S/o. of his deceased brother in the Revenue Records from the year 1991-1992 onwards by deleting the names of basic breeders i.e., G.V. Aswin Reddy and G. Rajini Reddy. Based on the said representation dated 26.06.2015 and relying upon a report alleged to have been submitted by 4th Respondent Tahsildar, dated 24.08.2015, the 3rd Respondent came to a wrong conclusion that wrong entries were recorded from 1986-87 onwards and further informed the 2nd Respondent to take up *suo moto* revision U/s.9 of the Act and also to take steps for deletion of names of Mallaiah & 5 others and all subsequent

purchasers and to restore to the land as Inam, so as to enable him to issue ORCs (Occupancy Rights Certificates) U/s.4 of Inams Abolition Act, 1955. The 2nd Respondent at the behest of the 3rd Respondent initiated *suo moto* proceedings No.F3/518/2018, purporting it to be U/s.9 of the Telangana Rights in Land and Pattadar Passbooks Act, 1971 and issued a Notice dated 02.01.2019 to the Petitioner herein.

PERUSED THE RECORD :

4. The Counter Affidavit filed on behalf of Respondents No.1 to 4, in particular, paras 4, 8 and 9, reads as under:

"4) It is respectfully submitted that Respondent No.5 has submitted the representation before Respondent No.3 on 26.06.2015 contending that certain illegal entries were carried out in respect of Sy.No.92. On receipt of the aforesaid representation, the Respondent No.3 sought for a report from the Respondent No.4. The Respondent No. 4 in turn has submitted a detailed report duly observing that as per the Kasha Pahani 1954 - 55, the land in Sy.No.92 is classified as "Dasthagardha Inam" and Sri. R.Kishan Rao was recorded as Inamdar till 1978 - 79. Thereafter, the name of Respondent No. 5 and his brothers were recorded as inamdars in the Pahani of the year 1979 - 80 to 1986 - 87. The Tahsildar further reported that during the year 1986 - 87, names of Sri S. Malliah and others was recorded as Pattadar Passbook in Occupancy Column and have sold

the land in favour of M/s. Basic Breeders Pvt., Ltd. The Tahsildar has also verified the Inam Register and found that the Sub-Collector, Medak Division vide Memo No. E/2500/82, dated 18.06.1982 and (05) others has negated the claim of the applicants duly holding that they have furnished a plain paper Sale Deed dated 10.01.1962 said to have been executed by R.Sesha Rao and 4 others appears to be not genuine. The Sub-Collector further observed that in order to know possession, the Pahani of Nagasanpally Village for the years 1962 - 73 were verified and found that the name of the claimant was recorded as cultivator in Column No. 16 except in the year 1972. The Sub-Collector was pleased to hold that on close verification of the Pahani of the year 1972, it is also evident that the entries in Column No. 16 was written subsequently as the pen used for this purpose is different from that used for the original entries. As such it is admitted fact that the claimant is not having possession over the land from the date of purchase and also before the date of vesting i.e., 01.11.1973. On the analysis, in the factual back drop, the Sub-Collector had come to a conclusion that those documents were created by the Inamdar to evade from the clutches of ceiling Laws. Thereafter, the matter was carried out in Appeal before the then District Collector, Medak who after verifying the record and dismissed the Appeal preferred under 24 of Inam Abolition Act. Therefore, the claims of Sri S.Mallaiah and 5 others are not accepted. Curiously, having lost the proceedings u/s. 10 & Appeal u/s. 24 of Inams Abolition Act, Sri Mallaiah & others along with

M/s. Basic Breeders have fraudulently with the set of fabricated documents conducted various sale transactions. It was also found that the names of Sri. S. Mallaiah and others were entered in the records without there being any proper mutation orders in the record.

8) It is respectfully submitted that a criminal case is also pending vide FIR No. 37/2018 on the file of Police Station, Narsapur. On the request of Circle Inspector of Police, Respondent No.3 has furnished information vide Letter dated 03.03.2020, wherein it was categorically informed that during the year 1984, 1985 and 1986 there were no ORC certificates with computerized format, that the mentioned ORC's are not traced out, that the other Inam certificates issued during the year 1984 - 85, 86 are in the normal pre-printed format, but not in computerized format. In other words, the ORC certificates which were relied on by S. Mallaiah and others are in computerized format and where as on the comparison of the certificates issued at the relevant time, they were in normal pre-printed format. It is also necessary to submit that Respondent No.5 and others have obtained ORC certificates during 2015 for the extent other than the one in favour of S. Mallaiah and others i.e. above Acs. 120-00. There are no supporting files in respect of the alleged ORCs claimed by the petitioner. It is evident from the ORCs printed electronically which was not in place at the relevant time itself is supports that, they are fabricated and fraudulent. The notice impugned in the Writ Petition is dated 02.01.2019 and thereafter the ROR Act

1971 is repelled by virtue of the new enactment 9 of 2020 which is introduced w.e.f. 19.09.2022. By virtue of the sec. 16 of the new act of pending proceedings are stand transferred to Special Tribunal which has got power to exercise all the pending appeals / revisions.

9) It is respectfully submitted that in the light of the aforesaid facts and circumstances it would establish reasonable suspicion and in other words it amounts to fraud on the Government both by the vendors of the petitioners as well as the unofficial respondents and as such the Respondent No.2 has rightly invoked the jurisdiction u/s.9 of the ROR Act. The mere notices can only be questioned in Writ Petition for want of jurisdiction. It is not the case of the Writ Petitioners that the Respondent No.2 has no jurisdiction. Section 9 contemplates Revisional Power on the Respondent No.2 either suo moto or on the application for correction of entries in the Revenue Record."

5. The Counter Affidavit filed by the 5th Respondent, in particular, paras 2, 3, 4 and 5, reads as under:

"2. It is submitted that agriculture land to an extant of Ac.157.12 gts in Sy.No.92 situated at Nagusanpally village, Kowdipally Mandal, Medak District is Dasthgardha Inam land in name of my father R.Kishan Rao from 1954-55 to 1978-79. My father died on 15th June 1959. After his death myself and my brothers have inherited the above property. Myself and my brothers namely Ranga Rao, R.Seetha

Rama rao were recorded as Inamdars in the Pahanis pertaining to the year 1979-80 to 1986-87.

3. However, the land was dealt by the Revenue Authorities under Ceiling on Agricultural Holding (COAH) Act.1973 and the Land Reforms Tribunal at Medak determined that the father of this Respondent late R. Kishan Rao was holding the land to an extent of 2.5593 standard holdings in excess of ceiling area. The said order was confirmed in appeal L.R.A. No.24/1986, dated 31.07.1992 by the Land Reforms Appellant Tribunal Medak at Sangareddy. Aggrieved by the same the Petitioner has filed C.R.P. No.447 of 1993 on the ground of that the subject land is Inam land as such the proceeding under COAH Act is not maintainable. The Hon'ble Court was pleased to dispose of the C.R.P. on 28.12.1995 directing the R.D.O. to conduct fresh enquiry by giving an opportunity to the Petitioner. There after the proceedings before Land Reforms Tribunal and Revenue Divisional Officer, Medak pending for consideration.

4. While so, I came to know that the Vendor of the Petitioner M/s. Basic Breeders Pvt. Ltd., has been claiming title over the land admeasuring Ac.120 out of Ac.157 in Sy.No.92 by virtue of alleged sale from unscrupulous persons. The Registered sale deeds dated 29.10.1986 show that the vendors of M/s. Basic Breeders Pvt. Ltd are namely Balaiah, Ramaiah, Mallaiah, Laxmaiah, Kistaiah and Shivaiah. The said vendors have no right, title or interest in the property in Sy.No.92, to convey the title. As such the further sales in favour of G.V Aswin and in favour of the

Petitioner shall not convey any title. On my enquiry I came to know that already Sub Collector, Medak has rejected the applications of 1.Domadugu Balaiah, 2. Patta Ramaiah, 3. Baliga Mallaiah, 4. Bakka Laxmaiah, 5.Gandla Kistaiah, 6. Sale Shivaiah for ORC certificates in 1982 as shown under :

Sl. No.	Sub Collector File No.	Date	Name of the Petitioner	Survey No.	Extent
01.	E/2496/82	18.06.1982	Domadugu Balaiah, S/o Mallaiah	92	20.00
02.	E/2497/82	18.06.1982	Patta Ramaiah, S/o Mallaiah	92	20.00
03.	E/2498/82	18.06.1982	Baliga Mallaiah, S/o Bakkaiah	92	20.00
04.	E/2499/82	18.06.1982	Bakka Laxmaiah, S/o Sailu	92	20.00
05.	E/2500/82	18.06.1982	Gandla Kistaiah, S/o Rangaiah	92	20.00
06.	E/2501/82	18.06.1982	Sale Shivaiah, S/o Veeraiah	92	20.00
				Total	120.00

5. It is submitted that in fact there were no such persons existed in that village or nearby villages in Medak District. I submit that the above said alleged persons have allegedly made applications through one unknown person and those applications seems to have been rejected by the Sub-Collector Medak. Aggrieved by the same those unscrupulous persons preferred appeals before the District Collector Medak and all the appeals were dismissed on 03.01.1984. Even then the sale deeds were created by the said unscrupulous persons on the strength of Occupancy Right Certificates dated 31.08.1985. In fact the said ORC certificates dated 31.08.1985 are fake, bogus and created for the purpose of sale deeds. On the strength of those

fake sale deeds several transactions took place and the Petitioner seemed to have purchased the said land from their vendor who has no title in the subject land."

6. The impugned Hearing Notice vide Letter No.F3/518/2018, dated 02.01.2019 on the file of 2nd Respondent District Collector, Medak, reads as under :

"The RDO, Narsapur vide reference cited has reported that, one Sri R.Janaki Rama Rao, S/o. Kishan Rao has filed an application before the then RDO Medak stating that the land in Sy.No. 92 admeasuring to an extent of Ac.157.12 gts is Dasthgardha Inam land, which is illegally recorded as patta from the pahani of 1986-87 in the name of Balaiah, Kistaiah S/o Rangaiah, Kistaiah S/o Veeraiah, Mallaiah S/o Bakkaiah, Bakka Laxmaiah & Palle Ramaiah etc., and requested to delete the wrong entries and to issue Occupancy Right Certificate in their favour. Accordingly, notices have been issued to all the concerned for submission of the connected documents and ORCs said to be issued to verify the genuinity of the same and in response to the notices M/s. Basic Breeders Pvt Ltd has submitted the ORCs stated to have been issued by the then RDO Medak in favour of their vendors. As such it has been decided to examine the matter U/s 9 of the ROR Act, 1971 to examine the matter in details for deletion of wrong entries made if any in respect of Sy.No.92 of Nagsanpally village of Kowdipally Mandal.

Please take notice that, the case is posted for hearing on **05.01.2019** at **11.00 AM** in the Court of the Joint Collector, Medak.

You are therefore directed to appear before the Joint Collector, Medak on the above date and time and represent your case either in person or through an advocate, failing which the matter will be decided based on available record."

7. The relevant portion of the Report of the RDO, Narsapur, forwarded to the Collector, Medak District vide Lr.No.C/1608/2017, dated 24.03.2018.

"In this regard it is to submit that the request of the above persons for issue of ORC has already been rejected by the Sub Collector Medak in Case No's.E/2496/82 to E/2501/82 vide order dated 09.06.1982 and confirmed by the District Collector in the appeal vide order dated 03.01.1984. Thus, the above said Occupancy Right Certificates issued in their names seems to be false and created. The concerned files referred above have not been traced out at RDO office Medak. Since, this office is newly formed and started functioning with effect from 11.10.2016, the above records have not been transferred to this office.

Accordingly, the case has been taken on record as an appeal U/s 5 of A.P.Rights in Land & PPB Act, 1971 and thereafter it came up for hearing several times and noticed that it is not a mutation made by the Tahsildar U/s 5 of the Act in favour of Domadugu Balaiah and (5) others and

therefore it does not attract section 5 (5) of the Act empowering the RDO to take it as an appeal and set aside the same. The Tahsildar requested for deletion of the wrong entries in the name of Domadugu Balaiah and (5) others and subsequently the name of purchasers namely Basic Breeders Pvt Ltd, Laxmi Banjara which amounts to wrong entries.

As per section 3(3) of Telangana Rights in land & PPB Act 1971 read with rule 15 & 16, the Tahsildar is competent to rectify wrong entries in the record up to a period of one year and thereafter the Joint Collector is only competent U/s 9 for rectification of the same.

In which, the wrong entries are recorded from 1986-87, thus the Tahsildar and RDO are not competent to rectify the same and it is only the Joint Collector having jurisdiction to rectify the same.

Therefore, I request kindly to take it as suo-moto revision U/s 9 of the Act and pass orders to delete the name of Mallaiah & (5) others and subsequent purchasers and to restore it as Inam so that action can be taken by the undersigned U/s 4 of Inams Abolition Act, 1955 for issue of ORCs in favour of deserving persons."

8. The Learned Counsel appearing on behalf of the Petitioner mainly puts-forth the following submissions :

- i. Exercising *suo moto* power after more than 33 long years in the year 2019 with regard to the correction of alleged wrong entries of the year 1986-87 is an arbitrary exercise of power.**

- ii. The impugned proceedings are based upon the dictates and letters of Respondent No.3 and 4.
- iii. The 5th Respondent without availing the remedy before appropriate Civil Court approached the 3rd Respondent and the 3rd Respondent erroneously directed the 2nd Respondent to take *suo moto* revision U/s.9 of the Act and delete the entries.
- iv. The 2nd Respondent did not apply its mind independently after verifying the record and proceeded in the matter with a predetermined mind and premeditated attitude ignoring the fact as borne on record that series of alienations made under Registered Sale Deeds involving third party rights to the subject land had come up in view of long lapse of time.
- v. The Revision Power under Pattadar Passbooks Act, 1971 is not available to the Respondents in the absence of any challenge to the grant of ORCs by way of filing Appeal before Appellate Authority under the Inams Abolition Act.
- vi. The application for correction made by the 5th Respondent is not in accordance with prescribed form under the said Act and Rules and in the absence of any material in support of the allegations, after long lapse of time is liable to be rejected without any due consideration.
- vii. The Learned Counsel for the Petitioner contended that the writ petition should be

allowed as prayed for and placed reliance on the judgments of the Apex Court reported in (i) 2017 (16) SCC 418 in "KUTCHI LAL RAMESHWAR ASHRAM TRUST EVAM ANNA KSHETRA TRUST THROUGH VELJI DEVSHI PATEL v. COLLECTOR, HARIDWAR AND OTHERS", dated 22.09.2017, (ii) 2018 (2) ALD 553 in "GUNDETI MURALI AND OTHERS v. DISTRICT REVENUE OFFICER, KARIMNAGAR AND OTHERS" dated 20.12.2017, (iii) 2017 (7) SCC 694 in "AGNIGUNDALA VENKATA RANGA RAO v. INDUKURU RAMACHANDRA REDDY (DEAD) BY LEGAL REPRESENTATIVES AND OTHERS", dated 13.04.2017, (iv) AIR 2015 SC 1021 in "JT.COLLECTOR, RANGA REDDY DIST. AND ANOTHER ETC. v. D.NARSING RAO ETC. AND OTHERS, CHAIRMAN, JOINT ACTION COMMITTEE OF EMPLOYEES, TEACHERS AND WORKERS, A.P. v. D.NARSING RAO AND OTHERS ETC.", dated 13.01.2015, (v) 2015 (5) ALD 601 in "T.RAJESWARI v. JOINT COLLECTOR, NELLORE DISTRICT, NELLORE AND OTHERS", dated 20.04.2015, (vi) 2019 (3) ALD 600 (TS) in "VENKAT RAJA REDDY NAGULA v. STATE OF TELANGANA AND OTHERS", dated 09.04.2019 and (vii) 2015 SCC Online, Hyd. 834 in "K.A.SWAMY v. STATE OF A.P., REP BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT AND OTHERS", dated 01.04.2015.

9. This Court vide orders dated 07.02.2019 passed interim orders in I.A.No.1 of 2019 in W.P.No.2369 of 2019 in favour of the Petitioner observing as under :

I.A.No.1 of 2019

"The proposed exercise of revisionary jurisdiction after the lapse of several decades requires examination. Prima facie, case law (JOINT COLLECTOR, RANGA REDDY DISTRICT v. D.NARSING RAO (2015) 3 SCC 695) would support the contention of the petitioner that such exercise is untenable in law.

There shall accordingly be interim stay as prayed for."

The said orders are in force as on date.

10. The learned Government Pleader placing reliance on the averments made in the counter affidavit filed by Respondents No.1 to 4 mainly puts-forth the following contentions.

(i) The impugned hearing notice dated 02.01.2019 issued by the 2nd Respondent herein upon the recommendation of the 3rd Respondent and in pursuance to the letter of the 3rd Respondent RDO, Narsapur letter No.C/1608/2017, dated 27.03.2018 which was in response to representation submitted by the 5th Respondent before Respondent No.3 on 26.06.2015

contending that certain illegal entries were carried out in respect of Sy.No.92 admeasuring to an extent Ac.157.12 gts., in Dasthgardha Inam Land recording the said subject land as patta from the pahani of 1986-87 in the name of Balaiah, Kistaiah S/o. Rangaiah, Ramaiah etc., and had requested to delete the wrong entries and to issue Occupancy Rights Certificate in their favour, and that the 3rd Respondent upon receipt of the said representation dated 26.06.2015 had sought a report from the 4th Respondent and the 4th Respondent had submitted a detailed report observing that as per the Khasara Pahani 1954-55, the land in Sy.No.92 is classified as "Dasthagardha Inam" and Sri R.Kishan Rao was recorded as Inamdar till 1978-79, thereafter the name of the Respondent No.5 and his brothers were recorded as Inamdars in the pahani of the year 1979-80 to 1986-87 and the Tahsildar had further reported that during the year 1986-87 names of Sri S.Mallaiah & others were recorded as pattadar passbook in occupancy column and had sold the land in favour of M/s. Basic Breeders Pvt., Ltd., and on perusal of the records the Sub-Collector, Medak Division concluded that some fraud had occurred

and the names of Sri S.Mallaiah and others had entered into the records without there being any mutation orders in the record.

(ii) In view that the said aforesaid circumstances established reasonable suspicion that some fraud had occurred on the Government both by the vendors of the Petitioners as well as the unofficial Respondent the Respondent No.2 has rightly invoked the jurisdiction U/s.9 of ROR Act, 1971.

(iii) Sec.9 of the ROR Act, 1971 contemplates Revisional power on the Respondent No.2 either suo-moto or on the application for correction of entries in the Revenue Records.

(iv) There is no illegality or any infirmity in issuing the impugned notice and the very writ petition is not maintainable against a mere notice. Hence the writ petition needs to be dismissed.

(v) Though the revisional power admittedly is exercised after a period of 30 years, yet the relevant documents established reasonable suspicion and fraud

and as such no limitation can be made applicable to the facts on hand.

(vi) Fraud vitiates even judicial acts and therefore the interim orders dated 07.02.2019 passed in I.A.No.1/2019 in W.P.No.2369/2019 should be vacated and the writ petition dismissed.

(vii) The learned Government pleader placed reliance on the judgment dated 03.04.2018 in Kasani Gnaneshwar Vs. Joint Collector, Medchal-Malkajgiri District & Others in W.A.No.268/2018 and also the judgment of the Apex Court reported in 1994 (1) SCC 1 in S.P.Chenganvaraya Naidu vs. Jagannath (Dead) by LR's & Others, dated 27.10.1993 in particular Para 1 wherein it is observed as under :

Para 1 : "Fraud avoids all judicial acts, ecclesiastical or temporal" observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and nonest in the eyes of law. Such a judgement/decreed – by the first court or by the highest court – has to be treated as a nullity by every court, whether

superior or inferior. It can be challenged in any court even in collateral proceedings.

Based on the aforesaid submissions the learned Government Pleader contended that the writ petition is liable to be dismissed.

11. The learned counsel appearing on behalf of the 5th Respondent placing reliance on the counter affidavit filed on behalf of 5th Respondent mainly puts-forth the following contentions :

(i) The subject land to an extent of Ac.157.12 gts., in Sy.No.92 situated at Nagusanpally Village, Kowdipally Mandal, Medak District is Dasthgardha Inam Land in name of 5th Respondent's father R.Kishna Rao from 1954-55 to 1978-79 and that he had died on 15.06.1959 and thereafter the 5th Respondent and his brothers had inherited the subject property and the 5th Respondent and his brothers namely Janakirama Rao, Ranga Rao and R.Sitarama Rao were recorded as Inamdars in the pahanis pertaining to the year 1979-80 to 1986-87. That the vendor of the Petitioner M/s.Basic Breeders Pvt., Ltd., had been claiming title over the land admeasuring Ac.120.00

out of acres 157.00 in Sy.No.92 by virtue of alleged sale from unscrupulous persons. The Registered Sale Deeds dated 29.10.1986 show that the vendors of M/s. Basic Breeders Pvt. Ltd., are namely Balaiah, Ramaiah, Mallaiah, Laxmaiah, Kistaiah and Sivaiah, and the said vendors have no right, title or interest in the property in Sy.No.92 to convey the title. As such the further sales in favour of G.V.Aswin and in favour of the Petitioner shall not convey any title, and that the 5th Respondent got information under RTI Act from RDO, Medak on ORCs issued from 1979-1993 of Nagasaipally Village and Devulapally Village of Kowdipally Mandal and the said information indicated that 15 ORCs were issued to various persons but no ORCs were issued to the vendors of M/s.Basic Breeders Pvt. Ltd., from whom the Petitioner had purchased the said subject land.

(ii) The learned Counsel appearing on behalf of the 5th Respondent contended that in the present case fraud had occurred and hence the present writ petition needs to be dismissed since there is no illegality in issuing the Hearing Notice by the 2nd Respondent since the 2nd

Respondent felt that fraud had occurred in the entries pertaining to the subject land and since it is only a show cause notice the Petitioner can reply and raise all the contentions as put-forth in the present writ petition before the 2nd Respondent and hence the writ petition needs to be dismissed.

(iii) The learned Counsel appearing on behalf of the 5th Respondent placed reliance on the judgment dated 16.06.2003 passed in W.P.No.11055/2003 reported in 2003 (5) ALD 215 and contended that the *suo moto* original power of the Joint Collector should no doubt be exercised within reasonable time, the said rule however, has no application where benefit is obtained by playing fraud.

DISCUSSION AND CONCLUSION

DISCUSSION :

12. A bare perusal of the record clearly indicates that the very basis of issuing the impugned Hearing Notice dated 02.01.2019 by the 2nd Respondent vide Lr.No.F3/518/2018 is the Report of RDO, Narsapur, dated 24.03.2018 vide Lr.No.C/1608/2017 addressed to the 2nd

Respondent herein which though clearly in its Report observed that the concerned files had not been traced out at RDO Office, Medak, but however, in its conclusion erroneously requested the 2nd Respondent to take the subject issue as a *suo moto* revision under Sec. 9 of the Act and pass orders to delete the names of Mallaiah & 5 others and subsequent purchasers and to restore it as Inam unilaterally without issuing a Notice to the Petitioner in clear violation of principles of natural justice and further the contents of the letter/report dated 24.08.2015 of the Tahsildar, Kowdipally Mandal vide Lr.No.B/1522/2015 addressed to the Revenue Divisional Officer, Medak indicates that the 4th Respondent clearly in the said report requested the 3rd Respondent to pass orders to delete the names recorded in the pahani in the name of M/s. Basic Breeders Pvt. Ltd., in land bearing Sy.No.92, extent Ac.120.00 situated at Nagsanpally Village, Kowdipally Mandal, Medak District and to record the name of the 5th Respondent in the pahani.

13. This Court on perusal of the entire material on record opines that it is only at the instance of 3rd, 4th and 5th

Respondents herein that the 2nd Respondent initiated the proceedings against the Petitioner and decided to examine the subject issue U/s.9 of the ROR Act, 1971 without applying his mind independently on the subject issue.

14. A bare perusal of the contents of the impugned Hearing Notice dated 02.01.2019 vide Lr.No.F3/518/2018 of the 2nd Respondent does not indicate the word fraud as alleged in the counter affidavit having been discovered by the State nor the date when the said alleged fraud that had crept into the Revenue Records had been discovered by the State due to which the 2nd Respondent took a decision to examine the matter U/s.9 of the ROR Act, 1971.

15. The impugned Hearing Notice dated 02.01.2019 is silent and does not explain the delay in taking a decision to examine the matter U/s.9 of ROR Act, 1971 pertaining to entries made in the pahani of 1986-87 in respect of Sy.No.92 of Nagsanpally Village of Kowdipally Mandal.

16. The Apex Court in the judgment reported in 2020 (14) SCC 228 in Vivek.M. Hinduja & Others Vs. M.

Ashwatha & Others, dated 06.12.2017 at para 10 and 11 observed as under :

“Para 10 : In Pune Municipal Corpn. V. State of Maharashtra this Court reproduced the following observations with regard to the declaration of orders beyond the period of limitation as invalid : (SCC p. 226, para 39).

“39. Setting aside the decree passed by all the courts and referring to several cases, this Court held that if the party aggrieved by invalidity of the order intends to approach the court for declaration that the order against him was inoperative, he must come before the court within the period prescribed by limitation. ‘If the statutory time of limitation expires, the court cannot give the declaration sought for’ ”.

Para 11 : We are in respectful agreement with the aforesaid observations. It is, however, necessary to add that where limitation is not prescribed, the party ought to approach the competent court or authority within reasonable time, beyond which no relief can be granted. As decided earlier, this principle would apply even to *suo moto* actions.

17. The Apex Court in the judgment reported in AIR 2015 SC 1021 in Joint Collector, Ranga Reddy District & Another etc., Vs. D. Narsing Rao etc., & Others etc., Chairman, Joint

**Action Committee of Employees, Teachers and Workers,
A.P. Vs. D.Narsing Rao & Others, at para 24, 25 and 26
observed as under :**

"Para 24 : 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 tantamount to a fraud upon the statute that vests such power in an authority.

Para 25 : In the case at hand, while the entry sought to be corrected is described as fraudulent, there is nothing in the notice impugned before the High Court as to when the alleged fraud was

discovered by the State. A specific statement in that regard was essential for it was a jurisdictional fact, which ought to be clearly asserted in the notice issued to the respondents. The attempt of the appellant-State to demonstrate that the notice was issued within a reasonable period of the discovery of the alleged fraud is, therefore, futile. At any rate, when the Government allowed the land in question for housing sites to be given to Government employees in the year 1991, it must be presumed to have known about the record and the revenue entries concerning the parcel of land made in the ordinary course of official business. In as much as, the notice was issued as late as on 31st December, 2004, it was delayed by nearly 13 years. No explanation has been offered even for this delay assuming that the same ought to be counted only from the year 1991. Judged from any angle the notice seeking to reverse the entries made half a century ago, was clearly beyond reasonable time and was rightly quashed.

Para 26 : Having said that we must make it clear that we have not gone into the correctness of the alleged fraudulent entry nor have we expressed any opinion whether, the quashing of the notice dated 21st December, 2004 would prevent the State from taking such other steps as may be permissible under any provision of law. The High Court has, as a matter

of fact, made it clear that the State Government shall be free to take any other steps or proceedings in accordance with law qua the land in question. That liberty should suffice for we have examined the matter only from the narrow angle whether the Khasara Pahani entry of 1954-55 could be corrected at this belated stage in exercise of the revisional powers vested in the competent authority under Section 166-B of the A.P. (Telangana Area) Land Revenue Act. That question having been answered in the negative these appeals must fail and are hereby dismissed leaving the parties to bear their own costs."

18. The Apex Court in a judgment reported in 2017 (16) SCC 418 in Kutch Lal Rameshwar Ashram Trust Evam Anna Kshetra Trust through Velji Devshi Patel Vs. Collector, Haridwar and Others, dated 22.08.2017 at para 25 observed as under :

"Para 25 : The principle that the law does not readily accept a claim to escheat and that the onus rests heavily on the person who asserts that an individual has died intestate, leaving no legal heir, qualified to succeed to the property, is founded on a sound rationale. Escheat is a doctrine which recognises the State as a paramount sovereign in whom property would vest only upon a clear and established case of a failure of heirs. This principle is based on the norm

that in a society governed by the Rule of Law, the court will not presume that private titles are overridden in favour of the State, in the absence of a clear case being made out on the basis of a governing statutory provision. To allow administrative authorities of the State including the Collector, as in present case to adjudicate upon the Matters of title involving civil disputes would be destructive of the Rule of Law. The Collector is an officer of the State, He can exercise only such powers as the law specifically confers upon him to enter upon private disputes. In contrast, a civil court has the jurisdiction to adjudicate upon all matters involving civil disputes except where the jurisdiction of the court is taken away, either expressly or by necessary implication, by statute. In holding that the Collector acted without jurisdiction in the present case, it is not necessary for the Court to go as far as to validate the title which is claimed by the petitioner to the property. The Court is not called upon to decide whether the possession claimed by the Trust of over forty-five years is backed by a credible title. The essential point is that such an adjudicatory function could not have been arrogated to himself by the Collector. Adjudication on titles must follow recourse to the ordinary civil jurisdiction of a court of competent jurisdiction under section 9 of the Code of Civil Procedure, 1908."

19. The Apex Court in *Hindustan Times Vs. Union of India* reported in 1998 SC 688 observed that it is now well settled that when statute does not prescribe any time for exercise of a particular power, the power should be exercised within a reasonable time.

20. This Court opines that the judgments relied upon by the Learned Counsel for the Respondents have no application to the facts of the case and all the pleas raised by the Respondents are untenable and hence rejected. The judgment of the Full Bench dated 21.11.2022 passed in W.P.No.913/2002, 3329 of 2006, 3376 of 2010 and W.A.Nos.1531 & 1608 of 2004, 543 & 547 of 2021 relied upon by the learned Counsel for the Respondents pertained to 'successor-in-interest' to succeed to Inamdar based on purchase of Inam land and has no application to the facts of the present case, since the main issue in the present case is the initiation of *suo moto* proceedings of the 2nd Respondent and the decision of the 2nd Respondent to examine the subject issue U/s.9 of the ROR Act, 1971 for deletion of alleged wrong entries from the Pahani of 1986-87, made in respect of Sy.No.92 of Nagsanpally

Village of Kowdipally Mandal, after 33 long years in the year 2019 at the instance of 3rd, 4th and 5th Respondents without independent application of mind which is not only opposed to rule of law but also an improper exercise of jurisdiction vested in 2nd Respondent for extraneous considerations.

CONCLUSION :

21. This Court opines that the 2nd Respondent cannot adjudicate upon matters of title involving civil disputes since the same would be destructive of the Rule of Law. A bare perusal of Sec.8(2) of ROR Act, 1971 reads as under :

Section 8 (2) : If any person is aggrieved as to any right of which he is in possession by an entry made in any record of rights he may institute a suit against any person denying or interested to deny his title to such right for declaration of his right under Chapter-VI of the Specific Relief Act, 1963 (Central Act 43 of 1963), and the entry in the record of rights shall be amended in accordance with any such declaration.

22. This Court is of the firm opinion that the 5th Respondent has a remedy U/s.8(2) of ROR Act, 1971

before appropriate Civil Court for redressal of his grievance as the issue involved is title to the property.

23. This Court opines that the 2nd Respondent did not apply his mind independently and proceeded in the matter as per the dictates and instructions of the 3rd and 4th Respondents herein exercising *suo moto* power after more than 33 long years in the year 2019 with regard to the correction of alleged wrong entries of the year 1986-87 and the same is not only arbitrary exercise of power but also contrary to the view of the Apex Court in the various judgments referred to and extracted above and contrary to the procedure laid down under Section 8(2) of ROR Act, 1971.

24. Taking into consideration the above said facts and circumstances and the law laid down by the Apex Court in the various judgments (referred to and extracted above) and as per the discussion and conclusion arrived at as above, the writ petition is allowed and the impugned proceedings Lr. No. F3/518/2018, dated 02.01.2019 on

the file of the 2nd Respondent is set aside. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Date: 21.12.2023

Note : L.R. Copy to be marked.
(B/o) *Yvkr.*