

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

**AND**

**THE HON'BLE SRI JUSTICE T.VINOD KUMAR**

**+ WRIT APPEAL No.697 of 2023**

% Date: 24.08.2023

# M/s. Visweswara Infrastructure Pvt. Ltd.,  
And others.

... Appellants

**v.**

\$ The Telangana State Industrial Infrastructure Corporation  
Ltd., 6<sup>th</sup> Floor Parisrama Bhavan, Fateh Maidan Road,  
Basheerbagh, Hyderabad – 500 004,  
Telangana, Rep.by its Chairman,  
and others.

... Respondents

**! Counsel for the appellants :** Mr. Harin Raval,  
Learned Senior Counsel  
representing Mr. Chetluru Srinivas

**^ Counsel for respondents No.1 to 5 and 22:** Mr. Harender Pershad,  
learned Senior Counsel and Special Government Pleader

**^ Counsel for respondents No.16 to 21:** Mr. Md. Nawaz Hyder Ali,  
learned counsel for Pillix Law Firm

**^ Counsel for respondents No.6 & 7:** Mr. Shyam S. Agarwal

**^ Counsel for respondents No.8 and 9:** Mr. T.Rathnakar

**^ Counsel for respondents No.10 to 15 and**

**31 to 35:** Mr. E.Ajay Reddy,  
learned Senior Counsel  
representing Ms. E.Anisha Reddy

**^ Counsel for respondents No.23 to 26:** Mr. K.Durga Prasad

**^ Counsel for respondents No.28, 29 and 30:** Mr. K.Ratnam,  
learned counsel representing Mr. K.Raghava Charyulu

< GIST:

➤ HEAD NOTE:

? CASES REFERRED:

1. (1993) 2 SCC 546
2. 1992 Supp (2) SCC 29
3. (2004) 1 SCC 769
4. (2012) 1 SCC 656
5. (2018) 2 SCC 82
6. 2021 SCC OnLine TS 2591 : (2021) 6 ALT 226
7. (2004) 5 SCC 272
8. (2013) 2 SCC 398
9. AIR 1957 SC 529
10. AIR 1964 SC 1419
11. AIR 1992 SC 1018
12. AIR 1993 SC 1225 = (1992) 4 SCC 61
13. (2010) 8 SCC 329
14. (2019) 2 SCC 329
15. AIR 1968 SC 620
16. AIR 1924 PC 144
17. ILR [1958] 2 All 394 at 404
18. (2013) 10 SCC 169
19. (2003) 8 SCC 40
20. (2009) 14 SCC 132
21. (2011) 6 SCC 597
22. (2012) 12 SCC 63
23. 2022 SCC OnLine SC 928
24. AIR 1953 SC 235

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**  
**AND**  
**THE HON'BLE SRI JUSTICE T.VINOD KUMAR**

**Writ Appeal No.697 of 2023**

**JUDGMENT**

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

This intra-court appeal is filed against common order dated 28.04.2023 passed by the learned Single Judge by which three writ petitions have been dismissed. However, challenge in this appeal is confined to order of the learned Single Judge insofar it pertains to writ petition No.30855 of 2016 filed by the appellants, which has also been dismissed. In order to appreciate the appellants' challenge to the impugned order, relevant facts need mention which are stated infra:

**(i) FACTS:-**

2. Eleven pattedars held the land measuring 525.39 acres situated at Raidurg Village, Serilingampally Mandal, Ranga Reddy District. The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (hereinafter referred to as 'the Agricultural Ceiling Act') came into force on 01.01.1975, which prescribed a ceiling limit on

agricultural lands. A proceeding under the Agricultural Ceiling Act was initiated in respect of entire land in survey No.83 measuring 525.39 acres situated at Raidurg Village, Serilingampally Mandal, Ranga Reddy District. The Land Reforms Tribunal passed a common order dated 02.06.1976 and declared the land measuring 27.27 acres in survey No.83 to be surplus agricultural land. Thereafter, by another common order dated 16.06.1976, the Land Reforms Tribunal declared land measuring 71.20 acres in survey No.83 to be surplus land. Thus, out of survey No.83, only measuring 99.07 acres was declared as surplus land.

3. The possession of the aforesaid land which was declared as surplus agricultural land to the extent of 99.07 acres in survey No.83 was taken on 23.11.1976 by the State Government. The Parliament in pursuance of resolutions passed by various State Legislatures including erstwhile State of Andhra Pradesh enacted Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as 'the Urban Land Ceiling Act'). In the aforesaid Act, the

appointed date as defined under Section 2(a) means the date of introduction of the Urban Land Ceiling Act in the Parliament which is 15<sup>th</sup> of January, 1976. The aforesaid Act became applicable to the State of Andhra Pradesh on 17.02.1976. A Bench of this Court vide Judgment dated 13.10.1977 in W.P.No.17077 of 1977 *inter alia* held that provisions of the Agricultural Ceiling Act are not applicable to vacant lands situated within the urban agglomeration. The lands comprised in survey No.83 were situated within the urban agglomeration of city of Hyderabad and therefore, the holders of land were required to file statement under Section 6(1) of the Urban Land Ceiling Act. Thereupon, the proceedings under the Urban Land Ceiling Act were initiated to determine the excess land.

4. The competent authority in exercise of powers under Section 8(4) of the Urban Land Ceiling Act issued separate final statements on 06.12.1979 and declared lands measuring 470.33 acres to be excess vacant land under the Urban Land Ceiling Act. Thereafter, notification under Section 10(1) of the Urban Land Ceiling Act was issued on

16.01.1980 in respect of land measuring 470.33 acres, which was followed by a notification dated 24.01.1981 under Section 10(3) of the Urban Land Ceiling Act notifying that land measuring 18,94,473 square meters (468.234 acres) by which the land vested absolutely in the State Government. The notice under Section 10(5) of the Urban Land Ceiling Act was issued on 26.02.1981 on the general power of attorney (GPA) holder by which he was asked to deliver possession of the land to the extent of 468.234 acres.

5. It appears that GPA holder submitted an application before the Land Reforms Tribunal in view of the decision of a Bench of this Court dated 13.10.1977 in W.P.No.17077 of 1977. The aforesaid application was rejected by the Land Reforms Tribunal by an order dated 19.04.1982. The said order of the Land Reforms Tribunal was challenged in an appeal before the Land Reforms Appellate Tribunal. The Appellate Tribunal by an order dated 22.09.1984 held that possession of the surplus land declared under Agricultural Ceiling Act was taken on 23.11.1976 *ex parte*. It was

further held that there is no material to hold that the land in survey No.83 measuring 468.234 acres is to be treated as vacant land under the Urban Land Ceiling Act. The matter was, therefore, remitted to the Land Reforms Tribunal to consider whether the lands measuring 468.234 acres in survey No.83 are vacant lands within the purview of the Urban Land Ceiling Act, after affording an opportunity of hearing to the appellants.

6. Pursuant to the order of remand, the Land Reforms Tribunal by an order dated 10.11.1987 held that the land measuring 99.07 acres in survey No.83 which was notionally referred to as survey No.83/2 was directed to be reverted with a request to the Revenue Divisional Officer to hand over the possession to the GPA holder of the land owners. In compliance of the said order, on 25.04.1990, possession of land measuring 99.07 acres was handed over to the GPA holder. A sketch of boundary of the land was also drawn which was annexed to Panchanama and Form XI-A i.e., the Certificate of Delivery was issued under the signature of the officer delivering the possession.

Thereafter, a certificate was issued on 22.12.1990 by the Mandal Revenue Officer certifying that land measuring 99.07 acres was released from the government custody.

7. The proceedings were initiated in respect of land in survey No.83 under the Urban Land Ceiling Act subsequently. The Deputy Tahsildar and the Enquiry Officer under the Urban Land Ceiling Act purported to take possession of land measuring 424.38 acres on 20.07.1993, which was declared as excess vacant land. A Division Bench of this Court in W.A.No.1220 of 1994 by placing reliance on a decision of the Hon'ble Supreme Court in **Atia Mohammadi Begum v. State of Uttar Pradesh**<sup>1</sup> held that the land in question was not vacant land on the date of commencement of the Act. The authorities, therefore, could not convert the said land into vacant land by unilaterally including it in a Master Plan, for purposes other than agriculture. Accordingly, initiation of proceedings under the Urban Land Ceiling Act was declared null and void.

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<sup>1</sup> (1993) 2 SCC 546

8. The State Government filed a civil suit namely O.S.No.71 of 2001 in which a declaration was sought that the entire land measuring 526.07 acres of survey No.83 belongs to the State Government. The aforesaid civil suit was decreed vide the Judgment and decree dated 03.07.2001. The said judgment and decree was challenged in an Appeal namely A.S.No.1475 of 2003. A Bench of Andhra Pradesh High Court, vide the judgment dated 27.09.2006, allowed the aforesaid appeal and dismissed the suit preferred by the State Government. The aforesaid order dated 27.09.2006 was affirmed by the Hon'ble Supreme Court vide the order dated 11.04.2008 passed in S.L.P. (Civil) CC No.5221-5223 of 2008.

9. The appellants purchased land measuring 53.00 acres as of survey No.83 situated at Raidurg Village, Serilingampally Mandal, Ranga Reddy District (hereinafter referred to as subject land) vide seven registered sale deeds executed between 06.06.2008 to 15.12.2008. The appellants filed the writ petition in the year 2011, namely W.P.No.29547 of 2011 against Lokayukta and four other

respondents, namely Andhra Pradesh Industrial Infrastructure Corporation (hereinafter referred to as 'APIIC') and the Revenue Authorities, which were arrayed in the writ petition as respondents No.3 to 5. In the writ petition, direction was sought not to disturb the physical possession of the appellants in respect of the subject land. A common order was passed by a Division Bench of this Court on 22.01.2011 directing Lokayukta not to pass any orders till hearing of the matter. However, the State Government or APIIC were granted liberty to carry on their duties in respect of the subject land in accordance with law. The aforesaid interim order is still in force.

10. The appellants thereupon filed another writ petition, namely W.P.No.4466 of 2012 *inter alia* on the ground that despite the aforesaid interim order dated 22.01.2011 passed by a Division Bench of this Court, the officers of APIIC were illegally trying to interfere with the possession of the appellants over the land in survey No.83/2. Thereupon, an interim order dated 17.02.2012 was passed restraining the respondents herein including the officers of

the APIIC from demolishing the structures raised by the appellants including the fencing sheets on survey No.83/2. The aforesaid interim order is still in force.

11. Despite pendency of the aforesaid two writ petitions, namely W.P.No.29547 of 2011 and W.P.No.4466 of 2012 and notwithstanding the fact that the interim orders dated 22.11.2011 and 17.02.2012 were operative against the APIIC, which after reorganization of the State became TSIIC, its officers tried to interfere with the possession of the appellants in respect of the subject land on 12.09.2016. The appellants thereupon filed a writ petition namely W.P.No.30855 of 2016 in which a prayer was made to declare the action of the officers of TSIIC in attempting to enter into the subject land of the appellants and in trying to demolish the fencing without notice and without any authority of law as illegal and void. The appellants in addition sought relief against the officers of the TSIIC not to demolish the structures raised by the appellants and not to remove the fencing blue sheets.

**(ii) ORDER OF LEARNED SINGLE JUDGE:-**

12. The aforesaid writ petition along with two other writ petitions were dismissed by the learned Single Judge by a common order dated 28.04.2023. The learned Single Judge *inter alia* held as follows:

(i) The appellants have not filed the registered sale deeds executed in their favour whereas the same have been filed by respondents No.6 to 11.

(ii) The vendor of the appellants, namely Bhavana Cooperative Society had agreement for sale dated 19.03.1982 in its favour which was validated by the Assistant Registrar on 19.06.2006.

(iii) The vendor of the appellants, namely Bhavana Cooperative Society did not have a registered sale deed in its favour.

(iv) The suit for specific performance filed by the appellants was dismissed for default on 06.04.2001 and the application for restoration filed under Order IX Rule 9 of Code of Civil Procedure, 1908 (CPC) was also dismissed on 23.02.2004. The appellants neither took any action to challenge the enquiry report dated 12.08.2015 submitted

by the Deputy Registrar nor challenged any action of cancellation of No Objection Certificate by the authorities under the ULC.

(v) The appellants have miserably failed to discharge their burden, despite serious objections by the State and private respondents and fraudulent actions of the appellants are writ large from the face of the record. The appellants have neither chosen to file the said documents nor have disclosed the validation certificate which was obtained fraudulently. The appellants have failed to disclose the factum of dismissal of suit of specific performance, namely O.S.No.248 of 1991. Therefore, the appellants are guilty of suppression of vital information and the writ petition filed by the appellants lacks *bona fides*.

In the aforesaid factual background, this present writ appeal has been filed.

**(iii) SUBMISSIONS ON BEHALF OF APPELLANTS:-**

13. Learned Senior Counsel for the appellants submitted that the grievance of the appellants in this intra-court appeal is confined to 53.00 acres of land bearing survey

No.83/2. It is further submitted that possession of land measuring 99.07 acres of surplus land was handed over to the GPA holder on 25.04.1990. The aforesaid order directing handing over of the possession and the panchanama by which possession was delivered to the GPA holder of land owners, is not under challenge. It is also submitted that appellants have purchased land admeasuring 53.00 acres out of 99.07 acres of which the possession was handed over to GPA holder. It is contended that despite interim orders dated 22.01.2011 and 17.02.2012 passed in W.P.No.29547 of 2011 and W.P.No.4466 of 2012, the officers of TSIIC are trying to interfere with the peaceful possession of the appellants over the subject land and are trying to demolish the structure as well as blue sheets.

14. Learned Senior Counsel for the appellants further contended that no order has been passed by any Court or forum directing the appellants to hand over the possession. While inviting the attention of this Court to the prayer made in the writ petition, it is urged that learned Single

Judge grossly erred in travelling beyond the scope of the writ petition and in deciding the question of title of the appellants. It is submitted that the enquiry report dated 12.08.2015 was prepared by the Deputy Registrar behind the back of the appellants and on the basis of an enquiry report, it could not be held that the appellants have no title in respect of the subject land. It is further submitted that in the enquiry report dated 12.08.2015 itself, the District Registrar has stated that private respondents have to take recourse to cancellation of sale deeds executed in favour of the appellants.

15. It is contended that objection with regard to the title of the appellants have to be raised in an appropriate proceeding. It is further contended that the learned Single Judge grossly erred in adjudicating the title of the appellants and private respondents No.10 to 15 and No.31 to 35 in the writ petition. Our attention has been invited to the statement of learned Advocate General in W.P.No.30855 of 2016 wherein learned Advocate General had stated that the Government is going to protect 470

acres of land by way of fencing. It is also contended that the appellants were in possession of the subject land, and they can be dispossessed only in accordance with law. In support of his submissions, reliance has been placed on the decision of the Hon'ble Supreme Court in **East India Hotels Limited v. Syndicate Bank**<sup>2</sup> and **Rame Gowda v. M.Varadappa Naidu**<sup>3</sup>.

16. Learned Senior Counsel for the appellants stated that the appellants are not claiming any interest in respect of land measuring 470.33 acres comprised in survey No.83/1 which has been allotted to TSIIC vide the Government Orders dated 13.02.2006 and 02.09.2008.

**(iv) SUBMISSIONS ON BEHALF OF RESPONDENTS No.1 to 5 AND 22:-**

17. Learned counsel for the respondents No.1 to 5 and 22 submits that interest of the aforesaid respondents in respect of land measuring 470.33 acres in survey No.83/1 be protected.

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<sup>2</sup> 1992 Supp (2) SCC 29

<sup>3</sup> (2004) 1 SCC 769

**(v) SUBMISSIONS ON BEHALF OF RESPONDENTS No.10 to 15 AND 31 TO 35:-**

18. On the other hand, learned Senior Counsel for respondents No.10 to 15 and 31 to 35 submitted that the appellants have neither any title in respect of the land in question nor any cause of action to file the writ petition. It is pointed out that the aforesaid respondents have filed the revenue records for the past 73 years to show that private respondents are the owners of the land measuring 99.07 acres in survey No.83/2. It is further submitted that vendor of the appellants namely, a society claims title under an unregistered agreement of sale, which did not culminate into sale deed. It is also submitted that an agreement for sale cannot create/confer any title. It is argued that since the vendor of the appellants did not have a title in respect of the subject land, it could not have conveyed any title to the appellants.

19. While inviting the attention of this Court, the findings contained in paragraphs 28 to 33 of the common order dated 28.04.2023 passed by the learned Single Judge, it is contended that the learned Single Judge has not declared

title of appellants and has recorded the findings only to ascertain the locus of the appellants. It is further contended that the appellants have miserably failed to prove their *prima facie* title.

20. It is also contended that a frivolous writ petition was filed by the appellants and sale deeds executed in favour of the appellants are void and therefore, under Section 31 of the Specific Relief Act, 1963, they have the liberty to challenge the void document. It is submitted that since the appellants had approached the Court, they were under the obligation to prove their *prima facie* case. It is further submitted that the appellants ought to have disclosed all the relevant facts before this Court, therefore, for this reason also, the writ appeal deserves to be dismissed. In support of the aforesaid submissions, reliance has been placed on the decisions of the Hon'ble Supreme Court in **Suraj Lamp and Industries Private Limited v. State of Haryana**<sup>4</sup>, **Balwant Vithal Kadam v. Sunil Baburaoi Kadam**<sup>5</sup>,

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<sup>4</sup> (2012) 1 SCC 656

<sup>5</sup> (2018) 2 SCC 82

**State of Telangana v. P.Balabhaksar Reddy<sup>6</sup>, Bajranglal Shivchandrai Ruia v. Shashikant N.Ruia<sup>7</sup> and Kishore Samrite v. State of Uttar Pradesh<sup>8</sup>.**

**(vi) SUBMISSIONS ON BEHALF OF RESPONDENTS No.23 to 26, 6 AND 7, 8, 9, 28 to 30:-**

21. Learned counsel for respondents No.23 to 26 as well as respondents No.6 and 7, learned counsel for respondents No.16 to 21, learned counsel for respondents No.8, 9, 28, 29 and 30 and learned counsel respondent No.27 have adopted the submissions made by learned Senior Counsel for respondents No.10 to 15 and 31 to 35.

**(vii) REJOINDER:-**

22. By way of rejoinder/reply, learned Senior Counsel for the appellants has invited the attention of this Court to paragraph 38 of the common order passed by the learned Single Judge and has submitted that the learned Single Judge has concluded that the appellants have no title in respect of the subject land. It is further submitted that in

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<sup>6</sup> 2021 SCC OnLine TS 2591 : (2021) 6 ALT 226

<sup>7</sup> (2004) 5 SCC 272

<sup>8</sup> (2013) 2 SCC 398

paragraph 8 of the writ petition, i.e., W.P.No.30855 of 2016, the appellants have specifically pleaded the cause of action and aforesaid averments have not been denied by the official respondents. Learned Senior Counsel has also invited the attention of this Court to the photographs filed along with the paper book in support of his submission that the appellants have raised the structures and constructed the fencing.

**(viii) ANALYSIS:**

23. We have considered the rival submissions made on behalf of both the parties and perused the record. At the outset, we clarify that the dispute in this intra-court appeal is confined to 53 acres of land bearing survey No.83/2 in view of the submission made by learned Senior Counsel for the appellants as recorded in paragraph 16 of this Order as well as the statement made by the learned Advocate General in W.P.No.30855 of 2016, which reads as under:

“The learned Advocate General submitted that they are going to protect their 470 acres of land by way of fencing.”

24. The issues arise for consideration in this Appeal can be summarised as under:

(i) Whether the learned Single Judge could have decided the title of the appellants in a writ petition?

(ii) Whether a person in possession can be dispossessed except in accordance with law? and

(iii) Whether the Court can deny relief to a party on a ground not pleaded by it?

25. We shall now proceed to deal with the issues *ad-seriatim*:-

**(i) *Whether the learned Single Judge could have decided the title of the appellants in a writ petition?***

We may now advert to the first issue, namely, *whether the learned Single Judge could have decided the title of the appellants in a writ petition.*

26. A Constitution Bench of Supreme Court in **Sohan Lal v. Union of India**<sup>9</sup>, while dealing with the question of title, held that civil suit is an appropriate remedy rather than approaching the Court under Article 226 of the

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<sup>9</sup> AIR 1957 SC 529

Constitution of India for exercising prerogative of writs. Paragraphs 5 and 6 are relevant and are extracted as under:

**5.** We do not propose to enquire into the merits of the rival claims of title to the property in dispute set up by the appellant and Jagan Nath. If we were to do so, we would be entering into a field of investigation which is more appropriate for a civil court in a properly constituted suit to do rather than for a Court exercising the prerogative of issuing writs. There are questions of fact and law which are in dispute requiring determination before the respective claims of the parties to this appeal can be decided. Before the property in dispute can be restored to Jagan Nath it will be necessary to declare that he had title in that property and was entitled to recover possession of it. This would in effect amount to passing a decree in his favour. In the circumstances to be mentioned hereafter, it is a matter for serious consideration whether in proceedings under Article 226 of the Constitution such a declaration ought to be made and restoration of the property to Jagan Nath be ordered.

**6.** Jagan Nath had entered into a transaction with the Union of India up to a certain stage with respect to the property in dispute, but no letter of allotment had been issued to him. Indeed, he had been informed, when certain facts became known, that the property in question could not be allotted to him as he was a displaced person who had been allotted land in East Punjab. As between Jagan Nath and the Union of

India it will be necessary to decide what rights were acquired by the former in the property up to the stage when the latter informed Jagan Nath that the property would not be allotted to him. Another question for decision will be whether Jagan Nath was allowed to enter into possession of the property because it was allotted to him or under a misapprehension as the Union of India was misled by the contents of his application. The case of the Union of India is that under the scheme Jagan Nath was not eligible for allotment of a house in West Patel Nagar, as it was subsequently discovered that he had been allotted, previous to his application, agricultural land in the District of Hissar. Being satisfied that Jagan Nath was not eligible for allotment, the Union of India refused to allot to him the tenement No. 35, West Patel Nagar and allotment of that house was made to the appellant who was found to be eligible in every way. The appellant was accordingly given possession of the property after Jagan Nath's eviction. The appellant had complied with all the conditions imposed by the Union of India and a letter of allotment was actually issued to him and he entered into possession of the property in dispute under the authority of the Union of India. Did the appellant thereby acquire a legal right to hold the property as against Jagan Nath? In our opinion, all these questions should be decided in a properly constituted suit in a civil court rather than in proceedings under Article 226 of the Constitution.

27. In **Thansingh Nathmal v. Superintendent of Taxes, Dhubri**<sup>10</sup>, the Hon'ble Supreme Court explained the nature of jurisdiction exercised by the High Court under Article 226 of the Constitution of India and held in paragraph 7 as under:

7. ... .. The jurisdiction of the High Court under Article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the Articles. But the exercise of the jurisdiction is discretionary : it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations. Resort that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. Ordinarily the Court will not entertain a petition for a writ under Article 226, where the petitioner has an alternative remedy, which without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a court of appeal against the decision of a court or tribunal, to correct errors of fact, and does not by assuming jurisdiction under Article 226 trench upon an alternative remedy

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<sup>10</sup> AIR 1964 SC 1419

provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit by entertaining a petition under Article 226 of the Constitution the machinery created under the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so set up.

28. In **State of Rajasthan v. Bhawani Singh**<sup>11</sup>, Hon'ble Supreme Court once again held that a writ court cannot go into the disputed questions of title of a property. Similar view was expressed in **Mohan Pandey v. Usha Rani Rajgaria**<sup>12</sup> in paragraph 6, which is extracted as under:

6. ... .. It has repeatedly been held by this Court as also by various High Courts that a regular suit is the appropriate remedy for settlement of disputes relating to property rights between private persons and that the remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of a statutory authority is alleged. And in such a case, the Court will issue appropriate direction to the authority concerned. If the real grievance of the respondent is against the initiation of criminal proceedings, and the orders passed and steps taken thereon, she must avail of the remedy under the general law including

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<sup>11</sup> AIR 1992 SC 1018

<sup>12</sup> AIR 1993 SC 1225 = (1992) 4 SCC 61

the Criminal Procedure Code. The High Court cannot allow the constitutional jurisdiction to be used for deciding disputes, for which remedies, under the general law, civil or criminal, are available. It is not intended to replace the ordinary remedies by way of a suit or application available to a litigant. The jurisdiction is special and extraordinary and should not be exercised casually or lightly.

29. In **Shalini Shyam Shetty v. Rajendra Shankar Patil** <sup>13</sup>, the Hon'ble Supreme Court held that a proceeding under Article 226 of the Constitution of India is not an appropriate remedy for adjudication of property disputes or disputes relating to title. It was further held that a regular suit is the proper remedy between private persons and jurisdiction under Article 226 is extraordinary in nature and is not meant for such issues unless there is violation of some statutory duty on the part of some statutory authority or any infraction of statute or it can be shown that a private individual is acting in collusion with a statutory authority.

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<sup>13</sup> (2010) 8 SCC 329

30. In **Roshina T. v. Abdul Azeez K.T.**<sup>14</sup>, it was held that a regular suit is the appropriate remedy for settlement of disputes relating to property rights between the private persons. It was held in paragraphs 14 and 17 as under:

**14.** It has been consistently held by this Court that a regular suit is the appropriate remedy for settlement of the disputes relating to property rights between the private persons. The remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of statutory authority is alleged. In such cases, the Court has jurisdiction to issue appropriate directions to the authority concerned. It is held that the High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law, civil or criminal are available. This Court has held that it is not intended to replace the ordinary remedies by way of a civil suit or application available to an aggrieved person. The jurisdiction under Article 226 of the Constitution being special and extraordinary, it should not be exercised casually or lightly on mere asking by the litigant. (See *Mohan Pandey v. Usha Rani Rajgaria* [*Mohan Pandey v. Usha Rani Rajgaria*, (1992) 4 SCC 61] and *Dwarka Prasad Agarwal v. B.D. Agarwal* [*Dwarka Prasad Agarwal v. B.D. Agarwal*, (2003) 6 SCC 230] .)

**17.** In our opinion, the High Court, therefore, while so directing exceeded its extraordinary jurisdiction

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<sup>14</sup> (2019) 2 SCC 329

conferred under Article 226 of the Constitution. Indeed, the High Court in granting such relief, had virtually converted the writ petition into a civil suit and itself to a civil court. In our view, it was not permissible.

31. In view of the aforesaid enunciation of law by the Hon'ble Supreme Court, it is evident that the question of title of a party cannot be gone into in a writ petition.

32. In the instant case, the order of the Tribunal had attained finality in respect of land measuring 99.07 acres and the possession of the land was also given to power of attorney holders of the land owners. The aforesaid order of the Tribunal directing delivery of possession to power of attorney holders of the land owners was not assailed by anyone. The appellants' case is that they have purchased the subject land out of 99.07 acres vide registered sale deeds. It is also pertinent to mention herein that the aforesaid sale deeds have not been assailed by anyone before any of the forums.

33. Therefore, in our considered opinion, the learned Single Judge on the basis of averments made by the private

respondents in their counter with regard to title of the appellants erred in adjudicating the question of title in a summary proceedings under Article 226 of the Constitution of India which is not permissible, in view of the two Constitution Bench decisions of the Hon'ble Supreme Court in **Sohan Lal** (supra) and **Thansingh Nathmal** (supra) and in view of the subsequent decisions of Hon'ble Supreme Court referred supra.

34. Therefore, we answer the first issue, namely *whether the learned Single Judge could have decided the title of the appellants in a writ petition* in the negative by stating that the learned Single Judge could not have adjudicated the title of the appellants in a writ petition.

***(ii) Whether a person in possession can be dispossessed except in accordance with law?***

We may now advert to the second issue, namely, *whether a person in possession can be dispossessed except in accordance with law.*

35. It is trite law that person in possession cannot be dispossessed except in accordance with law. The Hon'ble Supreme Court in **Yeshwant Singh v. Jagdish Singh**<sup>15</sup> in paragraph 10 quoted with approval the decision of Privy Council in **Midnapur Zamindary Company Limited v. Naresh Narayan Roy**<sup>16</sup> and held that "*in India persons are not permitted to take forcible possession; they must obtain such possession as they are entitled to through a court*".

36. Similarly, in paragraph 12 of the judgment, the Hon'ble Supreme Court referred to the decision of the Allahabad High Court in **Yar Mohammad v. Lakshmi Das**<sup>17</sup> and held as under:

"Law respects possession even if there is no title to support it. It will not permit any person to take the law in his own hands and to dispossess a person in actual possession without having recourse to a court. No person can be allowed to become a judge in his own cause."

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<sup>15</sup> AIR 1968 SC 620

<sup>16</sup> AIR 1924 PC 144

<sup>17</sup> ILR [1958] 2 All 394 at 404

37. The decision in **Yeshwant Singh** (supra) was approved by the Hon'ble Supreme Court in **ITC Limited v. Adarsh Cooperative Housing Society Limited**<sup>18</sup>.

38. In the instant case, a writ petition namely W.P.No.29547 of 2011 was filed by the appellants against Lokayukta and four other respondents seeking a direction to APIIC and revenue authorities who were arrayed as respondents No.2 to 5 in the writ petition not to interfere with the peaceful possession of the appellants in respect of the subject land. An interim order dated 01.03.2011 was passed by a Division Bench of this Court, which is extracted as under:

“We have seen the interim order dated 22.11.2011, it reads as follows:

“In the meantime, the Lokayukta is directed not to pass any orders till the hearing of this matter”.

While there is an interim injunction against the Lokayukta from proceeding further in the matter, there is no order restraining the State Government or APIIC Limited from carrying on their duties.

Under the circumstances, the State Government or APIIC Limited are free to carry on their duties in respect of the subject land in accordance with law.”

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<sup>18</sup> (2013) 10 SCC 169

The aforesaid common order is still in force.

39. Thereafter, the appellants filed another writ petition namely W.P.No.4466 of 2012 *inter alia* on the ground that despite the interim order passed by the Division Bench of this Court on 22.01.2011, officers of APIIC were trying to interfere with the possession of the appellants over the subject land in survey No.83/2. Thereupon, an interim order dated 17.02.2012 was passed restraining the respondents herein including the officers of APIIC from demolishing structures including the fencing sheets on survey No.83/2. The aforesaid interim order is extracted as under:

“There shall be interim stay of demolition of the structures raised by the petitioners including the fencing sheets in Sy.No.83/2 of Raidurg Panmakta Village, Serilingampally Mandal, Ranga Reddy District.”

The said interim order is still in force.

40. However, despite the well settled legal position that a person in possession cannot be dispossessed except in accordance with law and notwithstanding the fact that the

aforesaid interim orders were operating against APIIC and its officers again interfered with the possession of the appellants over the subject land, without any authority of law, as pleaded in paragraph 8 of the writ petition by visiting the subject land on 11.09.2016 in early hours at about 5.00 am and unauthorisedly removed the temporary blue sheet fencing partially and tried to forcibly dispossess the appellants. The aforesaid action of the authorities of APIIC along with respondent No.3, namely Tahsildar is not supported by any statutory provision. Therefore, the action of the respondents in trying to dispossess the appellants and demolish their structures despite subsisting interim orders dated 01.03.2011 and dated 17.02.2012 passed by this Court and in violation of law laid down in **Yeshwant Singh** (supra) is not permissible course of action in law. The appellants can be dispossessed from the subject land only in accordance with law. Therefore, the learned Single Judge ought to have appreciated that the appellants are entitled to relief sought for in the writ petition in respect of their dispossession from the subject land.

41. Therefore, we answer the second issue namely, whether a person in possession can be dispossessed except in accordance with law by stating that a person in possession cannot be dispossessed except in accordance with law.

***(iii) Whether the Court can deny relief to a party on a ground not pleaded by it?***

We may now advert to the third issue, namely *whether the Court can deny relief to a party on a ground not pleaded by it.*

42. In **V.K.Majotra v. Union of India**<sup>19</sup>, the Hon'ble Supreme Court did not approve the action of the High Court in issuing a direction beyond the pleadings or the points raised by the parties during the course of arguments. The Hon'ble Supreme Court in **State of West Bengal v. West Bengal Registration Copywriters Association**<sup>20</sup> did not approve the order of the High Court which travelled much beyond the pleadings.

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<sup>19</sup> (2003) 8 SCC 40

<sup>20</sup> (2009) 14 SCC 132

43. In **State of Himachal Pradesh v. Himachal Pradesh Nizi Vyaysayik Prishikshan Kendra Sangh**<sup>21</sup>, the Hon'ble Supreme Court laid down the procedure in case of grant of relief beyond the prayer and held that the Court should first allow the writ petitioner to amend so as to include the relief sought to be given and then afford opportunity to all to put forth their stand on the issued.

44. In **Union of India v. Dinesh Prasad**<sup>22</sup>, the Hon'ble Supreme Court held that no relief to a party can be granted on the grounds not taken in the writ petition as it is not permissible for the Court to grant the relief beyond pleadings.

45. In **Akella Lalitha v. Konda Hanumantha Rao**<sup>23</sup>, while dealing with a special leave petition based on child custody matter under the family law, the Hon'ble Supreme Court in paragraphs 16, 17 and 18 held as under:

**16.** ... .. It is settled law that relief not found on pleadings should not be granted. If a Court considers or grants a relief for which no prayer or

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<sup>21</sup> (2011) 6 SCC 597

<sup>22</sup> (2012) 12 SCC 63

<sup>23</sup> 2022 SCC OnLine SC 928

pleading was made depriving the respondent of an opportunity to oppose or resist such relief, it would lead to miscarriage of justice.

**17.** In the case of *Trojan & Co. Ltd. v. Rm.N.N. Nagappa Chettiar* (AIR 1953 SC 235), this Court considered the issue as to whether relief not asked for by a party could be granted and that too without having proper pleadings. The Court held as under:—

*“It is well settled that the decision of a case cannot be based on grounds outside the pleadings of the parties and it is the case pleaded that has to be found. Without an amendment of the plaint, the Court was not entitled to grant the relief not asked for and no prayer was ever made to amend the plaint so as to incorporate in it an alternative case.”*

**18.** In the case of *Bharat Amratlal Kothari v. Dosukhan Samadkhan Sindhi* ((2010) 1 SCC 234) held:

*“Though the Court has very wide discretion in granting relief, the Court, however, cannot, ignoring and keeping aside the norms and principles governing grant of relief, grant a relief not even prayed for by the petitioner.”*

46. In view of the aforesaid decisions of Hon'ble Supreme Court, it is evident that it is not permissible for a Court to grant the relief which is not even prayed for by the petitioner in the writ petition. Thus, the Court dealing with

a writ petition has to bear in mind the prayer made by the petitioner in the case.

47. In **Akella Lalitha** (supra), the Hon'ble Supreme Court in paragraph 17 referred to the decision in **Trojan and Company vs. Rm.N.N.Nagappa Chettiar**<sup>24</sup> with approval and has held that *"it is well settled that the decision of a case cannot be based on the grounds outside the pleadings of the parties and it is the case pleaded that has to be found"*. The aforesaid principles laid down by the Hon'ble Supreme Court for granting relief, in our opinion would apply with equal vigour to denial of a relief to a party on a ground not pleaded by it.

48. In view of the aforesaid legal principles, we may advert to the averments made in the writ petition. The appellants in paragraph 4 of the writ petition have averred that they had purchased the subject land and have been in continuous possession and in enjoyment of the property. Paragraphs 4 to 14 are reproduced for the facility of reference:

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<sup>24</sup> AIR 1953 SC 235

4. It is submitted that having purchased the lands, the petitioners are in continuous possession and enjoyment of the property since the date of purchase without interference from anybody else. The petitioners have constructed temporary shed rooms (3) 10" x 12" for the purpose of security personnel and also for keeping the construction material like cement bags. It is submitted that the petitioners have also fenced its property after purchasing the same and within the fenced area the constructions are made and the petitioners are making plans for the development of the property. It is further submitted that the petitioners are exclusive owners and possessors of the property.

5. It is further submitted that when the Hon'ble Lokayukta has passed series of orders, at the instance of Andhra Pradesh Industrial Infrastructure Corporation, the petitioners herein filed W.P.No.29547 of 2011 questioning the orders of the Hon'ble Lokayukta. Under the orders dated 01.08.2011, this Hon'ble Court was pleased to pass the following order (relevant portion):

“While there is an interim injunction against the Lokayukta from proceeding further in the matter, there is no order restraining the State Government or APIIC Limited from carrying on their duties.

Under the circumstances, the State Government or APIIC Limited are free to carry on their duties in respect of the subject land in accordance with law.”

6. It is respectfully submitted that when there was an apprehension of interference without due process of law from respondents No.2 to 4, the petitioner No.1 herein filed W.P.No.4466 of 2012. This Hon'ble Court was pleased to pass the following order (operative portion) on 17.02.2022:

“There shall be interim stay of demolition of the structures raised by the petitioners including the fencing sheets in Sy.No.83/2 of Raidurg Panmakta Village, Serilingampally Mandal, Ranga Reddy District.”

7. It is submitted that such interim orders were extended from time to time and ultimately by way of order dated 16.04.2012 the interim orders passed earlier by this Hon'ble court was directed to be continued till further orders. The orders are still in force and the writ petition is pending.

8. It is further submitted that both the orders are in the knowledge of the respondent No.1. Without reference to the orders passed by this Hon'ble Court, on 11.09.2016 in the early hours at about 5 a.m., the officials of the respondent No.1 along with the 3<sup>rd</sup> respondent, Serilingampalle Mandal came to the land of the petitioners unauthorisedly and removed the temporary blue sheet fencing partially and tried to forcibly dispossess the petitioners. The petitioners have deployed their security men at the land belonging to the petitioners. The respondent No.1 officials along with the officials of the respondent No.3 have threatened the security personnel of the

petitioners with dire consequences and tried to take law into their hands.

9. It is submitted that no notice was caused by the respondents to the petitioners either by the respondent No.1 or by the respondent No.3 before such illegal attempt to remove the fence and before entering into the land belonging to the petitioners.

10. The respondent No.1 is not having any right or interest over the petitioners' property. The Special Officer and Competent Authority, Urban Land Ceiling have issued no objection certificates dated 10.05.2013 to all the petitioners very clearly stating that the enquiry officer and Deputy Inspector of Survey inspected the land jointly and the report dated 04.05.2013 filed by the enquiry officer revealed that the land is fenced and it is within the possession of the petitioners. It is also stated that there is a room constructed and electricity connection is standing in the name of the petitioners. It is further observed that the land belonging to the petitioners is not falling within the portion of land determined as surplus and that it is not attracted under the Urban Land Ceiling Act, 1976. With these observations, the ULC has given No Objection Certificates to the petitioners. All the 7 NOCs are herewith filed. Evidencing the existence of sale deeds in favour of the petitioners and that there are no encumbrances, the certificates of encumbrances are filed herewith.

11. It is further submitted that the action of the respondent No.1 is malicious. 11.09.2016 being Sunday, 13.09.2016 is declared Holiday for Bakrid the

first respondent initiated this illegal action that too at 5 AM. The petitioner would take appropriate criminal actions, if necessary.

12. Immediately, on furnishing information by the Security people of the petitioner, the representatives of the petitioner companies went to the site with the documents and the orders of the Hon'ble court, showed them to the officials of the respondent No.1. However, the officials of the respondent No.1 were not ready to give any importance to the orders of this Hon'ble court. Since the officials of respondent No.3 were also present, and were briefed up about the orders this petitioner would take appropriate steps for disobedience of the orders of his Hon'ble Court dated 17.02.2012 and 16.04.2012. The officials of respondent No.1 threatened the security personnel that the first respondent would dispossess the petitioners and demolish the constructions, claiming that they are interested in the property. Therefore, this writ petition is filed questioning the illegal action of the respondent No.1.

13. The action of the respondent No.1 in trying to take law into its hand, trying to dispossess the petitioner, trying to demolish the petitioners by taking the help of respondent Nos.2 to 4 is arbitrary, illegal, void, against the principles of natural justice and malafide, without any authority or interest.

14. In the circumstances stated above, the petitioner has no efficacious alternative remedy, except to approach this Hon'ble Court under Article 226 of the constitution of India. The petitioner has not filed any

writ petition, suit or other proceedings for the relief or relives sought herein.

49. In view of the aforesaid facts pleaded, the appellants had prayed for the relief in the writ petition, which is extracted below for the facility of reference:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue a direction, order or writ, more particularly one in the nature of Writ of Mandamus, declaring the action of the first respondent, in attempting to enter into the land of the petitioners to an extent of Ac.53.00 guntas situated in Sy.No.83/2 of Raidurg Panmaktha, Serilingampalle Mandal, Ranga Reddy District and attempting to demolish the fencing, without causing any notice or without any right, authority and in spite of the orders of this Hon’ble court as illegal, void, malicious and direct the first respondent not to cause any demolition of the structures raised by the petitioners and not to remove the fencing blue sheets, in the interest of justice and pass such other order or orders as the Hon’ble Court may deem fit and proper in the circumstances of the case.”

50. Thus, it is evident that the scope of the writ petition was confined only to seek a writ not to dispossess the appellants except in accordance with law. The appellants had nowhere sought declaration of their title in the writ

petition. It is pertinent to note that the averments made by the appellants in paragraph 8 of the writ petition were not denied by the respondents. It is noteworthy that the private respondents had denied the title of the appellants in their counter. However, the fact remains that the registered deeds of sale exist in favour of the appellants in respect of the subject land. The private respondents have also not taken recourse to Section 31 of the Specific Relief Act, 1963, assailing the sale deeds in favour of appellants. It is also pertinent to note that there is no order by any forum to dispossess the appellants.

51. Therefore, we answer the third issue, namely *whether the Court can deny relief to a party on a ground not pleaded by it* in the affirmative and hold that the Court cannot deny the relief to a party on the ground not pleaded by it.

52. The learned Single Judge ought to have appreciated that in view of law laid down by Hon'ble Supreme Court in **Yeshwant Singh** (supra) and **ITC Limited** (supra), the appellants could not have been dispossessed from the subject land except in accordance with law. The learned

Single Judge ought to have appreciated that in paragraph 27.6 of the common order, the learned Single Judge himself, found that Land Reforms Tribunal was directed to re-deliver the possession of the land measuring 99.07 acres to the declarants under the cover of Panchanama dated 25.04.1990 and the possession of the land was taken.

53. In our opinion, no adverse interference could have been drawn against the appellants for not filing the seven sale deeds as the appellants had sought the relief restraining the official respondents from dispossessing the appellants from the subject land except in accordance with law. In any case, the registered sale deeds were filed by respondents No.6 to 11. The learned Single Judge erred in examining the title of the vendor of the appellants in the absence of any challenge to the registered sale deeds executed in favour of the appellants. The learned Single Judge ought to have appreciated that in a writ petition filed by the appellants impugning the action of the TSIIC and its officials in forcibly taking possession of the land of which the appellants are in possession, the question of title of the

appellants, in the light of the stand taken by the private respondents in the counter could not have been examined. The learned Single Judge ought to have appreciated that no material has been placed on record either by the appellants or by the private respondents with regard to their title and in any case, under Section 31 of the Specific Relief Act, 1963, the private respondents ought to have sought a declaration with regard to title of the appellants. The learned Single Judge ought to have appreciated that the title of the appellants can be challenged in an appropriate proceeding and should have left the question of title to be adjudicated by a competent civil court.

54. The learned Single Judge ought to have seen that that factum of dismissal of previous suit for specific performance of contract filed by the appellants for default or non-prosecution and dismissal of application for restoration of suit were not relevant for the purpose of controversy involved in the writ petition and therefore, the appellants could not be said to be guilty of suppression of vital information and it could not be concluded that the

writ petition filed by the appellants lacks *bana fides*. The learned Single Judge ought to have appreciated that there was no material placed on record to demonstrate that the enquiry report dated 12.08.2015 was prepared by the Deputy Registrar after giving notice to the appellants. In any case on the basis of the enquiry report submitted by the Deputy Registrar it could not be concluded that the appellants had no title in respect of the subject land.

55. The finding recorded by the learned Single Judge that fraudulent action of the appellants is apparent from the face of record is not based on any material on record. The learned Single Judge ought to have appreciated that the appellants had pleaded all the relevant facts necessary for seeking an order restraining the official respondents from dispossessing them from the subject land except in accordance with law.

56. So far as the submission made by the learned Senior Counsel for respondents No.10 to 15 and 31 to 35 that the appellants had no title in respect of subject land is concerned, suffice it to say that, the aforesaid question of

title in view of the Constitution Bench decision of the Hon'ble Supreme Court in **Sohan Lal** (supra) and **Thansingh Nathmal** (supra) cannot be gone into in a writ petition. Similarly, the contention that the appellants have no cause of action to file the writ petition is concerned, it is noteworthy that the appellants had stated in paragraph 8 of the writ petition that the officers of the TSIIC visited the subject land on 11.09.2016 and unauthorisedly removed the temporary blue sheet fencing and tried to forcibly dispossess the appellants, were not denied by the respondents. Therefore, the contention that the appellants had no cause of action to file the writ petition does not deserve acceptance.

57. The question, whether predecessor in title of the appellants had the title could not have been considered under summary proceeding under Article 226 of the Constitution of India. The contention made on behalf of the respondents that the learned Single Judge has not declared any title is concerned, does not deserve acceptance as the learned Single Judge has dismissed the

petition primarily on the ground that the appellants did not prove their title. Even assuming such a contention made by learned counsel for private respondents to be correct, in that scenario the appellants could not have been dispossessed from the subject land except in accordance with law.

58. In view of the preceding analysis, the impugned order dated 28.04.2023 passed in W.P.No.30855 of 2016 by the learned Single Judge is set aside. However, it is clarified that the this intra-court appeal is confined only to 53 acres of land bearing survey No.83/2 covered by seven registered sale deeds executed in favour of the appellants. It is further clarified that the land measuring 470 acres in survey No.83/1 is in possession of the State Government in view of the statement made by the learned Advocate General in W.P.No.30855 of 2016.

59. The respondents are restrained from dispossessing the appellants in respect of the land measuring 53.00 acres situated in survey No.83/2 of Raidurg Panmakta Village, Serilingampally Mandal, Ranga Reddy District except in

accordance with law. The respondents are also restrained from demolishing the fencing sheets and constructions raised by the appellants without taking recourse to law. However, it is also clarified that this Court has not expressed any opinion with regard to the title in respect of the subject land and the same is kept open to be adjudicated in appropriate proceedings before the competent civil court.

60. The writ appeal is accordingly disposed of.

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

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**ALOK ARADHE, CJ**

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**T.VINOD KUMAR, J**

24.08.2023

Note: LR copy be marked.  
(By order)  
Pln