

APHC010208822011



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3328]

THURSDAY ,THE FIFTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

**THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA
PRASAD**

WRIT PETITION NO: 29039 OF 2011

Between:

1.THE STATE OF ANDHRA PRADESH,, REP. BY THE DISTRICT
COLLECTOR, CHITTOOR DISTRICT.

...PETITIONER

AND

1.THE COMMISSIONER OF APPEALS, O/O. THE CHIEF
COMMISSIONER OF LAND ADMINISTRATION, ANDHRA PRADESH,
HYDERABAD.

2.THE SPECIAL COMMISSIONER / DIRECTOR OF SETTLEMENTS,
ANDHRA PRADESH, HYDERABAD.

3.B SUBBAMMA DIED, W/O. LATE VEERAAIAH HOUSEHOLD R/O.
SANJAY NAGAR LOCALITY OLD PALONCHA MANDAL, KHAMMAM
DISTRICT.

4.B JAYARAM, S/O. LATE B. SUBBAMMA RETIRED TELECOM
EMPLOYEE KOTHAPALEM VILLAGE, RENIGUNTA MANDAL,
CHITTOOR DISTRICT.

5.B SRINIVASULU, S/O. LATE B. SUBBAMMA KOTHAPALEM VILLAGE,
RENIGUNTA MANDAL, CHITTOOR DISTRICT.

...RESPONDENT(S):

Counsel for the Petitioner:

1.ADDL ADVOCATE GENERAL (AP)

Counsel for the Respondent(S):

1.V JAGAPATHI

The Court made the following:

ORDER:

Heard Sri B. Sasibushana Rao, learned Government Pleader representing the Additional Advocate General and Sri V. Jagapathi, learned Counsel for the Unofficial Respondent Nos.3 to 5.

2. It transpires from the Cause-title that Respondent No.3 (Smt. Baduru Subbamma) is no more. The Respondent Nos.4 & 5 are the Legal Representatives (sons) of Respondent No.3.

3. The prayer sought in the present Writ Petition is as under:

“It is therefore prayed that this Hon’ble Court may be pleased to issue a writ of Certiorari calling for the records relating to the orders of the Commissioner Appeals in Proceedings No.P1/594/2000, dated 19.01.2010 in confirming the orders of the Special Commissioner and Director of Settlements in R.P.No.55/87-H1, dated 20.08.1999 and also confirming the orders of the Settlement Officer in S.R.No.164/1(a)/82 dated 04.02.1987 and declare the said proceedings are as being arbitrary, illegal, unreasonable and contrary to the provisions of Andhra Pradesh (Estates Abolition) Act 1948 and set aside the proceedings and orders of the 3rd parties and pass such other order or orders as are deemed fit and proper in the circumstances of the case.”

4. At the outset, this Court would indicate that the Writ Petitioner has filed this Writ Petition challenging the concurrent findings rendered by three Authorities and these three Orders (which have rendered the concurrent findings) are based on the previous Proceedings of the Assistant Settlement Officer dated 13.11.1969 in S.R.Nos.13 to 18, 20, 22 to 24, 26 to 45 of 2011

which has conferred substantive rights granting Ryotwari Patta to several Ryots, who are similarly placed as that of the Unofficial Respondent Nos. 3 to 5 herein. The Assistant Settlement Officer, Nellore *vide* S.R.Nos.13 to 18, 20, 22 to 24, 26 to 45 of 2011 dated 13.11.1969 had held that the ancestors of the Respondent Nos.3 to 5 herein were entitled to be granted ryotwari patta inasmuch as the said ancestors have been in possession even prior to coming into force of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948. These Proceedings under Section 11(a) of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 were upheld and followed by the Settlement Officer, Nellore *vide* Order dated 04.02.1987. The Revenue Authorities have challenged the findings of the Settlement Officer, Nellore dated 04.02.1987 before the Special Commissioner and Director of Settlements. The Special Commissioner and Director of Settlements *vide* Order dated 20.08.1999 had upheld the concurrent findings of the Authorities below and dismissed the Revision Petition filed by the District Collector bearing R.P.No.55/87-H1 *vide* Order dated 20.08.1999 (Ex.P.2). This Order of the Special Commissioner and Director of Settlements came to be challenged before the Chief Commissioner of Land Administration (CCLA) by filing another Revision Petition. *Vide* Proceeding No.P1/594/2000 dated 19.01.2010 the CCLA had confirmed the concurrent findings of the two Authorities below. Having lost before all the Authorities since the year 1969, the District Collector has filed the present Writ Petition assailing the findings rendered by the three Authorities below. In the meantime, the subject land was acquired by the Government for the purpose of Tirupati Airport.

Submissions of the Writ Petitioner (Joint Collector):

5. The facts, as projected by the Writ Petitioner (District Collector), are that the Settlement Officer, Nellore has erred in granting ryotwari patta in favour of the Unofficial Respondent Nos.3 to 5 herein with regard to agricultural land of an extent of Acs.3.40 cents in Kothapalem Village of Renigunta Mandal

situated in Sy.No.127/2; that the Order passed by the Settlement Officer dated 04.02.1987 (S.R.No.164/11(a)/82/CTR) (Ex.P.3), the Order passed by the Special Commissioner and Director of Settlements, Hyderabad, dated 20.08.1999 bearing R.P.No.55/87-H1 (Ex.P.2) and the impugned Order passed by the Court of Commissioner of Appeals, Chief Commissioner of Land Administration bearing Proceeding No.P1/594/2000, dated 19.01.2010 (Ex.P.1) are bad in law inasmuch as the first Order passed by the Settlement Officer dated 04.02.1987 is vitiated on the ground that the Settlement Officer had condoned the delay of eight (8) years by Order dated 21.01.1982 without Notice to the Revenue Officials and thereafter, passed the Final Order on 04.02.1987 (Ex.P.3) without hearing the Revenue Department. It is the contention of the Writ Petitioner that the subject land (Acs.3.40 cents in Kothapalem Village) is vested with the Government *vide* Proceeding dated 09.08.1960 under the provisions of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 and it is classified in the Revenue Record as 'Topu Porambok'.

6. At the outset, the facts on record would indicate that the present litigation, as what is projected by the Writ Petitioner (District Collector) is only the tip of the iceberg while the genesis begins since about the years-1920s'. The facts from 1920s' supported by record are referred to in the concurrent findings rendered by: (i) the Assistant Settlement Officer, Nellore in his Order dated 24.05.1963; (ii) the Order of the Assistant Settlement Officer, Nellore dated 13.11.1969; (iii) the Order of the Settlement Officer, Nellore dated 04.02.1987; (iv) the Order of the Special Commissioner and Director of Settlements dated 20.08.1999; and, (v) the Order of the Commissioner of Appeals, Chief Commissioner of Land Administration dated 19.01.2010 (impugned). All the Authorities have passed detailed Speaking Orders.

Contentions of the Unofficial Respondent Nos.3 to 5:

7. The submissions of Sri V. Jagapathi, learned Counsel appearing for the Unofficial Respondent Nos.3 to 5 herein are culled-out from the facts

mentioned in the concurrent Orders of various Authorities mentioned hereinabove.

8. The facts, as projected by Sri V. Jagapathi, learned Counsel appearing for the Unofficial Respondent Nos.3 to 5 are that vast extent of land was under the 'ayacut' irrigation of Kothapalem Tank situated in Kothapalem Village, Renigunta Mandal, Chittoor District; that it was essentially a wet land owned by various Inamdars under the Andhra Pradesh (Andhra Area) Estates Land Act, 1908; that these land holders were in fact not undertaking any agricultural activity and that they have rented-out the said land to various ryots (farmers) and the ryots in-turn were paying maktha; that 'ryoti land' is defined under Sub Section (15) of Section 3 of the Andhra Pradesh (Andhra Area) Estates Land Act, 1908; during this regime when the Andhra Pradesh (Andhra Area) Estates Land Act, 1908 was in force, the Inamdars/Land Holders were receiving rent in the form of portion of the produce yielded from the paddy fields, but the Inamdars/Land Holders were not issuing any kind of receipts with an intent to camouflage the jural relationship between Inamdars/Land Holders and the ryots; that on 01.04.1944, the Inamdar/Land Holder, who was in jural relationship with the ancestors of the husband of the Unofficial Respondent No.3 (one Sri B. Guravaiah, who is the husband of Smt. Baduru Subbamma – Respondent No.3 herein) had granted 'Permanent Takeed' in favour of the ancestors of Sri B. Guravaiah; that the Government of Andhra Pradesh has enacted the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948; that Government of Andhra Pradesh has notified the entire 'ayacut area' under the irrigation of Kothapalem Tank as Inam Estate and was taken over by the Government *vide* Notification dated 09.08.1960; that the said Notification dated 09.08.1960 is not only contrary to the facts but also *per se* illegal; that even by the date of Notification on 09.08.1960, the entire extent of land under cultivation was not in possession of Inamdars/Land Holders, but it was in possession of the ryots who were the ancestors of Unofficial Respondent Nos.3 to 5 and other similarly situated persons (ryots); that the Inamdars/Land Holders have initiated Proceedings

under Sub Section (1) of Section 15 of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 bearing S.R.No.299/15(1)/62; that this enquiry was undertaken by the Assistant Settlement Officer, Nellore, to determine the claims of the land holders (Inamdar by name Sri K.Sampathkumar Acharyulu) for the grant of ryotwari pattas for almost all the lands in the village; that after the completion of the enquiry, the Assistant Settlement Officer passed an Order on 24.05.1963 in the Proceeding initiated by the Inamdar/Land Holder namely Sri K.Sampathkumar Acharyulu bearing S.R.No.299/15(1)/62, thereby, rejecting the claim of the Inamdar/Land Holder; and that several ryots who are doing the agricultural operations for decades figured as Respondents in the enquiry undertaken by the Assistant Settlement Officer under Sub Section 1 of Section 15 of the Act, 1948.

9. It is further submitted by Sri V. Jagapathi, learned Counsel for the Unofficial Respondent Nos.3 to 5 that the Assistant Settlement Officer in the Order dated 24.05.1963, had pointed out that the claims of the contesting ryots under Section 11(a) would be considered separately as and when they file such Application; that in accordance with the direction given by the Assistant Settlement Officer (in his Order dated 24.05.1963), the ryots filed Applications seeking grant of ryotwari patta in their favour bearing S.R.Nos.13 to 20, S.R.Nos.22 to 24 and S.R.Nos.26 to 45; that all the applications/cases were clubbed together and inquired into by the Assistant Settlement Officer; that the Assistant Settlement Officer, although had clubbed cases, had inquired into each of the Applications separately; that each of the applicants has deposed that the lands claimed by them were devolved on them from their ancestors; that all the lands are irrigable under Kothapalem Tank; that they were cultivating the lands on 'varam' basis i.e., sharing produce between the ryot and the land holder in equal proportion; that the ryots have stated that the land holders never gave the receipts for the 'produce' given by the ryots to them with an ulterior motive to prevent the ryots from getting pattas for the subject lands; that the Assistant Settlement Officer had personally inspected

the subject lands and found that the subject lands are in the actual possession and enjoyment of the ancestors of the Applicants; that *vide* Order dated 24.05.1963 in S.R.No.299/15(1)/62, the Assistant Settlement Officer had rejected the plea of the Inamdars/Land Holders; that this Order dated 24.05.1963 passed by the Assistant Settlement Officer, Nellore, was confirmed by the Appellate Tribunal; and, that this Order of the Appellate Tribunal had attained finality against Sri K. Sampathkumar Aacharyulu who is the Inamdar/Land Holder.

10. It is further submitted by Sri V. Jagapathi, learned Counsel for the Unofficial Respondents that the evidence given by the Officials as CW1 and CW2 was common for all the cases; that the village karnam (examined as CW1) had stated that the lands claimed by the ryots are their ancestral properties and they are all irrigable under the Kothapalem Tank of the Village; that the ryots (Applicants/Petitioners) have been cultivating the land for more than 30 to 40 years by paying half of their 'produce' to the Inamdars/Land Holders in the form of rent; that the Inamdars/Land Holders never issued receipts to the ryots and that the CW1 and CW2 have stated in one voice that the old adangal of the village from the year 1951 onwards would prove the possession and enjoyment of the lands by the ryots (Applicants/Petitioners) and their predecessors in title; that the copy of this adangal (fasli 1351) was marked as Ex.P.1 and that after completing the enquiry, the Assistant Settlement Officer had passed an Order on 13.11.1969 (in S.R.Nos.13 to 20, S.R.Nos.22 to 24 and S.R.Nos.26 to 45) stating that the version of the Unofficial Respondents, as narrated hereinabove, cannot be disbelieved, as all the lands are wet lands having irrigation facilities under Kothapalem Tank and therefore, presumption is that the ryots (Applicants/Petitioners) have been under continuous cultivation and irrigation for several years prior to 1948 (pre-abolition period) and that the Government has never raised any objection either before or after the Act, 1948 came into force with regard to the pre-existing rights of ryots and, therefore, the pre-existing rights of the ryots cannot be extinguished at this stage; that accordingly, the Assistant

Settlement Officer had ordered for issuance of ryotwari pattas in respect of various extents of land in the cases listed before him (S.R.Nos.13 to 20, 22 to 24 and 26 to 45).

11. It is further submitted that in the year 1972, Sri B. Guravaiah (harijan) died and his wife Smt. Baduru Subbamma continued the agricultural operations; that Smt. Baduru Subbamma was an illiterate harijan women; that in the year 1982, Smt. Baduru Subbamma had filed an Application bearing S.R.No.164/11(a)/82/CTR for issuance of ryotwari patta before the Settlement Officer, Nellore, along with an Application for condoning the delay; that the said Application for condonation of delay came to be allowed and the delay thereby was condoned by the Settlement Officer, Nellore, on 21.01.1982; that Smt. Baduru Subbamma (the Unofficial Respondent No.3 herein) gave evidence as PW1 and the neighboring farmer one Sri Poojari Changireddy gave evidence as PW2; that Smt. Baduru Subbamma has produced cist receipts dated 04.05.1976, 03.02.1976, 06.04.1976, 03.03.1977, 20.05.1976, 03.03.1977 and 21.03.1982; that it was contended by the Applicant that the land under possession and control of Smt. Baduru Subbamma were wrongly classified as 'Topu Porambok' without recognizing the rights of the ryots; and, that after examining the Application of Smt. Baduru Subbamma (Unofficial Respondent No.3) and earlier Order dated 13.11.1969 passed by the Assistant Settlement Officer, the Settlement Officer, Nellore had passed the Final Order on 04.02.1987 (Ex.P.3) in S.R.No.164/11(a)/82/CTR holding as under:

"In this connection it is submitted that there are number of applications relating to this village requesting grant of ryotwari patta u/s.11 (a) of the E.A.Act. During the year 1969 the then Settlement Officer enquired into the matter and granted pattas to all the ryots stating that the landholders did not issue any receipts to the ryots or any takeeds in token having allotted the land to the ryots for cultivation and issued pattas and there were no appeals also.

Pujari Chenga Reddy was examined as P.W.2. He deposed that he knows the petitioner and her husband and

the petition schedule lands. Even in the Estate regime the petitioner and her husband used to cultivate the land. It is a ryoti land. It is not required for communal purpose. They used to pay L.R. to the landholder. By the time of taking over the land is in the possession and enjoyment petitioner. The petitioner's husband died about 14 years back. After his death she is cultivating the land and paying L.R. to Government.

Considering the facts mentioned in the previous judgment and oral evidence adduced by P.W.1 and 2, I am opinion that the Petitioner is in possession of the land prior to abolition and she is entitled to a ryotwari patta. Therefore, I allow her a ryotwari patta u/s. 11(a) of the E.A. Act."

12. It is further submitted by Sri V. Jagapathi, learned Counsel for the Unofficial Respondents that the Joint Collector had filed a Revision Petition bearing R.P.55/87-H1 on 15.05.1987 before the Special Commissioner and Director of Settlements, challenging the Order passed by the Settlement Officer, Nellore, dated 04.02.1987 in S.R.No.164/11(a)/82/CTR; that in the said Revision Petition, the Revision Petitioner (Joint Collector) had stated that the Order condoning the delay dated 21.01.1982 and the Final Order dated 04.02.1987 in S.R.No.164/11(a)/82/CTR was passed behind the back of the Revision Petitioner (Jt. Collector for the Revenue Department) inasmuch as the Order condoning the delay of 8 years dated 21.01.1982 and the Proceedings regarding fixing the date of hearing were never communicated to the MRO; that, apart from these procedural contentions, the Revision Petitioner (Joint Collector) had contended that the subject land is 'Topu Porambok' that is vested with the Government vide Notification dated 09.08.1960 under the Act, 1948 and that Smt. Baduru Subbamma has approached the Settlement Officer with a gross delay of 8 years and therefore, the Settlement Officer ought not to have entertained the Application for grant of ryotwari patta in favour of Unofficial Respondent Nos. 3 to 5 herein.

13. It is also submitted by the learned Counsel for the Respondent Nos.3 to 5 that Smt. Baduru Subbamma filed Counter Affidavit contending that the

Revision Petition filed by the Joint Collector is not maintainable inasmuch as the said Joint Collector does not have the authorization from the Government to file the said Revision Petition; that it was contended that the Revision Petition is barred by limitation inasmuch as the said Revision Petition is filed beyond 30 days contrary to the time that is provided under the statute; and, that it was contended that the Joint Collector has not filed any Application for Condonation of delay.

14. It is further submitted that Smt. Baduru Subbamma has placed on record all the relevant material in support of her case before the Special Commissioner and Director of Settlements.

15. It is submitted by the learned Counsel for the Unofficial Respondents that after consideration of the case of the Revision Petitioner (Joint Collector) as well as the Respondent No.3 herein, *vide* Order dated 20.08.1999 in R.P.No.55/87-H1 (Ex.P.2), the Special Commissioner held that there is no delay in filing the Revision Petition by the Joint Collector. The Special Commissioner has also recorded that even before the Special Commissioner, the Special Government Pleader who had filed the Revision Petition had never appeared; that the Revision Petition came up for hearing on 12.01.1988, 21.03.1988, 20.07.1988, 28.12.1988, 19.04.1989, 04.02.1994, 18.03.1994 and even on 17.06.1999, when the matter was taken up finally, neither of the parties have appeared and therefore, the Special Commissioner and Director of Settlements had passed the said Order dated 20.08.1999 basing on the available record; that the Special Commissioner has placed much reliance on the records relating to pre-abolition time and post abolition time inasmuch as the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 came into force.

16. It is further submitted that the learned Special Commissioner has gone to the root of the matter tracing the conduct of the inamdars under the Andhra Pradesh (Andhra Area) Estates Land Act, 1908 and 'varam' that was being paid by the ancestors of the ryots to the Inamdars/Land Holders; that the

Special Commissioner had also taken into consideration the Order passed by the Assistant Settlement Officer dated 24.05.1963 rejecting the claim of the Inamdars/Land Holders under Section 15(1) of the Act, 1948 and also the consequential Proceedings issued by the Assistant Settlement Officer dated 13.11.1969. Learned Counsel would submit that the Special Commissioner had considered the Order passed by the Assistant Settlement Officer dated 13.11.1969 minutely, as it is reflected in her Order dated 20.08.1999 (Ex.P.2) and had upheld the consistent findings of the Assistant Settlement Officer dated 24.05.1963 and 13.11.1969 and also the findings of the Settlement Officer, Nellore dated 04.02.1987 (Ex.P.3).

17. It is further submitted that the contentions raised by the Joint Collector that Smt. Baduru Subbamma approached the Settlement Officer with a delay of 8 years was rejected by the Special Commissioner in her Order dated 20.08.1999 stating that the consequential Proceedings were in progress and that Smt. Baduru Subbamma is an illiterate harijan woman and she cannot be expected to act diligently and as such there is no delay because in the year 1972, the husband of Smt. Baduru Subbamma had died and the Respondent No.3 herein could not have acted more swiftly under the circumstances.

18. It is further submitted that the Special Commissioner has also taken into account the two Proceedings of the Assistant Settlement Officer (dated 24.05.1963 and 13.11.1969), which have attained finality, inasmuch as the Government did not raise its little finger by challenging the said Proceeding and therefore, the same benefit shall accrue to Smt. Baduru Subbamma as well. The Special Commissioner had also considered the topo-sketch of the scheduled land which clearly show that the schedule land is in the middle of the lands for which Ryothwari Pattas were granted by the Settlement Officer, Nellore in S.R.Nos.13 to 18, 20, 22 to 24, 26 to 45 of 2011 and came to the conclusion that it is highly improbable to assume that the subject land belonging to Smt. Baduru Subbamma of an extent of Acs.3.40 cents in Sy.No.127/2 could be 'Topu Porambok' inasmuch as the entire land

surrounding the subject land has been declared as patta land and there has been teeming agricultural activity where paddy crop is grown.

19. It is further submitted that having been aggrieved by the Order passed by the Special Commissioner and Director of Settlements in R.P.No.55/87-H1 dated 20.08.1999, the District Collector, Chittoor, has approached the Court of Commissioner of Appeals, the Office of the Chief Commissioner of Land Administration (CCLA) by filing Revision Petition bearing No.P1/594/2000. Smt. Baduru Subbamma was arrayed as sole Respondent. During the pendency of the said Revision Petition before the Commissioner of Appeals, CCLA, Smt. Baduru Subbamma died and her two sons were now arrayed as Respondent Nos.4 and 5. Learned Counsel for the Respondents would submit that the Commissioner of Appeals, CCLA, was pleased to dismiss the Revision Petition filed by the Joint Collector bearing No.P1/594/2000 *vide* Order dated 19.01.2010 (impugned) (Ex.P.1).

20. He would submit that the Commissioner of Appeals, having considered the concurrent findings of the Assistant Settlement Officer dated 24.05.1963 and 13.11.1969 and the findings of the Settlement Officer dated 04.02.1987 and also the findings of the Special Commissioner and Director of Settlements dated 20.08.1999 in R.P.No.55/87-H1, had dismissed the Revision Petition bearing Proceeding No.P1/594/2000 filed by the District Collector *vide* Order dated 19.01.2010. He would submit that the Commissioner of Appeals had also dealt with each and every aspect and finally came to the conclusion that no interference is required in the Revision Petition *vide* Order dated 19.01.2010 (impugned) (Ex.P.1). He would also submit that during the interregnum, subject land came to be acquired for expansion of Tirupati Airport and the land acquisition Proceedings have been initiated. He would also submit that the Tahsildar of Renigunta Mandal, *vide* Proceedings dated 28.06.2012 in RoC.B/1790/93 had directed for mutation of names of Unofficial Respondent Nos. 4 & 5 in the Revenue Record.

21. Sri V. Jagapathi, learned Counsel for the Unofficial Respondent Nos.3 to 5 would submit that as against the Rejection Order passed by the Assistant Settlement Officer dated 24.05.1963 in S.R.No.299/15(1)/62, Sri K.Sampathkumar Acharyulu (Inamdar/Land Holder) filed an Appeal before the Estate Abolition Tribunal and the same came to be dismissed. Sri K.Sampathkumar Acharyulu has filed Writ Petition bearing W.P.No.181 of 1966 challenging the dismissal order of the Estate Abolition Tribunal and the same is also dismissed. Learned Counsel for the Unofficial Respondents would further submit that Sri K.Sampathkumar Acharyulu has once again filed the Claim Petition and that vide Order dated 11.06.1986 the said Claim Petition came to be rejected on the ground that in respect of the subject land, the pattas were already issued and that they cannot be re-opened by the Settlement Officer. On this ground, Sri K.Sampathkumar Acharyulu was directed to apply afresh for the survey numbers that remained unsettled.

22. Learned Counsel for the Unofficial Respondents would further submit that after lapse of two years, son of Sri K.Sampathkumar Acharyulu, one Sri N.K.K. Chari has filed a Claim Petition under Section 11(a) of the E.A Act, 1945 and also a separate Petition for condonation of delay under Section 5 of the Limitation Act, which came to be rejected as being time barred. Vide Order dated 28.09.1998 in D.Dis.No.20240/96, this was also rejected on the ground that it is time barred. Sri N.K.K. Chari S/o Sri K.Sampathkumar Acharyulu has filed a Revision Petition before the Special Commissioner and Director of Settlements, A.P against the Order passed by the Joint Collector-cum-Settlement Officer in D.Dis.No.20240/96 dated 28.09.1998. The Special Commissioner and Director of Settlements, vide Order dated 03.04.2002 had dismissed the Revision Petition by holding that there are no grounds to interfere with the Order of the Joint Collector-cum-Settlement Officer. Aggrieved by the concurrent findings of the Joint Collector-cum-Settlement Officer dated 28.09.1998 and Order in R.P.No.10/99 dated 03.04.2002 passed by the Special Commissioner and Director of Settlements, Sri N.K.K. Chari s/o Sri K.Sampathkumar Acharyulu had filed a Revision Petition before the

Commissioner of Appeal, Office of CCLA bearing CCLA Proceeding No.P3/1399/02 dated 26.11.2004. The Revision Petition was remanded to the Joint Collector-cum-Settlement Officer.

23. It is submitted that the Joint Collector-cum-Settlement Officer, Chittoor has taken up the enquiry of the case in S.R.No.2/11(a)/2005. Vide Order dated 28.01.2008, the Joint Collector-cum-Settlement Officer, Chittoor was pleased to dismiss the Revision Petition of Sri N.K.K. Chari in S.R.No.2/11(a)/2005. It is stated that the Writ Petitions which are filed by Sri N.K.K. Chari for various reliefs are pending on the file of this Court. This Court is of the view that, at this stage, the outcome in these Writ Petitions do not have any bearing on the facts of the present case in view of the fact that the Proceedings of the Assistant Settlement Officer, Nellore dated 24.05.1963 and the Order dated 13.11.1969 have attained finality in favour of the ryoths in whose favour ryotwari pattas have been issued. The case of the present Unofficial Respondent Nos.3 to 5 is also the same as that of ryoths who were granted ryotwari pattas vide Proceedings dated 24.05.1963 & 13.11.1969.

Analysis and Findings:

24. This Court has perused the Orders passed by the Settlement Officer dated 04.02.1987, the Order passed by the Special Commissioner and Director of Settlements dated 20.08.1999 and the impugned Order dated 19.01.2010. Amongst the documents that are placed on record, the crucial document that conveys not only the concurrent findings on facts but also earlier history is the Order passed by the Special Commissioner and Director of Settlements dated 20.08.1999 in R.P.No.55/87-H1 (Ex.P.2). This is because the said Order had even referred to the material documents that were there before the Assistant Settlement Officer when he had rejected the claim of the Inamdars/Land Holders *vide* Order dated 24.05.1963 and had allowed grant of pattas in favour of the ryots *vide* Order dated 13.11.1969. In fact, the learned Special Commissioner and Director of Settlements took the

pains to extract the entire Order of the Assistant Settlement Officer dated 13.11.1969 that speaks of all the facts which have been noted hereinabove.

25. Although the findings are concurrent, both on facts and law, in favour of the Unofficial Respondent Nos.3 to 5 herein starting from the Assistant Settlement Officer's Proceedings till the Proceedings of the Commissioner of Appeals (CCLA) (impugned herein), since all such Orders are quasi-judicial in nature, this Court has also taken pains to go through each and every Order referred to hereinabove in a threadbare manner.

26. At the outset, this Court notices the fact that the two Orders passed by the Assistant Settlement Officer (24.05.1963 and 13.11.1969) have attained finality. These two orders have given finality to the 'substantive rights' of the ryots who are similarly situated as that of the Unofficial Respondents herein and their ancestors. For the first time, the Government had ever thought of filing a Revision Petition against the consequential Order passed by the Settlement Officer dated 04.02.1987 in favour of Smt. Baduru Subbamma. This Court has noticed that this Order of the Settlement Officer, Nellore dated 04.02.1987 itself is a consequential Order inasmuch as all the similarly placed ryots were granted ryotwari pattas vide Order dated 13.11.1969 and Smt. Baduru Subbamma could not file an Application for grant of patta for the personal reasons mentioned therein (like the death of her husband and the pendency of other Proceedings and also the fact that she is an illiterate and a harijan woman).

27. Another nuance attached to the concept of finality is that when an Order had conferred 'substantive rights' on the parties and such an Order has attained finality, all the consequential proceedings that emanate out of that order shall follow the substantive order as a binding precedent, thereby, disallowing a litigant to reopen the 'substantive rights' in the guise of a consequential proceeding. The Courts must be conscious of the sinister attempts that may be made by the parties to somehow penetrate into the order that had conferred substantive right and had attained finality through

collateral or consequential proceedings. This is clearly impermissible in law besides being an antithesis to the 'doctrine of finality'.

28. The Hon'ble Apex Court in ***Kalyan Singh Vs. State of Uttar Pradesh and others; 1961 SCC Online SC 82***, held in para 16 as under:

"16. The Regional Transport Authority was by the terms of the scheme left no discretion in the matter. It was by the scheme that the right of the appellant was restricted and if the scheme became final and binding the Regional Transport Authority had no authority to permit the appellant to ply his vehicles. The order passed by the Regional Transport Authority was purely consequential on the scheme, and if the scheme is not open to challenge, orders consequential thereon will not also be open to challenge. We are supported in this view by the observations of this Court in Abdul Gafoor : Proprietor, Shaheen Motor Service v. State of Mysore [AIR 1961 SC 1556] that:

"It appears to us that when deciding that action to take under Section 68-F(1) the authority is tied down by the terms and conditions of the approved scheme and his duty is merely to do what is necessary to give effect to the provisions of the schemes. The refusal to entertain applications for renewal of permits or cancellation of permits or modification of terms of existing permits really flow from the scheme. The duty is therefore merely mechanical; and it will be incorrect to say that there is in these matters any lis between the existing operators and the State Transport Authority. There is no justification therefore for saying that when taking action under Section 68-F(2) is really independent of the issue of the permits under Section 68-F(1). Once the scheme has been approved, action under Section 68-F(1) flows from it and at the same time action under Section 68-F(2) flows from the same scheme". We are bound by this decision.

29. The Hon'ble Apex Court in ***Ibrahimpatnam Taluk Vyavasaya Coolie Sangham v. K. Suresh Reddy***; (2003) 7 SCC 667, held in para No.9 as under:

9. Even before the Division Bench of the High Court in the writ appeals, the appellants did not contend that the suo motu power could be exercised even after a long delay of 13-15 years because of the fraudulent acts of the non-official respondents. The focus of attention before the Division Bench was only on the language of sub-section (4) of Section 50-B of the Act as to whether the suo motu power could be exercised at any time strictly sticking to the language of that sub-section or it could be exercised within reasonable time. In the absence of necessary and sufficient particulars pleaded as regards fraud and the date or period of discovery of fraud and more so when the contention that the suo motu power could be exercised within a reasonable period from the date of discovery of fraud was not urged, the learned Single Judge as well as the Division Bench of the High Court were right in not examining the question of fraud alleged to have been committed by the non-official respondents. "Use of the words "at any time" in sub-section (4) of Section 50-B of the Act only indicates that no specific period of limitation is prescribed within which the suo motu power could be exercised reckoning or starting from a particular date advisedly and contextually. Exercise of suo motu power depended on facts and circumstances of each case. In cases of fraud, this power could be exercised within a reasonable time from the date of detection or discovery of fraud. While exercising such power, several factors need to be kept in mind such as effect on the rights of the third parties over the immovable property due to passage of considerable time, change of hands by subsequent bona fide transfers, the orders attaining finality under the provisions of other Acts (such as the Land Ceiling Act). Hence, it appears that without stating from what date the period of limitation starts and within what period the suo motu power is to be exercised, in sub-section (4) of Section 50-B of the Act, the words "at any time" are used so that the suo motu power could be exercised within reasonable period from the date of discovery of fraud depending on facts and circumstances of each case in the context of the statute and nature of rights of the parties. Use of the words "at any time" in sub-section (4) of Section 50-B of the Act cannot be rigidly read letter by letter. It must be read

and construed contextually and reasonably. If one has to simply proceed on the basis of the dictionary meaning of the words “at any time”, the suo motu power under sub-section (4) of Section 50-B of the Act could be exercised even after decades and then it would lead to anomalous position leading to uncertainty and complications seriously affecting the rights of the parties, that too, over immovable properties. **Orders attaining finality and certainty of the rights of the parties accrued in the light of the orders passed must have sanctity.** Exercise of suo motu power “at any time” only means that no specific period such as days, months or years are not (sic) prescribed reckoning from a particular date. But that does not mean that “at any time” should be unguided and arbitrary. In this view, “at any time” must be understood as within a reasonable time depending on the facts and circumstances of each case in the absence of prescribed period of limitation.”

30. In **Indu Bhusan Jana Vs. Union of India & Ors; 2008 SCC Online Cal 626**, the Hon'ble Division Bench of Calcutta High Court held in para No.11 as under:

*“11. Upon an order attaining finality, it matters little as to whether it was erroneous. A party aggrieved by an order has to work out his remedies within the legal framework. **If an issue or the entire lis is concluded upon a finding being rendered and such finding remains unchallenged, it is no longer open to the party to undo the effect thereof at any subsequent stage or collaterally unless it is demonstrated that the finding was obtained by fraud or the Court lacked jurisdiction to pass the order.** The hierarchy in the judiciary exists to afford litigants to climb up the ladder in pursuit of justice and to right a wrong committed at a lower level. But if a litigant accepts an order, he does it to his prejudice and binds himself thereby.”*

(Emphasis supplied)

31. The Hon'ble Apex Court in **Amarjeet Singh and others Vs. Devi Ratan and others; (2010) 1 SCC 417**, held in para 28 as under:

28. In the instant case, promotions had been made by two different DPCs held on 19-12-1998 and 22-1-1999. Both DPCs had made promotions under different Rules on different criterion and their promotions had been

*made with retrospective effect with different dates notionally. In the writ petition before the High Court, the promotion of the appellants had not been under challenge. The seniority which is consequential to the promotions could not be challenged without challenging the promotions. **Challenging the consequential order without challenging the basic order is not permissible.** (Vide P. Chitharanja Menon v. A. Balakrishnan [(1977) 3 SCC 255 : 1977 SCC (L&S) 378 : AIR 1977 SC 1720] .)*

(Emphasis supplied)

32. In ***Faime Makers Pvt. Ltd. Vs. District Deputy Registrar, Co-Operative Societies (3), Mumbai and Others; 2025 SCC Online SC 688 (SLP (Civil) No.26654 of 2023) dated 01.04.2025.*** The Hon'ble Apex Court held in Para 13 of the said Judgment as under:

“13. From the foregoing discussion, it is evident that once a Competent Authority (quasi-judicial in nature) settles an issue, that determination attains finality unless it is set aside in accordance with law.”

33. In any case, the Special Commissioner and Director of Settlements has recorded the historical facts before coming into force the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 and also after coming into force of the said Act. The facts projected by the ryots, substantiated by unimpeachable documentary evidence, would indicate that ancestors of the Respondents were in possession and cultivation of the land almost 30 to 40 years prior to the date of enactment of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948. Even thereafter, the subsequent Proceedings would also indicate that the evidence which is in favour of the ryots and against the Government is so overwhelming, which has already been noted hereinabove and for the sake of brevity, this Court is rather avoiding repetition of the same facts.

34. As stated earlier, this Court has gone through the crucial Order passed by the Special Commissioner and Director of Settlements in R.P.No.55/87-H1, dated 20.08.1999 (Ex.P.2). This Order contains graphic details of all the facts

relevant for understanding the present case including the Proceedings of the Assistant Settlement Officer dated 24.05.1963 & 13.11.1969 that have undoubtedly and admittedly attained finality. This Court has also noticed that, insofar as plea of delay raised by the Writ Petitioner herein (District Collector) in S.R.No.164/11(a)/82/CTR, it is noted by the Special Commissioner and Director of Settlements in her Order dated 20.08.1999 to the effect that there is no delay on the part of Smt. Baduru Subbamma in approaching the Settlement Officer. The Special Commissioner has noted that in pursuance of the Order of the Settlement Officer in S.R.No.299/15(1)/62, the husband of Respondent No.3 ought to have pursued the matter but he had passed away in the year 1972 and the Respondent No.3 herein who is an illiterate and a harijan lady filed a Petition before the Settlement Officer, for which the then Settlement Officer has condoned the delay and admitted the Claim Petition of the Respondent No.3. It was specifically stated by the Special Commissioner and Director of Settlements in her Order dated 20.08.1999 after going through the entire record that was there before her, that the Order dated 21.01.1982 of the Settlement Officer (condoning the delay) was communicated to the Officials of the Revenue Department, as is visible at the end of the Order that the copies were marked to the Mandal Revenue Officer, Renigunta by RPAD and the said Order has never been challenged by the Joint Collector.

35. In this view of the matter, the Special Commissioner had held that it cannot be said that filing of the Claim Petition by Smt. Baduru Subbamma before the Settlement Officer is barred by limitation. This apart, it is noticed that the Settlement Officer vide Order dated 04.02.1987 as well as the Special Commissioner and the Director of Settlements in her Order dated 20.08.1999 had also, threadbare dealt with the case on merits and held in favour of the Unofficial Respondents herein. Therefore, this Court holds that the quasi-judicial bodies in this case have dealt with the alleged procedural lapses as well as on merits by delving deep into the factual details. While going through the pleadings, particularly, the Counter Affidavits filed by Unofficial Respondent No.4 to the Additional Affidavits filed by the Writ Petitioner, this

Court has noticed that Respondent No.4 (Sri B. Jayaram) is now aged about 63 years. Admittedly, the father of Respondent Nos.4 & 5 (Sri B. Guravaiah) had died in the year 1972 and that the widowed mother of the Respondent Nos.4 & 5 (i.e., Smt. Baduru Subbamma) who is a harijan and illiterate was fighting-out this litigation relentlessly, that is initiated by the Official Respondents.

36. The Official Respondents, knowing full well that the Government is fighting a battle against the helpless harijan women in a situation where several substantive Orders against the Government had attained finality, continued to challenge only the consequential and collateral Proceedings with full knowledge that the Appellate Fora would follow the same substantive legal course that was applied to the similarly situated ryots, who have already been granted ryotwari pattas. The Official Respondents have taken a course to carry on with not only this frivolous litigation but also a vexatious one in view of the fact that the first son of Smt. Baduru Subbamma is now aged about 62 years, which means that the widowed mother had been fighting for the rights when the Respondent No.4 was in his teens and Respondent No.5 was just a toddler. It is indicated that Respondent No.5 is now aged about 50 years.

37. In the light of the above discussion, this Court is of the view that the present Writ Petition is not only devoid of merit but is a gross abuse of process. As indicated earlier that the Orders under challenge, which gave concurrent findings, are all quasi-judicial in nature. Since this Court, had judicially dealt with this case for the first time now, it has refrained from imposing exemplary costs against the Government. The said Proceeding would reflect that the Officers who have taken decision to file the present Writ Petition had done it in a casual and mechanical manner. This apart, as indicated earlier, the subsequent events would indicate that the subject land stood acquired. Therefore, it is needless to state that the Unofficial Respondent Nos.4 & 5 shall be entitled to the compensation under the Land Acquisition Proceedings in accordance with law.

38. With the above observations, the Writ Petition is dismissed. No order as to costs.

39. Interlocutory Applications, if any, stand closed in terms of this order.

GANNAMANENI RAMAKRISHNA PRASAD, J

Dt: 05.06.2025

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B/o. Vns/Mnr

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HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

WRIT PETITION No.29039 OF 2011

Dt: 05.06.2025

Note: LR Copy to be marked

B/o. Vns/Mnr