

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

AND

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

+ Civil Suit No.9/1 of 1951

% 23.04.2024

Between:

Safdar-un-Nissa Begum alias Badi Sahebzadi,
W/o. Nawab Shujahul Mulk
Deceased, caste Muslim, 67 years, Occ: Khanaishini,
Resident of Devidi Nawab Khane Khanan Bahadur,
Hyderabad and others.

... Plaintiffs

Vs.

Nawab Ghazi Jung, S/o. Nawab Fakrul Mulk,
Deceased, caste Muslim, aged 65 years, Occ: Jagirdar,
Resident of Somajiguda, Hyderabad and others.

... Defendants

! Counsel for Plaintiffs :

^ Counsel for Defendants : Mr. Vedula Srinivas representing
Mr. N.M.Krishnaiah for the LRs of D-No.15.
Mr. Zakir Ali Danish for D-Nos.29 and 30.
Mr. Mohd. Adnan for LRs of D-No.36 & R-49.
Mr. Mir Wajid Ali Kamil for LRs of D-No.39.
Mr. M.Shiiva Kumar for D-No.69.
Mr. P.Giri Krishna for R-72 & 82.

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> HEAD NOTE:

? Cases referred

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR

Civil Suit No.9/1 of 1951

1. Safdar-un-Nissa Begum alias Badi Sahebzadi,
W/o. Nawab Shujahul Mulk
Deceased, caste Muslim, 67 years, Occ: Khanaishini,
Resident of Devidi Nawab Khane Khanan Bahadur,
Hyderabad.

2. Fakarunnisa Begum alias Manjle Sahibzadi
W/o. Nawab Turab Yar Jung Bahadur, caste Muslim,
Aged 68 years, Occ: Khanaishini, resident of Nizam Bagh,
Dewan Devdi, Hyderabad.

.....Plaintiffs

Vs.

1. Nawab Ghazi Jung, S/o. Nawab Fakrul Mulk,
Deceased, caste Muslim, aged 65 years, Occ: Jagirdar,
Resident of Somajiguda, Hyderabad.

2. Nawab Rais Yar Jung Bahadur, S/o. Nawab Fakrul Mulk,
Deceased, caste Muslim, aged 60 years, Occ: Jagirdar, Resident
at A.C. Guards, Hyderabad.

3. Nawab Rais Jung Bagadur, S/o. Nawab Fakrul Mulk,
Deceased, caste Muslim, aged 55 years, Occ: Jagirdar,
Resident of Banjara Hills, Hyderabad.

4. Nawab Shah Nawaz Jung Bahadur, S/o. Nawab Fakrul Mulk,
Deceased, caste Muslim, aged 47 years, Occ: Jagirdar, Resident
of Amirpet, Hyderabad.

5. Riyasatunnisa Begum alias Sanjle Sahibzadi,
W/o. Nawab Kamal Yar Jung Bahadur,
Deceased, caste Muslin, aged 50 years, Occ: Khananishini,
Resident of Khane Khanan Palace, Hyderabad.

6. Nawab Aijaz Hussain Khan, S/o. Nawab Fakar Jung,
Deceased, caste Muslim, aged 26 years, Occ: Jagirdar,
Resident of Mir Alam Mandi in the house of Nawab Ahmed Yar
Jung.
7. Nawab Mumtaz Hussain Khan, S/o. Nawab Fakar Jung,
Deceased, caste Muslim, aged 24 years, Occ: Jagirdar,
Resident of Mir Alam Mandi in the house of
Nawab Ahmed Yar Jung.
8. Jahandarunnisa Begum virgin daughter of Nawab Fakar
Jung, Deceased, caste Muslim, aged 25 years, Occ: hananishini,
Resident of Mir Alam Mandi in the house of
Nawab Ahmed Yar Jung.
9. Mir Liyaquat Hussain Khan S/o. Nawab Fakar Jung
Deceased, caste Muslim, aged 40 years,
Asst. Superintendent of the Excise,
Resident of Somajiguda, near the bungalow of Nawab Shukat
Jung.
10. Mir Layak Hussain Khan S/o. Nawab Fakar Jung
Deceased, caste Muslim, aged 27 years,
Occ: Military Service, Resident of Lakdi kapool, Hyderabad.
11. Tahwarunnisa Begum D/o. Nawab Fakar Jung,
Deceased, caste Muslim, aged 30 years, Occ: Khananishini,
Resident of Lakdi kapool, in the house of Defendant No.9.
12. Kifayatunnisa Begum D/o. Nawab Fakar Jung,
Deceased, caste Muslim, aged 28 years, Occ: Khananishini,
Resident of Lakdi kapool, Hyderabad in the house of Defendant
No.9.
13. Dilawarunnisa Begum D/o. Nawab Fakar Jung
Deceased, caste Muslim, aged 26 years, Occ: Khananishini,
Resident of Lakdi kapool, Hyderabad, in the house of Defendant
No.9.
14. Mir Jahangir Hussain Khan S/o. Nawab Fakar Jung,
Deceased, caste Muslim, aged 35 years, Occ: Jagirdar,
Resident at locality of Barhanay Sahib near Devdi of Askar
Jung.

15. Zahoorunnisa Begum D/o. Nawab Fakar Jung
Deceased, caste Muslim, aged 25 years, Occ: Khananishini,
Resident at locality of Barhanay Sahib near Devdi of Askar
Jung.
16. Mir Muzaffar Hussain Khan S/o. Nawab Fakar Jung (Party
Receiver D-16), caste Muslim, aged 30 years, Occ: Jagirdar,
Resident at Khairtabad near bungalow of Suleiman Ali Khan.
17. Shamsunnisa Begum D/o. Nawab Fakar Jung,
caste Muslim, aged 26 years, Occ: Khananishini,
Resident at Khairtabad near bungalow of Suleiman Ali Khan.
18. Wazirunnisa Begum D/o. Nawab Fakar Jung,
caste Muslim, aged 25 years, Occ: Khananishini,
Resident at Khairtabad near bungalow of Suleiman Ali Khan.
19. Nadarunnisa Begum, D/o. Late Nawab Fakar Jung,
caste Muslim, aged 24 years, Occ: Khananishini,
Khairtabad near bungalow of Suleiman Ali Khan in the house of
D-10.
20. Dawarunnisa Begum D/o. Late Nawab Fakar Jung,
caste Muslim, aged 23 years, Occ: Khananishini,
Khairtabad, near bungalow of Suleiman Ali Khan in the house
of D-16.
21. Mir Musharaff Hussain Khan S/o. Late Nawab Fakar Jung,
caste Muslim, aged 28 years, Occ: Tahsildar,
Mominabad, Beed District.
22. Chandani Begum D/o. Late Nawab Fakar Jung,
W/o. Mir Hussain Ali Khan, caste Muslim, aged 25 years,
Occ: Khananishini, resident of Haveli Khadim,
In the house of Ahmed Ali Khan, Jagirdar.
23. Nawab Fakar Nawaz Jung Bahadur S/o. late Nawab Ali
Yavar Jung Bahadur, aged 45 years, Occ: Govt., Service caste
Muslim, residence near Hyderabad Municipality Office,
Hyderabad.
24. Mir Ameer Hussain Khan S/o. Nawab Fakar Jung,
caste Muslim, aged 26 years, Student, resident of Khairtabad
Lakdi Kapool Opposite to Mumtaz Mansion.

25. Meharunnisa Begum W/o. late Nawab Fakar Jung,
Caste Muslim, aged 50 years, Occ: Khananishini,
Resident of Somajiguda, Opposite to Jaffer Mansion.

26. Shahzadi Khanam W/o. late Nawab Fakar Jung,
caste Muslim, aged 40 years, Occ: Khananishini,
Resident in the locality known as Dargah Bahanay Saheb,
near the Devdi of late Askar Jung, Hyderabad.

... Defendants.

Amina Begum W/o. Late Mir Liyaqath Hussain Khan (D-27)

Mir Mohi Khan S/o. Late Mir Liyaqath Hussain Khan (D-28)

Mir Hussain Khan S/o. Late Mir Liyaqath Hussain Khan (D-29)

Mir Abbas Khan S/o. Late Mir Liyaqath Hussain Khan (D-30)

Fakhar Sultana Begum D/o. Late Mir Liyaqath Hussain Khan
(D-31)

Muneer Sultana Begum D/o. Late Mir Liyaqath Hussain Khan
(D-32)

***(Defendant Nos.27, 28, 29, 30, 31 & 32 brought on record
as the Legal representative of deceased defendant No.9,
by court order dated 10.10.1958 in Appl.Nos.97 & 98 of
1958)***

Fazilat Hussain S/o. Nawab Rais Yar Jung Bahadur (D-33)

Mujtaba Hussain S/o. Nawab Rais Yar Jung Bahadur (D-34)

Shah Jahan Begum D/o. Nawab Rais Yar Jung Bahadur (D-35)

Fakher Jahan Begum D/o. Nawab Rais Yar Jung Bahadur (D-36)

Smt.Bilaquis Jahan Begum W/o. Nawab Rais Yar Jung Bahadur (D-37)

***(Defendant Nos.33 to 37 brought on record as the Legal
representatives of deceased defendant No.2, by court order
dated 13.10.1961 in Appl.No.78 of 1961)***

Malan Begum W/o. Nawab Rais Jung (D-38)

Mozam Hussain S/o. Nawab Rais Jung (D-39)

Azam Hussain S/o. Nawab Rais Jung (D-40)

Murtuza Hussain S/o. Nawab Rais Jung (D-41)

Kazam Hussain S/o. Nawab Rais Jung (D-42)

Jahanara Begum D/o. Nawab Rais Jung (D-43)

Khavarunnisa Begum D/o. Nawab Rais Jung (D-44)

Basheerunnisa Begum D/o. Nawab Rais Jung (D-45)

Syed Mohammed S/o. Kamalunnisa Begum, deceased
(Daughter of Nawab Rais Jung), Grand-son (Daughter's Son) (D-46)

Bilquis Jahan Begum D/o. Nawab Rais Jung (D-47)

Raisunnisa Begum D/o. Nawab Rais Jung (D-48)

(Defendant Nos.38 to 48 brought on record as the legal representatives of deceased defendant No.3, by court order dated 21.01.1966 in Appl.No.4 of 1966)

Yawarunnisa Begum D/o. Late Nawab Gazi Jung(D-49)

Jahan Parwarunnisa Begum D/o. Late Nawab Gazi Jung (D-50)

Syed Mohd. Zaki S/o. Late Syed Md. Taqi(D-51)

Syed Hasan Askari S/o. Late Syed Md. Taqi (D-52)

Rafat Jahan Kazim D/o. Late Syed Md. Taqi (D-53)

(Defendant Nos.49 to 53 brought on record as the legal representatives of deceased defendant No.1, by court order dated 25.08.1972 in Appl.No.50/1972.)

Munirunnisa Begum D/o. Late Mir Mujtaba Hussain(D-54)

Sarfaraz Jahan Begum D/o. Late Mir Mujtaba Hussain(D-55)

(Defendants 33, 35, 36 & 45 brought on record as the legal representatives of deceased defendant No.37 & 34 besides bringing on record the defendant Nos.54 & 55, by court order dated 28.09.1975 in Appl.No.117/1975.)

Najeebunnisa Begum D/o. Late Shaha Nawaz Jung(D-56)

Azizunnisa Begum D/o. Late Shaha Nawaz Jung(D-57)

(Defendant No.56 & 57 brought on record as the legal representatives of deceased defendant No.4, by court order dated 22.02.1980 in Appl.No.14/1980.)

Shahida Sultana W/o. Mir Musharaf Hussain(D-58)

Mir Masarath Hussain S/o. Mir Musharaf Hussain(D-59)

Mir Vizarath Hussain S/o. Mir Musharaf Hussain(D-60)

Mir Sadiq Hussain S/o. Mir Musharaf Hussain(D-61)

Mir Ali Hussain S/o. Mir Musharaf Hussain (D-62)

Mir Sadath Hussain S/o. Mir Musharaf Hussain (D-63)

Mehajabeen Shaik D/o. Mir Musharaf Hussain(D-64)

Razia Khan D/o. Mir Musharaf Hussain (D-65)

Rafia Sultana D/o. Mir Musharaf Hussain (D-66)

Shaheen Ameer D/o. Mir Musharaf Hussain (D-67)

(Defendant Nos. 58 to 67 brought on record as Legal representatives of deceased defendant No.21, by court order dated 16.11.1985 in Appl.No.278/1985.)

Mohd Burhan Ali Khan S/o.Mohd.Zaki Khan(D-68),

Mohd Ali Hussain Khan S/o.Mohd.Burhan Ali Khan(D-69)

(Defendant No.68 & 69 brought on record as Legal representatives of deceased defendant No.57, by court order dated 08-09-1989 in Appl.No.459/1989)

Sakeena Begum D/o. Late Nadirunnisa Begum(D-70)

Bathul Mirza D/o. Late Nadirunnisa Begum(D-71)

(Defendant No.70 & 71 brought on record as Legal representatives of deceased defendant No.19, by court order dated 09-11-2000 in Appl.No.1628/2000.)

Noori Muzzaffar Hussain S/o. Late Mir Muzaffar Hussain(D-72)

(Defendant No.72 brought on record as Legal representatives of deceased defendant No.16, by court order dated 16-12-2003 in Appl.No.1386/2003)

Amtuz Zehra W/o. Luthfe Ali(D-73)

Ali Hasan Khan S/o. Fakhr Nawaz Jung(D-74)

Ali Hussain Khan S/o. Fakhr Nawaz Jung(D-75)

Ali Mohsin Khan S/o. Fakhr Nawaz Jung(D-76)

(Defendant Nos.73 to 76 brought on record as Legal representatives of deceased defendant No.49, by court order dated 19-03-2004 in Appl.No.1403/2003)

Chand Sultana W/o. Syed Mohammed Ali Khan,
D/o. Kifayat unnisa begum(D-77)

(Defendant No.77 brought on record as Legal representative of deceased defendant No.12, by court order dated 01.10.2004 in Appl.No.1264/2004)

Mir Muktar Hussain S/o. Kifayathunnisa Begum(D-78)

Sadiqua Sultana D/o. Kifayathunnisa Begum (D-79)

Tahera Sultana D/o. Kifayathunnisa Begum (D-80)

(Defendant Nos.78 to 80 brought on record as Legal representative of deceased defendant No.12, by court order dated 14.10.2004 in Appl. 1075/2004)

Zohra Begum D/o. Late Jahandarunnisa Begum(D-81)

Mirza Ahmed Ali Khan S/o. Late Jahandarunnisa Begum (D-82)

(Defendant No.81 & 82 brought on record as Legal representative of deceased defendant No.8, by court order dated 05.11.2004 in Appl. 1061/2004)

Fatima Roushanak W/o. Ali Asghar, D/o. Daverunnisa Begum(D-83)

Mumtaz Anwar Ali W/o. Chandrasegaram, D/o. Daverunnisa Begum (D-84)

(Defendant No.83 & 84 brought on record as Legal representatives of deceased defendant No.20, by court order dated 22.02.2008 in Appl. 672/2005)

Kulsum Sultana Shajoon D/o. Late Najeebunnisa Begum (D-85)

(Defendant No.85 brought on record as Legal representatives of deceased defendant No.56, by court order dated 20.12.2005)

86. Mir Mustafa Ali khan S/o. Mir Hussain Ali Khan (D-86)

87. Hussain Banu W/o. Syed Mohammed Naqui (D-87)

88. Mir Raza Ali Khan S/o. Mir Hussain Ali Khan (D-88)

(Defendant Nos. 86 to 88 brought on record as Legal representatives of deceased defendant No.22, by court order dated 27.07.2009 in Appl. No.601/2009)

89. Md. Ali Hussain Khan S/o. Burhan Ali Khan (D-89)

(Defendant No.89 brought on record as Legal representative of deceased defendant No.68, by court order dated 23.01.2012 in Appl. No.657/2011)

90. Mir Sarfaraz Husain S/o. Mir Moazam Husain

91. Mir Akber Husain S/o. Mir Moazam Husain

92. Mir Asgar Husain S/o. Mir Moazam Husain

93. Dr. Fatima Shanaz D/o. Mir Moazam Husain

94. Begum Sultana Hasan D/o. Mir Moazam Husain

(Defendant Nos.90 to 94 brought on record as Legal representatives of deceased defendant No.39, by court order dated 19.12.2022 in Appl. No.1/2020)

JUDGMENT: *(Per the Hon'ble Sri Justice N.V.Shravan Kumar)*

I. History, Background and brief facts of Civil Suit No.9/1 of 1951:

The Suit was originally filed between Nawab Ghaji Jung and heirs of Nawab Fakhr Jung. The Suit was filed on 15.05.1946 and the plaint was presented on 30.8.1951.

2. Originally Plaintiff Nos.1 and 2 filed a Suit in Darul Quaza Court on 04.07.1355 Fasli, which was decreed on 21.02.1358 Fasli. The Decree was set aside in view of compromise between the Two plaintiffs and the Defendant Nos.5 and 1 to 4 and 23 and compromise Decree was passed on 22.9.1950, and thereafter, the suit was remanded under Section 19 of Code of Civil Procedure, 1908 to this High Court for trial regarding the rest of the defendants and the case was transferred to this High Court as the Court of Darul Quaza Court was abolished.

3. The record reveals that Nawab Fakher Jung died on 19.09.1934 leaving behind five (5) sons and four (4) daughters.

The details are extracted from the report:

"Sons

- | | |
|--------------------------|-------------------------------------|
| 1. Nawab Ghazi Jung | <i>(Defendant No.1 in the suit)</i> |
| 2. Nawab Fakhar Jung | |
| 3. Nawab Raisyar Jung | <i>(Defendant No.2 in the suit)</i> |
| 4. Nawab Rais Jung | <i>(Defendant No.3 in the suit)</i> |
| 5. Nawab Shah Nawaz Jung | <i>(Defendant No.4 in the suit)</i> |

Daughters

1. *Safdarunnisa Begum* (Plaintiff No.1 in the suit).
2. *Fakhrunnisa Begum* (Plaintiff No.2 in the suit).
3. *Raisathunnisa Begum* (Defendant No.5 in the suit).
4. *Zehra Talak Qamar Ara Begum* (Wife of defendant No.23)

Fakhar Nawaz Jung Bahadur, husband of Zehra Talat Qamar Ara Begum, 4th daughter of the deceased, was brought on record as her legal representative and defendant No.23.

Heirs of Nawab Fakhar Jung, 2nd son of deceased had (8) sons, (11) daughters and (4) wives.

(8) sons

1. *Mir Ajaz Hussain* (Defendant No.6 in the suit)
2. *Mir Mumtaz Hussain* (Defendant No.7 in the suit)
3. *Mir Liaqath Hussain* (Defendant No.9 in the suit)
4. *Mir Laik Hussain* (Defendant No.10 in the suit)
5. *Mir Jahangir Hussain* (Defendant No.14 in the suit)
6. *Mir Muzaffar Hussain* (Defendant No.16 in the suit)
7. *Mir Musharaff Hussain* (Defendant No.21 in the suit)
8. *Mir Amir Hussain* (Defendant No.24 in the suit)

(11) Daughters

1. *Dowarunninsa Begum*(Defendant No.20 in the suit)
2. *Badarunnisa Begum* (Died after inheriting a share in the Matraka of her father and in her place her mother, Meherunnisa Begum became a party in the suit as defendant No. 25)

- | | |
|-------------------------|-------------------------------|
| 3. Tahawarunnisa Begum | (Defendant No.11 in the suit) |
| 4. Shamsunnisa Begum | (Defendant No.17 in the suit) |
| 5. Kifayathunnisa Begum | (Defendant No.12 in the suit) |
| 6. Nadarunnisa Begum | (Defendant No.18 in the suit) |
| 7. Zahoorunnisa Begum | (Defendant No.15 in the suit) |
| 8. Dilawarunnisa Begum | (Defendant No.13 in the suit) |
| 9. Vazeerunnisa Begum | (Defendant No.19 in the suit) |
| 10. Jahadarunnisa Begum | (Defendant No.8 in the suit) |
| 11. Chandni Begum | (Defendant No.22 in the suit) |

(4) Wives

They got their share out of the Court except Gowharunnisa Begum, the 4th wife who died after inheriting her share in the Matraka. This share devolved upon her sons defendant Nos.6 and 7 and her daughter defendant No.8 in the ratio of 2 : 1 as per the preliminary decree dated 25.04.1951.

2. The record reveals that three months after the death of Nawab Fakhrul Mulk, H.E.H. Nizam VII issued a 'Firman' (decree) appointing a Committee for the management of the estate of the deceased i.e., Jagir and Matraka. This Committee consisted of the five (5) sons of the deceased Nawab and one Secretary appointed by the Government. The Committee functioned hardly for two years or so when Nawab Fakhar Jung died in 1936. Thereafter the Committee functioned with only four sons of the deceased Nawab and the Secretary. The Committee continued to function upto the police action in 1948. The sons and daughters of late Fakhar Jung were not made members of the

Committee in place of their father for the reason that their succession proceedings were pending before the Atiyat Court. Being aggrieved by certain actions of the Committee, the first two daughters of the deceased, viz., Safdarunnisa Begum and Fakhrunnisa Begum, filed a suit in 1355 Fasli in Darul Qaza Court, for the partition of the Matraka of their deceased father, Nawab Fakhrul Mulk. In this suit, the third daughter of the deceased Nawab, viz., Riasathunnisa Begum (defendant No.5), the husband of the deceased – fourth daughter (defendant No.23), the four sons of late Nawab Fakhrul Mulk and the legal representative of late Fakhar Jung were impleaded.

3. The legal representatives of late Fakhar Jung (Defendant No.6 to 22, Defendant No.24 & 25) were made as the parties in the appeal before the Hon'ble High Court. During pendency of the appeal the "Virasat", of Fakhar Jung sanctioned by a Firman of the H.E.H. the Nizam VII, in the name of legal representatives of Fakhar Jung. This appeal was allowed by an order dated 22-09-1950 of Honourable High Court, as per some compromise between the parties, and the case was remanded to the lower court for passing preliminary decree after taking necessary evidence. Later on the case came to be dealt with on the original side of this Honourable High Court.

4. Based on the three compromise petitions, a preliminary decree was passed by this Court on 25.04.1951 for partition of the properties, which reads as under:

Part II

PASSING OF PRELIMINARY DECREE:

4. In 1951 basing on three compromise petitions dt.23.4.1951, a preliminary decree was passed on 25.4.1951. The Compromise petitions are:-

- 1. Petition No.1, dated 23-04-1951 between the two plaintiffs and defendant No.5 and the heirs of Nawab Fakhar Jung i.e., defendant No.6 to 22 , defendant No. 24 and 25.*
- 2. Petition No.2, dated 23-04-1951 between defendant No.23 (Fakhar Nawab Jung) and the heirs of Nawab Fakhar Jung i.e., defendant No.6 to 22, defendant No. 24 and 25.*
- 3. Petition No.3, dated 23-04-1951 between defendant No.1 to 4 and the heirs of Nawab Fakhar Jung i.e., defendant No.6 to 22, defendant No.24 and 25.*

5. All the above three compromise petitions have been fully implemented except distribution of the remaining Matruka amongst defendant No.1, legal representatives of Nawab Fakhar Jung who are defendant No.6 to 22, defendant No. 24 and defendant No. 25 and defendant No. 3 and 4.

6. Defendant No. 23 was already paid his full share as per the compromise petition No. 2. Hence, he has no more claims. According to the compromise petition No. 3, defendant No. 1 to 4, defendant No. 6 to 22, defendant No. 24 and 25 were to get their shares in the remaining Matruka.”

5. In the clauses of preliminary decree dated 25.04.1951, the entitlement of shares by each part and mode of partition etc., were mentioned. There are five branches, who are the legal heirs of Nawab Fakhr-ul-Mulk and were entitled for partition. The four daughters of Nawab Fakhr-ul-Mulk are both the plaintiff, defendant No.5 and also wife of defendant No.23. The daughters were excluded from taking any share in the nine (9) immovale properties involved in this case. The said properties are as under:

SCHEDULE LIST OF IMMOVABLE PROPERTIES -**MATRUKA OF LATE NAWAB FAKHRUL MULK IN**

Sl.No.	Description of the immovable property	Cost of the building (Rs)	Cost of the land (Rs)	Total (Rs)
(1)	(2)	(3)	(4)	(5)
1.	Erram Manzil with adjacent land measuring Acs.22.00 relating to the Erram Manzil	8,00,000	2,20,000	10,20,000
2.	Remaining land adjacent to Erram Manzil, meant for sale measuring Acs. 75.27 Gts.	-	7,50,000	7,50,000
3.	Bungalow Errum Numa, Yerragadda, after deducting the land of Maqbara, measuring Acs.59.00	3,42,000	30,000	3,72,000
4.	Bungalow at Bollarum, along with the land measuring Acs. 14.00	81,000	28,000	1,09,000
5.	Devdi at Balda	66,000	5,000	1,18,000
6.	Mulgies and the land adjacent to the Devdi at Balda	12,000	66,000	78,000
7.	Land situated at Behlookhanguda	-	2,000	2,000
8.	Land situated at Yousufguda	-	2,000	2,000
9.	Land situated at Moosapet	-	4,000	4,000
Total				24,55,000

6. The said nine (9) properties were devolved on the four sons of Nawab Fakhr-ul-Mulk and the heirs of Nawab Fakhar Jung (deceased son). Thereafter, compromise was arrived and three Compromise petitions were filed.

II. DETAILS OF PRELIMINARY DECREE:

“IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

Preliminary decree in Original Suit

Original Suit No. 9/1/1951

Before

*The Hon’ble Dr. Justice Mr. Siadat Ali Khan,
M.A., LLB, Bar-at-Law, D.Phil: B.C.L.*

Between

1. *Safder Unissa Begum @ Badi Saheb-Zadi w/o. Nawab Shujahul Mulk*
2. *Fakarunissa Begum @ Manjile Sahib-Zadi w/o. Nawab Turab Yar Jung*

Vs.

1. *Nawab Ghazi Jung Bahadur s/o. Nawab Fakrul Mulk*
2. *Nawab Rais Yar Jung Bahadur s/o. Nawab Fakrul Mulk*
3. *Nawab Rais Jung Bahadur s/o. Nawab Fakrul Mulk*
4. *Nawab Shah Nawaz Jung Bahadur s/o. Nawab Fakrul Mulk*
5. *Riasatunissa Begum @ Sanjile Sahib-Zadi*
6. *Nawab Aijaz Hussain Khan s/o. Nawab Fakar Jung*
7. *Nawab Mumtaz Hussain Khan s/o. Nawab Fakar Jung*
8. *Jahandarunnisa begum d/o. Nawab Fakar Jung*
9. *Liakat Hussain Khan s/o. Nawab Fakar Jung*
10. *Liak Hussain Khan s/o. Nawab Fakar Jung*

11. *Tahwarunnisa Begum d/o. Nawab Fakar Jung*
12. *Kiffayatunnis Begum d/o. Nawab Fakar Jung*
13. *Dilawarunnisa Begum d/o. Nawab Fakar Jung*
14. *Jahangir Hussain Khan s/o. Nawab Fakar Jung*
15. *Zaharunnisa Begum d/o. Nawab Fakar Jung*
16. *Mir Muzaffar Hussain Khan s/o. Nawab Fakar Jung*
17. *Shamsunnisa Begum d/o. Nawab Fakar Jung*
18. *Vazirunnisa Begum d/o. Nawab Fakar Jung*
19. *Nadirunnisa Begum d/o. Nawab Fakar Jung*
20. *Dawarunnisa Begum d/o. Nawab Fakar Jung*
21. *Mir Musharaff Hussain Khan s/o. Nawab Fakar Jung*
22. *Chandi Begum d/o. Nawab Fakar Jung*
23. *Nawab Fakar Nawaz Jung Bahadur s/o. Late Nawab Ali Yavar Jung*
24. *Amir Hussain Khan s/o. Nawab Fakar Jung*
25. *Meherunnisa Begum w/o. Fakar Jung*
26. *Shazadi Khanam w/o. Nawab Fakar Jung*

Suit for the recovery of Rs.4,00,000/- being the share of the plaintiffs in the Matraka property of late Nawab Fakrul Mulk and for costs.

Plaint presented on the 10th Khurdad 1355 Fasl.

The suit coming on for hearing on 25th day of April 1951, before Hon'ble Dr.Justice Mr.Siadat Ali Khan M.A.,LLB,Bar-at-Law, D.Phil:B.C.L., in the presence of Mr.Syed Mohammed Hadi and Mr.Mir Akbar Ali Khan, counsel, Mr.Irshad Hussain Advocate for the plaintiffs and Mr.Khader Mohinuddin, Vakil for defendants 1 to 4 Mr. Aftab Hussain, Vakil for defendant No.2, Raja Bahadur Biseshwaranath, Advocate for defendant No.5, Mr. Laxman Rao Ganu, Advocate for defendants No.6,7,9 to 13 and 22,24 and 25, Mr.Mansoor Ahmed,

Advocate for defendant No.8, Mr. Sirajul Haq for defendants No.14,15 and 26 and Mr. Gazanfar Ali Khan, Vakil for defendant No.23.

And the parties having compromised the suit and filed three compromise petition namely,

Petition No.1 dated 23.04.1995 between the two plaintiffs, defendant No.5 on the one hand, and the heirs of Nawab Fakhar Jung on the other,

Petition No.2 dated 23.04.1951 between defendant No.23 on the one hand, and the heirs of Nawab Fakhar Jung on the other,

Petition No.3 dated 23.04.1951 between defendant 1 to 4 on the one hand, and the heirs of Nawab Fakhar Jung on the other,

which petitions have been duly sanctioned on 23.04.1951 and 25.04.1951, copies of which are being attached here-with as part of the decree, the court doth decree and order as follows:-

(a) that an amount of Rs. 1,17,000/- be paid to each of the two plaintiffs and defendant No. 5, namely, daughters of late Nawab Fakhrul Mulk, in full satisfaction of their rights in, and claim to the Matraka of late Nawab Fakhrul Mulk, whether or not included in the suit from the Erram Manzil amount subject to the deductions provided for hereinafter;

(b) that out of the said Rs. 1,17,000/- payable to each of the said three daughters, Rs. 1,000/- each i.e.,

in all Rs. 3,000/- be paid to the heirs of Fakhar Jung and distributed amongst the heirs as mentioned in statement attached to the compromise petition No. 3 dated 23.4.1951 A.D.

(c) that the eight sons of Fakhar Jung, (1) Nawab Aijaz Hussain Khan D.6 (2) Nawab Mumtaz Hussain Khan D.7, (3) Liakat Hussain Khan D.9 (4) Laik Hussain Khan D.10, (5) Jahangir Khan D.14, (6) Mir Muzafar Hussain Khan D.16, (7) Mir Musharaff Hussain Khan D.21, and (8) Amir Hussain Khan D. 24, are each entitled to a share of 7/540th in the Matraka of the late Nawab Fakhrul Mulk whether included in the suit or proved to be part of the Matraka;

(d) that the ten daughters are each entitled to 7/1080 share in the said Matraka.

- 1. Jehandarunnisa Begum (Defendant No.8)*
- 2. Tahwarunnisa Begum (Defendant No.11)*
- 3. Kifayathunnisa Begum (Defendant No.12)*
- 4. Dilawarunnisa Begum (Defendant No.13)*
- 5. Zahurunnisa Begum (Defendant No.15)*
- 6. Shamsunnisa Begum (Defendant No.17)*
- 7. Vazirunnisa Begum (Defendant No.18)*
- 8. Nadirunnisa Begum (Defendant No.19)*
- 9. Dawarunnisa Begum (Defendant No.20) and*
- 10. Chandni Begum (Defendant No.22)*

are each entitled to 7/1080th share in the said Matraka. Besides the eleventh deceased daughter Badarunnisa Begum's share of 7/1080 will devolve on her mother Meherunnisa Begum, defendant No. 25 and she is hereby declared entitled to get the share as per compromise petition 1, 2 and 3.

(e) that $1/8^{\text{th}}$ share of Goharunnisa Begum in her husband late Fakhar Jung's Matruka, including his share in the Matruka of his sister late Tilat Qamar Ara Begum will devolve on her two sons defendant No.6 and 7, her daughter defendant No.8 but inasmuch as Shazada Qannum defendant No.26 claims $1/2$ in the share, only $1/16^{\text{th}}$ share should be paid to the heirs of Goharunnisa Begum and the rest i.e., $1/16^{\text{th}}$ share should be reserved pending decision of the validity of the marriage of defendant No.26, to which she will be entitled in the event of her claim being decreed; otherwise defendant Nos. 6,7 and 8 will be entitled to the same.

(f) that defendant No. 23, as the husband of Tilat Qamar Ara Begum, daughter of late Nawab Fakhrul Mulk, is entitled to receive only Rs.58,500/- from Erram Manzil amount in full satisfaction of his deceased wife claim to the Matruka of late Nawab Fakhrul Mulk, whether or not included in the suit and the other half of viz., Rs.58,500/- will be divided amongst the other heirs of Tilat Qamar Ara Begum as per Shia Muslim Law as follows:-

“ $1/13^{\text{th}}$ share, namely, Rs.4,500/- for each of the two plaintiffs and defendant No. 5, $2/13^{\text{th}}$ share, namely, Rs.9,000/- for each of defendant No. 1 to 4 and $2/13^{\text{th}}$ share, namely, Rs.9,000/- collectively for the heirs of late Fakhar Jung”.

(g) that four sons of Fakhrul Mulk, defendant No.1 to 4 and all the heirs of Fakhar Jung together are entitled to $1/5^{\text{th}}$ share each in the Matruka of late Nawab Fakhrul Mulk, as cash payment of Rs.1,17,000/- each is being

made in full satisfaction of their claim to the living three daughters and to the heirs of the deceased daughter as per compromise petition sanctioned by the Court dated 28.4.1951 from Erram Manzil;

(h) that defendant No. 1, 2, 4 and 5 do respectively pay out of their share of the price of Erram Manzil the amount mentioned in the statement 'A' and 'B' annexed to the compromise petition No. 3 to the heirs of Fakhar Jung as mentioned in statement 'C' attached to the said compromise petition.

(i) that the Receiver appointed by the Court shall submit a report after making up accounts of Matraka from 1934, the date of appointment of MoteMad of the estate, upto date, showing if any mutual adjustment is necessary as between five sons of late Nawab Fakhrul Mulk and as between heirs of Fakhar Jung, due to arithmetical and clerical mistakes and omissions, if any, provided matters specifically dealt with by the three compromise petitions are not reopened.

(j) that the said Receiver should submit a report showing if the defendants 1 to 4 and the heirs of Fakhar Jung have been properly paid their share of the items mentioned in para (17) of Clause 'B' of the written statement of defendant No. 1 to 4 and to suggest accounting or adjustment if necessary provided this report shall not entitle any party to stay distribution of Erram Manzil amount;

(k) that the plaintiffs, defendant No. 5 and defendant No. 1 to 4 and defendant No.23 are not interested in the alleged claim of Shazada Qannum defendant No.26 as the married wife of late Nawab Fakhar Jung and

she is directed to establish her claim against the heirs of Fakhar Jung;

(l) that the terms of these compromise petitions shall not affect the rights of mutual adjustment at the time of distribution of Erram Manzil amount relating to the personal amount of Ghazi Jung and heirs of Fakhar Jung as per the order of the High Court dated 11.4.1951 in execution proceedings file No. _of 1951 F and the consequent distribution of the amounts sanctioned by the said order amongst the heirs of Fakhar Jung;

(m) that whatever amounts have been received by the parties from the Darul Qaza Court or the High Court shall be deducted from the respective shares of parties in Erram Manzil amount subject to para (1) supra;

(n) that the Receiver shall execute and register sale deed of Erram Manzil in favour of the P.W. Department of Hyderabad Government for the amount of consideration of Rs.14,09,160/-.

The parties shall not be entitled to re-open matters specifically dealt with by the compromise petitions.”

7. The compliance of preliminary decree is as follows:

“Compliance of Clause (a) of Preliminary decree:-

(a) that an amount of Rs.1,17,000/- be paid to each of the two plaintiffs and defendant No. 5, namely, daughters of late Nawab Fakhrul Mulk, in full satisfaction of their rights in, and claim to the Matraka of late Nawab Fakhrul Mulk, whether or not included in

the suit from the Erram Manzil amount subject to the deductions provided for hereinafter;

The report of the Receiver Mr. Mir Muzaffar Hussain (defendant No.16) dt.23.03.1967 reveals that both the plaintiffs and defendant No.5 were already paid their full share according to the compromise petition No.1. Hence, they have no further claim.

Clause (b) of Preliminary decree:-

(b) that out of the said Rs.1,17,000/- payable to each of the said three daughters, Rs. 1,000/- each i.e., in all Rs.3,000/- be paid to the heirs of Fakhar Jung and distributed amongst the heirs as mentioned in statement attached to the compromise petition No. 3 dated 23.4.1951 A.D.

The report of the Receiver dt.23.03.1967 also reveals that as per the compromise petition No.3 dt.23.04.1951, the amounts were already paid/adjusted as desired.

Clause (c) of Preliminary decree:-

(c) that the eight sons of Fakhar Jung, (1) Nawab Aijaz Hussain Khan D.6 (2) Nawab Mumtaz Hussain Khan D.7, (3) Liakat Hussain Khan D.9 (4) Laik Hussain Khan D.10, (5) Jahangir Khan D.14, (6) Mir Muzaffar Hussain Khan D.16, (7) Mir Musharaff Hussain Khan D.21, and (8) Amir Hussain Khan D. 24, are each entitled to a share of 7/540th in the Matraka of the late Nawab Fakhrul Mulk whether included in the suit or proved to be part of the Matraka;

As per this Clause the eight sons of Nawab Fakhar Jung are entitled each to a share of 07/540th in the Matruka of late Nawab Fakhrul Mulk, whether included in the statement or proved to be part of Matruka.

Clause (d) of Preliminary decree:-

(d) that the ten daughters are each entitled to 7/1080 share in the said Matruka.

1. *Jehandarunnisa Begum (Defendant No.8)*
 2. *Tahwarunnisa Begum (Defendant No.11)*
 3. *Kifayathunnisa Begum (Defendant No.12)*
 4. *Dilawarunnisa Begum (Defendant No.13)*
 5. *Zahurunnisa Begum (Defendant No.15)*
 6. *Shamsunnisa Begum (Defendant No.17)*
 7. *Vazirunnisa Begum (Defendant No.18)*
 8. *Nadirunnisa Begum (Defendant No.19)*
 9. *Dawarunnisa Begum (Defendant No.20)*
- and*
10. *Chandni Begum (Defendant No.22)*

are each entitled to 7/1080th share in the said Matruka. Besides the eleventh deceased daughter Badarunnisa Begum's share of 7/1080 will devolve on her mother Meherunissa Begum, defendant No. 25 and she is hereby declared entitled to get the share as per compromise petition 1, 2 and 3.

The (10) daughters of late Nawab Fakhrul Mulk are each entitled to the 07/1080th share. The share of the deceased 11th daughter devolved to her mother Meherunissa Begum

(Defendant No.25), who got the share as per Compromise Petition 1,2 and 3.

Clause (e) and (k) of Preliminary decree:-

(e) that 1/8th share of Goharunnisa Begum in her husband late Fakhar Jung's Matraka, including his share in the Matraka of his sister late Tilat Qamar Ara Begum will devolve on her two sons defendant No.6 and 7 and her daughter defendant No.8 but inasmuch as Shazada Qannum defendant No.26 claims 1/2 in the share, only 1/16th share should be paid to the heirs of Goharunnisa Begum and the rest i.e., 1/16th share should be reserved pending decision of the validity of the marriage of defendant No.26, to which she will be entitled in the event of her claim being decreed; otherwise defendant Nos. 6,7 and 8 will be entitled to the same.

(k) that the plaintiffs, defendant No. 5 and defendant No. 1 to 4 and defendant No.23 are not interested in the alleged claim of Shazada Qannum defendant No.26 as the married wife of late Nawab Fakhar Jung and she is directed to establish her claim against the heirs of Fakhar Jung;

In respect of the Clauses (e) the 1/8th share of Gohannuissa Begum in her husband late Fakhar Jung's Matraka including his share in the Matraka of his sister late Tilat Qamar Ara Begum will devolve on her two sons defendant No. 6 and 7 and her daughter - defendant No.8. Since the marriage of defendant No.26 was found to be

invalid vide O.S.No. 19/1 of 1951 dt.30.08.1951, the 1/8th share of Goharnussia Begum shall devolve upon defendant No. 6,7,8.

Clause (f) of Preliminary decree:-

(f) that defendant No. 23, as the husband of Tilat Qamar Ara Begum, daughter of late Nawab Fakhrul Mulk, is entitled to receive only Rs.58,500/- from Erram Manzil amount in full satisfaction of his deceased wife claim to the Matraka of late Nawab Fakhrul Mulk, whether or not included in the suit and the other half of viz., Rs.58,500/- will be divided amongst the other heirs of Tilat Qamar Ara Begum as per Shia Muslim Law as follows:-

“1/13th share, namely, Rs. 4,500/- for each of the two plaintiffs and defendant No. 5, 2/13th share, namely, Rs.9,000/- for each of defendant Nos.1 to 4 and 2/13th share, namely, Rs.9,000/- collectively for the heirs of late Fakhar Jung”.

The record reveals that this Clause was complied with.

Clause (g) of Preliminary decree:-

(g) that four sons of Fakhrul Mulk, defendant Nos.1 to 4 and all the heirs of Fakhar Jung together are entitled to 1/5th share each in the Matraka of late Nawab Fakhrul Mulk, as cash payment of Rs.1,17,000/- each is being made in full satisfaction of their claim to the living three daughters and to the heirs of the deceased

daughter as per compromise petition sanctioned by the Court dated 28.4.1951 from Erram Manzil;

As per this Clause, on payment of Rs.1,17,000/- to each of the three living daughters and the heir of deceased daughter, by defendant No.1 to 4 and heirs of Nawab Fakhar Jung, defendant No.1 to 4 each 1/5th share and defendants 6 to 22, 24 and 25 are entitled to 1/5th share in the Matraka of late Nawab Fakhrul Mulk. As per record the said amount was paid.

Clause (h) of Preliminary decree:-

(h) that defendant No. 1, 2, 4 and 5 do respectively pay out of their share of the price of Erram Manzil the amount mentioned in the statement 'A' and 'B' annexed to the compromise petition No. 3 to the heirs of Fakhar Jung as mentioned in statement 'C' attached to the said compromise petition.

As per record the payment was made.

Clause (i) and (j) of Preliminary decree:-

(i) that the Receiver appointed by the Court shall submit a report after making up accounts of Matraka from 1934, the date of appointment of MoteMad of the estate, upto date, showing if any mutual adjustment is necessary as between five sons of late Nawab Fakhrul Mulk and as between heirs of Fakhar Jung, due to arithmetical and clerical mistakes and omissions, if any, provided

matters specifically dealt with by the three compromise petitions are not reopened.

(j) that the said Receiver should submit a report showing if the defendants 1 to 4 and the heirs of Fakhar Jung have been properly paid their share of the items mentioned in para (17) of Clause 'B' of the written statement of defendant No. 1 to 4 and to suggest accounting or adjustment if necessary provided this report shall not entitle any to party to stay distribution of Erram Manzil amount;"

The Hon'ble High Court in its Order in C.S. No.9/1 of 1951 dt.16.04.1953 had held that the Hon'ble Court carefully studied the report of Ex-Receiver Cap.Surya Pratap and found no arithmetical mistakes in it; that the amounts that have been given to the four sons on one hand and to the heirs of Nawab Fakhar Jung on the other hand audited by him were without any fault and as such there was no need for fresh auditing. This Clause was complied with.

Clause (I) of Preliminary decree:-

(I) that the terms of these compromise petitions shall not affect the rights of mutual adjustment at the time of distribution of Erram Manzil amount relating to the personal amount of Ghazi Jung and heirs of Fakhar Jung as per the order of the High Court dated 11.4.1951 in execution proceedings file No._ of 1951 F and the consequent distribution of the amounts sanctioned

by the said order amongst the heirs of Fakhar Jung;

This Clause is in respect of mutual adjustment at the time of distribution of Erram Manzil amount.

Clause (i) and (j) of Preliminary decree:-

(m) that whatever amounts have been received by the parties from the Darul Qaza Court or the High Court shall be deducted from the respective shares of parties in Erram Manzil amount subject to para (1) supra;

(n) that the Receiver shall execute and register sale deed of Erram Manzil in favour of the P.w. Department of Hyderabad Government for the amount of consideration of Rs.14,09,160/-.
The record reveals that these Clauses were complied with.

8. The following five branches who are the legal heirs of Nawab Fakhr-ul-Mulk are entitled for Matruka:

**“FIVE BRANCHES WHO ARE THE LEGAL HEIRS OF
NAWAB FAKHRUL MULK ENTITLED FOR MATRUKA**

First Branch	NAWAB GHAZI JUNG BAHADUR	20% Share
Second Branch	NAWAB FAKHAR JUNG BAHADUR (legal representatives)	20 % Share
Third Branch	NAWAB RAISYAR JUNG BAHADUR	20 % Share
Fourth Branch	NAWAB RAIS JUNG BAHADUR	20 % Share

<i>Fifth Branch</i>	<i>NAWAB SHAH NAWAZ JUNG BAHADUR</i>	<i>20 % Share</i>
<i>Total</i>		<i>100 % Share”</i>

9. As per the records of the Registry, the brief details of the properties as per schedule are as under:

“ITEMS 1 & 2

	<i>Area AC- Cents</i>
<i>1. Errummanzil Property</i>	<i>22-00</i>
<i>Errummanzil Land</i>	<i>75-07</i>
<i>Surrounding Erranmanzil.</i>	<i>-----</i>
	<i>97 -07</i>
	<i>-----</i>

ITEM 3

<i>Erru Numa at Yarragadda</i>	<i>Ac- 59-00</i>
<i>Building</i>	<i>3,42,000/-</i>
<i>Land</i>	<i>30,000/-</i>
	<i>-----</i>
	<i>3, 72,000/-</i>
	<i>-----</i>

REMARKS OR DISPENSATION OF LAND

ACQUIRED UNDER FARMAN in 1362

For TB Hospital Established in 1945 at Rs.3,68,000/- which was adjusted towards Govt., dues. No record is available as to the remaining land after allotment to TB Hospital.

ITEM 4

Bolarum Ac.14-00 3 Buildings excluding AC.9-00 was auctioned in 1953 lands there under for Rs.50,000/- and distributed among share holders.

Land and Buildings

<i>Building</i>	<i>81,000/-</i>
<i>Land</i>	<i><u>28,000/-</u></i>
	<i><u>109,000/-</u></i>

(Sy. Nos. not available and total area not Known)

Item 5

<i>Devdi at Balda Land Costs</i>	<i>66,000/-</i>
<i>Building</i>	<i>52,000/-</i>
	<i>-----</i>
	<i>118,000/-</i>
	<i>-----</i>

3 Portions part were auctioned for Rupees 62,000/- in 1954 and distributed among Share Holders

Item 6 : Mir Alam Mandi

Mulgies & Small Rooms -21 Adjacent Land Acquired by City Improvement Board and the income derived there from distributed to Share Holders in 1955.

(Remaining open area could not be fixed exactly for want of Record as per the plan submitted by the Surveyor and the High Court Records)

ITEM 7 : Land at Bahookhanguda

Cost of Land Rs. 2000/-, No details of Survey Nos. & extent of land by the Receiver from the Revenue Records) could be ascertained.

ITEM 8

*Land at Yousufguda
Cost of Land Rs. 2000/-*

ITEM 9

*Moosapet
Cost of land 4,000/-*

(The Extent of land Acquired not Known for want of Records)”

10. The above said preliminary decree was passed basing on three compromise petitions dated 23.04.1951, between the parties *inter-se*. The record reveals that the three compromise petitions were fully implemented except distribution of the remaining Matruka amongst defendant No.1, legal representatives of Nawab Fakhar Jung, who are defendant Nos.6 to 12, defendant Nos.24 and 25 and defendant Nos.3 and 4. Defendant No.23 was already paid his full share as per the compromise petition No.2. According to compromise petition No.3, defendant Nos.1 to 4, defendant Nos.6 to 22 and defendant No.24 and 25 were to get their shares in the remaining Matruka.

11. In this case, as many as nine (9) Receivers-cum-Commissioners were appointed including defendant No.16.

III. RECEIVERS IN THE SUIT

1. *Sri Surya Pratap by order dated 14.4.1951 (Property under Court of Wards, on the Application to appoint Receiver.*
2. *Sri V.Ramanujachari, Assistant Registrar was directed to oversee the Accounts by order dated 16.1.1957.*
3. *In Application No.99 of 1965, Sri Muzaffar Hussain appointed as Receiver on 30.7.65(discharged and directed to hand over the Records to Joint Receivers Sri Venkatramaiah and V.Surender Rao in Application No.31/1975)*
4. *Sri .Venkataramaiah and V.Surender Rao appointed as Joint Receivers by order dated 23.4.1975.*
5. *Sri Minazul Hussain appointed in place of V.Surender Rao by order dated. 5.9.1981.*
6. *Sri Venkatramaih was relieved and Minazul Hussain retained as Sole Receiver by order dated 16.3.1984.*
7. *Sri Minazul Hussain died in November, 1999.*

8. *Sri Serla Pandari was appointed on 21.3.2000 in Application No.209 of 2000 and acted as Receiver in the Suit till his death i.e., 04.02.2021.*
9. *Mohammed Nizamuddin, Retd. District Judge, was appointed as Receiver-cum-Commissioner by order dated 29.11.2022 in Appl.No.3/2022 in CS 9/1 of 1951.*

12. The directions passed by this court in the said order are extracted hereunder:

“Heard Mr.Zakir Ali Danish, learned counsel for the petitioner.

2. This application has been filed for appointment of receiver-cum-commissioner in C.S.No.9/1 of 1951, the preliminary decree of which was drawn up on 25.04.1951.

3. It may be mentioned that earlier Sri Serla Pandari, an advocate of this Court was appointed as receiver-cum commissioner. He died on 04.02.2021. Since then, there is no receiver-cum-commissioner to look after and safeguard the interest of the estate of Late Nawab Fakhrul Mulk, which is the subject matter of C.S.No.9/1 of 1951.

4. After hearing learned counsel for the parties and after taking necessary inputs from the Registry, we have decided to a point Mr. Mohammed Nizamuddin, a retired judicial Officer - of the rank of District Judge as the receiver-cum-commissioner of the estate of late Nawab Fakhrul

Mulk, which is the subject matter of C.S.No.9/1 of 1951.

5. Office to communicate a copy of this order to Mr. Mohammed Nizamuddin, who shall, on the basis of the relevant record, submit a report based on the preliminary decree and the amount available in the suit account. In his report he shall deal with the extent of the subject property and how it has devolved upon the parties to the suit including the legal heirs.

6. While submitting the report, the receiver-cum-commissioner shall scrutinize each of the claims pending before him as well as made before the previous receiver-cum-commissioner which shall be reflected in his report.

7. Fees of the receiver-cum-commissioner shall be worked out on the next date.

8. Registry to furnish all material papers to the receiver-cum-commissioner.

9. Let Mr. Mohammed Nizamuddin, receiver-cum-commissioner submit his report on 02.02.2023.

10. Application is accordingly disposed of. However, there shall be no order as to costs.”

13. Thereafter, the final report of the Receiver-cum-Commissioner dated 16.03.2023 was submitted before this Court and in the said report the Receiver-cum-Commissioner

submitted that notices to the parties and their counsel were served through whatsapp and email and almost all the parties in India and abroad were reached through these modes. It is further submitted that in the notices the information available with them was sought for with respect to the properties involved in this case. Some of the parties and counsel have provided certain information. However, majority of the parties have enquired about their coming on record as legal representatives.

14. This Court vide orders dated 22.01.2024 directed that *“Let a notice be issued to the Bar Association that C.S. No.9 of 1951 shall be heard finally on 19.02.2024; Let objections, if any, to the Commissioner’s report be filed on or before 16.02.2024; List for final hearing on 19.02.2024.”* Thereafter, only five groups of defendants have filed their respective objections to the said report.

IV. REPORT OF RECEIVER-CUM-COMMISSIONER

DATED 16.03.2023 main part is extracted hereunder:

REPORT

“Pursuant to the order appointing me as the Receiver-cum-Commissioner in C.S.No.9/1 of 1951 by a Division Bench of the Hon’ble High Court, I obtained the relevant material from the Hon’ble High Court. The Advocates representing

some parties and the parties have also provided information to me in this regard.

2. One Nawab Fakhrul Mulk Bahadur died on 19.09.1934 leaving behind (5) sons and (4) daughters. The property (copy of list of immovable property is in Annexure - I, page - 25) involved in this case is the Matraka (the property (both movable as well as immovable) left by a deceased Muslim) (detailed history is in Annexure-I, pages: 7-11).

3. Basing on three compromise petitions a preliminary decree was passed by the Hon'ble High Court on 25.04.1951 for partition of the properties (a copy of preliminary decree with A,B and C statements are in Annexure-I, pages:12-18).

4. In the Clauses of preliminary decree dt.25.04.1951, the entitlement of shares by each party and mode of the partition etc., were mentioned. There are (5) branches who are the legal heirs of Nawab Fakhrul Mulk who are entitled for 20% share each (list is at Annexure-I, page -19). The (4) daughters of Nawab Fakhrul Mulk are both the plaintiffs, defendant No.5 and also the wife of defendant No.23. The daughters are excluded from taking any share in the (9) immovable properties after payment of amounts as mentioned in the preliminary decree. The said (9) properties were devolved on the four sons of Nawab Fakhrul Mulk and the heirs of Nawab Fakhar Jung (deceased son).

Devolving the subject properties on the parties including the legal heirs

There are nine properties. There are (a) to (n) Clauses in the preliminary decree dt.25.04.1951.

Property item No.1 and 2

1. Erram Manzil with adjacent land measuring Ac.22.00 relating to the land Erram Manzil and
2. Remaining land adjacent to Erram Manzil, meant for sale, measuring Ac.75.27 guntas.

The property in item No. 1 and 2 devolved on the share-holders, broadly in the following manner:-

- A. Sale of Erram Manzil Palace together with open land, (statements are in Annexure-I, pages: 26-29), to the Government for Rs.14,09,160.00. The sale proceeds were distributed among share-holders.
- B. Acquisition of land at Erram Manzil by the Government in 1956 for construction of Andhra Junior Staff Quarters. The amount realised was distributed among share-holders.
- C. Handing over the possession of (5) hilly area plots to the share-holders.
- D. Handing over the possession of (5) flat area plots to the share-holders or the General Power of Attorneys.
- E. Sale of dilapidated building bearing No. 6-3-252 by public auction on 19.01.2005 for Rs.10,57,46,400/- and distribution of sale

proceeds among the share-holders. The registered sale deed was executed by the Receiver-cum-Commissioner in favour of the purchasers on 30.04.2007 (detailed report is in Annexure-I, pages: 30-53).

5. As per the record, the possession of the (5) plots was finally handed over to the share-holders on 26.05.1973 by Mr.Mohd. Ibrahim, Engineer-Commissioner, after evicting the encroachers of the land. The record reveals that practically there is no land for distribution in property item No.1 and 2 after the above said disposal of property.

Meher Manzil

6. It appears that there is civil litigation pending in respect of Meher Manzil bearing House No. 6-3-566 (photo is in Annexure -II, page-68) admeasuring 3356.60 sq yards in Sy.No.106 and 107. A suit in respect of the said building was decreed in O.S.No.1271 of 1994. At present CCCA No.229 of 2004 and CCCA No.234 of 2004 are pending before the Hon'ble High Court. Application (SR) No.1251 of 2017 and 70916 of 2019 in Application No.4517 of 2013 and Application No. 626 of 2013 in / and Application No. 952 of 2011 in C.S.No. 9/1 of 1951 were dismissed on 28.11.2022. (copies are in Annexure-II, pages: 57 - 64). That apart the order in Crl. Misc. Petition No. 2007 of 1998 DT.09.07.1998 goes to show that the unmarked keys of the said building (PI No.477/88) were ordered to be handed over to the petitioner therein

(A.P. Christian Medical Educational Society merged with PI SGA).

Property item No. 3 and 8 Sy.No.49

7. As per the order in Application No. 502 of 1989 dt.06.10.89, Final Decree was passed except Maqbara. The land surrounding Maqbara was handed over to the share-holders or their General Power of Attorneys, after conducting panchanama by the Receiver-cum-Commissioner. The parties were directed to look after their affairs in respect of this property in future.

Sy.No.29 (old) Sy.Nos.50,51,54,55,56 and 57 (new)

8. The report dt.23.03.67 of the Receiver, Mr.Mir Muzaffar Hussain (defendant No.16) in Application No. 24 of 1967 goes to show that the Palace Irram Numa was acquired by the Nizam's Government for O.S. Rs.3,68,000/- in 1352 Fasli and the sale proceeds were distributed among share-holders, after necessary deductions.

9. In application No. 174 of 1979 and in W.P.No.21599 of 2021 the Hon'ble High Court had held that these properties are of Government and not Matraka of late Nawab Fakhurl Mulk Bahadur (detailed particulars are in Annexure-I, pages: 30- 53).

Property item No.4

10. The three buildings of Matraka were auctioned on 11.01.1953 and sale proceeds were distributed among the share-holders in 1953. The purchasers were lessees only in respect of land as per the report filed by the Receiver (defendant No.16).

Property item No. 5

11. The Order of the Hon'ble High Court in Application No. 24 of 1967 dt.27.11.67 shows that Devdi was divided into three parts and was sold separately in 1954 itself and the sale proceeds were distributed among share-holders.

Property item No.6

12. The Order of the Hon'ble High Court in Application No. 24 of 1967 dt.27.11.1967 and the report dt.23.03.67 of the Receiver (defendant No.16) go to show that the City Improvement Board (C.I.B) had acquired mulgies, small rooms numbering (21) and the adjacent land and the compensation was distributed among share-holders in 1955. Full particulars of other properties are not available.

Property item No. 7

13. The existence of this property could not be ascertained. No full particulars are given even by the share-holders in this case.

Property item No. 9

14. The Government had acquired the land in Sy.No. 237/1 and 2 and the compensation was claimed by the share-holders.

15. No claim is preferred before the present Receiver-cum-Commissioner and also no claim was pending before the earlier Receiver-cum-Commissioner Mr.S. Pandari, as per records. Only oral representations were made in respect of coming on record as legal representatives.”

15. Sri Mir Wajid Ali Kamil had filed the following available information concerning the properties mentioned in the Schedule-A attached to the Preliminary Decree, numbered as 1 to 9.

16. As regards Item Nos.1 and 2 of the Preliminary Decree, the said properties comprises (a) Erram Manzil Building with appurtenant land and also (b) the remaining land adjacent to Erram Manzil. It is submitted that as per the Schedule 'A' total land comprises to Acs.22.00 + Acs.75.27 gts., = Acs.97.27 gts.

17. Earlier a physical survey of the land of these properties was conducted by Mr.G.D.Vaidya as evidenced in Application No.325 of 1957 and the Survey Report shows that the total area of land of these properties is Acs.107.16 gts., 107 sq.yds. It is further submitted that some of the lands have been sold at different points of time and some extents have been allocated to the five sons of Nawab Fakrul Mulk. The details of which are shown in the reports of the Receiver-cum-Commissioner,

in Application No.24 of 1965 and in Application No.40 of 1969 and also plan filed by the Receiver-cum-Commissioner dated 03.07.2000. The details of the extent of lands sold to or acquired by the Government and lands allocated to the five sons, who are co-owners are shown in a tabular form. It is submitted that the total extent of land of Items Nos.1 and 2 of the Schedule 'A' properties as seen from the Report of the Survey of Mr.G.D.Vaidya is Acs.107.16 gts., 107 sq.yds. As seen from the tables, an extent of Acs.98.00 gts., of land is accounted for. Thus, balance extent of Acs.9.16 gts., 107 sq.yds., of land has to be investigated into and recovered for the Estate.

Item Nos.3 & 8:

18. It is submitted that Item No.3 of Schedule-A properties are covered under old Survey No.29 admeasuring Acs.95.32 gts., and the schedule is described as Bungalow Erram Numa, Yerragadda, after deducting the land of Maqbara, measuring Acs.59.00 gts.

19. Item No.8 of Schedule-A is described as land situated at Yousufguda.

20. Both Item Nos.3 & 8 of A-Schedule properties are in old survey No.29 of Yousufguda village.

21. Earlier the Receiver-cum-Commissioner has filed a report dated 12.03.2018 and as seen from the said report it could be seen that the corresponding to new number of old Sy.No.29 are Sy.Nos.49, 50, 51, 52, 53, 54, 55, 56 and 57 totally admeasuring Acs.95.32 gts. It is submitted that the report shows that out of the extent of Acs.95.32 guntas of land an extent of Acs.19.06 guntas of land covered by survey Nos.55, 56 with Errum Numa Palace enclosed by a compound wall is presently being used as Chest and T.B. Hospital. It is further submitted that the Government of Hyderabad had initiated land acquisition proceedings in respect of lands at Yousufguda under Government Gazette No.21, Volume No.79 Hyderabad Deccan dated 8th Ardebehisht 1357 Fasli corresponding to 26 Rabi Uss Sani 1367 Hijri for acquisition of lands listed at Serial No.34, admeasuring Acs.65.00 gts., in old Sy.No.29, Yousufguda (shich belonged to Nawab Fakrul Mulk). Later on after a lapse of time the Government of Hyderabad reversed its plan and issued a Gazette Part 1-D No.356 dated 8th November, 1950 under Section 39 of the Land Acquisition Act notifying that the said land at Yousufguda, Hyderabad are not required and the declaration referred in respect of these lands should be taken as withdrawn. The Receiver further points out that land of Old Sy.No.29 and new Sy.Nos.50, 51, 52, 53, 54 and 57,

admeasuring Acs.72.16 gts., is the property of the Estate with clear marketable title, vacant at the site, free from all encumbrances public or private and is in the possession of the Receiver-cum-Commissioner and thereby appropriate steps may be taken for sale of the said extent of land and distribution of the sale proceeds among the co-sharers of the Estate. It is further submitted that orders were passed in the year 1975 in Application No.14 of 1974 and in final decree proceedings under Application No.502 of 1989. Survey No.49 with a total extent of Acs.4.10 gts., has been classified as Matruka property excluding the Maqbara Tomb and the land within its boundary wall, one well outside the boundary wall, 8 mulgies and 3 existing pucca houses which were allocated for generating income for maintenance of the Maqbara (as per annexure to panchanama dated 30.03.1988) conducted by Receiver-cum-Commissioner in C.S. No.9/1 of 1951 as per the orders of the Division Bench of the High Court in O.S.A. No.2 of 1987 of Yousufguda village, Hyderabad to legal heirs of late Nawab Fakhrul Mulk.

Item No.4:

22. Item No.4 – Bunglow at Bollarum along with the land measuring Acs.14.00. The said Bollarum Bunglow was known as the “Fakrul Mulk Bollarum Palace”. The said property was designated under three Sections as detailed herein below.

1. The palace building and its appurtenant land measuring Acs.9.36 gts., was enclosed by a boundary wall.
2. There was open land measuring about 3500 sq.yds., outside the boundary wall with two small buildings thereon.
3. Open land measuring almost Acs.27.00.

23. The aforesaid property in its entirety comprising the three segments was put to public auction in January, 1953 by orders of the High Court of Hyderabad. A reputed auctioneer of Hyderabad M/s. J. Moosa was appointed as the auctioneer to conduct such auction. The First Segment comprising the Palace and its appurtenant land was sold to six sons of Nawab Fakrul Jung by names Mir Muzzafar Hussain Khan, Mir Jahangir Hussain Khan, Mir Aijaz Hussain, Mir Mumtaz Hussain Khan, Mir Liaq Hussain Khan and Mir Musharaff Hussain Khan for a total sale consideration of Rs.38,000/- in the year 1953. The Second Segment was sold to V.D.Rajaratnam Mudaliar for total sale consideration of Rs.12,000/- The Third Segment remained unsold. It is submitted that the property comprising the Third Segment of the Bollaram property be sold in accordance with the established procedure of sale as laid by the Court and the sale proceeds may be distributed among all the shareholders at the earliest.

Item No.5:

24. Item No.5 is Devdi at Balda (Palace) was divided into three portions that were put to auction separately. From the sale proceeds derived after payment of taxes and other liabilities the remaining amount was distributed among the Co-sharers of the Estate. Thus, nothing further is to be done regarding this property.

Item No.6:**Mulgies and the land adjacent to the Devdi at Balda:**

25. This property comprises mulgies and small rooms numbering (21) and the adjacent land were acquired by the C.I.B. (City Improvement Board) and the compensation amount received therefrom was distributed among the Co-sharers of the Estate in the year 1955. After exclusion of the above mulgies and rooms, there remains some open land the exact dimensions of which are not known, need to be ascertained. This extent of land can be sold and the sale proceeds be distributed among the Co-sharers of the Estate. It is further submitted that there are two buildings bearing Municipal Nos.461 and 552, which are in the occupation of tenants. In addition to this, there are tenants in respect of small portions of the open lands. These tenants have erected huts, and are living therein. It is submitted that

action may be initiated to terminate their lease and to institute ejectment proceedings against them in a Court of competent jurisdiction. It is submitted that all the occupants may be removed and the properties recovered from them be sold and the sale proceeds distributed among the Co-sharers.

Item No.7:

26. Item No.7 property is land situated at Behlookhanguda. This property comprises land bearing Sy.No.59 and is located opposite to Maqbara Fakrul Mulk Bahadur and measures 1½ Acres approximately. It is submitted that there are some illegal encroachments on some portions of this land. Proceedings may be initiated to remove the encroachers and finally sell the property and the sale proceeds may be distributed among all the shareholders.

Item No.9:

Land situated at Moosapet.

27. This property comprised land in Sy.Nos.237/1 and 237/2, totally admeasuring Acs.6.21 guntas. This land was acquired by the Government and the Co-sharers have received compensation amounts according to their respective shares. This property has been disposed off in its entirety.

**SUBMISSIONS ON BEHALF OF OBJECTION PETITIONERS/
DEFENDANTS:**

**Objections from LRs of Defendant No.39 against the
report of the Receiver-cum-Commissioner dated 16.03.2023
and submitted before the Court on 12.04.2023.**

28. It is submitted that the LRs of the defendant No.39, who are filing these objections were ordered to be brought on record by this Court vide its order dated 19.12.2022 passed in I.A. No.1 of 2020.

29. It is submitted that the Receiver has dealt with the 9 Items of immovable properties of A-Schedule of the preliminary decree dated 25.04.1951.

Item No.3 of A-Schedule – Errum Numa Property :

30. It is submitted this property comprises a Bungalow or Palace known as “Errum Numa”, situated at Erragadda with about 65 Acres of land around it. Old Sy.No.29 was originally owned by Nawab Fakrul Mulk and the said old survey number has been converted to new numbers and designated as Sy.Nos.50, 51, 54, 55, 56 & 57, over which Errum Numa Palace stands with its surrounding land.

31. It is further submitted that Nawab Fakrul Mulk died in the year 1934. From around the early 1940's, the Government of H.E.H. Nizam VII initiated the idea of starting a T.B. Hospital in Errum Numa Palace. An Executive Council was formed by the Nizams Government for assessing the suitability of setting up a T.B. Hospital in the said building and estimating the price for the building and other expenses that would be required for setting up such hospital in consultation with the Medical Department, the Chief Engineer and Secretary PWD, the Finance Department and other relevant Government Departments. It is further submitted that the Executive Council finally made recommendation dated 26th Safar Ul Muzaffar 1362 Hijri which corresponds to 30th Farwardi (5th month) 1352 Fasli which corresponds to 4th March, 1943 concerning suitability of Errum Numa Palace Building for T.B. Hospital. It is submitted that the entire Errum Numa Palace Building was valued by the PWD Secretary as Rs.3,16,000/- and the solatium 15% was suggested, which makes the amount for acquiring the building as Rs.3,68,000/-. In the Farman it is ordered that the said amount not be paid to the Estate but the Government loan that was due be first adjusted. Thus, as from 1943 to 1945 only the Errum Numa Palace Building was acquired by the Government

of H.E.H. the Nizam and was made a T.B. Hospital for treatment of patients.

Orders passed by the Court on 22.08.1980 in Application 174 of 1979 in C.S. No.9/1 of 1951.

32. It is submitted that a petition was filed by the Panchayat Raj Employees Co-operative Housing Society in the year 1979 before the High Court, which was numbered as Application No.174 of 1979 in C.S. No.9/1 of 1951. The petition of the said Society was to the effect that they sought allocation of about 17½ Acres of land out of Errum Numa property to them for their Society as some of the heirs of Nawab Fakrul Mulk as co-owners and co-sharers of the property had entered into an agreement for sale of the said extent of land to the said society and this Court passed orders dated 22.08.1980 in the said Application. Further, the Objection Petitioners have referred to the resolution and recommendation of the Executive Council made on 29.05.1352 Fasli (corresponding to 26th Safar Ul Muzaffar 1362 Hijri which corresponds to 4th March, 1943) and the said order of the learned Single Judge that the consideration of Rs.3,68,000/- was fixed by the Public Works Department and that amount was ordered to be adjusted towards repayment of the loan from Nawab Fakrul Mulk. However, despite the said

documents being before the Court, the learned Judge arrived at a completely erroneous finding that for the consideration of Rs.3,68,000/- that the entire property comprising Errum Numa Palace Building and the surrounding land measuring Acres 67.18 guntas has been acquired by the Nizam's Government and that the Government of A.P. as the successor Government is the owner and possessor of the said property and that the matter is before the Division Bench of this Court. The entire extent of land admeasuring about 65 Acres around Errum Numa Palace Building is the property of Nawab Fakrul Mulk Estate and steps should immediately be taken by the Receiver to protect this property and ensure that the surviving heirs of Nawab Fakrul Mulk would get their rightful shares in the said land.

Item No.1 & 2 of A-Schedule – Errum Manzail property:

33. It is submitted that the said property is a Palace Building with open land in Survey Nos.106 & 107 of Khairatabad, Hyderabad. Earlier these survey numbers were surveyed by an Engineer-Commissioner Mr. G.D. Vaidya who found the total extent of lands as Acres 107.16 guntas and 107 sq.yds. It is further submitted that the present Receiver-cum-Commissioner has filed his report before the Court and at page No.32 of his report gives a table showing the extents of lands sold to PWD,

acquired by PWD for Junior Staff Quarters, and portions allotted to the Share Holders in Hilly and Flat (Plain) land areas of the Estate. It is further submitted that earlier report filed under an affidavit dated 11.02.1969 in Application No.40 of 1969 by the then Receiver-cum-Commissioner, Mr. Mir Muzaffar Hussain. The total land was shown under Errum Manzil in Survey Nos.106 and 107 as Acres 98, and has divided the land under two categories designated as A & B. Under Category A, he has shown extents of land sold to PWD along with Errum Manzil Palace, as also land acquired for Junior Staff Quarters, and also land allotted to the share holders in the Hilly and Flat (Plan) portions of the Estate. Under Category B he lists the extents of excess land under occupation of PWD, excess land remaining in Hilly portion after allocation to share holders and land still available for distribution among the share holders. He seeks directions from the Court to the Chief Engineer PWD for sorting out the issue of extra land under their occupation. He states that if this issue is properly settled the Estate will benefit substantially. It is further submitted that in the said report, it shows that after the survey he finds the entire area as Acres 96.36 guntas and 15 sq.yds. He shows the excess land under three categories A, B & C. Under category of A he shows the excess area under occupation of PWD as Acs.3.07 guntas

and 54 sq.yds. Under category B, he shows the area occupied by M/s. Hashmat Ali and Murthy as Ac.1.39 guntas 29 sq.yds. Under Category C he shows the Flat (Plain) portion of land available for distribution as Ac.4.24 guntas 112 sq.yds. It is further submitted that the present Receiver-cum-Commissioner ought to have outlined the steps which he would take for claiming compensation from PWD for this extent of Acs.07 guntas and 54 sq.yds., of land which they have occupied and also outline the steps which he would take for identifying and distributing the excess area of land of the share holders which has been found to be available. The Receiver should also have outlined steps for recovery of lands illegally occupied by M/s. Hashmat Ali and Murthy and also some other third party encroachers. However, the present Receiver-cum-Commissioner has made a comparative table where he has extracted information from various reports and orders and after going through all these exercises had held in his report there is no land available in Sy.No.106 & 107 for distribution among share holders. It is further submitted that the PWD office and the building Erram Manzil which was purchased from the Estate is intact even today and the total extent of land so purchased is Acs.36.36 guntas. Further, the land acquired for Junior Staff Quarters was an extent of Acs.19.37 guntas and 53 sq.yds.

Several structures that had been built on the land by the Staff Quarters have been recently demolished and only the open land is there today. From the records and orders of the Court, it is clear that there is excess land in occupation of both the PWD office and the Junior Staff Quarters and seeks directions from this Court for getting the land under the PWD office and also the land in occupation of the Junior Staff Quarters to be surveyed and measured accurately and it could easily be determined how much excess land is in occupation of both these parties. Thereafter, Meher Manzil property which is a house bearing No.6-5-66, admeasuring 3356 sq.yds., in Sy.Nos.106 & 107, which was Errum Manzil property at Khairatabad, Hyderabad and it is submitted that the said house building is in a totally dilapidated state. As per the Government records, the said property is shown as belonging to the Estate with the name of Nawab Fakrul Mulk and after his death the name of his eldest son Nawab Ghazi Jung as owner. In view of the same, the Commissioner ought to have immediately sought directions from the Court for commencing steps for sale of this property. Instead of doing this he mentioned in his report that a suit O.S. No.1271 of 1994 concerning the said property was decreed and that two Appeals CCA No.229 of 2004 and CCCA No.234 of 2004 are pending before this Court, which according

to the objection petitioner is collusive suit. Further, as per the records, the property Meher Manzil was not sold by the Estate at any point of time to any party as such, the Receiver-cum-Commissioner should have sought suitable directions from the Court for disposing of this property and distribute the sale proceeds among the co-owners and co-sharers of the Estate.

Item No.4 of A-Schedule – Bollarum property :

34. It is submitted that the said property was divided into three portions and was put to auction on 11.01.1953 through the then Receiver of the Estate and out of that two portions first two portions were sold and the sale proceeds were derived therefrom were distributed among all the share holders and the third portion of the property remained unsold and this property has to be identified and steps be taken for its sale and distribute the sale proceeds to all the co-sharers of the Estate.

Item No.5 of A-Schedule – Devidi at Balda :

35. It is submitted that this property was apparently divided into three portions and auctioned in the year 1953-54. The sale proceeds derived therefrom were distributed among all the co-sharers of the Estate.

Item No.6 of A-Schedule Mulgies and the land adjacent to the Devdi at Balda:

36. It is submitted that most of the mulgies and the land adjacent to the Devdi have been sold, there are still some mulgies and some extent of open land which remains unsold. Steps need to be taken for identification of such mulgies and open land of the Estate and further steps be taken for sale of the same and the sale proceeds derived therefrom be distributed among all the co-sharers of the Estate.

Item No.7 of A-Schedule land at Bahlul Khan Guda :

37. It is submitted that this land bearing Survey No.59 of Bahlul Khan Guda is part of the Estate of Nawab Fakrul Mulk and steps are required to be taken to identify the said land and arrange for its disposal.

Item No.9 of A-Schedule Land at Moosapet :

38. It is submitted that the objection petitioners have not been able to investigate and get details of the said property.

Objections of Defendant Nos.69 & 85 against the report of the Receiver-cum-Commissioner submitted on 29.11.2022 :

39. It is submitted that the Defendant Nos.69 & 85 who are grand children of Defendant No.4 would submit that there are several erroneous conclusions made by the Receiver which

would cause huge losses to the Estate unless corrective steps are taken immediately. The objection petitioners have not objected to the extent of lands which have been admittedly sold and also to the extent of distribution of sale proceeds among all the heirs and successors and accordingly, there is no controversy or dispute in that regard. However, there are certain items of immovable properties of the Estate regarding which the Receiver has come to erroneous conclusions and gave findings to the effect that the properties have either been sold comprehensively or that they have been acquired in totality and that no property now remains with the Estate for distribution among the co-sharers and co-owners.

40. As regards the Bungalow (Palace) Errum Numa situated at Erragadda (Yousufguda), Hyderabad, which is shown as Item No.3 in the Schedule list A of Immovable properties in the preliminary decree, it is submitted that the said property comprised Palace building with surrounding land of 65 to 70 acres and the said land was acquired by the Nizam Government in or around the year 1943 for setting up a T.B. Hospital and its value together with solatium amount was fixed at Rs.3,68,000/- which was paid to the Estate and that the remaining open land of the Palace of over 65 acres remained with the Estate and that in the year 1945, the Government of Nizam with a view to

provide other medical facilities for the public in that area decided to acquire further land from the various land holders and in that connection 65 acres of land of Errum Numa Palace was sought to be acquired. A G.O. bearing No.21 of 1357 Fasli was issued for acquisition of this land along with surrounding lands. However before this land could be acquired the Rule of Nizam over Hyderabad had come to an end. The Government that had come to power decided that it does not require such land for additional medical facilities in that area and issued Gazette No.356 dated 08.11.1950 notifying that the land earlier sought to be acquired under Gazette No.21 of 1357 Fasli was not required now and that the earlier G.O. should be taken as withdrawn. It is further submitted that the 65 Acres of land around Errum Numa Palace building thus remained with the Estate which continues to be the lawful owner thereof. The Receiver had not made any attempt to bring these facts in his report and instead concluded that the Government had acquired the entire extent of land in the year 1943 itself. It is further submitted that the property known as Erram-Manzil which is listed as Item Nos.1 and 2 in Schedule List A of Immovable properties in the preliminary decree. Erram – Manzil Palace had a total extent of over 107 Acres of land around it. The Estate had sold the Erram – Manzil Palace together with an extent of

36 Acres and 36 guntas of land around it to PWD in or around the middle of the year 1951 and sale consideration was paid for the building and the said extent of land. However, PWD has occupied a sizable extent of land over and above the land purchased by them, describing it as footpath area in front of Erram – Manzil. It is further submitted that in the year 1956 land was acquired by PWD for construction of Andhra Junior Staff Quarters to an extent of 19 Acres 37 guntas 53 sq.yards. However, they are in occupation of 21 Acres and 4 guntas of land, the actual extent of land under occupation of Junior Staff Quarters can be surveyed and the excess land which is under their occupation could either be re-claimed or they could be given the option of paying compensation for the same. The remaining land of Erram – Manzil was distributed among the share holders but an extent of almost 9 Acres and 16 guntas of land has not been allocated. This extent of land needs to be specifically identified and traced out by a proper survey and steps can be taken for its sale or allocation of the same to the share holders. Despite the availability of all this data, the Receiver has again come to the erroneous conclusion that there is nothing left in the Erram-Manzil property.

41. It is further submitted that Meher Manzil property located in survey Nos.106 & 107 of Khairatabad village being part of Erram-Manzil property. A two storied building was constructed by the Estate over a plot of an extent of 3356.5 sq.yds., of land. The said property is vacant though the building is in a highly dilapidated state at present. In the past some encroachers had tried to grab this property but at present it is vacant and under the care and custody of the Receiver. Instead of taking immediate steps for selling this property and distributing the sale proceeds among the co-sharers the Receiver is referring to some fraudulent collusive suits that are purportedly filed by unconcerned persons and where the Estate is not a party at all.

Objections of Defendant Nos.72 & 82 against the report of the Receiver-cum-Commissioner submitted on 29.11.2022.

42. Objection petitioners submitted that the property known as Errum Numa situated at Erragadda or Yousufguda, Hyderabad, comprises a Palace building together with appurtenant land of about 70 Acres. The said property was located in Survey No.29 (old) which was later re-numbered as Survey Nos.49, 50, 51, 54, 55, 56 & 57 and it is admitted that the Palace building was acquired by the Nizam Government in the year 1943 for setting up T.B. Hospital and compensation amount of Rs.3,68,000/- was paid in this regard and the sale

proceeds were distributed among the co-sharers according to their respective Sharai shares. They would refer the Gazette No.21 of 1357 Fasli that 65 Acres of land out of Errum Numa was sought to be acquired for making Hospitals of other specialties in that area. However, G.O.No.356 of 1950 issued by the Government that the land sought to be acquired under G.O.No.21 of 1357 Fasli was no longer required and all such lands stood de-notified. Thus, 65 Acres of land around Errum Numa Palace will be the property of the Estate which is neither being sold nor acquired till date and therefore, the findings of the Receiver is factually incorrect.

43. As regards the property known as Erram Manzil comprising Survey Nos.106 and 107 situated at Khairatabad, Hyderabad, is a Palace building together with 36 Acres and 36 guntas of land was sold to PWD in the year 1951 and has occupied excess land in this property of an extent of over 1 Acre 21 guntas which is borne out from the report of the Receiver of the Estate dated 23.03.1967 in Application No.24 of 1967. In the year 1956 land was acquired by PWD for construction of Andhra Junior Staff Quarters of an extent of 19 Acres and 37 guntas 53 sq.yards., and that they are in excess possession than the actual physical possession. In view of the same, a survey need to be conducted to workout the exact extent of

excess land in their occupation and steps can be taken for either recovery of the land or payment of compensation. It is further submitted that the remaining open land of the property was distributed by the then Receiver among the co-sharers of the Estate. However, as seen by the reports of qualified Engineer surveyors appointed by the Court an extent of about 9 Acres and 16 guntas of land is not accountable as it has not been allocated to the co-sharers or to any third party and therefore, immediate steps need to be taken to identify and locate this extent of land and arrange for its sale or allocation to its share holders.

44. As regards the property known as Meher Manzil comprising a building in a plot of land admeasuring 3356.5 sq.yards being part Erram-Manzil property. This building of this property is in a very bad state and almost on the verge of collapse, which is under the care and custody of the Receiver. Previously attempts were made by land grabbers to illegally occupy and dispose of the property but apparently they have failed and the property is in a vacant state and therefore, immediate steps are required to be taken for sale of this property. Instead of taking steps in this direction, the Receiver has found that some cases of an obviously collusive nature filed by fraudsters pending where the Estate is not a party at all.

However, because of such cases allegedly pending the Receiver has come again to the wholly incorrect conclusion that this property cannot be sold by the Court, though being a property of the Estate, it is under the care and custody of this Court.

45. As regards the property known as Bollarum property comprising over 38 Acres of land together with a Palace and some other buildings located at Bollarum (Secunderabad), it is submitted that this property was put to auction on 11.01.1953 by dividing it into three portions; one portion comprised the main Palace with appurtenant land of about 9 Acres, the second portion comprised a building with an extent of 1 Acre of land, while the third portion comprised buildings with almost 27 Acres of land. Auction was conducted by M/s. J.Moosa and son's who were the premier Government and Public Auctioneers of that period. The first two items of the property fetched the expected price and were sold while for the third portion the offers did not come up to the expected price and remain unsold. The said property has to be identified and if circumstances so required it should be recovered from the possible occupation of the same by the Army as the entire property comes within the Army area. Immediate steps need be taken for sale of this property through following all due procedures for sale of property.

46. As regards property being open land in Survey No.59 of Bahlul Khan Guda comprising about 1½ Acres, neither been sold nor allocated to any of the share holders and therefore, steps need to be taken for sale and distributions of the sale proceeds to the share holders.

Objections to the Report of the Receiver-cum-Commissioner dated 16.03.2023 filed by and on behalf of L.R. of Defendant No.15 Mr. Mohammed Hussain :

47. It is submitted that in respect of Item No.8 relating to the land in Sy.No.29 (old) New Sy.Nos.50, 51, 54, 55, 56 & 57 of Yousufguda village, the report is not clear to the extent that the said lands purchased by HEH The Nizam are not belonging to Nawab Fakhrul Mulk and as such without verifying the relevant records and the notification issued dropping the acquisition of land by the Nizam and also the NOC issued by the Urban Land Ceiling Authorities, State of Andhra Pradesh declaring the land as non-ceiling surplus land. The present objector is LR of Defendant No.15 and the present objection is filed in respect of the land to an extent of Acs.17.20 guntas in new Sy.Nos.50 & 51 of Yousufguda.

48. While narrating the reasons with respect to the suit and preliminary decree passed, it is submitted that several orders were passed for the last 70 years and as per the order of this Hon'ble Court in Application No.99 of 1965 dated 30.07.1965, other Receiver was appointed in the above suit for managing the suit property. As per the report of the Receiver dated 23.03.1967 submitted to this Court the defendant Nos.1 to 4, 6 to 22, 24 and 25 are yet to get their shares in the schedule properties as per the Compromise petition No.3 dated 23.04.1951 accepted by this Court on 25.04.1951 and where preliminary decree was passed to that effect on 25.04.1951. It is further submitted that during the pendency of the final decree proceedings and the division of the properties between the sharers almost all the original parties have passed away and some of the legal representatives have come on record to pursue the further proceedings in the suit. It is further submitted that as the Receiver was appointed at the time of passing of preliminary decree all the properties are in the deemed possession of the Receiver and he is the *custodia legis* of the suit schedule properties since the date of passing of preliminary decree.

49. It is further submitted that the title flow in so far as the lands situated at Yousufguda, Item No.8 of the suit schedule-A properties to a total extent of Acs.17.20 guntas in old Sy.No.29, which is new numbered as Sy.Nos.50 & 51 comprising of Acs.10.35 cents and Acs.07.32 cents respectively Yousufguda village in the name of Nawaz Gaji Jung. Where after, the then Receiver-cum-Commissioners Sri K.Venkataramaiah and Sri V.Surender Rao, have applied for exemption under Urban Land (Ceiling and Regulation) Act, 1976 (for short 'ULC Act') on behalf of the sharers on the directions of the High Court as the property was under the custody of Court receiver and the Government vide G.O.Ms.No.61 Revenue (UC.II) Department dated 11.01.1979 was pleased to grant exemption under the provisions of the ULC Act to an extent of Acs.17.20 guntas in Sy.Nos.50 & 51 of Yousufguda village. Thereafter, the Receiver had submitted representation for identification and demarcation of the land to an extent of Acs.17.20 guntas in Sy.Nos.50 & 51 of Yousufguda by paying requisite fees to the survey authorities. Accordingly, the survey was conducted and identified land by fixing boundaries and thereafter a Panchanama dated 26.05.2005 was conducted to that effect so as to enable the Receiver to protect the lands from encroachments. Subsequently, the Receiver in order to protect the suit schedule

lands had filed Application No.179 of 2009 seeking direction to the Assistant Commissioner of Police, Punjagutta, Hyderabad to render assistance to protect the property to an extent of Acs.17.20 guntas in Sy.Nos.50 & 51 situated at Yousufguda, Hyderabad and this Court by order dated 16.03.2009 was pleased to direct the Assistant Commissioner of Police to render all necessary help to the Receiver in protecting the above said property. Thus Item No.8 of the suit schedule A properties i.e. the lands in Yousufguda are in possession and custody of the Court receiver.

50. It is further submitted that insofar as the lands to an extent of Acs.17.20 guntas in Sy.No.51 & 51 of Yousufguda, present Town Survey Nos.2/1 and 3, Ward No.7, Block-D of Yousufguda village, Khairatabad Mandal, it is submitted that 95% of the sharers have consented through agreement of sale for a total consideration of Rs.90.00 crores in favour of M/s ARJA Ventures in respect of the land to an extent of Acs.17.20 guntas in Sy.No.50 & 51 of Yousufguda village and taken the advance sale consideration amount of 10% from the said ARJA ventures for sale of the property. However, the Receiver has filed a report stating that the said property was purchased by Nizam and it is not available without any documentary evidence issued by the Government. Eventually, it is submitted that

immediate steps need to be taken to identify the property and the report is liable to be set aside.

Objections of Defendant Nos.29 and 30:

51. It is submitted that originally the father of Defendant Nos.29 and 30 are arrayed as Defendant No.9 and after his death, defendant Nos.29 and 30 and the family members were brought on record as defendant Nos.27 to 32 and presently the objections were being filed by defendant Nos.29 and 30.

52. The Objector, who is now referring to Item No.3 i.e., Erram Numa Palace, at Erragadda which was originally owned by Nawab Fakhru'l Mulk, the said survey number has been renumbered as Sy.Nos.50, 51, 54, 55, 56 and 57 which includes the palace along with surrounding land. It is submitted that in the report no land is available in S.No.29 which is contrary to the report of the earlier receiver-cum-commissioner filed on 12.03.2018 wherein it is submitted that land admeasuring Ac.72-16 gts., is the subject matter of the suit is in semi public zone, is clear vacant spot and is free from encumbrances, public or private and is in the possession of receiver-cum-commissioner. Insofar as observation of the receiver-cum-commissioner with regard to this property, the Hon'ble Court held that properties in this survey number are not the

properties of Nawab Fakhru'l Mulk, but were purchased by HEH The Nizam and succeeded by Government of Andhra Pradesh and while vacating the interim orders in Appl.No.174/1979 on 11.04.1980, this Court has observed that *prima facie* property in question belongs to Government and ceased to be sold to the petitioners society. However, no categorical finding is given and the issue of ownership of the property was not decided and that the suit in O.S.No.1274 of 1984 which was decreed and at present CCCA Nos.229 and 234 of 2004 are pending before this Court and that the said suit is between the same private parties and wherein it is nothing but a collusive suit and the decree or order of Civil Court is not binding as the property is in the custody of the Court and under the supervision of receiver-cum-commissioner. He would further submit that the then receiver Mr.Mir Muzaffar Hussain filed an Application in Appln No.40 of 1969 in O.S.No.9/1 of 1951 with a prayer to direct the Chief Engineer, PWD (Buildings) Andhra Pradesh, Hyderabad for conducting survey on land pertaining to Erram Manzil, wherein the left over land to be distributed and excess land which was occupied by the PWD. The present receiver-cum-commissioner failed to take note of this aspect and erroneously came to conclusion that no land is available for distribution.

53. As regards item No.4 of the Schedule A property – Bollaram, the property was divided into three portions out of which two portions was sold in the auction and the third portion is still property of the Estate and it is under the custody of the Court.

54. As far as item No.5 of schedule of property DEVDI AT BALDA, the objection petitioners could not ascertain and it appears that said property was auctioned in 1953-54.

55. With regard to item No.6 of the schedule A property, still there are Mulgies and some extent of open land remain unsold and is in illegal occupation of unauthorized people. As such steps have been taken to recover the possession.

56. Insofar as property No.7, BAHULUL KHAN GUDA is concerned, the receiver-cum-commissioner stated that existence of the property could not be ascertained as no full particulars are given. As per order of this Court dated 29.11.2022, it is the duty of the receiver-cum-commissioner to ascertain from the records available with the Registry.

57. Insofar as item No.9 at Moosapet, the receiver merely stated that the Government has acquired the land and compensation was claimed by the shareholders and particulars

of the said property is yet to be ascertained and the receiver has to give details as to when the said land was acquired and to whom the compensation was paid. It is further submitted that the then receiver-cum-commissioner Mir Muzaffar Hussain filed application *vide* Application No.40/1969 with a prayer to direct the Chief Engineer, PWD (Buildings) Andhra Pradesh, Hyderabad for conducting survey, this application is clear insofar as availability and distribution of land to an extent of Ac.12-35 gts., and 40 sq.yds., in Sy.Nos.106 and 107. Subsequently, report of one Sri Mohammed Ibrahim, Engineer-Commissioner on the survey of land attached to Erram Manzil, wherein it is stated that this Court by order dated 02.03.1971 directed to carry out the survey of land pertaining to Erram Manzil, wherein it is stated about the left over land to be distributed and the excess land occupied by the PWD Department.

58. It is therefore submitted that there is no change in the nature of the property between 2018 till today and there is no change in the nature of property as on today. The learned counsel would eventually submit that the receiver-cum-commissioner failed to comply with the directions of this Court dated 29.11.2022 in its true spirit and came to an erroneous conclusion that there are no properties available in the suit,

which is contrary to the records as such the report is liable to be rejected.

59. It is further submitted that receiver's report indicates that there is no land available in Sy.No.49 to the shareholders and came to an erroneous conclusion that no properties were available which is contrary to the records and the same is liable to be rejected.

Written Submissions of Defendant No.39:

60. Mr.Mir Wajid Ali Kamil, learned counsel for defendant No.39 has filed written submission concerning 'A' schedule properties. With regard to item No.3 of 'A' schedule immovable property at Erram Numa at Erragadda, he would submit that there are two documents evidencing purchase of only Errum Numa Palace building by the Nizam's Government and not surrounded by land of about Ac.65-00 gts. A note dated 26th Safar 1362 Hijri was sent by the Executive Council to the Nizam recommending the purchase of Errum Numa Palace building for construction of TB Hospital and accordingly on the recommendation of the Executive Council, Nizam issued Farman dated 11th Rabi-Ul-Awwal Sharif 1362 (corresponding 18th March 1943) ordering the purchase of the Palace Building of Errum-Numa and further directed that the amount not be

paid to the estate but adjusted towards the payment of loans of Nawab Fakhru'l Mulk to the Government. Learned counsel would submit that these two documents have been considered by all the parties including the Government as authentic document evidencing the sale/purchase of Errum Numa Palace building for TB Hospital. He would further submit that Nizam's Government had decided to provide medical facilities in the vicinity of TB Hospital in the Errum-Numa Palace building and for this purpose large extent of land was required. In the Government Gazette No.21 in Volume No.79 dated 08.03.1948 under Section 5 of Land Acquisition Act, 1894 was published announcing that Government required land for Hospital. Thereafter, the rule of Nizam over the State of Hyderabad came to an end in the month of September 1948 and the erstwhile State of Hyderabad was merged in the Indian Union. Thereafter, new Government issued Government Gazette dated 23.11.1950 which contains Notification No.356 dated 08.11.1950 which states that in the earlier notification published in the Government Gazette No.21 dated 08.06.1947 Fasli for acquisition of lands by the Government and accordingly notice under Section 39 of Land Acquisition Act, 1894 that those lands are not required. Thus, 65 acres of land of Errum-Numa

Palace continues to remain the property of the estate of Nawab Fakhrul Mulk even till this date.

61. Referring to the conclusions of the receiver-cum-commissioner concerning Errum numa property, learned counsel would submit that the sentence stating "*this factor shows that the Errum-nama palace was already sold to the Government*" seems to be the conclusion which the present receiver has arrived at on the basis of the contents of the remaining portion of the paragraph, he would also submit that the conclusion seems to be quite insane. Learned counsel would submit that the receiver has a totally erroneous concept about the Errum numa palace and would also submit that receiver failed to realise that Errum Numa palce means only the palace not the entire land of over Ac.65-00 gts., surrounding the palace building. He would therefore submit that the Ac.65-00 gts., of land around Errum Numa continues to remain with the estate as its property even upto this date.

62. Learned counsel would further submit that Application No.174/1979 was filed by Panchayat Raj Employees Cooperative Housing Society for demarcating and handing over to them the extent of land which they claimed to have purchased from some of the heirs and successors. In the said application it is

submitted that TB Hospital is encroaching over the said land which was in the custody of the Hon'ble Court and sought for an injunction which was granted, restraining the construction and encroachment on the application schedule land by the TB Hospital. The Government represented by the learned Advocate General in turn filed a counter sworn by Superintendent, TB Hospital stating that Ac.68-20 gts., of land was purchased by the Nizam's Government in the year 1943 against sale consideration of Rs.3,68,000/- which was purchased on the basis of the two documents above referred. Learned counsel would submit that documents evidence purchase of Errum Numa palace building only and would submit that the Superintendent misrepresented that Ac.68-20 gts., was purchased along with the palace building.

63. Learned counsel would further submit that "Wasool Bakhi" document of 1357 Fasli was filed by the Hospital before this Court which has no relevance as it was issued when a revision survey is made and the same was filed with oblique motive to mislead the Court by giving impression that old Sy.No.29 corresponding to new Sy.Nos.50, 51, 54, 55, 56 and 57 was purchased by the Nizam's Government. On the basis of misrepresentation, the Court held that Ac.68-20 gts., of land in old Sy.No.29 corresponding to new survey numbers were

purchased by Nizam Government and the successor Andhra Pradesh State is owner thereof and the order obtained in Application No.174 of 1979 was also on the basis of fraud and erroneous finding that the land around palace building was also purchased by the Nizam under the same transaction.

64. Learned counsel also drawn attention of this Court to W.P.No.21599 of 2021 which was filed by some of the shareholders of the estate association *viz.*, M/s.Nawab Fakhrul Mulk Welfare Association claiming Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Bill, 2015 in respect of land in Sy.No.29 (old) corresponding to its new Sy.Nos.49, 50 to 57. The said writ petition was dismissed on 06.12.2021 by holding that the petitioners have not been able to establish their stand over the subject property. Aggrieved over the same, the petitioners therein filed S.L.P.No.4977 of 2022 before the Hon'ble Supreme Court and the same was dismissed on 04.04.2022.

65. Learned counsel would further submit that the objection petitioners neither parties to the writ petition nor to the SLP referred above and therefore the land to an extent of Ac.65-00 gts., belongs to the estate to which shareholders are entitled and as per Section 2 of the Partition Act the Court has the

power to order sale instead of division in partition suits. If the Court feels the division of property cannot reasonably be made and that sale of the properties and distribution of the proceeds would be more beneficial for all the shareholders.

66. As regards item Nos.1 and 2 of 'A' Schedule property of at Errum Manzil which is a palace and building with open land in Sy.Nos.106 and 107 of Khairatabad, Hyderabad purchased in the year 1951 by PWD together with Ac.36-36 gts., of land and in the year 1953 an extent of Ac.19-17 gts., of land was acquired by PWD for construction of Andhra Junior Staff Housing Quarters. This Court in Application No.40 of 1969 directed the receiver to take steps to collect the compensation from the PWD Authorities who have occupied Ac.03-07 gts., of land without the sanction or authority of this Court. The present receiver has found an extent of Ac.03-07 gts., of excess land in occupation of PWD or their junior staff quarters. He would further submit that value of the land in that area is very high and the receiver may be directed to collect compensation amount for the said excess land.

67. As regards Meher Manzil, which is a double storied house bearing Municipal No.6-3-566 admeasuring 3356.50 sq.yds., in Sy.Nos.106 and 107, it is submitted by learned counsel that the

said building is in dilapidated state but is in the possession of receiver and that receiver may be directed to take steps for sale of this property. However, the present receiver has submitted that CCCA Nos.229 and 234 of 2004 are pending with regard to that property as on date. With regard to item No.4 i.e., Bollarum property, learned counsel would submit that the total extent in this property is about Ac.38 – 00 gts., and was divided into 3 portions and ordered to be put to auction on 11.01.1953. Thereafter, auction was conducted and one portion of main palace admeasuring Ac.9-36 gts., was sold in the auction and the buyers of the same being sons of late Nawab Fakhar Jung and another portion of Ac.01-00 gts., was purchased by Mr.V.D.Rajaratnam and third portion of the property admeasuring Ac.27-00 gts., remained unsold since it did not fetch the expected upset price. Therefore, the objection petitioners seek indulgence of this Court to direct the receiver to bring out the record and present it to the Court to take a decision on how to dispose of the property.

Written Submissions of L.R. of Defendant No.15:

68. Mr.N.M.Krishnaiah, learned counsel representing M/s.Bharadwaj Assosicates appearing for legal heir of defendant No.15 has filed written submission concerning 'A' schedule properties. It is submitted that Mrs.Zaharunnisa Begum is

defendant No.15 and (i) Hamed Hussain (ii) Mohd.Hussain and (iii) Raisunnisa Begum @ Mustaba Begum who are her legal heirs were paid the sale proceeds in respect of Errum Manzil property and other properties. Now they were seeking 1/3rd share from the share of defendant No.15 in respect of land to an extent of Ac.17-20 gts., in new Sy.Nos.50 and 51 of Yousufguda. Learned counsel would again refer to the Notification No.III dated 29.05.1357 Fasli issued for acquisition of the land but later on acquisition was withdrawn after merger of the Hyderabad regime and by virtue of the same, the land vests with the hands of the owners. It is stated that the further clearance by the ULC authorities itself is the title document to the subject land. Subsequently, the receiver in order to protect the suit schedule lands have filed Appln.No.179 of 2009 seeking direction to the Assistant Commissioner of Police, Punjagutta to render assistance and by virtue of the said orders the item No.8 of the 'A' schedule property is in the custody of the receiver. Learned counsel would further submit that orders in W.P.No.21599 of 2021 and order in S.L.P.(C) No.4977 of 2022 will not be applicable in deciding the rights of the parties in the present suit for the adjudication of the title of the parties to the suit and he would therefore pray that the report of the receiver has to be rejected insofar as this property is concerned.

Written Submissions of Defendant Nos.29 and 30:

69. Mr.Zakir Ali Danish, learned counsel for defendant Nos.29 and 30 have filed written submission concerning 'A' schedule properties. He would submit that defendant Nos.29 and 30 along with family members were brought on record by order of this Court in Appln.Nos.97 and 98 dated 10.10.1958 and would refer to Appln.No.179 of 2009 which was filed seeking for police protection to protect the land at Yousufguda, wherein this Court has already granted police protection and without verifying this order, the receiver has filed the report.

70. As regards Meher Manzil, at Khairtabad to an extent of 3,356 sq.yds., learned counsel submitted that the same is under civil dispute and CCCA Nos.229 and 234 of 2004 are pending and the property is in the custody of Hon'ble Court. As regards the property in Sy.No.29 (old) corresponding Sy.Nos.49 to 57 was never acquired except building i.e., Erram Numa palace and is still under the custody of the Hon'ble Court.

71. As regards the item No.4, it is submitted that still one portion of the said building is to be distributed among the defendants. As far as item No.6 is concerned, it is submitted

that the land is under illegal occupation and as such receiver must take necessary steps to recover the possession. As regards item No.7, it is submitted that receiver should have verified the records instead simply stated that shareholders failed to give any particulars. Learned counsel would further submit that dismissal of W.P.No.21599 of 2021 will have no consequences as the dismissal of the said W.P. will not come in the way of this Court to decide the issue as said property where the multi specialty hospital is proposed by the Government is part and parcel of old Sy.No.29 and that the land acquisition notification was withdrawn. It is further submitted that the properties in this suit have spread over a large extent and that shareholders are more than 100 and it is not possible to distribute the available lands among the shareholders by fixing the metes and bounds. Eventually, learned counsel would submit that report submitted is contrary to the facts of reports submitted by earlier receivers and the same may be rejected and prays this Court to direct the receiver to submit a fresh report.

Written Submissions of Defendant Nos.72 and 82:

72. Mr.P.Giri Krishna, learned counsel for defendant Nos.72 and 82 has adopted the written submission filed on behalf of defendant No.39.

73. The sum and substance of the arguments of all the objection petitioners/defendant Nos.39, 15, 29, 30, 72 and 82 is that the receiver-cum-commissioner has not dealt with the subject property fully and the subject properties were not fully distributed among the five branches of the sharers hence they prayed to reject the report and conduct survey of the subject properties again for filing fresh report.

ANALYSIS AND CONCLUSIONS:

74. The following points emerge for consideration.

- (i) Whether the report dated 16.03.2023 of the Receiver – cum – Commissioner is liable to be rejected?
- (ii) Whether final decree is to be passed in the present suit? and
- (iii) To what other reliefs the parties are entitled for?

75. It is pertinent to note that in the schedule of properties which was allotted to the five (5) branches of Nawab Fakhrul Mulk who were entitled to Matraka shares have been decided to an extent of 20% each. Thereafter, in pursuance to the various reports and as per the records, the possession of the (5) plots was finally handed over to the shareholders on 26.05.1973 by Mr.Mohd. Ibrahim, Engineer-Commissioner, after evicting the encroachers of the land. The record reveals that practically

there is no land for distribution in property item Nos.1 and 2 after the aforesaid disposal of property.

76. With regard to Meher Manzil bearing House No. 6-3-566 admeasuring 3356.60 sq yards in Sy.Nos.106 and 107, a suit in respect of the said building was decreed in O.S.No.1271 of 1994. At present CCCA Nos.229 and 234 of 2004 are pending before the High Court. Application (SR) Nos.1251 of 2017 and 70916 of 2019 in Application No.4517 of 2013 and Application No. 626 of 2013 in / and Application No. 952 of 2011 in C.S.No. 9/1 of 1951 were dismissed on 28.11.2022. That apart, the order in Crl.M.P.No. 2007 of 1998 dated 09.07.1998 goes to show that the unmarked keys of the said building (PI No.477/88) were ordered to be handed over to the petitioner therein (A.P. Christian Medical Educational Society merged with PI SGA).

77. As regards item No.3 i.e., Bungalow Erram Numa, Erragadda, after deducting the land of Maqbara measuring Ac.59-00 gts., and item No.8, land situated at Yousufguda, Application No.174/1979 was filed before this Court and this Court held that the lands and property in (old) Sy.No. 29, (new) Sy. Nos. 50, 51, 54, 55, 56 and 57 are not the properties of Nawab Fakhru'l Mulk but they were purchased by the HEH the

Nizam and succeeded by the Government of Andhra Pradesh. As regards submissions made before the Division Bench of this Court in W.P.No.21599 of 2022 in respect of land admeasuring Ac.89-05 gts., in Sy.No.29 corresponding Sy.Nos.49, 50 to 57, at Yousufguda, it is pertinent to note that the petitioners in the said writ petition contended based on the news published in Times of India stating that the Government is constructing multi-specialty hospital over a portion of the subject land and that the government has not acquired the land and thereby the petitioners therein were entitled for compensation. The Division Bench considering the submissions of the Learned Counsel for the State Government held that the subject land was purchased by the Government under a Notification which was issued to the effect of Farman dated Shaban-ul-Moazam 1364 Hijri and that the possession of the TB Hospital is in existence of the Government and not that of Fakhrul Mulk and Ghazi Jung and once the petitioners therein have not been able to establish their stand over the subject property, the question of paying compensation in terms of Right for Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,2013 does not arise.

78. Aggrieved over the same, the petitioners therein preferred Special Leave to Appeal (C) No.4977 of 2022 and the Hon'ble Supreme Court after perusing the record vide order dt: 04-04-2022 did not find any reason to entertain the petition under Article 136 of the Constitution of India. The operative portion of the order is extracted hereunder:

“Having heard learned counsel for the petitioners and on perusal of the record, we do not find any reason to entertain this petition under Article 136 of the Constitution of India.

The petition seeking special leave to appeal is, accordingly, dismissed.

All pending applications stand disposed of.”

79. It is pertinent to note that since the construction of the multi-specialist hospital is published at large, the petitioners therein who are also members of M/s.Nawab Fakhru Jung Welfare Association, the submissions of the petitioners and their predecessors who are also interested over the subject property that said orders in W.P No. 21599/2021 dated 06.12.2021 and the order dated 04.04.2022 passed by the Hon'ble Supreme Court vide as not binding on them is unsustainable. The petitioners at this point of time cannot contend that they

are not concerned with the orders passed by this Court and the Hon'ble Supreme Court which was based on the public news.

80. On a perusal of these orders, it is clear that after distribution of plots in Sy.No.49 to the shareholders, no property is available in respect of item Nos.3 and 8 for distribution.

81. As regards item No.4 i.e., Bungalow at Bollaram, as per the report, the property was already tackled and disposed of and the sale proceedings were distributed in the year 1953.

82. As regards item No.5 i.e., Devdi At Balda, the record shows that the property was already tackled and disposed of in the year 1954. The report dt.23.03.1967 of the Receiver Mr.MIR MUZAFFAR HUSSAIN (defendant No.16) also shows that the property i.e., Devdi Balda was divided into three portions, which were put to auction and after deducting towards Municipal Taxes and Land Revenue and office expenses and the balance amount of Rs. 55,000/- was paid to the heirs of late Nawab Fakhrul Mulk.

83. As regards item No.6 i.e., Mulgies Devdi at Balda, it is submitted that as per the note put up by the then Additional Deputy Registrar of this Court dated 21.09.1967, the said

property was acquired by the City Improvement Board and the compensation was paid.

84. As regards item No.7 i.e., the land situated at Behlul Khanguda, there is no sufficient record pertaining to this property and that report of Additional Deputy Registrar also shows that there is no record in the office in respect of this property. It is also noted that though request was made to the parties and learned counsels to produce any material in respect of this property, no sufficient material was produced. In view of the same, the said property is not contested and no further orders are required to the extent of this property.

85. As regards, property No.9, as per the available records, this property was also disposed of and as per the report dated 23.06.1967 of the then Additional Deputy Registrar of this Court, the Government had initiated land acquisition proceedings. Further, the report of the Receiver viz., MIR MUZAFFAR HUSSAIN (defendant No.16) dt.23.03.1967 also shows that the land at Moosapet bearing Sy.No.237/1 and 237/2 admeasuring Ac.6-11 guntas and Ac.0-10 guntas respectively was acquired by the Government by notification dated 22.09.1961. The Hon'ble High Court by an order dt.22-9-1961 permitted the parties to prefer Claim Petition before the

Land Acquisition Officer and to prosecute the proceedings themselves. By order dt.17.01.1964, the High Court allowed the parties to prosecute the proceedings themselves before the II Addl. Chief Judge, City Civil Court, Hyderabad in O.P. No.57 of 1963. According to the Receiver, the parties have claimed compensation at Rs.15/- per sq.yard in respect of the above land in addition to the solatium and usual interest. Thus the property was already tackled. As such the shareholders in the suit have received the compensation for the land in item No.9 that was acquired by the Government.

86. In the objection petitions filed, it is stated that still certain extent of land is available, however, in the final Report dt: 16-03-2023, it is submitted that no land is available for partition. Even otherwise according to the objection petitioners, the extent is differing and unless the properties are defined with specific extent and a specific claim is made regarding the availability of any land, the objections of the petitioners cannot be considered and are accordingly rejected.

87. In the case on hand, the preliminary decree was passed on 25.04.1951 and the rights of the parties are determined based on compromise and thereafter what remains is that only an enquiry has to be conducted pursuant to the said

preliminary decree which became final and curtains were finally drawn and the shareholders to the extent of their respective shares was also sure about their possession of the respective lands and there were no third parties in the preliminary decree and also no clause for future course of action.

88. Filtering the unnecessary details and based on the reports of the receivers-cum-commissioners, orders passed by this Court, the rights of the parties have been fructified and their possession was exclusively determined. It is further to be noted that the third parties were placed in the subject property on account of the sale, acquisition and distribution of the parties. If such third parties are found to be in excess possession at that relevant point of time, the shareholders/predecessors ought to have taken appropriate steps as available under law at that point itself. The report states that except CCCA Nos.229 and 234 of 2004 no case is pending at the time of filing of the final report. It is also pertinent to note that as observed earlier, the shareholders/predecessors ought to have filed application before this Court for passing final decrees on the available land if any, however, the legal heirs at this belated stage cannot raise new grounds stating that land is still available for partition. The report further shows that there are no claims pending

before the receiver-cum-commissioner and even before earlier receiver-cum-commissioner.

89. In the case of **Bimal Kumar v. Shakuntala Devi**¹ the Hon'ble Supreme Court has observed that in the compromise decrees, where the petitioners have allotted respective shares and they were in separate and exclusive possession thereof and where there was no clause in the compromise decree with regard to future course of action, the decree can be drawn up incorporating the compromise and held is a final decree and hence executable. The relevant paragraph Nos.25 to 28 is extracted:

“25. In the said case, after referring to [CPC](#) by Mulla, this Court, while drawing a distinction between the preliminary and the final decree, has stated that a preliminary decree declares the rights or shares of the parties to the partition. Once the shares have been declared and a further inquiry still remains to be done for actually partitioning the property and placing the parties in separate possession of the divided property, then such inquiry shall be held and pursuant to the result of further inquiry, a final decree shall be passed. A preliminary decree is one which declares the rights and liabilities of the parties leaving the actual result to be worked out in further proceedings. Then, as a result of the

¹ (2012) 3 SCC 548

further inquiries conducted pursuant to the preliminary decree, the rights of the parties are finally determined and a decree is passed in accordance with such determination, which is the final decree. Thus, fundamentally, the distinction between preliminary and final decree is that: a preliminary decree merely declares the rights and shares of the parties and leaves room for some further inquiry to be held and conducted pursuant to the directions made in the preliminary decree which inquiry having been conducted and the rights of the parties finally determined a decree incorporating such determination needs to be drawn up which is the final decree.

26. Applying the principles laid down in the aforesaid authorities, it is graphically clear that in the case at hand, the parties entered into a compromise and clearly admitted that they were in separate and exclusive possession of the properties and the same had already been allotted to them. It was also admitted that they were in possession of their respective shares and, therefore, no final decree or execution was required to be filed. It is demonstrable that the compromise application does not contain any clause regarding the future course of action. The parties were absolutely conscious and rightly so, that their rights had been fructified and their possession had been exclusively determined. They were well aware that the decree was final in nature as their shares were allotted and nothing remained to be done by metes and bounds. Their rights had attained finality and no further enquiry

from any spectrum was required to be carried out. The whole thing had been embodied in the decree passed on the foundation of compromise.

27. It is to be borne in mind that the term 'compromise' essentially means settlement of differences by mutual consent. In such process, the adversarial claims come to rest. The cavil between the parties is given a decent burial. A compromise which is arrived at by the parties puts an end to the litigative battle. Sometimes the parties feel that it is an unfortunate bitter struggle and allow good sense to prevail to resolve the dispute. In certain cases, by intervention of well-wishers, the conciliatory process commences and eventually, by consensus and concurrence, rights get concretised. A reciprocal settlement with a clear mind is regarded as noble. It signifies magnificent and majestic facets of the human mind. The exalted state of affairs brings in quintessence of sublime solemnity and social stability.

28. In the present case, as the factual matrix would reveal, a decree came to be passed on the bedrock of a compromise in entirety from all angles leaving nothing to be done in the future. The curtains were really drawn and the Court gave the stamp of approval to the same. Thus, the inescapable conclusion is that the compromise decree dated 03.04.1964 was a final decree."

Point Nos.(i), (ii) & (iii):-

90. It is an admitted fact that the preliminary decree in the present case was passed basing on the three compromise petitions. Order XX Rule 18(2) CPC provides for passing preliminary decree and final decrees in the partition suit like the present case. In the preliminary decree the rights of the respective shares were declared and are final.

91. The main contention of the learned counsel appearing for the objection petitioners/defendants is that the Receiver-cum Commissioner had not dealt with the subject properties as described (Item No 1 to 19) in his report dt: 16-03-2023 and that still some property/land exists and are available for partition and the same may be identified and distributed among the Five branches of the sharers. The objection Petitioners/defendants eventually pray to reject the report and survey the subject lands again and file fresh report.

92. As seen from the record, several reports were filed by different Receivers – cum – Commissioners. The last of such report is dated 16.03.2023. At the time of passing the Preliminary Decree there were 2 Plaintiffs and 26 defendants. Later the Legal heirs of the defendant were brought on record vide court orders and now as per the Cause Title there are

totally 94 defendants. It is pertinent to note that out of 94 defendants only 5 groups of defendants have filed the objections to the final Report dated 16.03.2023.

93. Considering the report in its entirety which has also considered the reports of all the earlier receivers, it appears that there are no lands available for partition and the Maqbara (Graveyard) cannot be divided.

94. Since the Receiver-cum-Commissioner in the Report dated 16.03.2023 which is considered as final report reported that there is no land available for partition, the arguments of the learned counsels for the objection petitioners/defendants cannot be accepted. Therefore, the irresistible conclusion is that there is no reason to reject the report. Accordingly the Report dt: 16-03-2023 is accepted and confirmed. The objection petitioners/defendants are not entitled for the reliefs. Point Nos.(i), (ii) & (iii) are answered accordingly.

Final Decree:

95. The record reveals that out of Item Nos.1 and 2 properties, Errum Manzil Palace was sold to the Government. The Government had also acquired the land for construction of staff quarters. Thereafter, a large extent of (5) hilly plots

were handed over to the shareholders. Subsequently, (5) smaller extents of flat plots were handed over to the shareholders. The building bearing H.No.6-3-252 was auctioned and sale proceeds were distributed to almost all the shareholders after collecting 3% of the share amount towards the Stamp Duty for Non-Judicial Stamps for engrossing Final Decree. The record reveals that the Non-Judicial Stamps were not deposited, in other matters, including Sy. No.49, as reflected in the Statement 'C' filed by the Receiver Mr. Mir Muzaffar Hussain.

Total Amount available in the Suit Account:

96. As per the report dated 16.03.2023, it is submitted that as per the information furnished by the Accounts Section of the High Court as on 10.03.2023 an amount of Rs.1,18,81,249/- (Rupees One Crore Eighteen Lakhs Eighty One Thousand Two Hundred and Forty Nine only) is available in the suit Account.

97. The said amount belongs to the sharers who have not claimed the amount so far and also the interest accrued thereon. In order to safeguard the amount, it is desirable to keep this amount in the Fixed Deposit of any Nationalized Bank to the credit of the suit for a specific period, extendable from time to time. Whenever the sharers approaches and claims the

amount, such claim shall be decided by a learned Single Judge as was done earlier in disposing of the cheque petitions, which can be filed under Rules 163 and 165 of Civil Rules of Practice.

MAQBARA:

98. As regards Maqbara (Graveyard) in Ameerpet, the Receiver-cum-Commissioner would submit that the Indian National Trust for Art and Cultural Heritage (INTACH), which is Spearheading the heritage awareness and conservation in India presented an Award to Maqbara in 2011. Therefore, it is desirable to save this heritage.

99. A Committee was appointed by the High Court to manage Maqbara (Graveyard) earlier. Now it appears that the committee is not functioning. It is further submitted that in the interest of parties, it is desirable to appoint a fresh Committee of five members by taking each member from five branches to look-after it. It is not liable for division as it is not Matruka.

100. **RESULT:**

a) The amount lying to the credit of the suit as on date shall be kept in Fixed Deposit in any of the Nationalized Bank to the credit of the suit and whenever the representatives/legal heirs of the parties to the suit approaches this Court and file Cheque

Petitions under Rules 163 and 165 of Civil Rules of Practice, such applications shall be decided in accordance with law as mentioned above.

b) Since the Maqbara (Graveyard) Committee, Nawab Fakhru'l Mulk Bahadur situated at Ameerpet, Hyderabad, is not functioning, a new Committee comprising of Five (05) members of Five (05) branches of the sharers would be appointed to look after the affairs of the said Maqbara (Graveyard) as and when an application is made on behalf of the family members of Five (05) branches of the sharers.

c) We place on record our appreciation the work of the Receivers-cum-Commissioners supporting us to dispose of the suit, which is of the year 1951. We also place on record our appreciation to the Registry in maintaining the records for the last as many as (73) years.

d) Mr. Mohd. Nizamuddin, Receiver-cum-Commissioner is hereby discharged from the capacity of Receiver-cum-Commissioner and an amount of Rs.1,50,000/- is fixed towards his Honorary remuneration as full and final settlement.

In the result, the Civil Suit in C.S. No.9/1 of 1951 is hereby closed.

ALOK ARADHE, CJ

N.V.SHRAVAN KUMAR, J

Date: 23.04.2024

Note: L.R. copy be marked.

B/o.

LSK*/mrm

Note: The Registry is directed to enclose a copy of the report submitted by Sri Mohammed Nizamuddin, District Judge (Retd.) Receiver-cum-Commissioner in C.S. No.9/1 of 1951, dated 16.03.2023 along with the order copy.