

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

WEDNESDAY, THE SIXTEENTH DAY OF OCTOBER  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

**WRIT APPEAL NO: 1497 OF 2013**

Writ Appeal under clause 15 of the Letters Patent preferred against the order dated 23.04.2013 made in Rev.W.P.M.P.No.38128 of 2010 in W.P.NO.965 of 1976 on the file of the High Court.

**Between:**

1. The Principal Chief Conservator of Forests, (Head of Forest Force), Andhra Pradesh, Aranya Bhavan, Hyderabad.
2. The Divisional Forest Officer, Mahabubnagar

**...APPELLANTS/PETITIONERS**

**AND**

1. Sri. C. Rajagopala Chari (Died), S/o. Ranga Chary Ro. Anjangiri (V), Wanaparthy (M). Mahaboobnagar District.
2. Sri C. Laxmana Chary - Alias, Laxmanachary chakravartulu, S/o. Late Sri C. Raja Gopala Chary, H.No.16-2-826/54, LIC Colony, Madhavanagar, Saidabad. Hyderabad - 500059.
3. Sri C. Shesha Chary, S/o. Late Sri C. Raja gopala chary, H.No.16-2-738/1, Asmangadh, Malakpet Hyderabad.
4. Sri C. Ramchandra Chary, S/o. Late Sri C. Raja gopala chary, H.No.17-34, Shankergunj, Wanaparthy - 509 104.
5. Sri C. Ranga Chary - Alias (DIED), Rangacharyulu Chakravartulu, S/o. Late Sri Vishnu Vardhana Chary H.No. 4-104, Prashanth Nagar GP, Raghavendra Chary Colony, Siddipeta - 509 104.
6. Sri C. Venugopal Chary - Alias, Venugopala Chary Chakravartulu, S/o. Late Sri C. Vishnuvardhana Chary, Grand S/o. Late Sri C. Laxmana Chary, H No.45-81/1, Basavannaguda, Ward No.15, Wanaparthy - 509105.
7. Sri. C. Laxmana Chary, S/o. C. Vishnu Vardhana Chary Junior Accounts Officer, O/o. Electricity Revenue Officer, Narayanpet, Mahabubnagar.
8. Sri C. Srinivasa Chary - Alias, Late Srinivasa Charyulu Chakravartulu, S/o. Late Sri C. Vishnuvardhana Chary, Grand S/o. Late Sri C. Laxmana Chary, H.No.45-81, Baswannaguda, Wanaparthy - 509105.
9. Sri C. Narsimha Chary - Alias, Narsimhamurthy Chakravartulu, S/o. Late Sri C. Laxmana Chary, H.No.1-6-62/A, New Maruthingar, Chaitanyapuri, Hyderabad - 500060.
10. Sri C. Kantirava Chary - Alias, Kantiravachary Chakravartulu, S/o. Late Sri C. Laxmana Chary, H.No.41-223 (Old 12-41-400) Teachers Colony, Wanaparthy - 509 104, Dist. Mahaboobnagar
11. Sri C. Vardha Chary Alias, Vardhachary Chakravartulu, S/o. Late Sri C. Laxmana Chary, H.No.2-1-1011, Saraswati Colony, Ring Road, Uppal, R.R.Dist.

12. Smt. C. Bhagya Laxmi, W/o. Late Sri. C. Partha Sarathi Flat No.207, Block No.19, Rain Tree Park, Malaysian township, Kukatpally, Hyderabad.
13. Sri C. Krishna Murthy - Alias, Krishnamurthy Chakravatulu S/o. Late Sri Parthasarati, Grand S/o. Late Sri C.LaxmanaChary, Flat No.207, Block No.19, Rain Tree Park, Malaysian township, Kukatpally, Hyderabad.
14. District Revenue Officer, Mahaboobnagar, -
15. Deputy Collector Gadwal, Mahaboobnagar District
16. The Tahsildar, Wanaparthy, Mahaboobnagar District.
17. Smt. Amrutavalli, w/o Late Sri Rangachari, aged 55 years, H.No. 4-104, Prashanth Nagar GP, Raghavendra Chary Colony, Siddipeta-509104.

(R17 is brought on record as L.R of deceased Respondent No.5 as per Court Order dated 02-04-2014 in WAMP. No.1146 of 2014.)

...RESPONDENTS

**I.A. NO: 1 OF 2013(WAMP. NO: 3024 OF 2013)**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in order dt. 23.4.2013 made in Rev. WPMP No. 38128 of 2010 in W.P.No. 965 of 1976 including the proceedings in E.P.No. 8 of 2012 on the file of additional District Judge-1, Mahabubnagar and also stay of payment of Mesne profits as ordered in File No. A/764/C1/71, dt. 4.4.2008 on the file of Forest Settlement Officer, Mahabubnagar, pending disposal of the Writ Appeal

**Counsel for the Appellants: SRI IMRAN KHAN FOR ADDL ADVOCATE  
GENERAL**

**Counsel for the Respondent Nos.1 TO 13 & 17: SRI C.B.RAM MOHAN REDDY  
Counsel for the Respondent Nos.14 TO 16: GP FOR REVENUE**

**The Court made the following: JUDGMENT**

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HON'BLE SRI JUSTICE J.SREENIVAS RAO**

**WRIT APPEAL NO. 1497 OF 2013**

**JUDGMENT:** *(per the Hon'ble Sri Justice J.Sreenivas Rao)*

This intra court appeal is filed aggrieved by the orders dated 23.04.2013 passed by the learned Single Judge of the erstwhile High Court of Judicature of Andhra Pradesh at Hyderabad in dismissing the Review W.P.M.P. No.38128 of 2010 in Writ Petition No.965 of 1976 filed by the appellants.

2. Heard Sri Imran Khan, learned Additional Advocate General appearing on behalf of appellants and Sri C.B.Rammohan Reddy, learned counsel appearing on behalf of unofficial respondents.

3. **Brief facts of the case:**

3.1 Respondent No.1 herein has filed Writ Petition No.965 of 1976 seeking a Writ of Mandamus directing respondent No.14-The District Revenue Officer, Mahaboobnagar to mutate his name in the revenue records (pahani patrik, sethwar and Khasra Pahani) pursuant to the Muntakab No.5091 dated 26.04.1954 and also sought direction to respondent No.16-Tahsildar, Wanaparthi not to levy Sivai Jamabandi (B Memos) on respondent No.1 in relation to Sy.Nos.6, 9, 17, 19, 23, 24 and 26 in Anjangiri hamlet, Wanaparthi Taluq, wherein he pleaded that the then Samsthan,

Wanaparthu gave grant of the subject property to his grandfather namely Lakshmanachari. After his death, his father namely Rangachari has moved the Samsthan, Wanaparthu, which was then under Court of Wards for succession and for Muntakab (Inam title deed). When the said proceedings are pending, his father died in 1942.

3.2 He further averred that in 1948, all the Samsthans including Wanaparthu Samsthan were amalgamated into Union of India. After the death of respondent No.1's father, respondent No.1 along with other legal representatives, have filed an application before the Court of Wards of Samsthan, Wanaparthu for Muntakab (Inam title deed) in their favour. After due enquiry, the Collector Mahabubnagar in 1954 has recommended through proceedings No.492, dated 07.04.1954 to the Nizam Aityat (Inams Commissioner), Hyderabad to grant the Muntakab (Inam title deed) in favour of respondent No.1. Basing on the same, the Muntakab was granted to respondent No.1 and other share holders by the Nizam Aityat on 26.04.1954 for the entire area of Ac.1346.29 guntas covered in Sy.Nos.1 to 49 in Anjangiri hamlet. Thereafter, Tahsildar, Wanaparthu, Mahabubnagar District issued proceedings in file No.3224/54 dated 15.05.1954 directing the Patwari of Anjangiri hamlet for compliance viz., to enter the names of

respondent No.1 and other share holders in the land revenue records like pahani and kharaza pani pursuant to the Muntakab (Inam title deed). Accordingly, the Tahsildar, Wanaparthi called upon respondent No.1 to produce the file No.3224/54 A8 before him. Accordingly, respondent No.1 produced the same. However, Patwari did not include Sy.Nos.6, 17, 19, 23, 24 and 42 admeasuring Ac.1007.39 guntas on the ground that the subject property belongs to the Government. At that stage, respondent No.1 had filed the above said Writ Petition No.965 of 1976.

3.3 The erstwhile High Court of Judicature, Andhra Pradesh at Hyderabad allowed the above said Writ Petition No.965 of 1976 on 26.07.1977 directing the respondents therein not to treat the lands covered by the Muntakab issued to respondent No.1, as Government lands and not to book his cultivation in B.Memo and impose Sivai Zamabandi and also directed respondent No.14 to mutate his name in the revenue records and the District Revenue Officer to dispose of the application of respondent No.1 for mutation as expeditiously as possible and communicate the order to respondent No.1.

3.4 Subsequently respondent No.1 and seven others have filed claim petition before the Forest Settlement Officer, Mahabubnagar against the Government of Andhra Pradesh, Forest Department

represented by the Divisional Forest Officer, Mahabubnagar claiming compensation in respect of the subject lands, on the ground that the subject lands were taken by the Forest Department and formed a notified forest. Basing on the said application, the Forest Settlement Officer after conducting enquiry passed Award in file No.A/764/C/1/71 on 29.07.1995 awarding compensation @ Rs.1,650/- per acre in favour of the claimants. Questioning the said Award, Government of Andhra Pradesh through the Divisional Forest Officer, Mahabubnagar filed appeal *vide* F.A. No.1 of 1995 on the file of the Additional District Judge at Mahabubnagar and the same was allowed in part reducing the compensation from Rs.1,650/- to Rs.700/- per acre by its judgment and decree dated 09.06.2003.

3.5 Aggrieved by the same, legal heirs of respondent No.1 herein and other claimants have filed Civil Revision Petition No.6432 of 2004 before the erstwhile High Court of Judicature, Andhra Pradesh at Hyderabad and the same was allowed in part by its order dated 20.09.2007, enhancing the compensation from Rs.700/- per acre to Rs.1,000/- per acre and further held that the claimants are entitled to all statutory benefits and interest @ 9% per annum for first one year and 15% per annum thereafter till the date of realization on the additional market value. Aggrieved by

the same, Government filed Special Leave Petition No.9906 of 2008 before the Hon'ble Supreme Court and the same was dismissed on 01.08.2008 and the said order has become final.

3.6 Thereafter respondent No.2 and nine others have filed Writ Petition No.23344 of 2008 questioning the action of respondents therein in not releasing/disbursing the compensation amount and other statutory benefits pursuant to the Award dated 29.07.1995 as revised in Civil Revision Petition No.6432 of 2004 on 20.09.2007 and the same was disposed on 12.12.2008 directing the respondents therein to pay compensation as directed in the above Civil Revision Petition, within a period of four weeks from the date of receipt of a copy of the said order. When the said order was not implemented, respondent No.2 and nine others have filed Contempt Case No.588 of 2009. In the said Contempt Case, the then learned Additional Advocate General submitted that the Government had already issued G.O.Ms.No.90, Environment, Forests, Science and Technology (FOR.I) Department, dated 16.09.2009 sanctioning an amount of Rs.38,04,590.70 paise as compensation in lieu of the land taken out from the possession of writ petitioners in Writ Petition No.23344 of 2008. The erstwhile High Court of Judicature, Andhra Pradesh, Hyderabad while

recording the above said submissions, closed the Contempt Case by its order dated 03.11.2009.

3.7 Aggrieved by the said order, respondent No.2 and others have filed Special Leave Petition (C) No.18473 of 2010 before the Hon'ble Supreme Court, on the ground that the amount determined by the Government is not in conformity with the orders dated 20.09.2007 passed in Civil Revision Petition No.5432 of 2004. The Hon'ble Supreme Court disposed of the said Special Leave Petition by its order dated 28.03.2011, observing that if the amount sanctioned/paid in favour of the claimants is not in adequate compliance with the orders passed in the above Civil Revision Petition, the proper remedy is to file an execution petition so that the execution Court can examine whether the payment has been made in terms of the above said order dated 20.09.2007 and also observed that the State will be entitled to file its objections before the execution Court and the execution Court will then decide the matter in accordance with law. Accordingly, the claimants have filed E.P. No.8 of 2012 on the file of I Additional District Judge, Mahabubnagar and the same is pending.

3.8 While things stood thus, appellants herein have filed Review W.P.M.P. No.38128 of 2010 seeking review the order dated 26.07.1977, passed in Writ Petition No.965 of 1976 contending



that the subject property belongs to the Forest Department only and respondent No.1 and others by suppressing several material facts have filed the above writ petition without impleading the Forest Department as a party respondent and obtained the order on 26.07.1977 and basing on the said order, they are claiming compensation and the Forest Settlement Officer, Mahabubnagar without verifying the records passed the order on 29.07.1995 in hurried manner in collusion with respondent No.1 and other claimants, as the said Officer retired on 30.07.1975, though the said proceedings are pending since 1971 and further stated that respondent No.1 and others have made an application before Chief Conservator, Andhra Pradesh for deletion of the land to an extent of Ac.992-00 in Sy.No.6 of Anjanagiri hamlet, Wanaparthy Taluk from concerned record and the said application was rejected on 16.08.1968 *vide* Ref.No.72384/64-G3 and without disclosing the said factum of rejection, respondent No.1 has filed Writ Petition No.965 of 1976 and obtained the order behind back of the appellants.

3.9 Appellants further raised ground that subject property belongs to the Military Government which took over Wanaparthy Samsthan on 09.09.1949. Thereafter, on 13.10.1949, Forests of Jagirs and Samsthan taken over under supervision of the

Government Forest Department. On 06.12.1950 forest land is notified that includes Acs.13,780-32 guntas of Wanaparthi village as a Forest land. The Nazim Atiyat Court is not having power to issue such Muntakab in favour of respondent No.1 and others and the same is contrary to the Hyderabad Forest Act. Learned Single Judge dismissed the review petition on 23.04.2013. Aggrieved by the said order, the appellants have filed the present writ appeal.

**4. Contentions of learned Additional Advocate General appearing on behalf of appellants:**

4.1 Learned Additional Advocate General contended that respondent No.1 and other claimants are claiming rights in respect of the subject property basing on the alleged Muntakab granted by Nazim Atiyat Court on 26.04.1954. Though as on the date of issuance of the said Muntakab, an extent of Acs.13,780-32 guntas of Wanaparthi village including the subject property was notified as Forest land through notification dated 06.12.1950, the Nazim Atiyat Court is not having authority or jurisdiction to issue Muntakab in their favour and the same is gross violation of the provisions of the Hyderabad Forest Act.

4.2 He further contended that respondent No.1 has filed Writ Petition No.965 of 1976 seeking mutation of his name in the revenue records pursuant to the Muntakab No.5091 dated

26.04.1954 and also sought another direction directing respondent No.3 therein not to levy Sivai Jamabandi on him. Respondent No.1 has filed writ petition against the revenue officials only without impleading the Forest Department as a party respondent and obtained the order behind their back. Basing on the said order, respondent No.1 and seven others have made a claim before the Forest Settlement Officer, Mahabubnagar, claiming compensation on the alleged ground that the lands were taken by the Forest Department in the year 1950, though the subject property is not belonging to them. He also submits that Forest Settlement Officer in collusion with respondent No.1 and other claimants before his retirement had passed Award in their favour awarding compensation @ Rs.1,600/- per acre on 29.07.1995 in hurried manner, and he retired from service on 30.07.1995.

4.3 He further contended that the application submitted by respondent No.1 and others for deletion of the land to an extent of Ac.992-00 in Sy.No.6 from the records as a Forest land, was rejected *vide* proceedings No.72384/64-G3, dated 16.08.1968. Respondent No.1 and others suppressing the above said fact filed Writ Petition No.965 of 1976 and obtained order.

4.4 He further contended that the entire claim is set up by respondent No.1 and other claimants claiming compensation and

rights over the subject property pursuant to the order dated 26.07.1977 in Writ Petition No.965 of 1976 only, especially they suppressed the material facts and obtained the above said order by playing fraud behind back of the appellants. As soon as it was brought to the notice of the appellants, they filed review application seeking review the above said order dated 26.07.1977. Learned Single Judge though having come to the conclusion that respondent No.1 has not mentioned the rejection of their request for release of the lands by the Special Secretary to the Government, Food and Agriculture Department, Andhra Pradesh, Hyderabad, dismissed the review petition and the same is contrary to law.

4.5 He vehemently contended that if any person obtained any order/decreed by playing fraud, the same can be questioned at any point of time and at any stage including in execution proceedings or in collateral proceedings and the delay and latches will not be applicable. Learned Single Judge without considering the same dismissed the review petition and the same is contrary to law.

4.6 In support of his contentions, he relied upon the following judgments:

- i) In **Kamlesh Devi Ahirwar vs. State of Madhya Pradesh through Principal Secretary, Women and Child Development**

**Department, Mantralaya Vallabh Bhawan, Bhopal and others<sup>1</sup>,**

High Court of Madhya Pradesh at Jabalpur held in para Nos.4 and

5 as follows:

“4. The fact remains that a specific finding is recorded by the learned writ court that the petitioner has obtained appointment on the basis of false and fabricated documents. The learned writ court heard the matter in analogous hearing with another writ petition being W.P.No.16107 of 2019 and at the time of hearing, a prayer is made for withdrawal of the writ petition, but the same was rejected by the writ court considering the fact that a fraud has been played in seeking appointment in the matter. Therefore, a direction was given for registration of an FIR and for issuance of a fresh advertisement for recruitment to the post in question. If the argument of the counsel for the appellant that the learned writ court has failed to consider the material placed before it is accepted, then the same can be a ground for review seeking for correction/modification in the order. But totally a new document is placed before the court or a new ground is raised before this court, the same will not constitute a ground of entertaining the writ appeal. The petitioner could have filed a review before the learned writ court seeking correction/modification in the order as the factual part of the order is to be corrected. The petitioner has chosen to file a writ appeal against the order passed by the learned writ court. He is unable to demonstrate before this court that the husband of the petitioner has not used the forged and fabricated document at the relevant point of time while obtaining the BPL card.

5. It is a trite law that fraud vitiates everything. If the appointment is being issued without following the due procedure and a fraud has been played for getting an appointment order, then appointment order itself is a nullity and void ab initio. The law with respect to grant of appointments or obtaining of benefits by playing fraud is settled by the Hon'ble supreme Court in the case of **A.V.Papayya Sastry Vs. Govt. of A.P.** reported in (2007) 4 SCC 221 wherein it has been held as under :-

22. It is thus settled proposition of law that a judgment, decree or order obtained by playing

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<sup>1</sup> 2024 SCC OnLine MP 2335

fraud on the court, tribunal or authority is a nullity and non est in the eye of the law. Such a judgment, decree or order--by the first court or by the final court--has to be treated as nullity by every court, superior or inferior. It can be challenged in any court, at any time, in appeal, revision, writ or even in collateral proceedings."

ii) In **The Divisional Forest Officer, W.G. District vs. The District Judge, West Godavari (WAMP No.2601 of 2009 in W.A. No.82 of 1998, dated 08.09.2010)**, the erstwhile High Court of Andhra Pradesh held as follows:

"The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. Courts of law are meant to impart justice between the parties. One who comes to the Court must come with clean hands. A person who's case is based on falsehood has no right to approach the Court. He can be summarily thrown out at any stage of the litigation, (**S.P. Chengalvaraya Naidu vs. Jagannath**<sup>2</sup>; **A.V. Papayya Sastry vs. Government of Andhra Pradesh**<sup>3</sup>), even in collateral proceedings. (**S.P. Chengalvaraya Naidu**)."

iii) In **State of A.P. and another vs. T.Suryachandra Rao**<sup>4</sup>, Hon'ble Supreme Court held in para No.15 as follows:

"Fraud" is a conduct either by letter or words, which induces the other person or authority to take a definite determinative stand as a response to the conduct of the

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<sup>2</sup> (1994) 1 SCC 1

<sup>3</sup> (2007) 4 SCC 221

<sup>4</sup> (2005) 6 SCC -149

former either by words or letter. Although negligence is not fraud but it can be evidence on fraud; as observed in **Ram Preeti Yadav vs. U.P.Board of High School and Intermediate Education**<sup>5</sup>.”

iv) In **Ram Chandra Singh vs. Savitri Devi and others**<sup>6</sup>, the Hon'ble Supreme Court held in para Nos.15 to 17 as follows:

“15. Commission of fraud on court and suppression of material facts are the core issues involved in these matters. Fraud as is well-known vitiates every solemn act. Fraud and justice never dwells together.

16. Fraud is a conduct either by letter or words, which induces the other person, or authority to take a definite determinative stand as a response to the conduct of former either by word or letter.

17. It is also well settled that misrepresentation itself amounts to fraud. Indeed, innocent misrepresentations may also give reason to claim relief against fraud.”

#### **5. Contentions of learned counsel appearing on behalf of unofficial respondents:**

5.1 Learned counsel appearing for unofficial respondents/writ petitioners contended that the then Samsthan, Wanaparthi gave grant of the subject property to Lakshmanachari who is none other than the grandfather of respondent No.1 on 07.06.1859 and

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<sup>5</sup> (2003) 8 SCC 311

<sup>6</sup> AIR ONLINE 2003 SC 537

since then he has been in possession and enjoyment of the said property. After his death, father of respondent No.1 namely Rangachari has moved the Samsthan, Wanaparthi which was under Court of Wards for succession and for Muntakab (Inam title deed) and when the said proceedings are pending, he died in the year 1942. After his death, respondent No.1 along with other legal representatives have filed application before the Court of Wards of Samsthan, Wanaparthi for Muntakab (Inam title deed) in their favour and the concerned authorities after following due procedure granted Muntakab (Inam title deed) in favour of respondent No.1 and other claimants on 24.06.1954. Thereafter, respondent No.1 submitted application before revenue authorities to mutate their names in revenue records and when they failed to consider the same, respondent No.1 filed Writ Petition No.965 of 1976 seeking mutation of his name in the revenue records and not to issue B.Memos in respect of Sy.Nos.6, 9, 17, 19, 23, 24 and 26 basing on the Muntakab (Inam title deed) dated 26.04.1954. In the said writ petition, Tahsildar, Wanaparthi Mandal has filed counter admitting the issuance of the Muntakab (Inam title deed) and also possession of respondent No.1, and after hearing both the parties, the erstwhile High Court of Andhra Pradesh, Hyderabad allowed the said writ petition on 26.07.1977.



5.2 He further contended that the respondent No.1 had not suppressed any material facts in the Writ Petition No.965 of 1976 and did not receive the alleged rejection letter dated 16.08.1968 and the subject property is not belonging to the Forest Department and their names were not reflected in any of the revenue records. The unofficial respondents have rightly made a claim seeking compensation before the Forest Settlement Officer. He further submits that before the Forest Settlement Officer, Wanaparthy, the appellant No.2 had disputed the ownership and claim of the unofficial respondents. The Forest Settlement Officer after considering the contentions of both the parties, oral and documentary evidence on record, passed Award dated 29.07.1995 by giving cogent findings holding that the claimants are inamdars of charity having full ownership and they are entitled for compensation @ Rs.1,650/- per acre. Aggrieved by the same, appellant No.2 had filed statutory appeal in F.A. No.1 of 1995 on the file of Additional District Judge, Mahabubnagar and the same was allowed in part reducing the compensation from Rs.1650/- per acre to Rs.700/- per acre. Questioning the said judgment and decree, the legal heirs of respondent No.1 and others have filed Civil Revision Petition No.6432 of 2004 and the same was allowed in part enhancing the compensation from Rs.700/- per acre to Rs.1,000/- per acre by its order dated 20.09.2007 and the said

order was confirmed by the Hon'ble Supreme Court in Special Leave Petition No.9906 of 2008. Hence, the grounds raised by the appellants that the unofficial respondents are not having any rights over the subject property, is not true and correct.

5.3 He further contended that when the appellants failed to implement the order dated 20.09.2007, legal heirs of respondent No.1 and others have filed Writ Petition No.23344 of 2008 and the same was disposed directing the appellants herein and other respondents therein to pay compensation as directed in Civil Revision Petition No.6423 of 2004 dated 20.09.2007 within four (4) weeks from the date of receipt of a copy of the order. When above said order was not implemented, petitioners in W.P.No.23344 of 2008 filed Contempt Case No.588 of 2009 and in the said contempt case, the then learned Additional Advocate General submitted that the Government had issued G.O.Ms.No.90, Environment, Forests, Science and Technology (FOR.I) Department, dated 16.09.2009 sanctioning Rs.38,04,590.70 paise as cash compensation in lieu of the land taken out from the possession of the writ petitioners and basing upon the said submissions, the erstwhile High Court of Andhra Pradesh closed the Contempt Case by its order dated 03.11.2009. Hence, the appellants are not entitled to contend that

the unofficial respondents are not having rights over the property by way of review.

5.4 He further contended that the appellants have filed review petition seeking review the order dated 26.07.1977 passed in Writ Petition No.965 of 1976 after lapse of more than 33 years simply alleging that the unofficial respondents played fraud, without assigning any reasons and the same is not maintainable under law, especially on the ground of delay and laches. He further contended that at no point of time, the appellants have placed any evidence or raised any grounds neither before the Forest Settlement Officer, Additional District Judge, Mahaboobnagar, in appeal or in Civil Revision Petition No.6423 of 2004 or before the Hon'ble Supreme Court in Special Leave Petition (C) No.18473 of 2010.

5.5 In support of his contention, he relied upon the following judgments:

i) In **State of Andhra Pradesh and others vs. T.Lakshmi Rambabu and others**<sup>7</sup>, High Court of Andhra Pradesh at Amaravathi held in para No.10 that:

“Perusal of the order of the learned Single Judge goes to show that ~~the~~ learned Single Judge had observed that

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<sup>7</sup> 2022(1) ALD 382.(AP) DB

even assuming that the provisions of the Limitation Act, 1963 with regard to the period of limitation for filing review application cannot be made strictly applicable to the review applications in the writ petitions, the review petitions are required to be filed within a reasonable time. The learned Single Judge may not be correct in holding that the Limitation Act, 1963 may not be applicable to the review applications in the writ petitions inasmuch as in the case of **M. Jagadeeswara Rao and others vs. The Divisional Forest Officer, Vizianagaram District and others in W.A.No.881 of 2006, dated 01.09.2006**, the Division Bench of this Court had categorically observed that the provisions of the Limitation Act are not applicable to the petition filed for review of an order passed by the High Court in exercise of powers under Article 226 of the Constitution of India. The learned Single Judge, however, observed that the review applications are required to be filed within a reasonable time. The Division Bench of this Court in M. Jagadeeswara Rao's case (supra) had also observed that High Court is not bound to entertain in each and every case the application for review ignoring unexplained delay of any length. However, it was made clear that the application filed for review of the order passed under Article 226 of the Constitution of India cannot be decided by invoking the provisions of Section 5 of the Act."

ii) In **Managing Director, Indian Immunological Limited, Hyderabad and others vs. Narendra Agrawal**<sup>8</sup>, the Division Bench of this Court held in para No.7 as follows:

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<sup>8</sup> 2021(4) ALD 480 (RS) (DB)

"The scope of review jurisdiction of the High Court under the provisions of the Code of Civil Procedure (CPC) and in writ petitions has come up for consideration before the Supreme Court and several High Courts on many occasions. It is well settled that the error, if any, in the order/judgment sought to be reviewed has to be evidenced and not to be found out by a process of reasoning. The review petition cannot be allowed to be "*an appeal in disguise*" and nor can an erroneous decision be "*reheard and re-corrected.*"

iii) In **Aribam Tuleshwar Sharma vs. Aribam Pishak Sharma and others**<sup>9</sup>, the Hon'ble Supreme Court held in para No.3 as follows:

"The Judicial Commissioner gave two reasons for reviewing his predecessor's order. The first was that his predecessor had overlooked two important documents exhibits A/1 and A/3 which showed that the respondents were in possession of the sites even in the year 1948-49 and that the grants must have been made even by them. The second was that there was a patent illegality in permitting the appellant to question, in a single Writ Petition, 'settlement' made in favour of different respondents. We are afraid that neither of the reasons mentioned by the learned Judicial Commissioner constitutes a ground for review. It is true as observed by this Court in (AIR 1963 SC 1909) there is nothing in Article 226 of the Constitution preclude a High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of

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<sup>9</sup>AIR 1979 SC 1047

justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all manner of errors committed by the Subordinate Court."

5.6 The learned Single Judge has rightly dismissed the review petition holding that there is no error apparent on the face of the record and there are no grounds to interfere with the order passed by the learned Single Judge and the present appeal is liable to be dismissed.

**6. Reply submission of the learned Additional Advocate General:**

6.1 Learned Additional Advocate General contended that respondent No.1 filed Writ Petition No.965 of 1976 against the revenue officials only, though he was mentioned in his affidavit that the forest officials are claiming rights over the property,

without impleading the Forest Department as a party respondent, obtained the order and basing on the said order only, respondent No.1 and others have made a claim before the Forest Settlement Officer, wherein the said Officer awarded compensation. As soon as the element of fraud brought to the knowledge of the appellants, they rightly filed the review petition seeking review the orders dated 26.07.1977 passed in Writ Petition No.965 of 1976, and the learned Single Judge without properly considering the contentions of the appellants erroneously dismissed the review petition. The judgments relied upon by the learned counsel for the unofficial respondents are not applicable to the facts and circumstances of the case on hand.

**Analysis of the case:**

7. We have considered the rival submissions made by the respective parties and perused the material available on record. Admittedly, unofficial respondents are claiming rights over the subject property through Lakshmanachari, who is none other than the grandfather of respondent No.1. The specific claim of respondent No.1 is that the then Samsthan, Wanaparthi given a grant of the subject property to his grandfather on 07.06.1859. After his death, his father namely Ranga Chary has moved the Samsthan, Wanaparthi, which was then under Court of Wards for

succession and for Muntakab (Inam title deed). When the said proceedings are pending, his father died in the year 1942 and in 1948 all the Samsthans including Wanaparthi Samsthan were amalgamated into Union of India. After the death of h.s father, respondent No.1 along with other legal representatives have filed application before the Court of Wards of Samsthan, Wanaparthi for Muntakab (Inam title deed) in their favour. The record reveals that the concerned authorities have issued Muntakab (Inam title deed) dated 24.06.1954 in their favour. Pursuant to the same, respondent No.1 has made application before the concerned authorities for mutation of their names in the revenue records and to issue direction to the Tahsildar, Wanaparthi not to issue B.Memos in future. When the said application was not considered, respondent No.1 filed Writ Petition No.965 of 1976 before the erstwhile High Court of Andhra Pradesh, Hyderabad for the following relief:

“.....a Writ of Mandamus directing the 1<sup>st</sup> respondent to mutate the name of the petitioner in the Revenue records (Pahani Patrik, Sethwar and Kharaza Pain) according to Muntakab 5091 dot. 26-4-54 and issue direction to the 3<sup>rd</sup> respondent not to levy Sivai Jamabandi (B Memos) on the petitioner in relation to S.Nos. 6, 9, 17, 19, 23, 24 & 26 in Anjangiri hamlet, Wanaparthi Taluq, pending disposal of the Writ Petition on the file of this Hon'ble Court and pass such further



order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

8. That the Tahsildar, Wanaparthy filed counter admitting the claim of respondent No.1 including issuance of Muntakab (Inam title deed). The said writ petition was allowed on 26.07.1977 and the operative portion of the order is reads as follows.

"..... when once the Muntakab was granted to the petitioner declaring him as Inamdar with respect to those lands, I do not see how B.Memos could be issued treating the lands as Government lands and as if he had encroached upon them. If the classification of the lands has not been changed pursuant to the Muntakab, it is not the fault of the petitioner. In these circumstances, I direct the respondents not to treat the lands covered by the Muntakab issued to the petitioner as Government lands and not to book his cultivation in B.Memo and impose Sivai Zamabandi. With regard to the petition dt.29-4-1972 filed by the petitioner before the District Revenue Officer, Mahboobnagar, the 1<sup>st</sup> respondent herein, to mutate his name in the revenue records, I direct the said District Revenue Officer to dispose it off as expeditiously as possible and communicate his order to the petitioner. With these directions, the Writ Petition is allowed with costs."

9. Subsequently, respondent No.1 and seven others have filed claim petition *viz.*, File No.A/764/C/1/71 under Sections 10 and 12 of Andhra Pradesh Forest Act, 1967 and under the provisions of the Land Acquisition Act, 1894 and amended Act 1984 before the Forest Settlement Officer, Mahabubnagar against the Government of Andhra

Pradesh, Forest Department, represented by Divisional Forest Officer, Mahabunagar who is appellant No.2 herein claiming compensation. The Forest Settlement Officer had framed the following issues:

- “1. Whether the claimants are Inamdars?
  2. Whether the lands in Sy.Nos.6 and 17 notified under section 4(1) of A.P. Forest Act, 1967 are Government lands or Inam lands vested with full ownership in the claimants?
  3. Whether the total extent of lands in Sy.Nos.6, 17/1, 17/2, are proposed for inclusion in the Forest, or not. Whether any counter claims for ownership of the said lands are filed?
  4. Whether the claimants are entitled for compensation as Inamdars, pattedars, whether it is necessary to get ownership under Inam Abolition Act for compensation?
  5. Whether the lands are in the control of the Inamdar/pattadar or in the control and possession of the Forest Department?
  6. Whether encroachers if any to this forest land is entitled for ownership?
  7. Whether encroachers filed any claim with a document admissible in evidence that the possession of land was prior to 1971 i.e., before notification under section 4(1) of A.P. Forest Act, 1967?”
10. That the Forest Settlement Officer, Mahabubnagar, after going through the contentions of the both the parties, oral and documentary evidence and also after hearing, passed Award on 29.07.1995, determined the compensation and held that claimants are entitled compensation @ Rs.1,650/- per acre.

11. In the above said Award, Forest Settlement Officer, Mahabubnagar, in respect of issue No.1 held that as per Exhibit A.1/S and Exhibit A.3/Muntakab, the claimants are the Inamdars of Chairty Inam lands having full ownership rights by paying land revenue. In respect of issue No.2, it was held that the Divisional Forest Officer, Mahabubnagar *vide* Lr.No.20.11.54/H4, dated 24.06.1965, reported that as per the Muntakab No.5091 of 1954, issued by the Nizam Atiyat, the claimants are having full rights in land but also on the tree growth, pursuant to the sethwars, in file No.B2/2803/73, dated 09.01.1979 issued by the Joint Collector, Survey and land records as well as orders in W.P.No.965 of 1976. Hence, the contention of the learned Additional Advocate General that pursuant to the orders dated 26.07.1977 in Writ Petition No.965 of 1976 only, the Forest Settlement Officer, Mahabubnagar passed the Award in favour of unofficial respondent-claimant is not tenable under law.

12. It is pertinent to mention that questioning the above said Award dated 29.07.1995, the Government of Andhra Pradesh represented by the Divisional Forest Officer, who is appellant No.2 herein filed statutory appeal in F.A. No.1 of 1995 on the file of the Additional District Judge at Mahabubnagar, disputing the ownership of the respondent No.1 and other/claimants as well as

awarding compensation. The learned Additional District Judge after going through the records and hearing the parties, allowed the appeal in part accepting the findings of the Forest Settlement Officer in respect of ownership of the claimants therein, however, reduced the compensation from Rs.1,650/- per acre to Rs.700/- per acre by its judgment and decree dated 09.06.2003. Questioning the same, respondent No.1 and other claimants have filed Civil Revision Petition No.6432 of 2004 before the erstwhile High Court of Judicature, Andhra Pradesh at Hyderabad and the same was allowed in part enhancing the compensation from Rs.700/- per acre to Rs.1,000/- per acre by its order dated 20.09.2007. Aggrieved by the same, appellant No.2 herein filed Special Leave Petition No.9906 of 2008 and the Hon'ble Supreme Court dismissed the same by its order dated 01.08.2008 and the same has become final.

13. The record further reveals that the legal representatives of respondent No.1 and others have filed Writ Petition No.23344 of 2008 before the erstwhile High Court of Judicature, Andhra Pradesh, Hyderabad questioning the action of respondents therein in not paying compensation amount pursuant to the orders dated 20.09.2007 in Civil Revision Petition No.6423 of 2004. It is pertinent to mention here that the appellants herein were made as

party respondent Nos.2 and 5 in the above said writ petition and the same was disposed of on 12.12.2008 directing the appellants and other respondents therein to pay the compensation amount within a period of four (4) weeks. When the said order was not implemented, legal heirs of respondent No.1 and other claimants have filed Contempt Case No.588 of 2009. In the said case, the then learned Additional Advocate General has made a submission that the Government had already issued G.O.Ms.No.90, Environment, Forests, Science and Technology (FOR.I) Department, dated 16.09.2009 sanctioning Rs.38,04,590.70 paise as cash compensation in lieu of the land taken out from the possession of respondent No.1 and others and basing upon the said submission, the above said contempt case was closed by its order 03.11.2009. It further appears from the record that the legal representatives of respondent No.1 and other claimants have filed Special Leave Petition (C) No.18473 of 2010 on the ground that the amount mentioned in the above said G.O.Ms.No.90 dated 16-09-2009 is not in terms of the order passed in Civil Revision Petition No.6432 of 2004 and they are entitled more amount. The Hon'ble Supreme Court disposed of the above said Special Leave Petition (C) No.18473 of 2010 granting liberty to the unofficial respondents-claimants to file execution petition and the execution court is competent to adjudicate the proceedings and also granted

liberty to the appellants to raise objections by its order dated 28.03.2011. The operative portion of the order reads as follows:

*“The amount to be paid is determined by the order dated 20.09.2007 of the High Court. If the petitioners feel that the amount sanctioned/paid is not in adequate compliance with the said order, the proper remedy is to file an execution petition so that the executing court can examine whether the payment has been made in terms of the said order dated 20.09.2007. As far as the contempt petition is concerned, the High Court was of the view that there was no willful disobedience and there was substantial compliance and, therefore, there was no need to proceed with the contempt petition. The order in contempt petition obviously does not determine the rights of parties.*

*In view of the above, this special leave petition is disposed of reserving liberty to the petitioners to file an execution petition before the concerned court for recovery of any amount, that is due according to them. It is needless to say that the State will be entitled to file its objections before the execution court and the execution court and the executing court will then decide the matter in accordance with law.”*

14. During the course of hearing, learned Additional Advocate General brought to the notice of this Court that the legal heirs of respondent No.1 and other claimants have filed E.P.No.8 of 2012

on the file of the I Additional District Judge, Mahabubnagar, and the same is pending.

15. It is pertinent to mention here that the appellants have filed Review Petition (WPMP No.38128 of 2010) on the sole ground that respondent No.1 filed Writ Petition No.965 of 1976 suppressing the material facts about rejection of their claim for releasing the inam land to an extent of Ac.992.00 in Sy.No.6 by the Chief Conservator of Forest, A.P, Hyderabad, on 16.08.1968 and without impleading the Forest Department as party respondent and the said writ petition was allowed on 26.07.1977 behind their back. The specific contention of the learned counsel for the unofficial respondents is that respondent No.1 nor any other claimants have received the above said letter. Admittedly, appellant No.2 is a party respondent in File NO.A/764/C/1/71 before the Forest Settlement Officer, Mahabunagar and questioning the Award dated 29.07.1995, passed in the above said case, Forest Department through appellant No.2 herein has filed statutory appeal in F.A. No.1 of 1995 on the file of the Additional District Judge at Mahabubnagar and the same was allowed in part on 09.06.2003. Aggrieved by same, legal heirs of respondent No.1 and other claimants have filed Civil Revision Petition No.6432 of 2004 wherein appellant No.2 was a party respondent and the same was

allowed in part on 20.09.2007. Aggrieved by the same, Forest Department through appellant No.2 herein filed Special Leave Petition No.9906 of 2008 and the same was dismissed on 01.08.2008. Subsequent to the above said orders, unofficial respondents have filed W.P.No.23344 of 2008 against the appellants herein and others and the same was disposed 12.12.2008, subsequently unofficial respondents filed CC.No.588 of 2009 and by virtue of payment of compensation amount through G.O.Ms.No.90 dated 16.09.2009 in favour of the claimants, the said Contempt Case was closed on 03.11.2009. Thereafter, the unofficial respondents have filed Special Leave Petition (C) No.18473 of 2010 and the same was disposed on 28.03.2011. In the above said proceedings, at no point of time the appellants have denied the claim of the unofficial respondents by producing the above said letter dated 16.08.1968 after lapse of more than 33 years.

16. It is also relevant to mention here that mere non availability of information or document will not create any right to the party to file review application and seek review of the order and the scope of review is very limited as enumerated under Order XLVII Rule 1 C.P.C., which reads as follows:

1. *Application for review of judgment*



(1) Any person considering himself aggrieved-

(a) by a decree or Order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or Order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or Order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or Order made against him, may apply for a review of judgment to the Court which passed the decree or made the Order.

(2) A party who is not appealing from a decree or Order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review. 1[Explanation-The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.

17. In **Shri Ram Sahu (dead) through legal representatives and others vs. Vinod Kumar Rawat and others<sup>10</sup>, Haridas Das vs. Usha Rani Bank (Smt.) and others<sup>11</sup>, and S.Madhusudhan**

<sup>10</sup> 2020(6) LAD 222 (SC)

<sup>11</sup> (2006) 4 SCC 78

**Reddy vs. V.Narayana Reddy and others**<sup>12</sup>, the Hon'ble Supreme Court held that the scope of review jurisdiction under Section 114 read with Order XLVII Rule 1 of C.P.C. is very limited, where error apparent on the face of record and not intended as a means for re-hearing or correcting mere errors. But, it is confined only to correct self-evident errors on the face of the record. These judgments emphasizes that errors must be self-evidence and not required to intricate reasoning for detection, while strictly adhering to the grounds outlined in the C.P.C. for review.

18. It is very much relevant to place on record that the Division Bench of this Court in **M. Ramulu v. Director Personnel**<sup>13</sup>, while considering the judgment of the Hon'ble Supreme Court, specifically held that a party is not entitled to seek a review of judgment merely for the purpose of rehearing and fresh decision of case. A review petition cannot be equated with original hearing of case, nor can be treated as appeal in disguise. Finality of judgment delivered by Court will be reconsidered except where glaring omission or patent mistake or like grave error has crept in earlier by judicial ability.

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<sup>12</sup> 2022 (5) ALD 174 (SC)

<sup>13</sup> 2018 (2) ALD 211 (DB)

19. In **Manoranjan Prasad sinha v. Managing Committee of Delhi**<sup>14</sup> the Hon'ble Supreme Court held that the power of review can be exercised for correction of a mistake and not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of powers. The review cannot be treated as an appeal in disguise. The mere possibility of two views on the subject is not a ground for review.

20. In a plethora of judgments, the Hon'ble Supreme Court as well as this Court has specifically held that the scope of review is very limited where there is an error apparent on the face of record or lack of due diligence. In the case on hand, the review application filed by the appellants is not within the ambit of Section 114 read with Order XLVII Rule 1 C.P.C.

21. For the foregoing reasons, this court does not find any grounds to interfere with the impugned order 23.04.2013 passed by the learned Single Judge, exercising the powers conferred under clause 15 of Letter Patents.

22. However, liberty is reserved to the appellants to file the objections which are available under law, in E.P.No.8 of 2012 on the file of the I Additional District Judge, Mahabubnagar, pursuant

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<sup>14</sup> 2013 (2) JCR 653

to the orders dated 28.03.2011 passed in Special Leave Petition (C)  
No.18473 of 2010 of the Hon'ble Apex Court.

23. With the aforesaid liberty, this Writ Appeal is dismissed.  
There shall be no order as to costs.

**//TRUE COPY//**

**SD/-T. KRISHNA KUMAR**  
**DEPUTY REGISTRAR**  
*[Signature]*  
**SECTION OFFICER**

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**(For His Lordships Kind Perusal)**  
**AND**  
**One Fair Copy to the Hon'ble Sri Justice J.SREENIVAS RAO**  
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PSK

BS *K.P.*

**HIGH COURT**

**DATED:16/10/2024**

**JUDGMENT**

**WA.No.1497 of 2013**



**DISMISSING THE WRIT APPEAL  
WITHOUT COSTS.**

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