V. SWARAJYALAXMI AND ORS. A

v.

AUTHORISED OFFICER, LAND REFORMS, MEDAK AND ORS.

APRIL 16, 2003

[K.G. BALAKRISHNAN AND D.M. DHARMADHIKARI, JJ.] B

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973—Section 23—Exemption for surplus land—Entitlement of—Land mortgaged in favour of Bank—Subsequent passing of Ceiling Act—Tribunal holding surplus land liable to be surrendered to the Government—Appellate Tribunal holding land exempt from the Act—Justification of—Held: Bank is only a simple mortgagee having no possession over the land—Bank not acquiring title over the land pursuant to recovery of the mortgaged debt due to the bank—Thus, Bank has no saleable interest over the lands—Hence declarants not entitled to exemption for the surplus land under Section 23(f). C D

Section 11—Vesting of land surrendered—Mortgagee of land—Right to proceed against land for realization of mortgage money—Held: Mortgagee has no such right since land being surplus land has been surrendered—Such land vests in the Government free from all encumbrances. E

Constitution of India, 1950—Article 136—Interference—Scope of—Held: Jurisdiction under the Article can be invoked only to advance cause of justice—However, when setting aside of the judgment of High Court results in resurrection of series of other illegal orders passed by subordinate courts, this Court may not interfere. F

In 1968, owners of 300 acres of land mortgaged the land in favour of bank and obtained a loan. Subsequently Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 came into force. Owners of land filed declarations. Tribunal held that half of the extent measuring 300 acres was surplus land under the Act which was to be surrendered to the Government. Bank challenged the order. On remand Tribunal again confirmed its earlier order. Meanwhile, Bank filed a suit for realisation of the mortgage money. Suit was decreed. Bank filed execution petitions and also filed appeals before the Appellate Tribunal. It contended that they be permitted to proceed with the recovery of mortgage money, even G H

A against the land which was found to be surplus at the hands of the mortgagors. Appellate Tribunal allowed the appeals. Pursuant to the order of the Tribunal State took over the surplus land. Thereafter, on the basis order of the Appellate Tribunal, Bank brought the surplus land under court auction sale. Appellants purchased the land in a court auction sale. However, before the confirmation of sale and issue of sale certificate, State B Government challenged the sale. Executing Court held that the Bank did not acquire the land in the course of recovery of the amount due to them and thus, the land was not exempted under Section 23(f); and that the Bank held only the right to security in respect of that land. Accordingly it set aside the sale.

C

Appellant-purchasers challenged the order. It was found that the private sale was effected for inadequate consideration by playing a fraud. Thereafter order granting permission to the judgment debtors/declarants to sell the surrendered land by private negotiation was set aside. Executing Court then pursued the matter further and assumed that the sale had been D set aside as the same was for inadequate consideration. It increased the value of the land and issued the sale certificate in favour of the appellants. Thereafter, Returning Officer took steps to distribute the surplus land and to prepare assignment proposals. Appellate Tribunal set aside the proceedings. However, High Court set aside the order of the Appellate E Tribunal and held that the surrendered land would have to be distributed among landless poor persons as envisaged by the Ceiling Act and the Rules framed thereunder. Hence the present appeal.

Appellant-purchaser contended that the Bank was a mortgagee of the land in question and the land held by the Bank is specifically exempted F under Section 23(f); that the order passed by the Appellate Tribunal permitting the Bank to sell the surplus land in the Court auction sale to realize the mortgage amount due to it was perfectly valid; that this order had become final and binding as between the parties *inter-se* as it was not challenged by the State; that the appellants being *bona fide* purchasers of the surplus land in a court auction sale, they are entitled to get the G protection of their title and the courts have to give utmost sanctity to the court auction sale; that when the sale certificates are not set aside, the same cannot be done subsequently in the collateral proceedings; and that the land was neyer surrendered to the State as surplus land.

Respondent contended that the Bank had no saleable interest over H

the lands which were already surrendered by the declarants and the Bank being a simple mortgagee had no possession over the lands to claim protection under Section 23(f); that even if it is assumed that the Bank had held the land, the same is not liable to be exempted unless the land was acquired by the Bank in pursuance of the recovery of the mortgage debt due to the Bank; and that the Execution Court itself had set aside the order permitting the land for court auction and therefore, the order granting permission never revived and so the issuance of sale certificate in favour of the appellants was illegal and they did not acquire any right over the land.

State contended that after passing of the first order by the Tribunal, surplus land was taken over by State Government the same could not be distributed to the landless persons in view of subsequent pending judicial proceedings.

Dismissing the appeal, the Court

HELD: 1. First and second Provisos to Section 23 (f) of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 would apply only in respect of lands acquired by co-operative societies or banks. In the instant case, Bank had not acquired title over the lands in question pursuant to the recovery of the mortgage money due to them. The Bank was not holding the land on behalf of the declarants/mortgagees. There was only a simple mortgage in favour of the Bank and the Bank never held or possessed the land either as a mortgagee or otherwise. Moreover, when the Act came into force, the Bank had not even filed the suit for recovery of the amount due under the mortgage nor obtained a decree against the mortgagor. The preliminary decree in the suit filed by the Bank was passed. The Bank did not acquire any title in respect of the mortgaged land when the Act came into force. Thus, for the surplus lands the declarants were not entitled to get exemption under Section 23(f) of the Act. [584-E-G]

2.1. By virtue of Section 11 of the Act, any land which is surrendered or is deemed to have been surrendered under the Ceiling Act will vest in the Government free from all encumbrances from the date of the order. As against this land, certain claims of liabilities could be enforced. If such claim or liability is in respect of the amount payable under the Act, the same could be enforced. If however, the claim or liability is in respect of the land which has been surrendered, such claimant could enforce the right

A only against any other property of the owner. Bank had no right to proceed against this land for realisation of the mortgage money due to them from the mortgagor. Therefore, the permission granted by the Appellate Tribunal to the Bank to proceed with the recovery of money due to them against surplus land was without jurisdiction and the Execution Court rightly held that the surplus land cannot be brought to
B sale for realization of the mortgage money. [585-F-H; 586-A]

2.2. It cannot be said that the order passed by the Appellate Tribunal permitting the banks to proceed with the recovery of money due to them against surplus land was not challenged and thus it had become final, since
C the order is without jurisdiction. It is for the Execution Court to decide as to whether the Court has got jurisdiction to proceed against any land pursuant to the decree passed by the Court. Further, the decree-holder can bring to sale only the rights, if any, of the judgment debtors over the land. Once an extent of land was declared to be surplus land and it came to vest in the Government under Section 11 the original declarants ceased
D to have any right or title over that land. When an original judgment-debtors had no saleable interest in the land, nothing could have been sold by the court in the execution proceedings. [586-B-D]

2.3. The sale conducted by the court should be give due sanctity and the purchaser's rights be protected to the extent allowed by law. But when
E the judgment debtors had no saleable interest, no title would pass on to the purchaser. Even if it is assumed that the sale was validly done, no title could be said to have passed to the purchasers as the Bank had no saleable interest in the surplus lands declared by the judgment debtors. [586-D-E]

F 2.4. The order of the execution court that the land was not liable to be sold as it was surplus land at the hands of the declarants and it vested with the Government was not set aside in any subsequent proceedings. This order was further fortified by the High Court. Inspite of these orders, the Execution Court issued the sale certificate in favour of the appellants, which is erroneous. It is true that this order was challenged by the State
G unsuccessfully. But in the absence of a valid title having been acquired in law by the purchasers over the surplus lands, the whole proceedings pursuant to the court auction sale are vitiated and the Single Judge of High Court has rightly set aside the order passed by the Appellate Tribunal. [586-E-G]

H 3. There is no doubt that the jurisdiction under Article 136 could be

invoked only to advance the cause of justice. Even if it is assumed that the Single Judge of High Court exceeded in his jurisdiction by passing the impugned judgment, this Court may not interfere with the same as the setting aside of the judgment of the Single Judge would result in resurrection of a series of other illegal orders passed by the subordinate courts. Thus there is no reason to interfere with the judgment of the Single Judge of High Court. [588-C, D]

Ashok Nagar Welfare Association and Anr. **v.** *R. K. Sharma and Ors.*, **[2002] 1 SCC 749;** *Narpat Singh and Ors.* **v.** *Jaipur Development Authority and Anr.*, **[2002] 4 SCC 666 and** *Dhakeswari Cotton Mills Ltd.* **v.** *Commissioner of Income Tax,* **AIR [1955] SC 65, referred to.**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1881 of 1999.

From the Judgment and Order dated 2.7.1998 of the Andhra Pradesh High Court in CR.P. No. 4627 of 1997.

Shanti Bhushan, L.N. Rao, Sanjay Pathak, Ms. Bina Madhavan, M. Kale, J. Mutraj and Ms. Promila for the Appellant.

Smt. K. Amareswari, T.V. Ratnam and G. Venkatesh for the Respondent.

The Judgment of the Court was delivered by

K.G. BALAKRISHNAN, J. This appeal is preferred against the judgment of the learned Single Judge of the High Court of Andhra Pradesh dated 2.7.1998 in Civil Revision Petition No. 4627 of 1997. The appellants are purchasers of land in a court auction sale. The land in question originally belonged to M/s Yadavendra Plantations. Yadavendra Plantations were owners of 300 acres of land at Kandi village in Medak District of Andhra Pradesh. In 1968, M/s. Yadavendra Plantations mortgaged the said 300 acres of land in favour of State Bank of India and obtained a loan of Rs. 5 lakhs for setting up a hybrid seed farm. The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (hereinafter referred to as "the Ceiling Act") came into force on 1.1.1973. The owners of the land, namely Yadavendra Plantations filed three declarations under Section 8 (1) of the Ceiling Act before the Land Reforms Tribunal. The Tribunal held that out of the 300 acres owned by them, 150 acres of land was surplus land liable to be surrendered to the Government. State Bank of India, which was not made a party in the proceedings before the Land Reforms Tribunal, filed three appeals

A before the Land Reforms Appellate Tribunal challenging the orders of the Land Reforms Tribunal. The matter was remanded to the Land Reforms Tribunal which again confirmed its earlier order holding that half of the extent admeasuring 300 acres was excess land under the Ceiling Act.

State Bank of India, meanwhile, filed a suit registered as O.S. No. 27 B of 1973 for realisation of the mortgage money. After the said suit was decreed on 29.8.1975 and a final decree was passed on 5.8.1976, State Bank of India filed three Execution Petitions bearing No. 1 of 1977, No. 46 of 1977 and No. 5 of 1980 before the Subordinate Judge, Sangareddy. A sum of Rs. 10 lakhs was due to the State Bank of India under the mortgage executed by the C original mortgagor. State Bank of India, in the meantime, also filed three appeals before the Land Reforms Appellate Tribunal against the revised order passed by the Land Reforms Tribunal. In those appeals, the Bank contended that they be permitted to proceed with the recovery of mortgage money, even against the land which was found to be surplus at the hands of the three declarants who were the mortgagors. The Land Reforms Appellate Tribunal D was under the impression that under Section 23 of the Ceiling Act, the land mortgaged to the Bank was exempted from the provisions of the Ceiling Laws and permitted the Bank to proceed with the recovery of the money due to them against the land which was found to be surplus at the hands of the declarants. It is relevant to note here that pursuant to the order passed by the E Land Reforms Tribunal, the surplus land was taken over by the State on 25.2.1976 under Section 11 of the Ceiling Act. On the strength of the order passed by the Land Reforms Appellate Tribunal, the State Bank of India sought to bring the surplus land under court auction sale. As there were no bidders, steps were taken to sell this land by private negotiations and the surrendered land was thus sold by private negotiations on 22. 7. 1981.

F

Before the sale was confirmed, the appellants herein deposited the sale proceeds on 22.7.1981. However, before confirmation of the sale and issue of the sale certificate, the State Govt. filed. E.A. No. 68 of 1981 for setting aside the private sale which was effected pursuant to the permission granted earlier in E. A. No. 51 of 1981 dated 21. 7. 1981. In an affidavit filed in those G proceedings, the Joint Collector stated that the land had already been surrendered by the declarants and it vested in the State free from all encumbrances and that the land was not liable to be sold in court auction sale. It was also contended that in the sale held pursuant to the order in E. A. No. 51 of 1981, the State was not given notice and as the land was in the H possession of the State, the same was not liable to be sold. The Executing

Court passed an elaborate order on 7. 8. 1981 and set aside the order in E. A. No. 51 of 1981 dated 21.7.1981. In that order, the Executing Court held that the Bank did not acquire the land in the course of recovery of the amount due to them and, therefore, the land was not exempted under Section 23(f) of the Ceiling Act and that the Bank had held only the right to security in respect of that land. It was held that the Section 23 (f) of the Ceiling Act was not applicable and the court also noticed that under Section 11 of the Ceiling Act, the Bank could have proceeded only against the compensation amount, if any, payable to the land owners. The court, in paragraph 11 of the order dated 7. 8. 1981 made the following directions :

> "In the result, I find that the said Order of the Court passed in E. A. No. 51/81 in E. P. No. 24/81 dated 21.7.1981 is contrary to express provisions of law and is liable to be set aside. Therefore, this application is allowed with costs and the private sale ordered on 21.7.1981 is set aside. "

The order passed by the Executing Court setting aside the sale conducted on 21.7.1981 was challenged before the High Court in C.R.P. No. 3364 of 1981. The learned Single Judge of the High Court held that the matter required an inquiry whether there was any irregularity in conducting the sale and whether all the parties, including the State Govt., were given opportunity to adduce evidence. When the matter was considered by the Executing Court again, it was found that the private sale was effected for inadequate consideration by playing a fraud and a substantial injury was caused to the State. Again, this order was challenged by the judgment-debtors/declarants in C.R.P. No. 495 of 1985. The matter was considered in detail by the High Court and the order dated 21.7.1981 in E.A. No. 51 of 1981 granting permission to the judgment debtors/declarants to sell the surrendered land by private negotiation was set aside. This order in C.R.P. No. 495 of 1985 had become final.

Despite the order passed in C.R.P. No. 495 of 1985 by the High Court, the Executing Court pursued the matter further and assumed that the sale had been set aside solely on the ground that the same was for inadequate consideration. The Execution Court increased the value of the land from Rs.3600 per acre to Rs. 7,000 per acre and issued the sale certificate in favour of the appellants herein. It may be noticed that there was no fresh proclamation nor any step was taken by the Executing Court to sell the land as per the procedure prescribed under the Code of Civil Procedure. Against the sale certificate issued to the appellant, the State preferred an application

A to set aside the confirmation of that sale, but the same was dismissed as time-barred.

On 9.4.1992, the Revenue Divisional Officer, Sangareddy, wrote a letter to the Mandal Revenue Officer, Sangareddy, requesting him to take steps to distribute the surplus land to the extent of 148.74 acres and to prepare B appropriate assignment proposals. However, those proceedings were set aside by the Land Reforms Appellate Tribunal in L.R.A . No. 34 of 1992 filed by the appellants, who are the alleged purchasers of the land in question. It appears that while passing the order dated 7.2.1994, the Land Reforms Appellate Tribunal was again under the erroneous impression that State Bank C of India had the authority to proceed against the land which was found to be surplus at the hands of the declarants. This order of the Land Reforms Appellate Tribunal was challenged in C. R.P. No. 4627 of 1997. The learned Single Judge of the High Court of Andhra Pradesh set aside the same and held that the surrendered lands would have to be distributed among landless poor persons as envisaged by the Ceiling Act and the Rules framed thereunder. D The learned Judge further held that the order dated 9.4.1992 was passed for the purpose of distribution of the surplus land among landless poor persons, for which necessary proposals for assignment of the land were to be made, and that there was no illegality or irregularity in the said order of the Revenue Divisional Officer. Aggrieved by this order, the present appeal by special E leave is filed.

We heard learned Senior Counsel, Shri Shanti Bhushan, for the appellants, and Smt. K. Amareswari, on behalf of the State. Elaborate arguments were advanced by the counsel for the appellants. It was contended that State Bank of India was a mortgagee of the land in question and the land F held by the Bank is specifically exempted under Section 23 (f) of the Ceiling Act and that the order passed by the Land Reforms Appellate Tribunal on 9.11.1977 permitting the Bank to sell the surplus land in the court auction sale to realise the mortgage amount due to it was perfectly valid. It was further urged that this order was not challenged by the State and thus it had become final. It was also argued that even if it is assumed that it was an G erroneous order, it is binding as between the parties inter-se and the principles of res judicata under Section 11 of the Code of Civil Procedure would apply. The learned Senior Counsel urged that the appellants had purchased the surplus land in court auction sale and being *bona fide* purchasers in a court auction sale, they are entitled to get the protection of their title and the courts H have to give utmost sanctity to the court auction sale.

Learned Senior Counsel for the respondent, on the other hand, contended that State Bank of India had no saleable interest over the lands which were already surrendered by the declarants and the State Bank of India being a simple mortgagee had no possession over the lands to claim protection under Section 23(f) of the Ceiling Act. It was further pointed out that even if it is assumed that the Bank had held the land, the same is not liable to be exempted unless the land was acquired by the Bank in pursuance of the recovery of the mortgage debt due to the Bank. Learned Counsel also pointed out that the Execution Court itself had set aside the order permitting the land for court auction sale by its order dated 7. 8. 1981 and therefore, the order in E. A. No. 51 of 1981 dated 21. 7. 1981 never revived and the issuance of sale certificate in favour of the appellants was illegal and they did not acquire any right over the land.

It is not disputed that an extent of 148. 74 acres of land was found to be surplus at the hands of the original declarants. The State would contend that after the passing of the first order by the Land Reforms Tribunal, the surplus land was taken over by the State Govt. and the same could not be distributed to the landless persons in view of the subsequent pending judicial proceedings.

The appellants would contend that the land was never surrendered to the State as surplus land, though it is not contended either that this was not the surplus land. The mortgage in favour of State Bank of India was a simple mortgage and the Bank had never been in possession of the land. Furthermore, the Bank did not acquire any right of ownership over the land. The Bank had only a right to recover the mortgage money due under the mortgage and the Bank could have proceeded against this land had it not been declared surplus at the hands of the declarants.

Few provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 are relevant to be considered for the purpose of this case. Under Section 23 of the Act, certain categories of land are exempted from the provisions of the Ceiling Act . The relevant portion of Section 23 is as under :

> "23. Exemption:- Nothing in this Act shall apply to the following lands, namely:-
>
> (a) .....
>
> (b) .....

A (c) .....

(d) .....

(e) .....

(f) lands held by a bank;

B (g) .....

(h) ....."

The first and second Provisos to Section 23 read thus:

C "Provided that where any of the lands specified in clause (a), (b), (c), (d), (e), (f), or (g), are held by any person other than the authority, institution, body corporate or society specified in such clause, whether as a tenant or usufructuary mortgagee or otherwise, the provisions of this Act shall apply to such person in respect of such land;

D Provided further that the exemptions under item (ii) of clause (e) and clause (f) shall be available *only in respect of the lands acquired by such co-operative societies or banks in pursuance of the recovery of their dues.* "

The above Provisos would indicate that Section 23(f) would apply only E in respect of lands acquired by co-operative societies or banks. In the instant case, State Bank of India had not acquired title over the lands in question pursuant to the recovery of the mortgage money due to them. The Bank was not holding the land on behalf of the declarants/mortgagees. There was only a simple mortgage in favour of the Bank and the Bank never held or possessed the land either as a mortgagee or otherwise. Moreover, when the Ceiling Act F came into force, the Bank had not even filed the suit for recovery of the amount due under the mortgage nor obtained a decree against the mortgagor. The preliminary decree in the suit (No. 27 of 1973) filed by the Bank was passed on 29. 8. 1975. The Bank did not acquire any title in respect of the mortgaged land when the Ceiling Act came into force. By no stretch of G imagination, it could be held that for the surplus lands the declarants were entitled to get exemption under Section 23(f) of the Ceiling Act.

It is unnecessary for us to refer to the definition of "holding" contained in Section 3(i) of the Ceiling Act, as the State Bank of India had no case that it was either a limited owner or usufructuary mortgagee or in possession of H the land by virtue of a mortgage by conditional sale. The legal status of the

Bank being a simple mortgagee, the surplus land will not come under any of the categories mentioned in the definition of "holding" under Section 3(I) of the Ceiling Act.

The next question that arises for consideration is whether the State Bank of India, which was a mortgagee of the land, had any right to proceed against that property for realisation of the mortgage money. Relevant provision in that behalf is Section 11 of the Ceiling Act, which is to the following effect:

> "11. Vesting of land surrendered :- Where any land is surrendered or is deemed to have been surrendered under this Act by an owner the Revenue Divisional Officer may, subject to such rules as may be prescribed by order take possession or authorise any officer to take possession of such land which shall thereupon vest in the Government free from all encumbrances from the date of such order :
>
> Provided that any claim or liability enforceable against that land immediately before the date of vesting in the Government may be enforced only
>
> (I) against the amount payable under this Act in respect of such land; and
>
> (ii) against any other property of the owner;
>
> to the same extent to which such claim or liability was enforceable against that land or other property, as the case may be, immediately before the date of vesting. "

By virtue of Section 11 of the Ceiling Act, any land which is surrendered or is deemed to have been surrendered under the Ceiling Act will vest in the Govt. free from all encumbrances from the date of the order. As against this land, certain claims or liabilities could be enforced. If such claim or liability is in respect of the amount payable under the Ceiling Act, the same could be enforced. If, however, the claim or liability is in respect of the land which has been surrendered, such claimant could enforce the right only against any other property of the owner. State Bank of India had no right to proceed against this land for realisation of the mortgage money due to them from the mortgagor. Therefore, the permission granted by the Land Reforms Appellate Tribunal was without jurisdiction and the Execution Court by its order dated 7.8.1981 had rightly held that the surplus land cannot be brought to sale for realisation of the mortgage money.

A Learned counsel for the appellants contended that the order passed by the Land Reforms Appellate Tribunal on 9.11.1977 was not challenged and therefore, it had become final and binding on the parties inter-se. We find no force in this contention. Firstly, it is an order without jurisdiction. It is for the Execution Court to decide as to whether the court has got jurisdiction to proceed against any land pursuant to the decree passed by the court. Secondly, B the decree-holder can bring to sale only the rights, if any, of the judgment-debtors over the land. Once an extent of 148.74 acres of land was declared to be surplus land and it came to vest in the Govt. under Section 11 of the Ceiling Act, the original declarants ceased to have any right or title over that land. When the original judgment-debtors had no saleable interest in the land, C nothing could have been sold by the court in the execution proceedings.

It is true that the sale conducted by the court should be given due sanctity and the purchaser's rights be protected to the extent allowed by law. But when the judgment debtors had no saleable interest, no title would pass on to the purchaser. Even if it is assumed that the sale was validly done, no D title could be said to have passed to the purchasers as the Bank had no saleable interest in the surplus lands declared by the judgment debtors.

Moreover, in this case, the Execution Court held in its order dated 7.8.1981 that the land was not liable to be sold as it was surplus land at the hands of the declarants and it vested with the Govt. This order was not set E aside in any subsequent proceedings. This order was further fortified by the order passed in C.R.P. No. 495 of 1985. In spite of these orders, the Execution Court issued the sale certificate in favour of the appellants, which was clearly erroneous. It is true that this order was challenged by the State unsuccessfully. But in the absence of a valid title having been acquired in law by the purchasers F over the surplus lands, the whole proceedings pursuant to the court auction sale are vitiated and the learned Single Judge has rightly set aside the order passed by the Land Reforms Appellate Tribunal.

The counsel for the appellants further pointed out that when the sale certificates are not set aside, the same cannot be done subsequently in a G collateral proceeding. The entire proceedings in this case have to be viewed in the backdrop of the power conferred under Article 136 of the Constitution on this Court, including the discretionary power to step in and to remedy the injustice resulting from incorrect interpretation of law. The scope and amplitude of the powers of this Court under Article 136 has been explained in series of H decisions of this Court. A Constitution Bench of this Court in *Dhakeswari*

Cotton Mills Ltd. v. *Commissioner of Income Tax,* AIR (1955) SC 65 observed as follows : A

> ".....It is not possible to define with any precision the limitations on the exercise of the discretionary jurisdiction vested in this court by the constitutional provision made in Article 136. The limitations, whatever they be, are implicit in the nature and character of the power itself. It being an exceptional and overriding power, naturally it has to be exercised sparingly and with caution and only in special and extraordinary situations. Beyond that it is not possible to fetter the exercise of this power by any set formula or rule. B
>
> All that can be said is that the Constitution having trusted the wisdom and good sense of the Judges of this Court in this matter, that itself is a sufficient safeguard and guarantee that the power will only be used to advance the cause of justice, and that its exercise will be governed by well established principles which govern the exercise of overriding constitutional powers. It is, however, plain that when the court reaches the conclusion that a person has been dealt with arbitrarily or that a court or tribunal within the territory of India has not given a fair deal to a litigant, then no technical hurdles of any kind like the finality of finding of facts or otherwise can stand in the way of the exercise of this power because the whole intent and purpose of this article is that it is the duty of this court to see that injustice is not perpetuated or perpetrated by decisions of courts and tribunals because certain laws have made the decisions of these courts or Tribunals final and conclusive. " C D E

In a recent judgment in *Ashok Nagar Welfare Association and Anr.* v. *R.K. Sharma and Ors.,* [2002] 1 SCC 749, this Court stated thus: F

> ".....It is well settled that Article 136 does not confer a right of appeal on any party, but it confers a discretionary power on the Supreme Court to interfere in suitable cases vide *State of Bombay* v. *Rusy Mistry.* The bar under Article 136 is potential but not compulsive and is undoubtedly meant to advance the cause of justice. " G

In *Narpat Singh and Ors.* v. *Jaipur Development Authority and Anr.,* [2002] 4 SCC 666, this Court observed :

> ".....The exercise of jurisdiction conferred by Article 136 of the Constitution on this Court is discretionary. It does not confer a right H

A to appeal on a party to litigation; it only confers a discretionary power of widest amplitude on this Court to be exercised for satisfying the demands of justice. On one hand, it is an exceptional power to be exercised sparingly, with caution and care and to remedy extraordinary situations or situations occasioning gross failure of justice; on the other hand, it is an overriding power whereunder the Court may generously step in to impart justice and remedy injustice. "

B

Even if it is assumed that the learned Single Judge exceeded in his jurisdiction by passing the impugned judgment, this Court may not interfere with the same as the setting aside of the judgment of the learned Single Judge would result in resurrection of a series of other illegal orders passed by the subordinate courts. There is no doubt whatsoever that the jurisdiction under Article 136 could be invoked only to advance the cause of justice.

C

We do not find any reason to interfere with the judgment of the learned Single Judge. The appeal has no merits and is dismissed accordingly with costs.

D

N.J. Appeal dismissed.