THE GOVERNMENT OF ANDHRA PRADESH AND ORS. A

v.

M. KRISHNAVENI AND ORS.

AUGUST 11, 2006

[DR. AR. LAKSHMANAN AND LOKESHWAR SINGH PANTA, JJ.] B

Urban Land (Ceiling and Regulation) Act, 1976—Sections 6, 8, 9 and 10—Urban Land (Ceiling and Regulation) Rules, 1976—Rules, 3 and 5—Hindu Succession Act, 1956—Section 14(1)—Declaration filed by original C *owner, wife and three sons—Declarations also filed by two of the three daughters claiming their share on the basis of a family arrangement which were given to them at the time of marriage as per custom—Draft statement determining surplus land and a Notice issued to the declarants for objections—Competent authority allotted lands to the sons only and not to the daughters being not entitled to any share in the property—All declarants except the* D *daughters gave no-objection for surrender of excess land—Final statement and a Notification issued in Official Gazette notifying the vestment of surplus land with the State—Compensation paid to the sons—Writ Petitions by sons and daughters challenging the order of the Competent authority claiming shares for the daughters on the basis on the basis of a family arrangement—* E *High Court directed the State to re-open the declarations—Correctness of—Held, on facts, in the case of the sons, final order of the competent authority is not arbitrary, perverse or illegal since they have voluntarily surrendered their excess lands and accepted compensation—Daughters are entitled to hold property as full owner in their own name and hence the order of the competent authority against them is quashed—Directions to the State to hold* F *an independent enquiry on the declarations filed by them—Daughter, who has not filed a declaration, cannot seek a similar relief as the remaining daughters.*

Original owner, who had three sons and three daughters, was owning land measuring 119 acres. The Urban Land (Ceiling and Regulation) Act, G **1976 came into force. Under the Act, the wife of the original owner filed a joint declaration of their shares in the land on behalf of herself, the original owner and three sons. Separate declarations were filed by the two daughters stating that the shares in the land were given to them as per a family**

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A arrangement at the time of their marriages as per their age-old custom. No declaration was filed by the third daughter. Competent Authority prepared a Draft Statement and issued a Notice to the declarants calling for objections determining surplus land. The Authority allotted one unit to the original owner, his wife and minor son jointly and one unit each to two major sons. The daughters were held not entitled to any share in the property. A Final B Statement was issued under section 9 of the Act confirming the Draft statement. A Notification acquiring excess land was issued and was published in the Official Gazette. A declaration was issued stating the vestment of the surplus land with the State free from all encumbrances. The State issued a notice under section 10(5) of the Act directing the declarants to surrender C the surplus lands. The declarants voluntarily surrendered possession of the surplus lands and received compensation amount in cash and in the form of Government Bonds.

The three sons and three daughters filed separate Writ Petitions before High Court challenging the final order of the Competent authority by claiming D respective shares of the married daughters on the basis of custom as per family arrangement and seeking exemption under a State Notification. A Single Judge of the High Court, by a common order, directed appellant-State to reopen the entire declarations. The Writ Appeals filed by the State were dismissed by the High Court.

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In appeal to the Court, the appellant-State contended that the Final statement and a Notification vesting of surplus lands with the State under the Act were issued only after getting no-objection from the respondent and after following various statutory proceedings under the Act; that the respondents have received their compensation for surrender of the surplus land; that the F High Court was wrong in directing reopening of the concluded statutory proceedings after nearly about two decades of attaining their finality; that the respondents cannnot claim now by applying the principle of estoppel or *res judicata;* and that the surplus land has already been allotted to a state Unit which is presently in occupation.

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The respondents-sons contended that the order of the statutory authority declaring the vestment of the surplus lands was invalid and illegal as no inquiry as contemplated under section 8 of the Act was conducted before preparing the Draft statement; that no Draft statement was ever served on them in the manner prescribed under the Rules to the Act; and that the

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principle of estoppel or *res judicata* cannnot be applied since the order of the authority was without jurisdiction. The respondents-two daughters contended that the family arrangement was valid and is a legal settlement under which they are given lands by their father at the time of marriage under an age-old custom conferring an absolute title of them to the property. The respondent-third daughter contended that the direction of the High Court to receive fresh declaration from her is not perverse or illegal; that no enquiry under section 8 of the Act was conducted and hence the vestment of her surplus land in the State was bad and illegal; and that she should also be given equal opportunity and treatment as was given to her other two sisters.

Disposing of the Appeals, the Court

HELD: 1.1. The scheme of the Urban Land (Ceiling and Regulation) Act, 1976 envisages an inquiry buy the authority and thereafter decide the objection raised by the contesting parties, i.e. it envisages application of mind to the controversy raised. The objections under Section 8(3) of the Act were invited but the respondents did not choose to file any objections and on the contrary they voluntarily surrendered the excess land to the State Government. Since the declarants did not file any objection as envisaged under the Act, in principle, it must be accepted that they had no objection in respect of their shares of the land having vested in the State Government. They have voluntary surrendered the excess land beyond the ceiling limit to the State Government free from all encumbrances, accepted the amount of compensation without raising any objection or claim and also handed over the vacant and to the State Government. The proceedings initiated and completed by the competent authority could not be found to be arbitrary, perverse or illegal on the facts of the case or in violation of the provisions of the Act andor Rules thereunder. [505-C-E-F; 506-B-C]

State of Orissa v. *Lochan Nayak (Dead) by LRs.*, [2003] 10 SCC 678, referred to.

1.2. Section 14(1) of the Hindu Succession Act, 1956 provides that any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner. Both daughters had acquired an absolute right in the lands given to them by their father in a family arrangement. They have made a categorical statement in the declarations filed by them immediately after the enforcement of the Act that they were the owners in possession of the lands to the extent of their respective shares. The competent authority has not

A considered the claim of the two declarants as no inquiry was conducted by the authority nor any notice was issued to them inviting their objections before final order concerning the vestment of land in excess of ceiling limit was recorded. The Plan shows that the lands given to the two daughters by their late father in a family arrangement is still lying vacant on the spot. As the competent authority has failed to exercise its jurisdiction vested in it by law, B the High Court has rightly quashed the proceedings taken against the two declarants ordering the vestment of their respective shares of lands in the State Government. The appellants are directed to hold an independent inquiry in terms of the provisions of the Act and Rules framed thereunder into the claims of the two declarants. [507-F-H; 508-A-G]

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Sarupuri Narayanmma and Ors. v. *Kadiyala Venkatasubbaiah and Ors.*, [1973] 1 SCC 801 and *Kale and Ors.* v. *Deputy Director of Consolidation and Ors.*, [1976] 3 SCC 119, referred to.

1.3. The respondent-third daughter did not file a statement before the D competent authority furnishing the details of land held by her as envisaged under Section 6 of the Act and the competent authority was not obliged to prepare draft statement of her share in the land and serve on her to enable her to file objections under Section 8 of the Act. Therefore, the respondent could not be allowed to contend that no inquiry under Section 8 of the Act was E conducted by the competent authority and that the vestment of her surplus land in the State Government was bad and illegal. The claim of the respondent to afford an opportunity to her after about two decades from the date of the vestment of her surplus land in the State Government could in no circumstances be equated and treated at par with her two sisters, who had filed their independent declarations immediately after the enforcement of the F Act. [509-C-E]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 5309-5314 of 2000.

From the Judgment dated 18.11.1999 of the High Court of Andhra G Pradesh at Hyderabad in W.A. Nos. 438 to 443 of 1999

Anoop G. Chaudhary, Manoj Saxena, Rajnish Kr. Singh, Sameena Ahmed, Rahul Shukla and T.V. George for the Appellants.

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Rajendra Choudhary, S.K. Dholakia, U.U. Lalit, S. Udaya Kumar Sagar, Bina Madhavan, Hari Kumar G., Goodwill Indeevar and Sumita Hazarika for the Respondents.

The Judgment of the Court was delivered by

LOKESHWAR SINGH PANTA, J. These Civil Appeals disposed of by this common judgment as they involve identical issues and questions of law. All the above appeals are filed by the State of Andhra Pradesh and its Special Officer and Competent authority, Urban Land Ceiling, against the common final judgment and order dated 18.11.1999 passed by the Division Bench of the High Court of Judicature, Andhra Pradesh at Hyderabad in Writ Appeal Nos. 438, 439, 440, 441, 442 and 443 of 1999. The Writ Appeals before the High Court arose out of six Writ Petitions filed by M. Krishnaveni, T. Satish Chander, P. Rukmini, T. Sri Ram Mohan, T. Sai Kumar and K. Pramila Rani respondents herein, wherein they challenged the order dated 23.7.1979 passsed by the Special Officer and Competent authority, Urban Land Ceiling, State of Andhra Pradesh, appellant No.2 herein, under Section 8(4) of the Urban Land (Ceiling and Regulation) Act, 1976 ordering the vestment of a portion of their land in the State under the Act.

The learned Single Judge of the High Court disposed of all the writ petitions by a common judgment and order dated 15.2.1999 directing the appellants herein to reopen the declarations of the sons and daughters of Late Thota Chinna Seetharamaiah on the basis of the family settlement dated 13.11.1970.

Aggrieved by the directions given by the learned Single Judge, the State preferred the above-said Writ Appeals before the Division Bench of the High Court. The Division Bench has dismissed the writ appeals and directed the appeallants to comply with the order passed by the learned Single Judge forthwith and till then, the land shown in the Map produced by the Assistant Director (Survey and Land Records) in blue lines shall not be altered, alienated, encumbered or disposed of by the allottee, *viz.*, the A.P. Special Police Force 8th Battalion.

Being dissatisfied and aggrieved by the Judgment and order of the Division Bench, the appellants have preferred the above Civil Appeals by way of special leave.

A The following factual matrix would be necessary to appreciate thee controversy and issues involved in these appeals. One Thota Chinna Seetaramaiah purchased land measuring acres 119.09 guntas in Survey Nos. 68/1,2; 214/1,2,3; 208 to 213 in Kondapur Village near Hyderabad City. He performed the marriage of his eldest daughter, K. Pramila Rani, respondent herein on 21.8.1964. His two other daughters, namely, P. Rukmini and M. B Krishnaveni, respodents were married on 9.6.1974 and 10.6.1974 respectively.

The Urban Land (Ceiling and Regulation) Act, 1976 [hereinafter referred to as 'the Act'] was passed by both the Houses of Parliament which came into force in the State of Andhra Pradesh and other States. The Act is C primarily intended to achieve the objectives to prevent the concentration or urban property in the hands of few persons; to bring about socialization of urban lands in urban agglomerations to subserve the common good by ensuring its equitable distribution; to discourage construction of luxury housing leading to conspicuous consumption of scarce building materials and to ensure equitable distribution and utilization of such materials; and to D secure orderly urbanization, etc. etc.

Section 2(i) of the Act defines a person as including an individual, a family, a firm, a company, or an association or body of individuals, whether incorporated or not. Section 4 of the Act deals with the ceiling limit in the E case of every person. Sections 4 and 5 of the Act lay down an elaborate procedure for determination of the extent of vacant land or the excess vacant land, for the purpose of calculating the extent of vacant land held by a person, the transfers made by him on or after 17.2.1975 but before the appointed day by way of sale, mortgage, gift, lease or otherwise have to be taken into consideration. If the person is a member of Hindu Undivided Family (HUF), F his estimated share in the vacant land held by HUF, is the relevant factor for deciding the extent of vacant land by the competent authority. Acquisition of excess vacant land is provided in Sections 6 to 11. Every person holding vacant land in excess of the ceiling limit is required to file a statement before the competent authority in the prescribed form, which provides for furnishing G details of every kind of land held by the person filing the statement (Section 6). On its basis, a draft statement is prepared and served on the person concerned to enable him to file objections (Section 8). Objections when filed are considered, disposed of and final statement with alterations consequent on the decision of objections is prepared (Section 9). Then follows a notification acquiring the excess vacant land by the concerned State Government [(Sectionn H 10(1))]. All persons interested in such vacant land shall file their claims at this

stage and their claims are determined, followed by a declaration vesting the property in the State free from all encumbrances w.e.f. a date specified in the declaration [Section 10(2) and (3)]. Section 11 lays down the principle on which the amount payable for such acquisition is deterimined. The amount payable to any person shall in no case excceed rupees two lakhs [Sec. 11(6). It is ascertained on the basis of income by taking the net average annual income for the preceding five years and multiplying it by 8-1/3. Where the vacant land does not yield any income the amount payable cannot exceed rupees ten per sq. metre in respect of land in Category A or B annd rupees five per sq. metre in respect of land in category C or D. The rate can be less, determinable on a number of considerations mentioned in Section 11(3). A decision of the competent authority on the matter of amount payable under Section 7 is appealable to an Urban Land Tribunal (Sec. 12). Second appeal from the Tribunal order lies to the High Courrt (Section 13). Where no appeal lies or no appeal hs been filed, power of revision of the decisions of the competent authority has been conferred on the State Government (Section 34).

The State Government has been given wide powers of allotment in respect of excess vacant land deemed to be acquired under this Act, or under any other law, to any person for any business, profession, trade, undertaking or manufacture on any terms and conditions. It may also retain or reserve any vacant land to be used for the benefit of the public. It may dispose of any such vacant land to subserve the common good (Section 23).

In exercise of the powers conffered by sub-section (1), read with sub-rule (2) of Section 46 of the Act, the Central Government has framed the Rules, called the 'Urban Land (Ceiling and Regulation) Rules, 1976' (hereinafter referred to as "the Rules"). Rule 3 deals with the filing of statement under Section 6 of the Act by a person holding excess lands within 212 days from the commencement of the Act and such statement shall contain the particulars specified in Form I (to be furnished in triplicate). Rule 5 prescribes particulars to be contained in draft statement as regards vacant lands and manner of service of the same. The draft statement shall be served, together with notice referred to in sub-section (3) of Section 8, on the holder of the vacant lands; all other persons, so far as may be known, etc. as envisaged under sub-rule 2(a) of the Rules. The notification under sub-section (1) of Section 10 shall be published for the information of the general public, in addition to the publication to be made in the Official Gazette of the State concerned, also (a) by affixing copies of the notification in a conspicuous place in the office of

A the competent authority and (b) by affixing copies of the notification in a conspicuous place in the office of the District Collector, Tehsildar and Municipal Commissionerr withinn the local limits of whose jurisidction the vacant land to which the notification relates is situated as per the procedure prescribed under Rule 6.

B The case of the parties before the High Court was that as on 17.02.1976, T. Chinna Seetharamaiah was mentally incapacitated. His wife Smt. T. Rama Tulsamma on behalf of her husband, for herself, two major sons, namely, T. Sri Ram Mohan, T. Satish Chandar, and monor son T. Sai Kumar, filed joint declaration of their shares to the land under Section 6 of the Act on 15.09.1976. C Declaration on behalf of Smt. P. Rukmini was filed by her brother T. Sri Ram Mohan and on behalf of Smt. Krishnaveni by her husband M. Mohan Rao. No declaration was filed by or on behalf of K. Pramila Rani, the eldest daughter of T. Chinna Seetharamaiah, whose marriage was performed on 28.01.1964. The declarants, Smt. P. Rukmini and Smt. M. Krishnaveni, in their declarations, declared that the shares in the land owned by their father were D given to them at the time of their marriage as *'Pasupu Kumkuma'* as per age-old custom and tradition among the community to which they belonged and such an allotment was approved by the High Court and the Supreme Court in their various earlier decisions. Under the scheme of the Act, T. Chinna Seetharamaiah, his wife Smt. T. Rana Tulsamma, and their minor son, T. Sai E Kumar, were together entitled to one unit whereas the two major sons, namely, T. Satish Chandar and T. Sri Ram Mohan, were entitled to one unit each. The declarations were filed by the declarants in Form I on 23.07.1979 giving details of the description of the property, its location and total extent of the land held by them. The competent authority on 23.07.1979 issued a Draft Statement under Section 8(1) and Notice under Section 8(3) of the Act, determining the F surplus area after giving one unit to T. Chinna Seetharamaiah, his wife and minor son T. Sai Kumar and one unit each to the two major sons. The daughters were held not entitled to any share in the property. The declarants were advised to file objections, if any, within 30 days of the notice and statement of declaration. All the declarants, except the daughters of T Chinna G Seetharamaiah, filed a joint petition on 27.08.1979 stating that they have no objection for the surrender of the excess land as determined by the competent authority. The final statement under Section 9 of the Act was issued confirming the draft statement on 30.08.1979. On 11.09.1979, the notification under Section 10(1) of the Act was issued which was published in the Official Gazette No. 38 dated 20.09.1979 and declaration under Section 10(3) of the Act was issued H on 09.10.1979 which was published in the Official Gazette No. 68 dated

11.10.1979 notifying the vestment of the surplus land with the State Government w.e.f. 15.11.1979 free from all encumbrances. A

On 23.11.1979, a notice under Section 10(5) of the Act was issued directing the declarants to surrender the surplus land within 10 days of the receipt of the said notice. The said notice was received by the declarants T. Rama Tulsamma, T. Satish Chander, T. Sri Ram Mohan and T. Sai Kumar on 28.07.1980 who voluntarily surrendered possession of the surplus land to the enquiry officer, who took over possession under a *Panchanama* duly signed by the declarants on 18.07.1980. As per the averments of the appellants, the surplus lands so surrendered by th declarants were handed over to the Social Welfare Department on 18.07.1980 as per the decision of the State Government on G.O.Ms. No. 3072 (Revenue) (UCI) Department dated 14.07.1980. Subsequently, the land has been handed over to the Commandant 8th Battalion of A.P. Special Police Force, Kondapur, by the Social Welfare Department on 12.10.1982. Therefter, proceedings under Section 11 of the Act fixing the compensation amount payable to the declarants were initiated on 28.07.1980, which were not seriously contested by the declarants. 25% amount of the compensaton was paid in cash to the T. Rama Tulsamma for herself, her husband, minor son and two major sons on 17.09.1980. The balance 75% of the compensation amount was paid in Government Bonds to T. Rama Tulsamma and the two major sons on 31.07.1987. T. Chinna Seetharamaiah died on 07.10.1987. Smt. T. Rama Tulsamma died on 02.03.1990. The three sons filed a joint statement furnishing the details regarding the retainable area by them on 26.08.1990. B C D E

The three sons and three daughters of T. Chinna Seetharamaiah filed six Writ Petition Nos. 28157, 28158, 28874, 28491, 28390 and 28292 of 1998 before the High Court of Juddicature, Andhra Pradesh challenging the final order of the competent authority under the Act claiming respective shares of the married daughters on the basis of *'Pasupu Kumkuma'* as per family arrangement dated 13.11.1970 and seeking exemption under subsequent G.O. Ms. No. 733 Revenue (UCII) Department dated 31.10.1987. F

The learned Single Judge, considering six points formulated in the judgment, directed reopening of the entire declarations on the basis of the claims made by the respondents including the claim of the eldest married daughter Smt. K. Pramila Rani who had not filed the declaration under the Act for getting her share in the land on the basis of family arrangement dated G H

A 13.11.1970. As noticed above, the Division Bench of the High Court dismissed the Writ Appeals of the appellants upholding the judgment and order of the learned Single Judge. Hence, the appellants have filed the above civil appeals before theis Courrt challenging correctness and validity of the impugned judgment.

B We have heard Mr. Anoop G. Chaudhary, learned Senior Advocate for the appellants and Mr. Rajendra Choudhary, Mr. S.K. Dholakia and Mr. Uday U. Lalit, learned Senior Adovacates for the respondents.

Mr. Anoop G. Chaudhary, learned Senior Advocate, vehemently C contended that on the appointed day of the Act, i.e. 17.02.1976, all the declarants, except K. Pramila Rani, the eldest daughter of T Chinna Seetharamaiah, filed the declaration as per the provisionns of the Act claiming their respective shares. The draft statement was published on 26.9.1979. No objection to surrender the excess land had been raised by the declarants as they voluntarily surrendered the excess land. The authority issued final D statement under Section 9, which was published on 30.8.1979 and notification under Section 10(1) of the Act was published in the Official Gazette on 20.9.1979. As a sequel thereof, the excess land had vested in the State free from all encumbrances. The possession of the land surrendered by the declarants was taken by the Revenue Department of the State on 18.7.1980 E and later on was handed over to the Social Welfare Department which, in turn, allotted the lands to the A.P. Special Police Force, 8th Battalion, who is in occupation of the allotted land. He also contended that the judgment and order of the High Court, directing reopening of the long concluded statutory proceedings after nearly about two decades of their finality, is erroneous, as the declarants have waived tneir rights of challenging the proceedings after F having received the amount of compensation. He further contended that the Writ Petitions filed by the respondents after about two decades of the finalization of the proceedings by the competent authority under the Act ought not to have been entertained by the High Court. In support of this submission, reliance is placed on the judgment of this Court in *State of Orissa* G v. *Lochan Nayak (Dead) by LRs.*, [2003] 10 SCC 678.

Per contra, Mr. S.K. Dholakia, learned Senior Advocate appearing on behalff of the respondents—T. Satish Chandar, T. Sri Ram Mohan, T. Sai Kumar, contended that the order of the authority declarinng the vestment of the lands of the declarants was invalid and illegal as no inquiry as contemplated H under Section 8 of the Act was conducted by the competent authority before

preparing the draft statement. No draft statement was ever served on the declarants in the manner as prescribed under the Rules, together with a notice calling upon them to file objections to the draft statement. According to the learned senior counsel, as the order of the authority is without jurisdiction exercised in violation of the mandatory provisions of the Act and the Rules framed thereunder, the principle of estoppel or *res judicata,* as contended by the learned senior counsel for the appellants, would not be applicable in the facts and the circumstances of the present case.

We have duly and thoughtfully considered the respective contentions of the learned counsel for the parties.

The scheme of the Act, as briefly noticed above, envisages an inquiry by the authority and thereafter decide the objection raised by the contesting parties, i.e. it envisages application of mind to the controversy raised. On examination of the judgment and order of the High Court, it is not in dispute that individual notice was not served on the declarants. A joint declaration was submitted by the deceased late T. Chinna Seetharamaiah, his wife late T. Rama Tulsamma, and minor son T. Sai Kumar, claiming one unit for themselves and one unit each to the two major sons. Afterr the submission of the declaration, the competent authority further proceeded in the matter on the basis of the statement filed under Section 6 of the Act and prepared the draft statement in respect of those declarants as envisaged under Section 8 of the Act. The objections under Section 8(3) were invited, but T. Satish Chandar, T. Sri Ram Mohan and T. Sai Kumar did not choose to file any objections and on the contrary they voluntarily surrendered the excess land to the State Government. On examination of the record of appeals, we find that T. Chinna Seetharamaiah, his wife T. Rama Tulsamma and two sons T. Sri Ram Mohan and T. Satish Chandar addressed a communication dated 27.08.1979 (Annexure P-2) in reply to the notice under Section 8(3) of the Act, stating that they had no objection to the excess land declared and they were prepared to surrender the land under the provisions of the Act. The competent authority thereafter passed the final order under Section 10 of the Act on 18.07.1980 acquiring the excess land surrendered by the said declarants and directed them to surrender the possessionn of the land vested in the State Government. The land so vested was thereafter allotted to the Social Welfare Department on 14.07.1980 itself which, in turn, was handed over to the Police Department for their use and occupation. The authority then started proceedings under Section 11 of the Act fixing the amount of compensation payable to T. Chinna Seetharamaiah,

A his wife T. Rama Tulsamma, sons T. Sri Ram Mohan, T. Satish Chandar and T. Sai Kumar. It is proved on record that 25% of the amount of compensation was paid in cash to the declarants on 17.09.1980. 75% of the remaining compensation amount was paid in Government Bonds to the wife and two major sons. As the deceased T. Chinna Seetharamaiah and wife T. Rama Tulsamma and their three sons did not file any objection as envisaged under B the Act, in principle, it must be accepted that they had no objection in respect of their shares of land having vested in the State Government. They have voluntarily surrendered the excess land beyond the ceiling limit to the State Government free from all encumbrances; accepted the amount of compensation without raising any objection or claim and also handed over the vacant land C to the State Government. The proceedings initiated and completed by the competent authority could not be found to be arbitrary, perverse or illegal on the facts of the case or in violation of the provisions of the Act and/or Rules framed thereunder. The judgment and order of the Division Bench of the High Court, upholding the order of the learned Single Judge allowing the Writ Petition No. 28491/98 filed by T. Satish Chandar [Writ Appeal No. 439/1999], D Writ Petition No. 28390/98 filed by T. Sri Ram Mohan [Writ Appeal No. 441/1991], Writ Petition No. 28874/98 filed by T. Sai Kumar [Writ Appeal No. 442/1999] is not sustainable and shall stand set aside. The above writ petitions of those petitioners are, accordingly, dismissed.

E Smt. P. Rukmini and Smt. M. Krishnaveni, daughters of late T. Chinna Seetharamaiah, were married on 09.06.1974 and 10.06.1974 respectively before the appointed day of the enforcement of the Act. As per the family arrangement dated 13.11.1970, they were given some extent of lands at the time of their marriage under the age-old custom of *'Pasupu Kumkuma'* by their father T. Chinna Seetharamaiah. The declaration on behalf of Smt. P. Rukmini was filed F by her brother, T. Sri Ram Mohan, on 13.07.1976 declaring her share of the land in Survey No. 208 gifted to her by her father at the time of her marriage. In the statement under sub-section (1) of Section 6 of the Act filed by her brother on 13.07.1976, it finds mentioned against Column No. 6 dealing with the particular of the land which is desired to be retained and the land which G is proposed to be surrendered that Smt. P. Rukmini was unable to make up her mind with regard to the retention of the land by her and the land she proposed to surrender. It was also stated at page 209 of the appeal paper books that details would be furnished by her at the time of enquiry. Mr. M. Mohan Rao, husband of Smt. M. Krishnaveni-declarant, filed a statement under sub-Section (1) of Section 6 in Form I on her behalf claiming share of H land in Survey No. 209 as per the family arrangement made on 13.11.1970 by

the father of Smt. M. Krishnaveni. In the statement made on 13.09.1976 by M. Mohann Rao on behalf of his wife, it finds mentioned against Column No. 16. "Smt. Krishnaveni was unable to make up her mind at that time to furnish the particulars of land which was desired to be retained and the land which was proposed to be surrendered by her and the details would be furnished at the time of enquiry to be conducted by the competent authority in terms of the provisions of the Act." A B

Mr. Rajendra Choudhary, learned senior counsel appearing on behalf of Smt. P. Rukmini and Smt. M. Krishnaveni, contended that the family arrangement dated 13.11.1970 was valid and legal settlement by which some land was given by the father to his daughters at the time of their marriages under age-old custom known as *'Pasupu Kumkuma'* conferring an absolute title of the daughters to the property. In *Sarupuri Narayanamma and Ors.* v. *Kadiyala Venkatasubhaiah and Ors.*, [1973] 1 SCC 801, this Court has given the meaning to the word *'Pasupu Kumkuma'* to mean 'conferring an absolute title in the property'. It is well-settled that a document, whichh is in the nature of a memorandum of family arrangement and which is filed before the Court for its information for mutation of names, is not compulsorily registrable and, therefore, can be used in the evidence of the family arrangement and is final and binding on the parties [see *Kale and Ors.* v. *Deputy Director of Consolidation and Ors.*, [1976] 3 SCC 119]. Further, it was held in the cited decision that the object of the family arrangement is to protect the family from long-drawn litigation or perpetual strifes, which mar the unity and solidarity of the family and create hatred and bad blood between the various members of the family. It promotes social justice through wider distribution of wealth. Family, therefore, has to be construed widely. It is not confined only to people having legal title to the property. C D E F

Section 14(1) of the Hindu Succession Act, 1956 provides that any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner. Smt. P. Rukmini and Smt. M. Krishnaveni, both daughters of late T Chinna Seetharamaiah, had acquired an absolute right in the lands given to them by their father in the family arrangement on 13.11.1970. They have made categorical statement in the declaration filed by them in the year 1976 immediately after the enforcement of the Act that they were the owners in possession of the lands to the extent of their respective shares. It is not in dispute that the competent authority has not considered the claim of the two declarants as no inquiry was conducted by the authority nor any notice G H

A was issued to them inviting their objections before final order concerning the vestment of land in excess of ceiling limit was recorded.

The respondents have filed plan and other additional documents along with I.A. Nos. 31-36/2006. No counter to the said interlocutory applications appears to have been filed by the appellants-non-applicants. On a persual of
B the said plan, it becomes clear that it is prepared by the Assistant Director (HQS) S & LRs, Hyderabad, consequent to the order of the High Court dated 10.11.1999 in W.A. Nos. 438 to 443 of 1999, depicting the vacant land and the extent of the area occupied under constructions. The Plan would show that an area to the extent of Ac 41-03 Gts. Shown in blue colour is lying vacant
C on the spot. The Plan is signed by one G.P. for % Advocate General on 17.11.1999. It also reveals that an a read of Sy. No. 208 and Sy. No. 209 given to Smt. P. Rukmini and Smt. M: Krishnaveni by their later father in family arrangement on 13.11.1970 is still lying vacant on the spot. Thus, the contention of the learned senior counsel for the appellants that Smt. P. Rukmini and Smt. M. Krishnaveni, for the first time, have raised the claim of their shares to the
D land on the basis of the alleged family settlement in the writ petitions filed by them, does not merit acceptance. Both these declarants had filed their declarations in the year 1976 immediately after enforcement of the Act and it was mandatory obligation and duty in law of the competent authority to.have held inquiry in the matter and considered their obejctions, if any. As the
E competent authority has failed to exercise its jurisdiction vested in it by law, in our view, therefore, the proceedings taken against the declarants Smt. P. Rukmini and Smt. M. Krishnaveni ordering the vestment of their respective shares of lands in the State Government. Hence, the judgment and order of Division Bench dismissing the Writ Appeals of the appellants and upholding the order of the learned Single Judge in Writ Petition No. 28157/1998 titled *M.*
F *Krishnaveni* v. *The Govt. of A.P. and Anr.*, and Writ Petition No. 258157/98 titled *P. Rukmini* v. *The Govt. of A.P. and Anr.* in no cirrcumstances could be said to be infirm or faulty. Consequently, C.A. Nos. 5309 and 5311 of 2000 filed by the appellants against Smt. M. Krishnaveni and Smt. P. Rukmini respectively shall stand dismissed. The appellants are directed to hold an independent
G inquiry in terms of the provisions of the Act and Rules framed thereunder into the claims of the declarants Smt. M. Krishnaveni and Smt. P. Rukmini. The inquiry shall be completed within two months from the date of receipt of this order.

Now, coming to the case of Smt. K. Pramila Rani, Mr. Uday U. Lalit,
H learned senior counsel representing her, has contended that T. Chinna

Seetharamaiah, father of Smt. K. Pramila Rani had given some area of land to her on the basis of the family arrangement dated 13.11.1970. According to the learned senior counsel, the judgment and order of the Division Bench of the High Court impugned in the appeal upholding the judgment and order of the learned Single Judge directing the competent authority to receive fresh declaration of Smt. K. Pramila Rani in no circumstances is perverse or illegal calling for interference by this Court in exercise of the jurisdiction under Article 136 of the Constitution of India. He also submitted that K. Pramila Rani was married on 21.08.1964 and she is also entitled to get equal opportunity and treatment as was given to her other two sisters by the High Court. We are not persuaded to accept the submissions of the learned senior counsel on the ground of parity or equality principle. Admittedly, Smt. K. Pramila Rani did not file statement at all before the competent authority in the prescribed form furnshing the details of land held by her as envisaged under Section 6 of the Act and the competent authority was not obliged to prepare draft statement of her share in the land and serve on her to enable her to file objections under Section 8 of the Act. Therefore, Smt. K. Pramila Rani could not be allowed to contend that no inquiry under Section 8 of the Act was conducted by the comptent authority and that the vestment of her surplus land in the State Government was bad and illegal. The claim of Smt. K. Pramila Rani to afford an opportunity to her after about two decades from the date of the vestment of her surplus land in the State Government, could in no circumstances be equated and treated at par with her two sisters, who had filed their independent declarations immediately after the enforcement of the Act, requesting the competent authority to hold an inquiry as per the law regarding their ownership of lands which they received from their father in family arrangement dated 13.11.1970, i.e. much before the Act came into force. In these peculiar facts and circumstances of the case, Smt. K. Pramila Rani is not entitled to the grant of the same and similar relief as would be available to her two sisters.

For the foregoing reasons, the judgment and order of the Division Bench of the High Court, upholding the order of the learned Single Judge to the extent of granting relief to Smt. K. Pramila Rani, is not sustainable and it is accordingly set aside. Consequently, W.P. No. 28292/98 filed by Smt. K. Pramila Rani shall stand dismissed.

In the result, Civil Appeal Nos. 5309 and 5311 of 2000 filed by the appellants against Smt. P. Rukmini and Smt. M. Krishnaveni are dismissed. The other appeals filed by the appellants against the respondents T. Satishh

A Chandar, T. Sri Ram Mohan and T. Sai Kumar are, accordingly, allowed. Resultantly, the Writ Petitions filed by the respondents-petitioners other than Smt. P. Rukmini and Smt. M. Krishnaveni are dismissed. In the facts and circumstances of the case, the parties are left to bear their own costs.

B.S. Appeals disposed of.

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