[2023] 12 S.C.R. 601 : 2023 INSC 664

CASE DETAILS

YADAIAH AND ANR.

v.

STATE OF TELANGANA AND OTHERS

(Civil Appeal No. 4835 of 2023)

AUGUST 01, 2023

[SURYA KANT AND J. K. MAHESHWARI, JJ.]

HEADNOTES

Issue for consideration: In the instant appeal, the resumption order concerning the assignment of non-occupied land in the 1960s to landless scheduled caste/scheduled tribe persons for the purpose of cultivation which was upheld by the Division Bench of the High Court is challenged; as also pertains to the issues of law concerning *res judicata*, nature of assignment and violation of conditions of assignment.

Andhra Pradesh Assigned Land (Prohibition of Transfer) Act, 1977 – Assignment/Alienation of government land – Assignment of non-occupied land to landless scheduled caste/scheduled tribe persons – Assignees alienated the land to one through General Power of Attorney, who in turn sold the land to subsequent purchasers – Resumption order, resuming the subject land in favour of the State since assignees sold the land in contravention of the conditions of the assignment – High Court set aside resumption order as well the first SCN issued to assignees by the Collector proposing to cancel the assignment of land – Issuance of second SCN that the assigned land could not be sold as per the 1977 Act, thus, the land be resumed into government possession – Second SCN culminated into another resumption order – Single Judge of the High Court held that the proceedings emanating from the Second SCN barred by the principle of *res judicata* and abuse of process of law and that the assignments were governed by the Laoni Rules of 1950 instead by the GOM 1122 – However, the Division Bench allowed in favour of State upholding the second resumption order – Correctness:

Held: Proceedings emanating out of the Second SCN were valid – Subject Land was non-alienable and hence was subject to the provisions of the 1977 Act – Appellants-assignees had transferred the subject land in contravention to the provisions of 1977 Act and thus, the resultant resumption order is valid – Appellants not entitled to any compensation on account of the requisition of the assigned land – Furthermore, an important security agency currently occupies the subject land, thus, invocation of powers u/ Art. 142 and certain directions issued – Subject land in its entirety declared to have vested in the State Government – Constitution of India – Art. 142 - Telengana Land Revenue Act of 1317 – ss. 54, 58, 58A and 166B. [Paras 40-42,

Andhra Pradesh Assigned Land (Prohibition of Transfer) Act, 1977 – Assignment of government land – Applicability of doctrine *res judicata* or constructive *res judicata* – Proceedings emanating out of the Second SCN, if barred by the doctrine of *res judicata* or constructive *res judicata* as said issues already decided by the prior judgment of High Court emanating from the First SCN – Plea that the substratum of both the first Show cause notice (SCN) and second SCN essentially identical:

Held: Only such determinations which are fundamental would result in the application of the doctrine of *res judicata* – Only those findings, without which the Court cannot adjudicate a dispute and also form the vital cog in the reasoning of a definite conclusion on an issue on merits, constitute *res judicata* between the same set of parties in subsequent proceedings – However, in the process of arriving at a final conclusion, if the Court makes any incidental, supplemental or non–essential observations which are not foundational to the final determination, the same would not tie down the hands of courts in future – On a plain reading of the High Court's order in conjugation with the application of the test formulated for distinguishing between a fundamental or collateral determination, it is found that the observation in respect of General Power of Attorney in the said order was indeed a mere collateral finding – Doctrine of constructive *res judicata* will also not be applicable as the issues raised in the Second SCN were never adjudicated upon in the first place – Thus, the proceedings emanating out of the Second SCN are not barred by the doctrine of *res judicata* or the extended doctrine of constructive *res judicata* – Doctrines/Principles –

Telengana Land Revenue Act of 1317 – ss. 54, 58, 58A and 166B. [Paras 40-42, 43, 45, 47 and 48]

Andhra Pradesh Assigned Land (Prohibition of Transfer) Act, 1977 – ss. 2 and 3 – Prohibition of transfer of assigned land – Assignment of the land to landless scheduled caste/ scheduled tribe persons in the year 1961 and in the year 1991 assignees alienating the land through the General Power of attorney, and thereafter, a resumption order passed – Application of the 1977 Act:

Held: Provisions of the 1977 Act attracted to regulate the said land – Subject land was non-alienable and comes under the definition of 'assigned land' as provided u/s 2(1) – General Power of Attorney executed in favour of the attorney holder by the assignees constitutes a 'transfer' under the 1977 Act which was intended to save the landless poor persons from the clutches of the rich and the resourceful, who deprived them of the precious title assigned to them by the Government for their occupation and the source of livelihood – Thus, the appellants transferred the subject land in contravention to the provisions of 1977 Act and thus, resulted in violation of s.3 and the resultant resumption order is valid – Telengana Land Revenue Act of 1317 – ss. 54, 58, 58A and 166B. [Paras 60, 64, 65 and 68-70]

Andhra Pradesh Assigned Land (Prohibition of Transfer) Act, 1977 – Assignment of government land to assignees – *Suo motu* revisionary powers – Exercise of, while issuing the Second Show cause notice – Correctness:

Held: Second SCN pertains to alleged violation of assignment conditions by transferring the ownership rights through sale deeds executed in the year 1992 – However, the period till 2006 could not be counted because the parties were engaged in litigation pursuant to the First SCN and it was only after the liberty was accorded by the High Court in its order in 2006 that the Second SCN could be issued – Thus, the exercise of *suo motu* revisionary power while issuing the Second SCN not vitiated on account of inordinate delay – Telengana Land Revenue Act of 1317 – ss. 54, 58, 58A and 166B. [Para 50]

Andhra Pradesh Assigned Land (Prohibition of Transfer) Act, 1977 – Assignment of government land to assignees – Applicability of

law governing the assignment of the land and if it contained any bar in respect of alienation:

Held: Actual assignment took place only on the issuance of temporary pattas on 21.10.1961 – 1958 Circular as well as GOM 1122 being in force in the year 1961, are clearly applicable to the Subject Land – There was a conditional bar on alienation of the Subject Land as provided in the 1958 Circular and the GOM 1122 – Thus, the subject land was governed by the provision of the 1958 circular which included the condition of non-alienability – Telengana Land Revenue Act of 1317 – ss. 54, 58, 58A and 166B. [Paras 51-55, 57-59]

Andhra Pradesh Assigned Land (Prohibition of Transfer) Act, 1977 – Resumption of land – Entitlement to compensation – Assignment of non-occupied land to landless scheduled caste/ scheduled tribe persons – Assignees alienated the land to one through General Power of Attorney, who inturn sold the land to subsequent purchasers – Resumption order, resuming the subject land since transactions in contravention of the 1977 Act – Legal heirs of assignees, if entitled to compensation on account of the resumption order:

Held: Assignees not entitled to any compensation on account of the resumption order of the assigned land – Resumption denotes a punitive action by the State to take back the right or an interest in a property which was granted by it – Term 'resumption' must not be conflated with the term 'acquisition' as employed within the meaning of Art. 300-A so as to create a right to compensation – Also allegations against the assignees for being involved with the land mafia to usurp the subject land for private interest – Constitution of India – Art. 300 A – Compensation – Telengana Land Revenue Act of 1317 – ss. 54, 58, 58A and 166B. [Paras 73 and 74]

Property Laws – Term 'acquisition' and 'resumption' – Difference between:

Held: Acquisition denotes a positive act on behalf of the State to deprive an individual's enjoyment of a pre-existing right in a property in furtherance of its policy whereas resumption denotes a punitive action by the State to take back the right or an interest in a property which was granted by it in the first place – Term 'resumption' must not be conflated

with the term 'acquisition' as employed within the meaning of Art. 300-A of the Constitution so as to create a right to compensation – Constitution of India – Art. 300 A. [Paras 73]

Doctrines/Principles – Doctrine of *res judicata* – Application of – Effective test to determine:

Held: Effective test to distinguish between a fundamental or collateral determination is hinged on the inquiry of whether the concerned determination was so vital to the decision that without which the decision itself cannot stand independently – Any determination, despite being deliberate or formal, cannot give rise to application of the doctrine of *res judicata* if they are not fundamental in nature. [Paras 45]

Doctrines/Principles – Doctrine of *res judicata* or the extended doctrine of constructive *res judicata* – Application of – Stated. [Paras 40-48]

LIST OF CITATIONS AND OTHER REFERENCES

Govt. of A.P. v. Gudepu Sailoo (2000) 4 SCC 625 : [2000] 3 SCR 791; *Parvant Nagar v. the Collector and District Magistrate* 2008 SCC OnLine AP 477; *G.V.K. Rama Rao vs Bakelite Hylam Employees Co-Op.* 1997 SCC OnLine AP 200; *S. Santhanam v State of A.P.* 2006 SCC OnLine AP 145; *LAO cum Revenue Divisional Officer, Chevella Division v Mekala Pandu* 2004 SCC OnLine AP 217; *Yeshwant Deorao Deshmukh v Walchand Ramchand Kothari* (1950) SCC 766; *Dharama Reddy v Sub-Collector, Bodhan* 1986 SCC OnLine AP 141; *A. Jithendernath v. Jubilee Hills Coop. House Building Society* (2006) 10 SCC 96 : [2006] 1 Suppl. SCR 702; *Pawan Kumar Gupta v. Rochi Ram Nag Deo* (1999) 4 SCC 243 : [1999] 2 SCR 767; *Sajjadanashin Sayed Md. B.E. Edr. v. Musa Dadabhai Ummer* (2000) 3 SCC 350 : [2000] 1 SCR 1095; *State of UP v. Nawab Hussain* (1977) 2 SCC 806 : [1977] 3 SCR 428; *Ibrahimpatnam Taluk Vyavasaya Coolie Sangham v. K. Suresh Reddy* (2003) 7 SCC 667 : [2003] 2 Suppl. SCR 698; *Mahadeo v. Sovan Devi* 2022 SCC OnLine SC 1118; *Bachhittar Singh v. State of Punjab* AIR 1963 SC 395 : [1962] Suppl. SCR 713; *Suraj Lamp and Industries Private Limited v. State of Haryana* (2012) 1 SCC 656 : [2011] 11 SCR

848; *Dharma Naika v. Rama Naika* (2008) 14 SCC 517 : [2008] 2 SCR 451; *Manchegowda v. State of Karnataka* (1984) 3 SCC 301 : [1984] 3 SCR 502; *A.P. Industrial Infrastructure Corporation Ltd v Ramesh Singh and other connected appeals* Civil Appeal No. 7904-7912 of 2012, 4 August 2014 – referred to.

The Doctrine of *Res judicata* by Justice KR Handley, Spencer Bower, Turner and Handley: (3rd edn, LexisNexis Butterworths, 1996) pages 103-107 – referred to.

OTHER CASE DETAILS INCLUDING IMPUGNED ORDER AND APPEARANCES

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 4835 of 2023.

From the Judgment and Order dated 31.12.2021 of the High Court for the State of Telangana at Hyderabad in WA No.202 of 2010.

With

Civil Appeal Nos.4836, 4837, 4838, 4839 and 4840 of 2023.

Dr. A.M. Singhvi, S. Niranjan Reddy, Huzefa Ahmadi, Muralidhar Rao Unnam, Jaideep Gupta, Sr. Advs., G. N. Reddy, Tripurari Ray, Yatish Mohan, Vivek Gupta, Vinayak Mohan, Anirudh Ray, Nidhiram, Vishnoo Chandra, Sughosh Subramanyam, Krishna Dev Jagarlamudi, Sumanth Nookala, Ms. Shahrukh Alam, Divyesh Pratap Singh, Ms. Shivangi Singh, Ms. Ishita Bedi, Ms. Ranjana Singh, G.N. Reddy, Nidhiram, Vishnoo Chandra, Ravi Shankar, Advs. for the Appellants.

C.S. Vaidyanathan, V. Giri, Sr. Advs., Sriharsha Peechara, Rajiv Kumar Choudhry, Ms. Pallavi, Duvvuri Subrahmanya Bhanu, Ms. Harshita Gupta, Ms. Ankita Gupta, for M/s. Venkat Palwai Law Associates, Advs. for the Respondents.

JUDGMENT / ORDER OF THE SUPREME COURT

JUDGMENT

SURYA KANT, J.

1. Leave granted.

2. These appeals are directed against the common judgment dated 31.12.2021 passed by a Division Bench of the High Court of Telengana whereby the intra-court appeal preferred by the State of Telengana and its revenue authorities has been allowed, reversing the decision of the learned Single Judge. Consequently, the resumption order dated 27.01.2007, which forms the core of the present disputes concerning the assignment of non-occupied land in the 1960s to landless Scheduled Caste/Scheduled Tribe persons **[Hereinafter, 'Assignees']** for the purpose of cultivation, has been confirmed.

3. Since these appeals arise out of a long-drawn saga wherein multiple rounds of litigation occurred between the parties before various forums, including this Court, it would be appropriate to discuss the same at length before delving into the issues of law raised before us concerning *res judicata*, nature of assignment and violation of conditions of assignment. It may also be mentioned before embarking into the factual matrix that this Court vide order dated 06.09.2022 had impleaded the Greyhounds Commando Force through the Additional Director General of Police as a Party-Respondent for effective adjudication since the land in dispute has been statedly allotted and is being used for training its forces.

A. FACTS

4. The genesis of these disputes began on 28.10.1953 when the Revenue Department of the then undivided State of Andhra Pradesh took a policy decision and communicated the sanction granted for the assignment of 'Astabl Kanchi'[1] land measuring 200 Acres comprising the revenue estate of Manchirevula village situated in the Ranga Reddy District to the Assignees. The relevant part of the said policy decision stated that:–

1 'Kancha' is the term employed for land which absolutely vests in favour of the government.

> **"……I am directed to communicate Government sanction for the assignment of culturable area to the extent of 200 acres out of Astabl Kanchi situated in Manchirral village to the landless Harijans under special laoni Rules after regular phodi work by the land Record and Settlement Department. The remaining area of the Kancha may be kept in fact and auctioned every year…." (sic)**

5. The Collector after this communication, vide letter dated 07.11.1959, finally submitted a report of eligible individuals and directed that 'phodi' or sub-division of the Subject Land be conducted before its assignment. However, after further inspection by revenue authorities, the Collector noted in a subsequent letter dated 04.06.1960 that land measuring 142 Acres 39 Guntas was fit for cultivation instead of the initially proposed area of 200 Acres. Accordingly, the Revenue Divisional Officer vide his letter dated 16.08.1960, directed the concerned Tehsildar to initiate assignment proceedings for land measuring 142 Acres 39 Guntas in Survey No. 393 of Village Manchirevula **[Hereinafter, 'Subject Land']** and directed that process be initiated for grant of special Laoni[2] Patta to the eligible persons.

6. It is to be noted that before any kind of patta could be granted, the State Government issued an order dated 29.06.1961 **[Hereinafter, 'GOM 1122']** overriding all previous orders which governed assignment and alienation. The said order provided exhaustive guidelines for assignment and alienation of Government lands, the relevant part whereof as applicable to the Subject Land reads as follows:–

> **"5. The Government further direct that no vacant land in the Greater Hyderabad city or within a belt of 10 miles around the city should be assigned or otherwise disposed of until Government have assessed the requirements of various Department for building accommodation in the city."**

7. It was only after GOM 1122 was brought into effect, that the State Government issued temporary pattas dated 21.10.1961 **[Hereinafter, 'Temporary Pattas']** to each of the selected Assignees. It would be

---

2 During the course of hearing, it has been brought into our attention that term 'Laoni' loosely means to 'bring into cultivation'.

appropriate for proper analysis of the controversy to reproduce the contents of one such Temporary Patta dated 21.10.1961 granted to an Assignee which is as follows:–

"FORM-G

(Under Rule 9 (g)

Written permission to occupy land

(to be given by the Tahsildar under Loani Rules)

Temporary patta is granted to Shri Mylarapu Pedda Gandaiah S/o. Venkaiah, resident of Manchirevula village, Tahsil Hyderabad West, Hyderabad District, to occupy the following land and to cultivate the same, till the phodi work is completed.

1. Village Name	**:**	**Manchirevula**
2. Taluk	**:**	**Hyderabad West**
3. Sy. No.	**:**	**393**
4. Total extent	**:**	**326.28**
5. Extent given under patta	**:**	**Ac. 7.06 gts.**
6. Cess	**:**	**Rs. 7.15**
7. Nature of land	**:**	**Kancha**
8. Classification	**:**	**Dry**

Sri Mylarapu Pedda Gandaiah has to pay Rs. 7.15 per year from 1961-1962 for the land granted for occupation under this permit as assessment.

After the podhi is completed, the area and assessment are both fixed by the Dept. of Land Records (Survey and Settlement). The Pattadar is bound to pay the assessment so fixed, but this change will take effect only form the year following in which such change has been made as a result of the compk1jon of phodi work by the Dept. of land Record.

(In the case of land granted as not Transferable)

The Grantee is not empowered to transfer the occupancy without the sanction previously obtained from the Collector. This permission to occupy shall not confer the right to mine on the land or collect minerals therefrom. The right on the toddy trees will vest with the Government.

Sd/-Tehsildar

24.10.1961

Hyderabad West" *(sic)*

(Emphasis Applied)

There are some other policy decisions also that have brought in restrictions regarding transfer of Subject Land which we would deal in the later part of this judgement. However, it is pertinent to note that afterwards, permanent pattas were granted to the Assignees within a few years of the issuance of Temporary Pattas. The Appellants are now claiming devolution of interest and ownership rights over different parcels of the Subject Land through the original Assignees.

8. After the grant of these pattas, the situation remained dormant for almost three decades. Meanwhile, with the passage of time, the city of Hyderabad, like all other capital cities across the nation, flourished on account of rapid urbanisation and swift economic development, making land a scarce and valuable resource. Consequently, the Subject Land also rose in value. On 14.08.1991, all the Assignees are stated to have executed a general power of attorney **[Hereinafter, 'GPA']** in favour of one M.A. Baksh. The GPA gave M.A. Baksh the following amongst other powers in respect of the Subject Land:–

"5. To negotiate, enter into agreements for and/or let lease or licence the said property or any portion thereof to such person(s) or body and for such consideration and upon such terms and conditions and for such purpose(s) as my said attorney may in his absolute discretion deem fit.

6. To negotiate and agree to and/or to enter into agreement, to sell/develop/lease/ mortgage the said property or to sell, convey, lease, mortgage, assign or to otherwise transfer the said property

or any portion thereof to such person(s) or body and for such consideration arid upon such terms and conditions and for such purpose(s) as the said attorney may in his absolute discretion deem fit and to collect and receive the considerations thereof and to give a valid receipts therefor.

7. To enter into agreement(s) to develop the said property by laying roads, drainage, water connections, Electricity connection etc. and or erecting individual/ multistoreyed, residential/ commercial buildings thereon with any person(s), firms, company/ companies or society/ societies upon such terms and conditions as my said attorney may in his absolute discretion deem fit."

(Emphasis Applied)

9. Thereafter, acting upon the abovementioned GPA, M.A. Baksh sold a part of the Subject Land to private individuals between the period of January 1992 to October 1992 as brought to our notice by the parties through sale deeds placed on record. On perusal of these sale deeds, one crucial feature which is to be noted is that M.A. Baksh envisaged to divide the Subject Land into smaller plots akin to a residential colony as each sale deed has been allotted a unique plot number along with roads earmarked in the site plans attached thereto.

10. It seems that at the time M.A. Baksh was carrying out the process of the sale of the Subject Land as a residential colony, he came across the provisions of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act of 1977 **[Hereinafter, '1977 Act']** which prohibited transfer of land assigned to landless poor by the Government. Realizing the potential pitfall in carrying out the sales, he applied for clarification through a letter dated 18.09.1992 to the concerned Mandal Revenue Officer and enquired about the applicability of the 1977 Act. The Mandal Revenue Officer vide a memo dated 23.09.1992, responded to M.A. Baksh's query saying that:–

"The petitioner Sri M.A. Baksh, G.P.A. Holder of Mr. Mylaram Jangaiah and others is informed that as per written permission issued by the Tahsildar, Hyderabad West vide reference No.A6/8524/80 to occupy an extent of 143-00 acres out of Sy. No. 393 of Manchirevulu village in form (G) under rule 9(g) of Laouni

rules, 1950 to Sri Mylaram Jangaiah and (19) others, Harijans of same village. Subsequently in 1965 the said land was made Laouni patta.in the name of the above 20 persons, and subdivided as Sy. No. 393/1 to 393/20 Ac.7-06gts., each individual.

As per rule 9(g) of the Laouni rules 1950 the written permission in form (G) is issued only after confirmation of sale; The sale of such lands is not hit by the provision of A.P. Assignment lands (Prohibition of Transfer) Act 1977." *(sic)*

(Emphasis Applied)

11. Notwithstanding this clarification by the Mandal Revenue Officer, some of the Assignees cancelled the GPA executed in favor of M.A. Baksh in October 1992, probably fearing that the state authorities would cancel the allotment of the Subject Land. They also issued a public notice wherein they declared that any sale entered into by M.A. Baksh on their behalf was not binding.

12. Fast forward a year and somewhere in November 1993, the Police Department sent a requisition for land in Manchirevula village to set up operational headquarters and training centres for its special forces, now known as 'Greyhounds Commando Force'. It was only when the revenue authorities analysed their records that their attention was drawn towards the Subject Land and the legal infirmities associated with it, starting the saga of present legal tussle between the parties.

13. After that the office of the Collector, Ranga Reddy District issued a show cause notice dated 28.03.1994 **[Hereinafter, 'First SCN']** proposing to cancel the assignment of Subject Land. The relevant extracts of the First SCN containing the grounds of cancellation are to the following effect:–

"The issue was examined in details with reference in rule position and other aspect and found that the alleged assignment is irregular, illegal and liable to be cancelled on the basis of following grounds:

(i) The Form-G Certificate issued are for temporary occupation and thereby implementation in Falsalpatti 1961-62 is illegal.

(ii) The alleged assignment ought to have been processed under Assignment Rule, 1958 instead of Laoni Rules, 1950.

(iii) The alleged assignment is in contravention of the ban order of assignment issued in G.O. Ms. No. 1222, dated 29.06.1961.

(iv) After issue of Form-G Certificate for temporary occupation there is no Sub-Division took place and supplementary Sethwar issued, therefore the alleged assignment is not final and temporary occupation certificates cannot be treated assignment pattas.

(v) That the land is unfit for cultivation and thereby the alleged assignment is irregular and indicate malafide intention.

(vi) The alleged assignees have not put the land for cultivation and kept in fallow and thereby they have violated the condition laid down in Rule 19 of Laoni Rules, 1950.

(vii) The alleged assignees while violating the condition of assignment have executed a G.P.A. in favour of Sri M.A. Baksh authorizing him to sell the land."

(Emphasis Applied)

14. The Assignees fearing consequential dispossession, approached the High Court which vide its order dated 03.05.1994, held that the writ petition was premature and directed them to file an explanation within one week, but protected them from dispossession in light of the pending show cause proceedings. The Assignees in turn filed their explanation before the Collector wherein they submitted that assignment was valid as per the applicable law and that there was no bar on sale of the Subject Land.

15. Strangely, instead of the District Collector, proceedings were entrusted to the District Revenue Officer who vide his order dated 15.09.1994 held that the First SCN was unsustainable. On account of this development, the District Collector through an order dated 03.01.1995, exercised his *suo motu* revisionary powers under Section 166-B of the Telangana Land Revenue Act of 1317 Fasli **[Hereinafter, '1317 Fasli Act']** and suspended the order dated 15.09.1994 passed by the District Revenue Officer pending further examination/orders. Thereafter, the Collector sent a letter to the Secretary, Revenue Department for ratification of the order dated 03.01.1995, but since no notice was given to Assignees as required under Section 166-B of 1317 Fasli Act, the Government declined the request for ratification

of the said order. Ultimately, notices were issued to the Assignees and the Government vide its memo dated 24.01.1996 ratified the order dated 03.01.1995. It further directed that final orders be passed after completion of the inquiry.

16. The Assignees filed separate writ petitions against the Collector's order dated 03.01.1995 as well as the memo dated 24.01.1996, both of which were decided vide a common order of the Learned Single Judge dated 01.09.1997 wherein the court set aside the orders on the ground that the initiation of revisional power under Section 166-B of 1317 Fasli Act was an unreasonable and arbitrary attempt to invalidate the assignment after an undue delay of more than 34 years. It must be noted that the intra-court appeal against the order dated 01.09.1997 was also dismissed by a Division Bench of the High Court through its order dated 14.09.1998.

17. The State Government assailed the High Court order dated 14.09.1998 before this Court and vide judgement dated 28.04.2000 reported as ***Govt. of A.P. v. Gudepu Sailoo***[3], the State's appeal was allowed to the extent that the proceedings conducted before the District Revenue Officer which culminated into the order dated 15.09.1994, were held to be unsustainable. It was further held that the proceedings should have taken place before the Collector, particularly in view of the directions given by the High Court in its order dated 03.05.1994. Hence, the Collector was directed to complete the proceedings initiated vide his order dated 03.01.1995 which was later on ratified by the memo dated 24.01.1996. The relevant part of the judgement dated 28.04.2000 of this Court reads as follows:–

> **"We cannot subscribe to the view expressed by the High Court in so far as the order passed by the District Revenue Officer is concerned. Since a mandamus was issued to the Collector, Rangareddy District, to hear and dispose of the explanation, which was required to be submitted by the respondents in reply to the show cause notice issued to them, the District Revenue Officer had no jurisdiction to consider the matter in violation of the direction of the High Court. As a matter of fact, the explanation to the show cause notice had to be submitted before the Collector and the**

3 *Govt. of A.P. v. Gudepu Sailoo* (2000) 4 SCC 625.

Collector alone had to consider and take a final decision in the matter. The action initiated by the Collector and the ratification of his order by the State Government are matters which should have been allowed to take final shape instead of being challenged at the interlocutory stage by the respondents. That being so, there is no necessity of going into the merits of the submissions made by the learned counsel for the parties with regard to the provisions of Section 166-B and 166-C of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli.

We, therefore, dispose of this appeal finally with the direction to the Collector to complete the proceedings, initiated by him by his order dated 3rd of January, 1995 as ratified by the Government by its,order dated 24th of January, 1996, at an early date in accordance with law."

(Emphasis Applied)

18. Consequently, proceedings pursuant to the First SCN were initiated afresh by the Collector by issuing notice dated 17.08.2001 to the Assignees, many among whom were now represented by the Appellants, informing that the proceedings would be taken up by the Joint Collector in exercise of powers delegated by the Collector. The Appellants furnished fresh explanation(s) on 27.08.2001 and consequently the office of the Joint Collector passed a resumption order dated 22.12.2001 in favour of the State noticing that:–

"In view of the circumstances explained above and since the assignment itself is irregular and the assignees sold the land in conttavention of the conditions of assignment and also the assigned land has become urbanized and no longer subserves the purpose of cultivation, I find no reason either to upheld the orders of the District Revenue Officer, Ranga Reddy passed in Procds.No. D1/275/94 Dated:15.9.1994 or to revert back the land in Sy.No.393/ 1 to 393/20 totally measuring an extent of Ac.142·39 of Mancllerevula village of Rajendranagar Mandal to the assignees. The land should be remained as Government land. Acoordingly the case is disposed off duly setting aside the orders of District Revenue

Oflicer, Ranga Reddy District passed in proceedings No. Dl/275/94 Dated:l5-9-1994." *(sic)*

(Emphasis Applied)

19. The Joint Collector's order dated 22.12.2001 came to be challenged before the High Court, which vide its order dated 04.04.2002 opined that in view of this Court's judgement in ***Gudepu Sailoo***[4], the Joint Collector had no jurisdiction to adjudicate the First SCN and directed the District Collector to conduct the proceedings and pass appropriate orders after notice to all parties. Resultantly, proceedings were conducted before the District Collector wherein again resumption order dated 15.03.2003 was passed in favour of the State. It must be noted that the reasoning provided in the resumption orders dated 22.12.2001 and 15.03.2003 is more or less identical.

20. The Appellants laid a challenge to the resumption order dated 15.03.2003 and vide its order dated 21.04.2006, the High Court set aside the same as well the First SCN, primarily for the reasons as are summed up in the following paragraphs of its judgment:–

"14. The principal ground on which the assignments soμght to be cancelled by invoking the review powers under section 166-B of the Act is execution of GPA by the assignees in favour of the predecessor in interest. As on this day, the GPA holder is not alive and even if any power of attorney exists, it ceases with his death. Therefore, no cause survives for the District Revenue Officer to take *suo motu* review. The other question is whether the assignments made in favour of the petitioners and their predecessor interest is contrary to the Rules then in existence. That issue is into requircd to be examined after a lapse of nearly 40 years. The Laoni patta certificates came to be issued in accordance with the provisions of Laoni, Rules, 1950. Merely because those rules came to be amended by substituting some other rules cannot be a ground to exercise suo mo to review by the District Revenue Officer or the District Collector under Sec. 166-B of the Act.

4 ibid.

> **15. In view of the above discussion, I find that the show cause notice issued by the District Revenue Officer, R.R. District is not legal dnd proper. When once the show cause notice is set aside, the basis for passing the order impugned in the writ· petitions by the Joint Collector canriot be said to be well founded. Before parting the case, I deem it appropriate to observe that If there Is any contravention of the conditions imposed in the assignment order, the Government is always at liberty to cancel the same In accordance with the provisions of law."** *(sic)*
>
> (Emphasis Applied)

21. Taking note of the above-reproduced liberty granted by the High Court, the Deputy Collector-cum-Mandal Revenue Officer issued a fresh show cause notice dated 11.12.2006 **[Hereinafter, 'Second SCN']** wherein the factum of the sale deeds entered by M.A. Baksh in the capacity of GPA holder of the Assignees was duly noticed and it was asserted that the Subject Land was liable to be resumed under the 1977 Act. The relevant part of the Second SCN is as follows:–

> **"The Sale transaction above shown are impermissible and void as same are in contravention of the provision of sub-section (2) of section-3 of the Andhra Pradesh assigned land (Prohibition of Transfer) Act, 1977. As per the prohibitions of the said Act there is prohibition to sell the land assigned to you and hence sale transaction above referred are invalid.**
>
> **As per the Section 4 of A.P. assigned land (Prohibition of transfer) Act, 1977, satisfied that the assignees are contravened the provision of Sub-sectio (1) of section 3 in respect of assigned lands bearing Sy. No. 393/l to 393/20 of Manchirevula Village. Hence you are hereby show cause as to why the scheduled land should not be resumed into Govt. Possession as in such manner as prescribed by law."** *(sic)*

Post the issuance of Second SCN, the Appellants tendered explanation and proceedings took place pursuant thereto.

22. Eventually, the Second SCN culminated into the resumption order dated 27.01.2007, wherein it was noted that the Assignees had alienated the

land to M.A. Baksh through GPA, who in turn sold the land to subsequent purchasers in the form of smaller plots. These transaction(s) were held to be in contravention of Section 3(1), 3(2), 3(3) and 3(4) of the 1977 Act and accordingly, the Subject Land was ordered to be resumed under Section 4 thereof. It would also be relevant to mention that the resumption order dated 27.01.2007 also noticed that most of the Subject Land was still fallow and unsuitable for cultivation as it was covered by large boulders/rocks.

23. The Appellants assailed the resumption order dated 27.01.2007 before the High Court in a writ petition which came to be decided in their favour by a learned Single Judge vide judgment dated 05.02.2010 primarily on two grounds – firstly that the Second SCN and the resumption order dated 27.01.2007 raised the identical issues in respect of Subject Land which stood already decided by the High Court vide its order dated 21.04.2006. Hence, proceedings emanating from the Second SCN were barred by the principle of *res judicata* and an abuse of process of law; secondly that the assignments were governed by the Laoni Rules of 1950 instead by the subsequent GOM 1122, as possession stood granted way back in 1940 much earlier than the date GOM 1122 came into force. It is also useful to mention that accordingly to the learned Single Judge, the liberty granted in the previous High Court order dated 21.04.2006 regarding cancellation of Subject Land was only concerned with `future contravention' of the assignment conditions.

24. Being piqued on account of the order of the learned Single Judge, the State preferred an intra-court appeal before the Division Bench of the High Court. The said writ appeal has been allowed in the Respondents' favour via the impugned judgement whereby the resumption order dated 27.01.2007 stands upheld for the following reasons: –

a) The proceedings under the Second SCN were not hit by the doctrine of *res judicata* or constructive *res judicata*, as the same concerned the sale deeds executed by M.A. Baksh and the consequent action under the 1977 Act, which was not an issue decided by the High Court vide its order dated 21.04.2006 whereby the First SCN was set aside.

b) The learned Single Judge had erroneously construed the liberty granted in the order dated 21.04.2006 in respect of fresh cancellation proceedings to be only for future violation

of assignment conditions as no such inference could be drawn from the wording of the said order. It was also held that this interpretation virtually amounted to re-writing the order dated 21.04.2006, especially in view of the fact that the review petition against the same, seeking to delete the relevant part granting liberty was specifically dismissed by the High Court.

c) The Subject Land was not alienable either under the Laoni Rules of 1950 or under the revised land assignment rules of 1958 and hence it comes under the definition of 'assigned land' as provided in the 1977 Act. The issue of applicability of regulatory regime on the assigned land stood settled by this Court's judgement in ***Gudepu Sailoo***[5] whose relevant part in this context reads as follows:–

> **"….Thus, under the original Laoni Rules, 1950 as also under the Revised Policy published in 1958, the alienation of the assigned land was prohibited. While under the Laoni Rules, 1950, the alienation or transfer without the previous sanction of the Collector was prohibited, under the Revised Policy, it was clearly provided that though the assigned lands would be heritable, they would not be transferred…"**

d) The Division Bench also distinguished the decision of a co-ordinate bench of the High Court in ***Letter sent from Plot No.338, Parvant Nagar v. the Collector and District Magistrate***[6] wherein it was held that land assigned under Rule 9 of Laoni Rules of 1950 by way of market value collection would not be hit by the provisions of the 1977 Act whereunder alienation of assigned land was prohibited. It was specifically noted that the Subject Land was granted free of cost to the Assignees without any action or payment of market value as envisaged under Form 9(G) of the Laoni Rules of 1950 which was relied upon by the Appellants. The Division Bench, therefore, upheld the condition mentioned in the assignment itself which barred transfer without the consent of the Collector.

---

5 *Gudepu Sailoo* (n 3).

6 *Letter sent from Plot No.338, Parvant Nagar v. the Collector and District Magistrate* 2008 SCC OnLine AP 477.

e) It was noted that the 1977 Act was in force when the GPA in favor of M.A. Baksh was executed by the Assignees as well as when M.A. Baksh executed the sale deeds in favour of subsequent purchasers for the small plots of land. Furthermore, it was held that subsequent cancellation of the GPA in favor of M.A. Baksh by some of the Assignees was immaterial as the sale deeds executed by him by then already constituted violation of the assignment condition.

25. The aggrieved Appellants are now before this Court.

B. CONTENTIONS

26. We have heard an array of learned senior counsels representing different parties and perused the documents produced on record. Their written submissions have also been duly considered.

27. Leading the arguments on behalf of the Appellants, Mr. Jaideep Gupta, learned senior counsel made the following contentions- *First*, that the Single Judge Order was correct in concluding that the Second SCN was barred by the doctrine of *res judicata*. He argued that the substratum of both the First SCN and Second SCN is essentially identical, i.e. violation in respect of the bar on the alienability of Subject Land. *Secondly*, he argued that when unoccupied land is permanently granted or assigned under Section 54 of the 1317 Fasli Act as done in the present case, then Section 58 of the said Act expressly provided that the resultant occupancy right shall be 'deemed to be heritable and transferable'. Even otherwise, he contended that for any restriction on the transfer of Subject Land under the Special Laoni Rules to be applicable, a separate notification under Section 58-A of 1317 Fasli Act was a necessary prerequisite as mentioned in the rules itself. For ease of analysis, the relevant provisions of the 1317 Fasli Act are reproduced below:–

"54. Procedure for acquiring unoccupied land:

(1) When any person is desirous of taking unoccupied land he shall before occupying the land submit a petition to the Tahsildar and obtain his permission in writing.

(2) On such petition being submitted, the Tahsildar may, in accordance with the rules made by the Government in this behalf from time to time, give permission in writing for occupation.

58. Occupancy *right is heritable and transferable:* An occupancy right to land shall be deemed to be heritable and transferable.

58-A. Sanction *of Collector for transfer of occupied land compulsory in certain cases:*

(1) Notwithstanding anything contained in the preceding section the Government may by Official Gazette notify in respect of any village or tract of the area to which this Act extends that the right of occupation of any land under section 54 given after the date of the notification shall not be transferable without obtaining the previous sanction of the Collector.

(2) The Government may also at its discretion from time to time notify by Official Gazette, that any part or person or class of persons of such village or tract of the area to which this Act extends to which the provisions of sub-section (1) have been made applicable shall be exempt from the said provisions."

Similarly, we may also refer to the relevant rules regarding 'Special Laoni' as mentioned in the Laoni Rules of 1950 which are as follows:–

" Special Laoni

15. No lands in the special area notified under Section 58-Aof A.P. (Telangana Area) Land Revenue Act, shall be assigned except in accordance the the following rules:-

(a) The object of the special laoni is to make land available in certain areas to such landless persons of agricultural and backward classes as may be notified from time to time, and who have not sufficient means to purchase land either at the ordinary laoni auctions or otherwise. The selection of the most deserving applicant should be made by Tahsildar after due publicity in the village or at the place fixed for the allotment proceedings.

(b) Special laoni, proceedings may ordinarily take place twice a year in the months of April and September, and may also take place at other times when the Tahsildar is visiting the locality.

16. In making selection for special laoni preference shall be given to persons who reside in the village, but do not possess any patta or shikmi rights in any land in the village or elsewhere or who have insufficient land but possess bullocks and agricultural implements. Persons who are already cultivating lands are "asamis" or "bataidars" shall be given preference over other labourers.

x-x-x-x

19. The allottee of the land shall prepare the land for cultivation within three years of being placed in possession and commerce cultivation of the land thereafter. The pattadar may be rejected by the order of the Collector for breach of any of the above conditions:

Provided that he has been served with a notice calling upon him to comply with the conditions which he has violated and he fails to comply with it within three months of the date of service thereof. If lands has been transferred in contravention, the conditions, the Collector may eject the transferee."

28. Thirdly, Mr. Gupta, learned senior counsel drew our attention to this Court's judgement in ***Gudepu Sailoo***[7] which we have already reproduced at **Para 17** above, to contend that the impugned decision erroneously concluded that this Court had already decided the issue of alienability. He strenuously argued that the decision was not on merit as this Court held that the challenge was premature and remanded the dispute back to the District Collector. *Fourthly,* by relying on the decision of the High Court in ***G.V.K. Rama Rao vs Bakelite Hylam Employees Co-Op***.[8], it was contended that since the Subject Land was governed

7 *Gudepu Sailoo* (n 3).

8 *G.V.K. Rama Rao vs Bakelite Hylam Employees Co-Op.*1997 SCC OnLine AP 200, para 18.

by Laoni Rules of 1950, which stipulated no condition regarding non-alienability, the same would not come under the definition of 'assigned land' as given under the 1977 Act. In other words, it was submitted that the 1977 Act has no application over the Subject Land. *Fifthly*, it was urged that evoking *suo motu* revisionary powers by the revenue authorities as done in the present case is illegal as the same must be exercised within a reasonable time or else it would render the exercise of such power arbitrary. Reliance in this regard was placed on another decision of the High Court in ***S. Santhanam v State of A.P.***[9], pointing out that the Special Leave Petition against the aforecited decision was rejected by this court vide order dated 19.08.2011 passed in SLP (C) No. 16545 of 2006. Finally, Mr. Gupta submitted that the Subject Land has been in possession with the Assignees from 1953 as noted in the High Court's order dated 21.04.2006 as well as the documents which have been brought on record and therefore even if the Temporary Pattas were given in 1961, the applicable law vis-à-vis the assignment should relate back to 1953 itself.

29. Turning up next for the Appellants was learned senior counsel, Mr. Huzefa Ahmadi who while reiterating the arguments made by Mr. Gupta, made the following additional submissions – *Firstly* that requirements for application of Section 58-A of the 1317 Fasli Act were not met, which are as follows – (a) there must be a notification in the official gazette; (b) the said notification must be in respect of 'any village or tract' to which the 1317 Fasli Act was extended and (c) such land can be transferred with the permission of the Collector. Hence, it was contended that for any bar in respect of alienability to be applicable through any policy, the requirements of Section 58-A are *sine qua non*. *Secondly*, he argued that even the policies which are stated to have prohibited alienation are not applicable independently. With reference to the Circular dated 08.11.1954 **[Hereinafter 1954 Circular],** it was submitted that the same was not retrospectively applicable and in any event, it referred to Section 58-A only in respect of lands which were granted for 'Eksala' (*one year*) cultivation or to lands which have been

9 *S. Santhanam v State of A.P.* 2006 SCC OnLine AP 145.

set apart as provided in Paragraph 8 of the 1954 Circular. It would thus be appropriate to reproduce the relevant contents of the 1954 Circular which are to the following effect:–

> **"…..The following Circulars regarding the assignment and grant of Patta of unoccupied Government Lands to the Harijans, Backward Classes and Landless poor persons have been issued from time to time.**
>
> **x-x-x-x**
>
> **As the orders issued through various circulars were creating confusion in their proper implementation, the following consolidated orders are hereby issued after reconsidering the various orders issued through the aforesaid circulars.**
>
> **x-x-x-x**
>
> **A. Lands under Cultivation on the Basis of Permission for Eksala Cultivation**
>
> **1. In case of occupation by the Harijans, Scheduled Castes, Backward Classes, of poor landless persons, patta shall, subject to the provisions contained in Section 58-A of the A.P. (Telangana Area) Land Revenue Act, be granted free of cost to the extent of one family holding inclusive of the land already owned by occupants and where the land is in excess thereof, they shall be evicted from the excess area**
>
> **x-x-x-x**
>
> **8. Village-wise statements of all Porampoke, Gut, Kharjkata, Gairan lands excluding ten percent, fit for grazing and lands excised from forest, shall be prepared and all such lands shall first be set apart as are required for public or Government purposes or on which, there arc Sendhi, Toddy or Gulmohwa trees or which are required to be to be set apart for such purposes or on which there is a Kancha, the grass of which is auctioned every year. The remaining lands including those from which occupants have been evicted under para 3 shall under special Laoni be assigned on patta to the Scheduled Castes, Harijans, Backward Classes and poor**

landless persons who are bonafide agriculturists at the rate of one family holding per family, subject to the provisions contained in Section 58-A of the A.P. (Telangana Area) Land Revenue Act. As far as possible each family shall be entitled to patta shall primarily be assigned lands which were being cultivated by them….."

In the same breadth, Mr. Ahmadi contended that all remaining policies regarding assignments, namely, G.O. dated 25.07.1958 **[Hereinafter, '1958 Circular']** which was subsequently clarified by G.O. dated 26.08.1958 **[Hereinafter, '1958 Clarification']** would not be attracted, for the assignment being of 1953 itself, these policies would have no retrospective effect and/or these circulars themselves excluded the Subject Land. The relevant extracts of the 1958 Circular are as follows:–

"6. ***Terms and conditions of assignment*** **–**

(i) The assignment of lands shall be free of market value;

(ii) Land assigned shall be heritable but not alienable;

(iii) Lands assigned shall be brought under cultivation within three years;

(iv) No land tax shall be collected for the first three years except for the extent, if any, which has already been brought under cultivation. Water rate shall, however, be charged if the lands are irrigated with Government water; and

(v) Cultivation should be by the assignee or the members of his family or with hired labour under the supervision of himself or a member of his family.

x-x-x-x

15. Pending assignments:- All assignment proceedings now pending or arising here after shall be disposed of in accordance with these rules."

(Emphasis Applied)

Similarly, the relevant part of the 1958 Clarification is to the following effect:-

"7. *Pending cases:-*

(a) lands to which Circular No. 14, dated 8th November, 1954 issued by the erstwhile Hyderabad Government and the other Circulars issued in clarification of it were applicable should be dealt with under those circulars but not under the new rules of assignment Issued in G.O. Ms. No. 1406, Rev, Dt. 25th July, 1958:

Provided that the extent of land to be assigned in all such cases shall not exceed the limits of 6 acres of dry or 2-1/2 acres of wet land inclusive of the land already passed

(b) Cases in which the right of patta was given to the occupants according to Circular No. 14, and other circulars issued in clarification of it and cases in respect to which there is evidence in Government Records either of application presented by the encroacher for grant of patta or of his possession of the lands should not be treated as pending cases but should be decided under Circular No. 14 and other circulars issued in clarification of it."

(Emphasis Applied)

It was, thus, submitted that provisions of 1958 Circular introducing the twin conditions in respect of alienation and cultivation, would not be applicable to the Subject Land on account of the 1958 Clarification which purportedly brought the Subject Land within the purview of the 1954 Circular.

30. *Thirdly*, Mr. Ahmadi argued that Section 4 of the 1977 Act provided for re-assignment of the land in case of contravention of Section 3 of the 1977 Act instead of resumption as was ordered by the revenue authorities in this case. *Fourthly*, it was submitted that evocation of *suo motu* revisionary powers through the Second SCN was not permissible as the sale deeds were of 1992 while Second SCN was of 2006, which would violate the temporal aspects as argued by Mr. Gupta, and, thus, the action was *ex facie* illegal.

31. Learned senior counsel, Mr. Niranjan Reddy assisted by learned counsel Mr. Krishna Dev Jagarlamudi also appeared on behalf of the Appellants. While lending his support to the abovementioned arguments, he made the following submissions – *Firstly*, that the issue of applicable

law over the Subject Land can no longer be opened in light of the High Court's order dated 21.04.2006 wherein it was categorically held that the State could not agitate over the applicability of correct regulatory regime after a gap of 30 years post assignment. According to him, the Laoni Rules of 1950 were held to be applicable over the Subject Land. In support of this, he also referred to the Mandal Revenue Officer's clarification vide his memo dated 23.09.1992. *Secondly,* he took pains to go through the entirety of sale deeds executed by M.A. Baksh to point out that out of the originally assigned area measuring 142 Acres 39 Guntas, only about 10 Acres land was sold through these sale deeds. In other words, the contravention of provisions of 1977 Act was limited to this area and an order of resumption could not have been passed in respect of the entire Subject Land. Lastly, he submitted that even if the Subject Land is resumed, the Appellants are entitled to compensation as per the Seven-Judge bench decision of the High Court in ***LAO cum Revenue Divisional Officer, Chevella Division v Mekala Pandu***[10]***,*** read with the right to property duly protected under Article 300A of the Constitution.

32. Supplementing the Appellants, Mr. Ranjit Kumar, learned senior counsel raised the following contentions – *Firstly*, that in the counter affidavit filed by the impleaded Respondent, i.e. Greyhounds, a plea has been taken that they have taken possession of the Subject Land in 2003 itself. If this was the case, then where was the need to issue the Second SCN in 2006 and to take this contrary stance by them. *Secondly*, he contended that in all the sale deeds entered by M.A. Baksh as a GPA holder, he is mentioned as the vendee which showcases that the Appellants were unaware or were not actively involved in carrying out sale of the Subject Land.

33. In the end, Mr. Tripurari Ray learned counsel appearing on behalf of the Appellants raised a contention for the first time at this stage by relying on the decision of this Court in ***Yeshwant Deorao Deshmukh v Walchand Ramchand Kothari***[11]. He contended that the Laoni Rules of 1950 created an artificial classification among two classes – namely those who were

10 *LAO cum Revenue Divisional Officer, Chevella Division v Mekala Pandu* 2004 SCC OnLine AP 217.

11 *Yeshwant Deorao Deshmukh v Walchand Ramchand Kothari* 1950 SCC 766.

granted regular patta under Rule 2 to 14 of these Rules through the bidding process which was alienable and the landless or poor people who were granted special patta under Rule 15 to 24 of Laoni Rules of 1950 with a bar on the alienability and obligation of an Assignee to cultivate the land. He contended that this amounted to 'class legislation' which discriminated against the Assignees and violated their fundamental rights under Article 14 of the Constitution.

34. Repelling the combined submissions made on behalf of the Appellants, Mr. K.K. Venugopal, learned senior counsel for the Respondent-Greyhounds, has raised the following contentions – *Firstly*, that the Temporary Pattas granted only a limited occupancy right to the Assignees in the form of a temporary license to occupy and, it was not a permanent assignment *per se. Secondly*, the claim of the Appellants that they were cultivating the land is baseless as they were never interested in even holding the possession over the Subject Land itself. In this respect, he referred to the Panchnama conducted by the revenue officials in the years 2003 and 2007 wherein it was noted that no cultivation was going on at the Subject Land. *Thirdly,* he contended that under the regular assignment as per Laoni Rules of 1950, an auction mechanism was in place, and it was only through this process that an alienable right could be granted in respect of the assigned land. In this regard, he relied upon Form 9(G) under which the Subject Land was granted to Assignees and invited our attention to the relevant part indicative of the auction mechanism. He further submitted that the grant of Subject Land was under the Special Loani, which included the valid condition of non-alienability. *Fourthly*, he submitted that the finding of possession as well as the Appellants' claim that applicable rules in respect of assignment should be that of 1953 is completely unsustainable. Learned senior counsel has taken us through the documents on record to showcase that the assignment only happened on 21.10.1961, i.e., when Temporary Pattas were granted. He further maintained that all other documents only discussed the grant of sanction of the Subject Land and the procedure pending before any kind of assignment could take place. *Fifthly*, he submitted that Mr. Reddy's argument concerning limited contravention of the 1977 Act is factually incorrect in light of the language employed in the GPA executed in favour of M.A. Baksh, which categorically noted that the said GPA was in respect of the entirety of Subject Land. *Finally,* he argued that

the Subject Land is resumed for a 'public purpose', i.e. training of the elite commando force, which has been instrumental in suppressing the Naxalite movement in the region. He also submitted that the Assignees were hand in glove with the land mafia as well as the corrupt revenue officers, who had set their sights on the Subject Land.

35. Mr. C.S. Vaidyanathan, learned senior counsel appearing on behalf of Respondent State of Telangana, supported the contentions made by Mr. Venugopal and has supplemented the same by highlighting the following additional points – *Firstly* that the High Court order dated 21.04.2006 only discusses the issue of raising the objection of irregularity in assignment and doesn't decide the issue of applicable law per se. To say it differently, it only bars the government from resuming the land after thirty years on the ground that the Subject Land was assigned under an incorrect law, but it nowhere resolves the legal regime under which the conditions applicable on the assignment are to be governed. He supported the reasoning assigned in the impugned judgment of the Division Bench that the doctrine of *res judicata* or constructive *res judicata* does not bar the Second SCN and the consequent proceedings. *Secondly*, he argued that the assignment of Subject Land was still governed by the twin condition of non-alienability as well as the obligation of cultivation by the Assignees.

36. Mr. V. Giri, learned senior counsel appearing on behalf of the State of Telangana, has wrapped the arguments by reiterating the stance taken by both Mr. Venugopal and Mr. Vaidyanathan. Before noting his submissions, it would be pertinent to note that Mr. Giri has taken a contrary stance in respect of Mr. Venugopal's submission that only temporary occupancy right had been created in favour of the Assignees. Mr. Giri has fairly admitted that the pattas issued in 1961 were in furtherance of an assignment only. Thereafter, he has argued - *Firstly* that the Subject Land was governed by the G.O. dated 25.07.1958 as well as the GOM 1122, which barred alienation by the Assignees as noted above. He submitted that even otherwise, the assignment was in the nature of Special Laoni and was governed by the condition of bar on sale without Collector's permission as well as cultivation of the land. Both these conditions were incorporated in the Temporary Pattas issued under Form 9(G), which also reproduced Rule 19 as applicable to Special Laoni. He submitted that even though the applicable law changed,

the format under which assignments were granted to landless individuals remained the same, i.e. Form 9(G). In other words, he argued that though the Temporary Pattas granted in the present case to the Assignees erroneously mentioned that the form was issued under Laoni Rules of 1950, the pattas were in fact, governed by the revised legal regime. Secondly, he urged that the prohibition on alienability as introduced by the 1977 Act was retroactive in effect, and the same has been upheld in a full bench decision of the High Court in ***Dharma Reddy v Sub-Collector, Bodhan***[12]. Finally, building on the arguments of Mr. Venugopal in respect of the involvement of the alleged land mafia, he referred to a Memorandum of Understanding entered into between some of the Appellants and a private real estate company for the sale of the Subject Land and also informed that a First Investigation Report has also been filed on this behalf by the revenue authorities against the accused which include some of the Appellants.

37. During rebuttals, Dr. Abhishek Manu Singhvi, learned senior counsel on behalf of the Appellants reiterated the arguments made in respect of Section 58-A of the 1317 Fasli Act. He furthermore submitted that even if there is a restriction on the transfer of land independent of Section 58-A of the 1317 Fasli Act, as contained in the Temporary Pattas regarding need of permission of the Collector, then such restriction indicates a permissive regime instead of a prohibitory regime which is a necessary corollary for invoking the provisions of 1977 Act. He vehemently reiterated that the Subject Land doesn't come under the ambit of the term 'assigned land' as defined under the 1977 Act.

C. ANALYSIS

38. Before we analyse the rival contentions raised by the parties, it would be appropriate to broadly highlight the issues which arise for our consideration:–

a) Whether the proceedings emanating out of the Second SCN are barred by the doctrine of *res judicata* or constructive *res judicata*?

b) Whether the exercise of *suo motu* revisionary powers while issuing the Second SCN is bad in law?

12 *Dharama Reddy v Sub-Collector, Bodhan* 1986 SCC OnLine AP 141.

c) What is the law governing the assignment of the Subject Land and whether the same contained any bar in respect of alienation?

d) Whether the assignment of Subject Land comes under the purview of 1977 Act?

e) If question No.(d) is answered in positive, would the entirety of Subject Land or only a part thereof be considered to have violated the 1977 Act in light of the sale deeds executed by M.A. Baksh as the GPA holder?

f) Whether the Appellants are entitled to any compensation on account of the resumption order dated 27.01.2007?

C.1 THE APPLICATION OF DOCTRINE OF *RES JUDICATA*

39. At the outset, we would like to highlight that since the Second SCN doesn't speak about the violation of assignment condition regarding cultivation, it would not be expedient to adjudicate or comment on the same. Coming back to the issue of *res judicata* based upon the allegation of alienability and its legal consequences, it would be prudent to reproduce the reasoning contained in the impugned judgement which is as follows:–

> **"17. In the considered opinion of this Court, the issues involved in W.P.Nos.13165 and 23639 of 2003 and the proceedings involved in the present writ petition are different. In W.P.Nos.13165 and L.3639 of 2003, the issues raised therein pertained to the legality of the assignment orders issued in favour of the respondents/assignees and the execution of the GPA in favour of one M.A.Baksh to transfer the lands and consequent violation of the assignment orders. The proceedings in the aforesaid cases were by way of *suo motu* revision under Section 166-B of the Land Revenue Act, 1317F and the High Court has answered that the legality of the assignment orders need not be gone into after forty years and the cause of action regarding the execution of GPA does not survive since the GPA holder is· not alive. On the contrary, the issue involved in the present writ petition deals with the proceedings issued by the Mandal Revenue Officer (W.P.No.3634 of 2007) relates to the execution of sale deeds by GPA holder in favour of. several persons and the action taken under Act**

No.9 of 1977. As many as 71 sale deeds were executed in respect of the assigned lands…..

x-x-x-x

18. Meaning thereby in respect of assigned lands, sale deeds were executed which were impermissible in law. The aforesaid issue was never the subject matter of earlier litigation and therefore, by no stretch of imagination, it could have been held by the learned Single Judge that the proceedings dated 27.01.2007 are hit by *res judicata.*"

40. The reasoning assigned by the Division Bench of the High Court is, thus, founded on the premise that the cause of action in the Second SCN is different from the First SCN. In response to the same, Appellants have extensively referred to the resumption order dated 10.05.2003 which was passed in furtherance of the proceedings conducted in First SCN to state that the same actively considered the issue of the sale deeds executed by M.A. Baksh as well the contravention of 1977 Act. It was urged that since the First SCN was set aside by the High Court through its order dated 21.04.2006, the observations in the resumption order dated 10.05.2003 would effectively merge with the findings of the High Court order dated 21.04.2006 and therefore the Second SCN alleging identical violations should be held to be barred by the doctrine of *res judicata*.

41. However, we do not find ourselves in agreement with this line of thought for the precise reason that the High Court in its order dated 21.04.2006 had emphatically held that the First SCN was issued without jurisdiction and set the same aside, instead of dealing with resumption order dated 10.05.2003 on merits. In effect, the resumption order dated 10.05.2003 was held to be a nullity. Therefore in light of the settled law as expounded by this Court in ***A. Jithendernath v. Jubilee Hills Coop. House Building Society***[13], doctrine of *res judicata* would not be applicable as an order being a nullity never existed in the eyes of the law.

42. Coming to the issue of the finding in High Court's order dated 21.04.2006 with respect to the demise of M.A. Baksh making the GPA redundant, it is may be noticed that the same is materially different from the

13 *A. Jithendernath v. Jubilee Hills Coop. House Building Society* (2006) 10 SCC 96.

violations as alleged in the Second SCN and held in the impugned order. On closer scrutiny, we may point out that the aforesaid observation regarding the GPA executed in favour of M.A. Baksh was not a fundamental determination but only a collateral determination. In this context, the decision of this Court in ***Pawan Kumar Gupta v. Rochi Ram Nag Deo***[14] may be usefully cited which observes that:–

> **"16. The rule of res judicata incorporated in section 11 of the Code of Civil Procedure (CPC) prohibits the Court from trying an issue which "has been directly and substantially in issue in a former suit between the same parties", and has been heard and finally decided by that Court. It is the decision on an issue, and not a mere finding on any Incidental question to reach such decision, which operates as *res judicata*…."**
>
> (Emphasis Applied)

43. By now it's a globally settled principle of common law jurisprudence that only determinations which are fundamental would result in the application of the doctrine of *res judicata*.[15] Only those findings, without which the Court cannot adjudicate a dispute and also form the vital cog in the reasoning of a definite conclusion on an issue on merits, constitute *res judicata* between the same set of parties in subsequent proceedings. However, in the process of arriving at a final conclusion, if the Court makes any incidental, supplemental or non-essential observations which are not foundational to the final determination, the same would not tie down the hands of courts in future.

44. The principle in respect of fundamental determination has been explicitly discussed by this Court in ***Sajjadanashin Sayed Md. B.E. Edr. v. Musa Dadabhai Ummer***[16] through the following paragraph:–

> **"16. Spencer Bower and Turner on The Doctrine of *Res judicata* (2nd Edn., 1969, p. 181) refer to the English and Australian**

14 *Pawan Kumar Gupta v. Rochi Ram Nag Deo* (1999) 4 SCC 243.D

15 Justice KR Handley, *Spencer Bower, Turner and Handley:* The Doctrine of *Res judicata* (3rd edn, LexisNexis Butterworths, 1996) pages 103-107.

16 *Sajjadanashin Sayed Md. B.E. Edr. v. Musa Dadabhai Ummer* (2000) 3 SCC 350.

experience and quote Dixon, J. of the Australian High Court in Blair v. Curran [(1939) 62 CLR 464, 553 (Aus HC)] CLR at p. 553 to say:

> ***"The difficulty in the actual application of these conceptions is to distinguish the matters fundamental or cardinal to the prior decision on judgment, or necessarily involved in it as its legal justification or foundation, from matters which, even though actually raised and decided as being in the circumstances of the case the determining considerations, yet are not in point of law the essential foundation of a groundwork of the judgment."***

The authors say that in order to understand this essential distinction, one has always to inquire with unrelenting severity — is the determination upon which it is sought to find an estoppel so fundamental to the substantive decision that the latter cannot stand without the former. Nothing less than this will do. It is suggested by Dixon, J. that even where this inquiry is answered satisfactorily, there is still another test to pass: viz. whether the determination is the "immediate foundation" of the decision as opposed to merely "a proposition collateral or subsidiary only, i.e. not more than part of the reasoning supporting the conclusion". It is well settled, say the above authors, "that a mere step in reasoning is insufficient. What is required is no less than the determination of law, or fact or both, fundamental to the substantive decision".

(Emphasis Applied)

45. The effective test to distinguish between a fundamental or collateral determination is hinged on the inquiry of whether the concerned determination was so vital to the decision that without which the decision itself cannot stand independently. Any determination, despite being deliberate or formal, cannot give rise to application of the doctrine of *res judicata* if they are not fundamental in nature. On a plain reading of the High Court's order dated 21.04.2006 in conjugation with the application of the test formulated above, we find that the observation in respect of GPA in the said order was indeed a mere collateral finding. We say so for the reason that the order dated 21.04.2006 primarily dealt with the evocation of *suo motu* revisionary powers under Section 166-B of the 1317 Fasli

Act for issuing the First SCN and not the allegations regarding violation of assignment conditions. In fact, the First SCN was held to be bad in law and without jurisdiction because it was primarily issued on the ground of irregularity by stating that the Subject Land was erroneously assigned under the old rules and that it sought to disturb the assignment after a period of more than thirty years. This was held to be in contravention to the settled law for evoking *suo motu* revisionary powers under Section 166-B of the 1317 Fasli Act which is the sole fundamental determination by the High Court in its order dated 21.04.2006. Resultantly, the finding that the GPA was rendered redundant on account of the demise of M.A. Baksh was only collateral in nature and is not hit by the doctrine of *res judicata*.

46. The other aspect which needs our attention is whether the second SCN would be barred by the extended doctrine of constructive *res judicata*. The said doctrine has been formulated over the time by courts as a part of public policy to prevent abuse of process of courts and to bring finality to the judicial pronouncements. This court in ***State of UP v. Nawab Hussain***[17] eloquently explained this principle:–

> **"3. The principle of estoppel per rem judicatam is a rule of evidence. As has been stated in Marginson v. Blackburn Borough Council [(1939) 2 KB 426 at p. 437], it may be said to be "the broader rule of evidence which prohibits the reassertion of a cause of action". This doctrine is based on two theories: (i) the finality and conclusiveness of judicial decisions for the final termination of disputes in the general interest of the community as a matter of public policy, and (ii) the interest of the individual that he should be protected from multiplication of litigation. It therefore serves not only a public but also a private purpose by obstructing the reopening of matters which have once been adjudicated upon. It is thus not permissible to obtain a second judgment for the same civil relief on the same cause of action, for otherwise the spirit of contentiousness may give rise to conflicting judgments of equal authority, lead to multiplicity of actions and bring the administration of justice into disrepute. It is the cause of action**

17 *State of UP v. Nawab Hussain* (1977) 2 SCC 806.

which gives rise to an action, and that is why it is necessary for the courts to recognise that a cause of action which results in a judgment must lose its identity and vitality and merge in the judgment when pronounced. It cannot therefore survive the judgment, or give rise to another cause of action on the same facts. This is what is known as the general principle of res judicata.

4. But it may be that the same set of facts may give rise to two or more causes of action. If in such a case a person is allowed to choose and sue upon one cause of action at one time and to reserve the other for subsequent litigation, that would aggravate the burden of litigation. Courts have therefore treated such a course of action as an abuse of its process and Somervell, L.J., has answered it as follows in Greenhalgh v. Mallard [(1947) All ER 255 at p. 257] :

> ***"I think that on the authorities to which I will refer it would be accurate to say that res judicata for this purpose is not confined to the issues which the court is actually asked to decide, but that it covers issues or facts which are so clearly part of the subject-matter of the litigation and so clearly could have been raised that it would be an abuse of the process of the court to allow a new proceeding to be started in respect of them."***

This is therefore another and an equally necessary and efficacious aspect of the same principle, for it helps in raising the bar of *res judicata* by suitably construing the general principle of subduing a cantankerous litigant. That is why this other rule has some times been referred to as constructive *res judicata* which, in reality, is an aspect or amplification of the general principle."

(Emphasis Applied)

47. The doctrine of constructive *res judicata* will not be applicable in the present case for the simple reason that the issues raised in the Second SCN were never adjudicated upon in the first place as explained above. The plea that the same should have been raised in the earlier proceedings, is irrelevant in light of the liberty granted by the High Court in its order dated 21.04.2006 whereby the Revenue authorities were expressly permitted

to initiate fresh proceedings for violation of assignment conditions. The Division Bench of the High Court is therefore right in holding that this liberty was not for 'future contraventions only' as perceived by the Single Judge in his order dated 05.02.2010, for it would render the liberty granted in order dated 21.04.2006 as obsolete. We thus hold that in light of the liberty granted by the High Court vide order dated 21.04.2006, the Second SCN would neither constitute an abuse of process of court nor will attract the doctrine of constructive *res judicata*.

48. In light of the above discussion and observations, we hold that the proceedings emanating out of the Second SCN are not barred by the doctrine of *res judicata* or the extended doctrine of constructive *res judicata*.

C.2 THE EXERCISE OF *SUO MOTU* REVISIONARY POWERS

49. The Appellants have strenuously contended that evocating *suo motu* revisionary powers and issuing the Second SCN was bad in law as the same was initiated after more than 45 years when the Subject Land was initially assigned and about more than 15 years after the sale deeds were executed. At this stage, we firstly refer to the following observations made by this Court in ***Ibrahimpatnam Taluk Vyavasaya Coolie Sangham v. K. Suresh Reddy***[18] in respect of exercise of *suo motu* revisionary powers:–

> **"9. …… Exercise of *suo motu* power depended on facts and circumstances of each case. In cases of fraud, this power could be exercised within a reasonable time from the date of detection or discovery of fraud. While exercising such power, several factors need to be kept in mind such as effect on the rights of the third parties over the immovable property due to passage of considerable time, change of hands by subsequent bona fide transfers, the orders attaining finality under the provisions of other Acts (such as the Land Ceiling Act). Hence, it appears that without stating from what date the period of limitation starts and within what period the *suo motu* power is to be exercised, in sub-section (4) of Section**

18 *Ibrahimpatnam Taluk Vyavasaya Coolie Sangham v. K. Suresh Reddy* (2003) 7 SCC 667.

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

(Emphasis Applied)

50. It is a matter of record that the Second SCN pertains to alleged violation of assignment conditions by transferring the ownership rights through sale deeds executed in the year 1992. However, the period till 2006, in our considered opinion, could not be counted because the parties were engaged in litigation pursuant to the First SCN and it was only after the liberty was accorded by the High Court in its order dated 21.04.2006 that the Second SCN could be issued. We have already discussed in great detail the reasons behind the grant of said liberty and the same need not be reiterated. In the facts and circumstances of this case and taking note of the chronological events, we are satisfied that the exercise of *suo motu* revisionary power while issuing the Second SCN was not vitiated on account of inordinate delay as claimed by the Appellants.

C.3 THE APPLICABLE LAW ON ASSIGNED LANDS

51. Once we have determined the validity of the Second SCN in affirmative, the next question that falls for our consideration is whether the subject land was assigned in the year 1953 as claimed by the Appellants or in 1961 when the Temporary Pattas were issued. However, before examining the said point, we express our inability to accept the contention made by Mr. Venugopal, learned senior counsel in respect of the nature of occupancy rights granted to the Assignees. On a plain reading of the recitals contained in the relevant documents, particularly the Temporary Pattas, First and Second SCNs and also the stand taken by Mr. Giri, we have no reason to doubt that the grant of Subject Land was in the nature of an assignment and not in any form of limited occupancy right.

52. Coming now to the issue of the date of assignment, we agree entirely with the Respondent's stance that the actual assignment took place only at the time of issuance of Temporary Pattas and not at any point prior thereto. On perusal of the documents brought on record, which are merely collection of inter-departmental correspondence before the issuance of Temporary Pattas, we find that the assignment process was still underway. The Appellant's reliance on the document dated 28.10.1953 is unfounded as the same only communicated the sanction by the executive and nothing else. In fact, the letter dated 04.06.1960 brings out the fact that the area of the sanctioned land was to be reduced to 142 Acres and 39 Guntas and then only was to be assigned. In this regard, this Court has repeatedly held and recently reiterated again in ***Mahadeo v. Sovan Devi***[19] that:–

> **"14. It is well settled that inter-departmental communications are in the process of consideration for appropriate decision and cannot be relied upon as a basis to claim any right. This Court examined the said question in a judgment reported as Omkar Sinha v. Sahadat Khan[3]. Reliance was placed on Bachhittar Singh v. State of Punjab[4] to hold that merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government, two things are necessary. First, the order has to be expressed in the name of the Governor as required by**

19 *Mahadeo v. Sovan Devi* 2022 SCC OnLine SC 1118.

> **clause (1) of Article 166 and second, it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such an order is drawn up, the State Government cannot, in our opinion, be regarded as bound by what was stated in the file."**

Similarly, the decision of this Court in ***Bachhittar Singh v. State of Punjab***[20] which is cited in the above reproduced paragraph notes:–

> **"9. The question, therefore, is whether he did in fact make such an order. Merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government two things are necessary. The order has to be expressed in the name of the Governor as required by clause (1) of Article 166 and then it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such an order is drawn up the State Government cannot, in our opinion, be regarded as bound by what was stated in the file. As long as the matter rested with him the Revenue Minister could well score out his remarks or minutes on the file and write fresh ones."**

53. We, therefore, have no reason to doubt that the assignment took place only on 21.10.1961, i.e. when the Temporary Pattas were issued. We also wish to highlight that the observation in the High Court order dated 21.04.2006, that the Assignees were in possession since 1953 is an ex-facie mistake of fact in light of the documents brought on record as none of them supports this stance, including the explanations submitted in response to the SCNs wherein the Assignees themselves have stated that possession was given to them in 1960. However, we hasten to add that since the assignment would be governed by the legal regime as applicable on 21.10.1961, the aforementioned factually incorrect observation made by the High Court in respect of the date of taking possession of the Subject Land by Assignees is inconsequential.

54. Once it is determined that the regulatory regime which was in vogue and held the field as on 21.10.1961 will govern the assignments,

---

20 *Bachhittar Singh v. State of Punjab* AIR 1963 SC 395.

then it also stands crystalised that the 1958 Circular as well as GOM 1122 being in force at that time, are clearly applicable to the Subject Land. The 1958 Clarification which discounts the application of 1958 Circular is not attracted in view of proviso to Rule 7(a) as each of the Assignees in the present case was granted around 7 Acres 6 Guntas of land for cultivation which is much is more than the limit of *"6 acres of dry or 2-1/2 acres of wet land"* being the perquisite for application of the 1958 Clarification. As a necessary corollary, we hold that there was a conditional bar on alienation of the Subject Land as provided in the 1958 Circular and the GOM 1122. The question whether the lands were assigned under 'regular' or 'special laoni' under the Laoni Rules of 1950 consequently becomes academic and we do not deem it necessary to express our opinion in relation thereto.

55. Finally, attention must be paid to the Appellant's argument concerning non-compliance with the mandatory requirement of notification as contemplated under Section 58-A of 1317 Fasli Act for invoking any condition in respect of alienability. Heavy reliance in this regard has been placed on the following paragraph of ***Letter sent from Plot No.338***[21], stating *inter-alia* that no notification under Section 58-A was published for the district in which the Subject Land lies:–

> **"45. Section 58-A of the Telangana Area Land Revenue Act puts a restriction for transfer of occupied land notified in respect of any village or tract of the area to which Act extends that the right of occupation of any land under Sec. 54 given after the date of the notification shall not be transferable without obtaining the previous sanction of the Collector. The Advocate General representing the State Government admitted that no notification by the State Government under Sec. 58-A was published prohibiting transfer of the occupied land granted patta under Sec. 54. The same has been recorded by this court in WP No. 144/75 dt. 6-12-1976.**
>
> **x-x-x-x**
>
> **55. For the aforesaid reasons, we are inclined to hold that though the Government framed rules and notified the same cannot be**

21 *Letter sent from Plot No.338* (n 6).

> **treated as notification as contemplated under Sec. 58-A of the Telangana Area Land Revenue Act where State Government has to notify any village or tract of the area, to which this Act extends, for obtaining previous sanction of the Collector. Therefore, Rule VI (ii) of the Revised Assignment Policy issued in G.O.Ms. No. 1406 dt. 25-7-1958 cannot be given effect to until such notification is issued."**
>
> (Emphasis Applied)

56. However, it is pertinent to mention here that the decision in ***Letter sent from Plot No.338***[22] in its later part clarifies the application of compliance with Section 58-A when it says that:-

> **"56. Even if the rules are framed in exercise of rule making power unless notification is issued as contemplated under Sec. 58-A notifying any village or tract of the area where sanction of the Collector for transfer of land is necessary, rules cannot be enforced. As already observed, the condition, if any imposed for sale of unoccupied land on payment of market value under Form-G is till the sale is confirmed by the Collector, but not otherwise, as Sec. 58-A itself envisages sanction of right of occupation of land under Sec. 54 given after the date of the notification, but the same does not cover the occupancy rights granted under Sec. 58 of the Telangana Land Revenue Act. Point No. 1 is answered accordingly."**
>
> (Emphasis Applied)

57. The abovementioned decision thus envisages the application of Section 58-A of the 1317 Fasli Act only in cases where the assignment is within the ambit of Section 54 of the 1317 Fasli Act. In other words, Assignments such as those under Section 58 of the 1317 Fasli Act are free from the rigours specified under Section 58-A of the 1317 Fasli Act. It goes without saying that the assignment of the Subject Land was not under Section 54 of the 1317 Fasli Act as may be seen from the contents of the 1958 Circular which draws a clear distinction between- (a) Land assigned on payment of market value after making an application to the Collector

22 *Letter sent from Plot No.338* (n 6).

and (b) Land Assigned to the Landless poor persons. The former is the case of assignment under Section 54 of the 1317 Fasli Act and the latter is covered within the ambit of Section 58 of the 1317 Fasli Act. The instant case unambiguously falls in the latter category, i.e. 'Land Assigned to the Landless poor persons'.

58. Additionally, Section 58 of the 1317 Fasli Act is a deeming provision wherein an occupancy right is presumed to be heritable as well as transferable, until an indication to the contrary is proved. In this regard, 1958 Circular issued in exercise of the rule-making power vested under Section 172 of 1317 Fasli Act, read with an independent statutory bar created under Section 3 of the 1977 Act, portrays an explicit legislative intention to curtail the legal fiction created under Section 58 of the 1317 Fasli Act. This is the precise reason because of which the decision in ***Letter sent from Plot No.338***[23] concludes that 1977 Act was applicable in respect of the land assigned to landless individuals and the same was governed by the conditions of non-alienability as incorporated in the 1958 Circular. The precise part of the decision in ***Letter sent from Plot No.338***[24] as relied upon by the Division Bench of the High Court in the impugned decision, states that:–

> **"60. We are of the view that provisions of Act No. 9 of 1977 will not be applicable to the cases where assignments were made on collection of market value or under Circular 14 except it were granted to the landless poor persons free of market value. Point No. 2 is answered accordingly."**

59. We have, therefore, no doubt in our mind that the Subject Land was governed by the provision of the 1958 Circular which included the condition of non-alienability. We, however, clarify that since the Laoni Rules of 1950 were inapplicable on the Subject Land, the contention raised by Mr. Ray regarding violation of Article 14 in respect of 'regular assignment' and 'special laoni assignment' becomes irrelevant and out of context and the same need not be gone into by us.

---

23 *Letter sent from Plot No.338* (n 6).
24 *Letter sent from Plot No.338* (n 6).

C.4 THE 1977 ACT: EXTENT OF APPLICATION AND CONSEQUENCES

60. The next issue that arises for consideration hovers around the applicability of the 1977 Act and its consequences in the event of violations of the assignment conditions. In this respect, it would be apposite to first note the definition of 'assigned land' which is to the following effect:-

> **"2. Definitions -In this Act, unless the context otherwise requires,-**
>
> **(1) "assigned lands" means lands or house sites assigned by the Government to the landless or homeless poor persons under the rules for the time being in force, subject to condition of non-alienation and includes lands allotted or transferred to landless or homeless poor persons under the relevant law for the time being in force relating to land ceilings; and the word "assigned" shall be construed accordingly"**
>
> (Emphasis Applied)

We have already concluded that the Subject Land was governed by the law which existed on the date of issuance of Temporary Pattas, i.e. 21.10.1961. It has also been held that the applicable law at the relevant time included the 1958 Circular as well as GOM 1122. Since both these regulatory measures incorporated the condition of non-alienability, there can be no escape but to further hold that the Subject Land comes under the definition of 'assigned land' as provided under Section 2(1) of the 1977 Act. Resultantly, the provisions of the 1977 Act are fully attracted to regulating the said land.

61. The other issue that comes up for determination is whether the entirety of Subject Land would fall within the contravention of Section 3 of the 1977 Act which, inter alia, provides that:-

> **"Section 3 – *Prohibition of transfer of assigned land* –**
>
> **(1) Where, before or after the commencement of this Act any land has been assigned by the Government to a landless poor person for purposes of cultivation or as a house-site then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to such**

land, it shall not be transferred and shall be deemed never to have been transferred; and accordingly no right or title in such assigned land shall vest in any person acquiring the land by such transfer.

(2) No landless poor person shall transfer any assigned land, and no person shall acquire any assigned land, either by purchase, gift, Lease (except in the case of Lease to the Andhra Pradesh Green Energy Corporation Ltd., for use as deemed fit and including for usage of non-agriculture purpose), mortgage, exchange or otherwise.

(2A) No assignee shall transfer any assigned house site, and no person shall acquire any assigned house site, either by purchase, gift, Lease (except in the case of Lease to the Andhra Pradesh Green Energy Corporation Ltd., for use as deemed fit and including for usage of non-agriculture purpose), mortgage, exchange or otherwise, till completion of the period of 20 years from the date of assignment.

(2B) Where the assigned House site was alienated by the assignee as on the date of commencement of this Act, such house site shall be regularized in favour of the alienee as a one-time measure.

(3) Any transfer or acquisition made in contravention of the provision of sub-section (1) or sub-section (2) or sub-section (2A) shall be deemed to be null and void.

(4) The Provisions of this section shall apply to any transaction of the nature referred to in sub-section (2) in execution of a decree or order of a civil court or of any award or order of any other authority.

(5) Nothing in this section shall apply to an assigned land which was purchased by a landless poor person in good faith and for valuable consideration from the original assignee or his transferee prior to the commencement of this Act and which is in the possession of such person for purposes of cultivation or as a house-site on the date of such commencement."

(Emphasis Applied)

62. In order to appreciate sub-Section (2) of Section 3 of the 1977 Act in its correct perspective, the expression 'landless poor person' and 'transfer' also become important, which are defined in the 1977 Act as follows:–

> **"Section 2(3) – "landless poor person" means a person who owns an extent of land not more than 1.011715 hectares (two and half acres) of wet land or 2.023430 hectares (five acres) of dry land or such other extent of land as has been or may be specified by the Government in this behalf from time to time and who has no other means of livelihood.**
>
> **Explanation: - For the purposes of computing the extent of land under this clause, 0.404686 hectares (one acre) of wet land shall be equal to 0.809372 hectares (two acres) of dry land;**
>
> **x-x-x-x**
>
> **Section 2(6) – "Transfer" means any sale, gift, exchange, mortgage with or without possession, lease (except in the case of Lease to the Andhra Pradesh Green Energy Corporation Ltd., for use as deemed fit and including for usage of non-agriculture purpose) or any other transaction with assigned lands, not being a testamentary disposition and includes a charge on such property or a contract relating to assigned lands in respect of such sale, gift, exchange, mortgage, Lease (except in the case of Lease to the Andhra Pradesh Green Energy Coproration Ltd., for use as deemed fit and including for usage of non-agriculture purpose) or other transaction."**
>
> (Emphasis Applied)

63. On a conjoint reading of these statutory expressions, particularly pertaining to the term 'transfer', the question that falls on us to answer is whether the GPA executed in favour of M.A. Baksh by the Assignees would result in contravention of Section 3(2) of the 1977 Act. The contention made by learned senior counsel Mr. Reddy that the contravention could only be limited to the sale deeds executed in respect of about 10 Acres of the Subject Land seems to be built on the decision of this Court in ***Suraj Lamp***

and Industries Private Limited v. State of Haryana[25] where the practice of GPA sales was deprecated and it was noted that the same did not constitute 'sale' or 'transfer' as contemplated under the Transfer of Property Act, 1882.

64. However, we must note that the term 'transfer' as defined under the 1977 Act is much more inclusive than the one employed in the Transfer of Property Act, 1882. The definition under the 1977 Act uses the phrase 'any other transaction', which, in our considered opinion, necessarily includes the GPA executed as an instrument to surrender ownership and possessory rights in favour of M.A. Baksh. The intent of `transfer' through the said GPA by the Assignees authorizing the attorney holder to sell or transfer the subject Property without any restriction as is evident from its recitals and for which they admittedly received consideration from M.A. Baksh, is beyond any doubt. This was precisely the kind of practice deprecated by this Court in ***Suraj Lamp and Industries Private Limited***[26]. We have thus no hesitation in holding that the said GPA falls within the ambit of the term 'transfer', especially in view of the objective of the 1977 Act, which was manifestly intended to save the landless poor persons from the clutches of the rich and the resourceful, who deprived them of the precious title assigned to them by the Government for their occupation and the source of livelihood.

65. Our observations are in continuity with the view previously taken by this Court in ***Dharma Naika v. Rama Naika***[27] wherein an 'agreement to sale' was held to be included within the definition of 'transfer' as provided under the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978. Its pertinent to mention that the definition of 'transfer' in the aforesaid statute is somewhat similar to the one employed by the 1977 Act. This Court noted that:–

> **"12. A bare reading of the definition of "transfer" as defined in Section 3(1)(e) of the Act would show that an "agreement for sale" of any "granted land" is included within the meaning of "transfer". That being the position, the word "transfer" as defined under the Act is an inclusive definition. That is to say, it includes "sale" as**

25 *Suraj Lamp and Industries Private Limited v. State of Haryana* (2012) 1 SCC 656
26 ibid.
27 *Dharma Naika v. Rama Naika* (2008) 14 SCC 517.

well as "agreement for sale", although an agreement for sale under the Transfer of Property Act is not a transfer and the right, title or interest in the land does not pass until the sale deed is executed and registered. "Sale" has been defined in Section 54 of the Transfer of Property Act which means "transfer of ownership in exchange for a price paid or promised or part-paid and part-promised". As noted herein earlier, an agreement to sell does not by itself create any interest of the proposed vendee in the immovable property but only creates an enforceable right in the parties. (See Rambhau Namdeo Gajre v. Narayan Bapuji Dhotra [(2004) 8 SCC 614].) Therefore, it is clear that under the general law, that is, under the Transfer of Property Act, an "agreement for sale" is not the same as "sale" and in the case of an agreement for sale, the title of the property agreed to be sold still remains with the vendor but in the case of "sale", title of the property is vested with the vendee. Therefore, an agreement for sale is an executory contract whereas sale is an executed contract.

x-x-x-x

22. As noted hereinearlier, it is true that in this case, admittedly, the parties had entered into an agreement for sale in respect of the granted land before the commencement of the Act. It is also an admitted position that the respondents belong/ belonged to the Scheduled Caste community. As already noted hereinearlier, for the purposes of this Act, "transfer" has been defined to include an "agreement for sale" although under the general law, an "agreement for sale" will not by itself transfer the granted land automatically to the appellant purchaser. From an overall consideration of the objects and reasons for which this Act was introduced viz. to protect the right and interest of the Scheduled Castes and Scheduled Tribes in respect of the granted lands and the relevant provisions of the Act, it is pellucid that the definition of "transfer" under Section 3(1)(e) of the Act includes an agreement for sale also and "transfer" has been so defined to protect the right, title and interest of the

Scheduled Castes and Scheduled Tribes so that possession of the lands could be restored to them even if they had entered into an agreement for sale."

(Emphasis Applied)

We, therefore, hold that the GPA executed in favour of M.A. Baksh in the instant case constitutes a 'transfer' under the 1977 Act and consequently would also result in violation of Section 3 of the 1977 Act.

66. This leads us to further consider the penal consequences in case of the violation of Section 3 of the 1977 Act, as is provided in Section 4 of the 1977 Act. The relevant part of the said provision, as amended from time to time, reads as follows:–

"***Section 4 – Consequence of breach of Section 3 –***

(1) If in any case, the District Collector or any other officer not below the rank of a Mandal Revenue Officer, authorised by him in this behalf; is satisfied that the provisions of sub-section (1) of section 3, have been contravened in respect of any assigned land, he may, by order-

(a) take possession of the assigned land after evicting the person in possession after such written notice as the Collector or Mandal Revenue Officer may deem reasonable and any crop or other produce raised on such land shall be liable to forfeiture and any building or other construction erected or anything deposited, thereon shall also be forfeited, if not removed by him, after such notice, as the Collector or the Mandal Revenue Officer may direct Forfeitures under this section shall be adjudged by the Collector or Mandal Revenue Officer and any property forfeited shall be disposed of as the Collector or Mandal Revenue Officer may direct; and;

(b)(i) reassign the said resumed land, other than those lands/ areas as may be notified by the Government from time to time in public interest and for public purpose, to the transferee who purchased the land in good faith and for valuable consideration on or before 29th January, 2007, subject to the condition that he/

she is landless poor person, and is in occupation of the land by using the said land for agriculture or as house site, as on the date of taking possession by eviction:

Provided that the reassignment in case of transferee shall be limited to only such an extent that the total holding of the reassignee including any other land held by him/her does not exceed 5.00 Acres dry land or 2 ½ Acres wet land:

Provided further that where the transferee who has purchased the land and got reassignment of it, or his legal heir, transfers the reassigned land, the land shall be resumed for assignment to the other eligible landless poor:

(ii) restore the said assigned land, other than those lands/ areas as may be notified by the Government from time to time in public interest and for public purpose, to the original assignee, subject to the condition that he or she is landless poor person as on the date of restoration for one time; or

(iii) assign to other eligible landless poor person: Provided that the restoration of land shall be limited to only such an extent that the total holding including any other land held by him/her does not exceed 5.00 Acres dry land or 2 ½ Acres wet land:

Provided further that where the original assignee or his legal heir, after first restoration transfers the assigned land, the land shall be resumed for assignment to the other eligible landless poor:

Provided also that if no eligible landless poor persons are available in the village/area, the resumed land will be utilised for public purpose.

Explanation: For the purpose of this clause "Public Interest" and "Public Purpose" shall mean and include, the Weaker Section Housing, Public Utility, Infrastructure Development, promotion of industries and Tourism or for any other public purpose;

(c) In the areas which may be notified by Government from time to time, time, lands resumed under clause 4(a) above, shall be utilized for public purpose.

x-x-x-x

(5) For the purposes of this section, where any assigned land is in possession of a person, other than the original assignee or his legal heir, it shall be presumed, until the contrary is proved, that there is a contravention of the provisions of sub-section (1) of section 3."

(Emphasis Applied)

67. The Appellants have argued that Section 4 of the 1977 Act as it stood on the date when the resumption orders were passed, i.e. 27.01.2007, only stipulated that a breach under Section 3 would result in possession of the land being taken over from the third party to whom the land was transferred and restored back to the original assignees. In other words, the Appellants contend that the Subject Land should be re-assigned to them as they are the legal heirs of the Assignees.

68. We have thoughtfully considered the submission. It is important at this to draw attention to the provisions of The Andhra Pradesh Assigned Lands (Prohibition of Transfers) (Amendment) Act, 2007 **[Hereinafter, '2007 Amendment']** through which Section 4(1)(c) was introduced. The 2007 Amendment Act in its Section 1(3) expressly states that:–

"Section 1 - Short title, extent and commencement –

x-x-x-x

(3) Section 2 shall be deemed to have come into force with effect on and from 21st, January, 1977 and the remaining provisions shall come into force from the date as the Government may, by notification, appoint."

(Emphasis Applied)

It is significant to note that Section 4(1)(c) was introduced through Section 2 of the 2007 Amendment Act. The legislature explicitly gave it retrospective effect and even introduced an Ordinance on similar lines prior

to the said amendment. The legislative intention can be further illuminated from the relevant part of the Statement of Object and Reasons in the Bill which introduced the 2007 Amendment and the same reads as follows:–

> **"x-x-x-x**
>
> **On account of rapid urbanization in certain areas i.e., Hyderabad, Visakhapatnam, Ranga Reddy Districts etc., most of the assigned lands have been alienated by the original assignees and the lands were converted to non-agricultural use. It is found not possible to reassign these lands after resumption, either to the original assignee or his/her legal heir. It is also practically not possible to assign these lands to other landless poor persons, since the nature of these lands has been changed and they are not useful for agriculture purpose.**
>
> **Keeping in view of the above said position, Government have decided to amend clause (b) of sub-section (1) of Section 4 of the said Act empowering the Government to notify certain areas where the Government can resume the assigned lands and utilize them for public purposes such as Weaker Sections Housing, Public Utilities, Infrastructure Development or for any other public purpose in such areas as may be notified by it.**
>
> **The amendment also proposes that in the areas other than those notified, the land can be restored once to the original assignee or it can be assigned to other eligible persons. However, if either the original assignee or no eligible landless poor are available in the village, then it gets restored to the Government for public purpose.**
>
> **As the Legislative Assembly was not then in session and it has been decided to give effect to the above decision immediately, the Andhra Pradesh Assigned Lands (Prohibition of Transfers) (Amendment) Ordinance, 2006 has been promulgated by the Governor on the 5th November, 2006."**

(Emphasis Applied)

69. It deserves to be mentioned that in the Andhra Pradesh Assigned Lands (Prohibition of Transfers) (Amendment) Ordinance, 2006

[Hereinafter, '2006 Ordinance'] also, a similar provision for resumption for certain notified lands akin to what has been provided in the 2007 Amendment Act, was incorporated. The intention of the legislature in respect of retrospective application of Section 4(1)(c) is thus crystal clear from the very inception. Furthermore, at the time of rebuttal arguments, the Respondents have produced a Notification dated 11.12.2006 whereby the village comprising the Subject Land has been notified as the area liable for resumption for violation of Section 3 of 1977 Act. Though the notification was purportedly issued for implementation of the 2006 Ordinance, but the said Ordinance having been substituted by the amendment in Section 4(1)(c) of the 1977 Act with more or less identical expressions, the Notification, referred to above, caters the legal necessity of requirement of a Notification under the Act. Hence, resumption of the Subject Land and re-transfer of its ownership rights to the State, does not suffer from any legal infirmity.

70. It may also be relevant to mention that the High Court in ***Dharma Reddy***[28] has already upheld the retrospective application of Section 4(1)(c) of the 1977 Act. Pertinently, this Court too in ***Manchegowda v. State of Karnataka***[29] upheld the constitutional validity of retrospective application given to Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act of 1978, which is a statute whose scheme is akin to 1977 Act. These amended provisions are thus deemed to be in force at the time of violation of assignment conditions in the year 1992. The only irresistible conclusion would thus be that the resumption order dated 27.01.2007 does not suffer from any legal infirmity.

C.5 COMPENSATION FOR RESUMPTION

71. Finally, we consider the aspect of compensation in respect of the Subject Land, which has been pressed into aid by learned senior counsel Mr. Reddy by relying on the decision of the High Court in ***Mekala Pandu***[30] to contend that in case any assigned land is resumed for public purpose as sought to be done in the instant case, then market value of the said land must be paid as compensation. The relevant paragraphs of the cited decision are extensively reproduced as follows:–

28 *Dharma Reddy* (n 12).
29 *Manchegowda v. State of Karnataka* (1984) 3 SCC 301.
30 *Mekala Pandu* (n 10).

"80. The question that falls for consideration is whether the terms of grant or patta enabling the State to resume the assigned lands for a public purpose without paying compensation equivalent to the market value of the land to the assignees are valid in law? Whether such restrictive conditions or covenants suffer from any constitutional infirmity?

81. The State while directing no compensation be paid equivalent to the market value of the assigned lands never took into consideration and had any regard to the length of time the land held by the grantee or assignee, the social objectives for which the assignment had been made by the State in discharge of its constitutional obligation of providing public assistance to the weaker sections of the society, the improvements or developments upon the land made by the assignees on any legitimate expectation of continuance of the assignment, heritable nature of the right under the grant, etc.

82. The question is whether the 'no compensation clause' imposed in the grant of assignment, in effect, requires the assignee to relinquish some constitutional right? Whether the conditions imposed at the time of assignment are "unconstitutional conditions"?

83. The assignees are constitutional claimants. The constitutional claim cannot be subjected to governmental restrictions or sanctions except pursuant to the constitutionally valid rule or law. There is no legislation enacted by the State compelling it to assign the lands to the weaker sections of the society. The State obviously assigned and granted pattas as a measure of providing public assistance to the weaker sections of the society. The proposition is that as a general rule the State may grant privilege upon such conditions as it sees fit to impose; but the power of the State in that regard is not unlimited, and one of the limitations that it may not impose conditions which require the relinquishment of constitutional rights. That whenever State is required to make laws, regulations or policies, it must do so consistently with the directive principles with a view to securing social and economic freedom so essential for establishment of an egalitarian society. The Directive Principles

of State Policy reflect the hopes and aspirations of people of this great country. The fact that they are not enforceable by any Court in no manner reduces their importance. They are nevertheless fundamental in the governance of the country and the State is under obligation to apply them in making laws and framing its policies particularly concerning the weaker sections of the society.

x-x-x-x

92. 'No compensation' clause which virtually enables the State to withdraw the privilege granted without payment of just compensation is an "unconstitutional condition" imposed by the State adversely affects the life, liberty, equality and dignity guaranteed by the Constitution. The assignment of lands to the exploited and vulnerable sections of the society is neither a formality nor a gratis. The privilege granted is with a view to ensure and protect the rights of the exploited sections of the people to live with human dignity free from exploitation. The privilege or largesse once granted acquires the status of vested interest. The policy to assign the government land by the State was obviously designed to protect the socio-economic status of a vulnerable citizenry; its deprivation would be universally perceived as a misfortune.

x-x-x-x

100. The deprivation of the assignee's right to payment of just compensation equivalent to the market value of the assigned land may amount to deprivation of right to livelihood. The denial of constitutional claim to receive just compensation after depriving the assignee of his land is impermissible except pursuant to a constitutionally valid rule or law.

x-x-x-x

110. In the result, we hold that 'no compensation' clause, restricting the right of the assignees to claim full compensation in respect of the land resumed equivalent to the market value of the land, is unconstitutional. The 'no compensation clause' infringes the fundamental rights guaranteed by Articles 14 and 31-A of the

Constitution. We are conscious that Article 21 essentially deals with personal liberty. But in cases where deprivation of property would lead to deprivation of life or liberty or livelihood, Article 21 springs into action and any such deprivation without just payment of compensation amounts to infringement of the right guaranteed thereunder. The doctrine of 'unconstitutional conditions' applies in all its force.

111. In the circumstances, we hold that the assignees of the government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with the terms of grant or patta, though such resumption is for a public purpose. We further hold that even in cases where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of the Land Acquisition Act, 1894, the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of the Land Acquisition Act, 1894. No condition incorporated in patta/deed of assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land.

112. In such view of ours, the view taken by this Court in *Bondapalli Sanyasi* (2 supra) that whenever the land is taken possession of by the State invoking the terms of the grant, the right of an assignee to any compensation may have to be determined in accordance with the conditions in patta itself is unsustainable. With due respect, we are unable to agree with the view taken in this regard. We are also unable to agree with the view taken that the assignee shall be entitled to compensation in terms of the Land Acquisition Act not as owner but as an interested person for the interest he held in the property."

(Emphasis Applied)

72. A perusal of the above extracts reveals that the real issue in those cases pertained to 'no compensation' clauses in the assignment and not

the non-payment of compensation for violating conditions regarding non-alienability as involved in the case in hand. That apart, the High Court's observation in respect of a constitutional right to compensation were disapproved by this Court while dismissing the Civil Appeals/Special Leave Petitions, including against the decision in ***Mekala Pandu***[31] as is discernible from the following order[32] : –

> **"1. Having regard to the peculiar facts and circumstances of the case. noted in the impugned judgment(s), we are satisfied that these are not fit cases for exercise of our jurisdiction under Article 136 of the Constitution of India.**
>
> **2. Civil Appeals and Special Leave Petition are, accordingly, dismissed.**
>
> **3. No costs.**
>
> **4. Certain observations made in the impugned order(s) about the status of claimants as 'constitutional claimants' are kept open to be considered in appropriate case, if necessary."**
>
> (Emphasis Applied)

73. Importantly, we must be cautious of the difference between the terms 'acquisition' and 'resumption' in the context of property laws. While both terms indicate deprivation of a right, there exists a significant distinction in their actual legal connotation. Acquisition denotes a positive act on behalf of the State to deprive an individual's enjoyment of a pre-existing right in a property in furtherance of its policy whereas resumption denotes a punitive action by the State to take back the right or an interest in a property which was granted by it in the first place. The term 'resumption' must not therefore be conflated with the term 'acquisition' as employed within the meaning of Article 300-A of the Constitution so as to create a right to compensation. Keeping this mark distinction in view, it is not necessary for us to determine whether an expropriated owner has an impeachable constitutional right to compensation under Article 300A of the Constitution in lieu of his acquired property.

---

31 *Mekala Pandu* (n 10).

32 *A.P. Industrial Infrastructure Corporation Ltd v Ramesh Singh and other connected appeals* (Civil Appeal No. 7904-7912 of 2012, 4 August 2014).

74. It is also pertinent to note that serious allegations prevail against the Appellants for being involved with the land mafia to usurp the Subject Land for private interests which was the precise reason for the Government to introduce legislation in the nature of the 1977 Act. Resultantly, in the facts and circumstances of this case, we hold that the Appellants are not entitled to any compensation under the existing constitutional framework.

D. CONCLUSION

75. In light of the abovementioned discussion, we conclude that the proceedings emanating out of the Second SCN were valid; the Subject Land was non-alienable and hence was subject to the provisions of the 1977 Act. We further hold that the Appellants had transferred the Subject Land in contravention to the provisions of 1977 Act and therefore, the resultant resumption order dated 27.01.2007 is valid. The Appellants are also not entitled to any compensation on account of the resumption of the assigned land.

76. We are not oblivious to the fact that the parties have been litigating since the year 1994. During these decades, the Subject Land has acquired enormous value. Some of the documents on record do indicate that land mafia has already ousted the gullible Assignees and now have vulture's eyes on the land. Additionally, a security agency of paramount national importance currently occupies the Subject Land in public interest. We, therefore, deem it appropriate to invoke our powers under Article 142 of the Constitution to do complete justice to the parties and issue the following further directions/declarations:-

a) The Subject Land in its entirety is declared to have vested in the State Government. On further allotment, its ownership and possessory rights, free from all encumbrances, stand transferred in favour of the Greyhounds;

b) No Civil Court or High Court shall entertain any claim whatsoever on behalf of any Assignee, their legal representative, GPA holder or any other claimant under any Agreement to sell or other instruments, claiming direct or indirect interests in the Subject Land; and

c) There shall be a final quietus of title and possessory dispute over the Subject Land in favour of the Respondent-State and/or the agency to whom the said land has been allotted.

77. Consequently, these appeals stand dismissed along with any pending applications in the above terms. No order as to costs.

Headnotes prepared by:
Nidhi Jain

Appeals dismissed.