

HIGH COURT OF ANDHRA PRADESH

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THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

THE HON'BL SRI JUSTICE MAHESWARA RAO KUNCHEAM

**LAND GRABBING APPEAL Nos. 20, 19, 21, 24, 25, 26, 27, 29,
31 of 2016,
1, 2, 3, 5, 7, 9, 11, 12, 13, 17, 18, 24, 25, 28, 30, 32 of 2017,
and 1 & 2 of 2024**

LGA.No.20 of 2016

Between:

Shaik Masthan Vali, Guntur Dist

.....APPELLANT

AND

Kummaru Durga Guntur Dist and Others

.....RESPONDENTS

LGA.No.19 of 2016

Between:

Meriga Mallikarjunaiah, Nellore Dist

..... APPELLANT

AND

Gorla Kousalyamma Nellore Dist and Others

.....RESPONDENTS

LGA.No.21 of 2016

Between:

Shaik Sulthan, Guntur Dist

..... APPELLANT

AND

Kanchal Venkayamma Guntur Dist and Others

.....RESPONDENTS

LGA.No.24 of 2016

Between:

Aabthina Chia Madhava Rao, Vja, Krishna Dist and Others

..... APPELLANTS

AND

Padala Sanjeeva Rao and Others

.....RESPONDENTS

LGA.No.25 of 2016

Between:

G. Sakunthamma, Anantapur Dist & Another

..... APPELLANTS

AND

B Rameeja Anantapur Dist and Others

.....RESPONDENTS

LGA.No.26 of 2016

Between:

Ammen Shah Fakira Moque, Hyd and Others

..... APPELLANTS

AND

S Anwar Cuddapa Dist Nineteen and Others

.....RESPONDENTS

LGA.No.27 of 2016

Between:

Nagari Ramanamma, Guntur Dist

..... APPELLANT

AND

Shaik Pyari Jan Guntur Dist and Others

.....RESPONDENTS

LGA.No.29 of 2016

Between:

Gudikandula Prasad, Guntur Dist

..... APPELLANT

AND

Mahankali Aruna Guntur Dist and Others

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LGA.No.31 of 2016

Between:

M V Jagannadham, Visakhapatnam

..... APPELLANT

AND

D Demudu Kothavalasa Mandal and Others

.....RESPONDENTS

LGA.No.1 of 2017

Between:

Rajiya Sulthana, Hyderabad

..... APPELLANT

AND

Vemula Punyavathi Guntur Dist and Others

.....RESPONDENTS

LGA.No.2 of 2017

Between:

Mohammed Nasirunnisa Begum

..... APPELLANT

AND

Shaik Saleema and Others

.....RESPONDENTS

LGA.No.3 of 2017

Between:

J.M.Bazul Ahhab

..... APPELLANT

AND

The Vizianagaram Municipality and Others

.....RESPONDENTS

LGA.No.5 of 2017

Between:

J.M.Zainul Abdeen

..... APPELLANT

AND

The Vizianagaram Municipality and Others

.....RESPONDENTS

LGA.No.7 of 2017

Between:

Mohammed Amanuddin

..... APPELLANT

AND

Perupogu Mariyakumari and Others

.....RESPONDENTS

LGA.No.9 of 2017

Between:

Nellore Masthanamma and Others

..... APPELLANT

AND

Kommi Sankaraiah

.....RESPONDENTS

LGA.No.11 of 2017

Between:

Rizwana Sulthana, Hyderabad

..... APPELLANT

AND

Burri Anasuya Guntur and Others

.....RESPONDENTS

LGA.No.12 of 2017

Between:

Ameen Shah Fakira Mosque, Cuddapah and Others

..... APPELLANTS

AND

Penugonda Siva Prasad Cuddapah Town and Others

.....RESPONDENTS

LGA.No.13 of 2017

Between:

Padala Sanjeeva Rao and Others

..... APPELLANTS

AND

Annabathina China Madhava Rao and Others

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LGA.No.17 of 2017

Between:

Ankem Krishna and Others

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AND

Rudrau Jagapathi Raju and Others

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LGA.No.18 of 2017

Between:

Kalepalli Samrajyam

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AND

Akumarthi Durgalaxmi and Others

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The Tahsildar Visakhapatnam Dist

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..... APPELLANT

AND

Goddu Sitamahalakshmi and Others

.....RESPONDENTS

LGA.No.2 of 2024

Between:

Gadiyaram Siddardha Sankar Das

..... APPELLANTS

AND

Kolakattala Siva Rami Reddy and Others

.....RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: **28.08.2025**

SUBMITTED FOR APPROVAL:

**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM
+ LAND GRABBING APPEAL Nos. 20, 19, 21, 24, 25, 26, 27,
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.....RESPONDENTS

! Counsel for the Appellants

: Sri T. N. M. Ranga Rao
In LGA No.9 of 2017

Sri Unnam Sravan Kumar,
In LGA No.1 of 2024

(No other counsel appeared to argue
in remaining batch of Appeals)

Counsel for the Respondents

: Sri Dammalapati Srinivas
Advocate General
For State Respondent

Sri S. Vivek Chandrasekhar,
Standing Counsel for APHC

Sri C. Venkaiah,
For 1st Respondent in
LGA.No.1/2024

Sri Kalangi Manohar,
For 2nd Respondent in
LGA.No.1/2024

< Gist :

> Head Note:

? Cases Referred:

1. LGA No.1 of 2019, APHC
Decided on 28.08.2019
2. (2022) 6 SCC 704
3. AIR 1957 SC 540
4. AIR 1967 SC 344
5. (2022) 2 SCC 161
6. (2014) 5 SCC 219
7. 2024 SCC OnLine All 7422
8. (1989) 1 SCC 345
9. AIR 1964 SC 648
10. (2003) 1 SCC 506
11. 1992 Supp (1) SCC 150

12. 2023 SCC OnLine SC 1584
13. (2025) 2 SCC 1
14. (2024) 3 SCC 799
15. (2024) 14 SCC 179
16. 2023 SCC OnLine Mad 1808
17. 2025 SCC OnLine SC 1009
18. (1955) 1 SCC 553
19. (2001) 6 SCC 534
20. (2003) 10 SCC 121
21. (2003) 6 SCC 675
22. 2012 SCC OnLine AP 573

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
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THE HON'BL SRI JUSTICE MAHESWARA RAO KUNCHEAM
LAND GRABBING APPEAL Nos. 20, 19, 21, 24, 25, 26, 27, 29,
31 of 2016,
1, 2, 3, 5, 7, 9, 11, 12, 13, 17, 18, 24, 25, 28, 30, 32 of 2017,
and 1 & 2 of 2024

COMMON JUDGMENT: (per Hon'ble Sri Justice Ravi Nath Tilhari)

The aforesaid batch of Land Grabbing Appeals involve common question as to their maintainability in this Court under the Andhra Pradesh Land Grabbing (Prohibition) Act 1982 (in short 'the Act 1982').

2. L.G.A.No.1 of 2024, in which also the same question is involved and was reserved separately is also being decided with this batch.

3. Heard Sri T. N. M. Ranga Rao, learned counsel for the appellants in LGA. No.9 of 2017. No other counsel appeared to advance the arguments for the appellants in batch of Appeals.

4. We also heard Sri Dammalapati Srinivas, learned Advocate General for the State respondent.

5. We provided by the Order dated 02.04.2025 that the High Court of Andhra Pradesh through Registrar General be also impleaded as party in one of the appeals, LGA No.20 of 2016, which shall be the leading case of the batch of appeals and such impleadment, only for the purpose of granting opportunity of hearing to the High Court in view of there being the resolution by the Administrative Committee of the then common High Court of Judicature for the

State of Telangana and for the State of Andhra Pradesh. As such the impleadment was made.

6. We also heard Sri S. Vivek Chandrasekhar, learned standing counsel for Andhra Pradesh High Court.

7. In LGA No.1 of 2024 – We heard Sri Unnam Sravan Kumar, learned counsel for the appellant, Sri C. Venkaiah, learned counsel for respondent No.1 and Sri Kalangi Manohar, learned counsel for respondent No.2.

8. We would briefly refer to the facts of the aforesaid LGAs as follows:

I Facts:

i) LGA No.20 of 2016:

L.G.O.P.No.8 of 2009 under Section 7-A(1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **A. P. Land Grabbing (Prohibition) Tribunal (District Judge) at Guntur**, was filed by the appellant/applicant for eviction of the respondents therein from the application schedule property and surrender vacant possession of the same to the applicant. The same was dismissed vide Order dated 25.07.2013. Challenging the said Order, L.G.A.No.11 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at B. R. K. R. Bhavan, Tankbund, Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.11 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.20 of 2016. After bifurcation of the State, as the

matter related to the jurisdiction of the District Court, Guntur, it was transferred to this Court, maintaining the same number.

ii) LGA No.19 of 2016:

O.P.No.7 of 1994 under Section 7 (2) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **Special Tribunal constituted under A.P. Land Grabbing (Prohibition) Act (Principal District Judge) at Nellore**, was filed by the respondents against the appellant for direction to the respondent/appellant to deliver the site and award compensation of Rs.5,000/- by way of damages. The same was allowed vide Order dated 18.11.2010. Challenging the said Order, L.G.A.No.3 of 2012 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.3 of 2012 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.19 of 2016. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Nellore, it was transferred to this Court, maintaining the same number.

iii) LGA No.21 of 2016:

L.G.O.P.No.10 of 2009 under Section 7-A(1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **A. P. Land Grabbing (Prohibition) Tribunal (District Judge) at Guntur**, was filed by the appellant/applicant for eviction of the respondents therein from the

application schedule property and surrender vacant possession of the same to the applicant. The same was dismissed vide Order dated 25.07.2013. Challenging the said Order, L.G.A.No.7 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at B. R. K. R. Bhavan, Tankbund, Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.7 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.21 of 2016. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Guntur, it was transferred to this Court, maintaining the same number.

iv) LGA No.24 of 2016:

L.G.O.P.No.356 of 2008 under Sections 7 & 8 of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **District Judge, Krishna, Machilipatnam**, was filed by the appellants/applicants for eviction of the respondents therein from the application schedule property and put the applicants in possession of the same and award costs and compensation. The same was dismissed vide Judgment dated 22.07.2013. Challenging the said Judgment, L.G.A.No.20 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.20 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the

State of Andhra Pradesh, where it was re-numbered as L.G.A.No.24 of 2016. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Krishna, Machilipatnam, it was transferred to this Court, maintaining the same number.

v) LGA No.25 of 2016:

O.P.No.390 of 2005 under Section 7-A (1) and Section 8 (1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **the Chairman, Tribunal under the Land Grabbing Act, Anantapur**, was filed by the appellants/applicants to declare the right of the applicants to the petition schedule property and direct delivery of possession of the same. The same was dismissed vide Order dated 14.06.2012. Challenging the said Order, L.G.A.No.5 of 2013 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act at Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.11 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.25 of 2016. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Anantapur, it was transferred to this Court, maintaining the same number.

vi) LGA No.26 of 2016:

L.G.O.P.No.5 of 1990 under Section 7-A (1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of the **Special Tribunal (District Judge) appointed under the Andhra Pradesh Land**

Grabbing (Prohibition) Act, 1982, at Cuddapah, was filed by the appellants/applicants for eviction of the respondents therein from the application schedule property and to deliver the vacant possession of the same to the applicants. The same was dismissed vide Judgment dated 11.12.1998. Challenging the said Order, L.G.A.No.11 of 2000 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at B. R. K. R. Bhavan, Tankbund Road, Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.11 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.26 of 2016. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Cuddapah, it was transferred to this Court, maintaining the same number.

vii) LGA No.27 of 2016:

L.G.O.P.No.1 of 2010 under Section 7-A(1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **A. P. Land Grabbing (Prohibition) Tribunal (District Judge) at Guntur**, was filed by the appellant/applicant for eviction of the respondents therein from the application schedule property and surrender vacant possession of the same to the applicant. The same was dismissed vide Order dated 15.07.2013. Challenging the said Order, L.G.A.(SR)No.692 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at B. R. K. R. Bhavan, Tankbund, Hyderabad. After

abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.(SR)No.692 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was numbered as L.G.A.No.27 of 2016. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Guntur, it was transferred to this Court, maintaining the same number.

viii) LGA No.29 of 2016:

L.G.O.P.No.16 of 2009 under Section 7-A(1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **A. P. Land Grabbing (Prohibition) Tribunal (District Judge) at Guntur**, was filed by the appellant/applicant for eviction of the respondents therein from the application schedule property and surrender vacant possession of the same to the applicant. The same was dismissed vide Order dated 25.07.2013. Challenging the said Order, L.G.A.No.13 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at B. R. K. R. Bhavan, Tankbund, Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.13 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.29 of 2016. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Guntur, it was transferred to this Court, maintaining the same number.

ix) LGA No.31 of 2016:

L.G.O.P.No.34 of 2003 under Section 7-A(1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of the **Special Tribunal-cum-District Judge at Vizianagaram**, was filed by the appellant/applicant for eviction of the respondents from the schedule property and put the applicant in vacant possession of the same. The same was dismissed vide Order dated 15.06.2007. Challenging the said Order, L.G.A.(SR)No.2992 of 2007 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.(SR)No.2992 of 2007 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was numbered as L.G.A.No.31 of 2016. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Vizianagaram, it was transferred to this Court, maintaining the same number.

x) LGA No.1 of 2017:

L.G.O.P.No.13 of 2009 under Section 7-A(1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **A. P. Land Grabbing (Prohibition) Tribunal (District Judge) at Guntur**, was filed by the appellant/applicant for eviction of the respondents therein from the application schedule property and surrender vacant possession of the same to the applicant. The same was dismissed vide Order dated 25.07.2013.

Challenging the said Order, L.G.A.No.814 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at B. R. K. R. Bhavan, Tankbund, Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.814 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.1 of 2017. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Guntur, it was transferred to this Court, maintaining the same number.

xi) LGA No.2 of 2017:

L.G.O.P.No.17 of 2009 under Section 7-A(1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **A. P. Land Grabbing (Prohibition) Tribunal (District Judge) at Guntur**, was filed by the appellant/applicant for eviction of the respondents therein from the application schedule property and surrender vacant possession of the same to the applicant. The same was dismissed vide Order dated 25.07.2013. Challenging the said Order, L.G.A.No.5114 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at B. R. K. R. Bhavan, Tankbund, Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.5114 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.2 of 2017. After bifurcation of the State, as the

matter related to the jurisdiction of the District Court, Guntur, it was transferred to this Court, maintaining the same number.

xii) LGA No.3 of 2017:

L.G.O.P.No.776 of 2004 under Section 7 of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of the **Land Grabbing Tribunal-cum-District Judge, Vizianagaram**, was filed by the appellant/applicant to declare him as absolute owner of the petition schedule property and direct the respondents 7 to 17 therein to vacate the schedule property and to put the petitioner in vacant possession of the same. The same was dismissed vide Order dated 21.03.2014. Challenging the said Order, L.G.A.(SR)No.1693 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.(SR)No.1693 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was numbered as L.G.A.No.3 of 2017. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Vizianagaram, it was transferred to this Court, maintaining the same number.

xiii) LGA No.5 of 2017:

L.G.O.P.No.775 of 2004 under Section 7 of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of the **Land Grabbing Tribunal-cum-District Judge, Vizianagaram**, was filed by the

appellant/applicant to declare him as absolute owner of the petition schedule property and direct the respondents 7 to 11 therein to vacate the schedule property and to put the petitioner in vacant possession of the same. The same was dismissed vide Order dated 21.03.2014. Challenging the said Order, L.G.A.(SR)No.1696 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.(SR)No.1696 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was numbered as L.G.A.No.5 of 2017. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Vizianagaram, it was transferred to this Court, maintaining the same number.

xiv) LGA No.7 of 2017:

L.G.O.P.No.18 of 2009 under Section 7-A(1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **A. P. Land Grabbing (Prohibition) Tribunal (District Judge) at Guntur**, was filed by the appellant/applicant for eviction of the respondents therein from the application schedule property and surrender vacant possession of the same to the applicant. The same was dismissed vide Order dated 25.07.2013. Challenging the said Order, L.G.A.No.10 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at B. R. K. R. Bhavan, Tankbund, Hyderabad. After abolition of the

Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.10 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.7 of 2017. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Guntur, it was transferred to this Court, maintaining the same number.

v) LGA No.9 of 2017:

L.G.O.P.No.5 of 2003 under Section 7 of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of the **Chairman, Tribunal constituted under A.P. Land Grabbing (Prohibition) Act (Principal District Judge) at Nellore**, was filed by the respondent against the appellants for declaration that the applicant/respondent is the absolute owner of the petitioner schedule property and for eviction of the respondents therein therefrom and for damages. The same was allowed vide Order dated 17.08.2011. Challenging the said Order, the respondents therein filed L.G.A.No.13 of 2011 under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.13 of 2011 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.9 of 2017. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Nellore, it was transferred to this Court, maintaining the same number.

xvi) LGA No.11 of 2017:

L.G.O.P.No.14 of 2009 under Section 7-A(1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **A. P. Land Grabbing (Prohibition) Tribunal (District Judge) at Guntur**, was filed by the appellant/applicant for eviction of the respondents therein from the application schedule property and surrender vacant possession of the same to the applicant. The same was dismissed vide Order dated 25.07.2013. Challenging the said Order, L.G.A.No.12 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at B. R. K. R. Bhavan, Tankbund, Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.12 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.11 of 2017. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Guntur, it was transferred to this Court, maintaining the same number.

xvii) LGA No.12 of 2017:

L.G.O.P.No.4 of 1990 under Section 7-A (1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of the **Special Tribunal (District Judge) appointed under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, at Cuddapah**, was filed by the appellants/applicants for declaration of the sale deeds of the respondents 1, 3, 6 and 9 therein, if any, as null and void, to declare the leases made by

respondents 1, 3, 6 and 9 to the respondents 2, 4, 5, 7, 8, 10 and 11 therein as void in law and not binding on the applicants therein and to order all the respondents therein to deliver vacant possession of the land occupied by them, as described in the schedule property to the petitioners. The same was dismissed vide Judgment dated 11.12.1998. Challenging the said judgment, L.G.A.No.10 of 2000 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.10 of 2000 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.12 of 2017. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Cuddapah, it was transferred to this Court, maintaining the same number.

xviii) LGA No.13 of 2017:

L.G.O.P.No.356 of 2008 under Sections 7 & 8 of the A. P. Land Grabbing) Act, 1982 (in short 'the Act 1982'), on the file of **District Judge, Krishna, Machilipatnam**, was filed by the appellants/applicants for eviction of the respondents therein from the application schedule property and put the applicants in possession of the same and award costs and compensation. The same was allowed in part vide Judgment dated 22.07.2013. Challenging the said Judgment, L.G.A.No.3 of 2014 was filed by the respondents therein under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at Hyderabad. After abolition of the Special Court vide

G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.3 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.13 of 2017. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Krishna, Machilipatnam, it was transferred to this Court, maintaining the same number.

xix) LGA No.17 of 2017:

L.G.O.P.No.342 of 1997 under Sections 7-A(1) of the A. P. Land Grabbing) Act, 1982 (in short 'the Act 1982'), on the file of **District Judge, Krishna, Machilipatnam**, was filed by the applicant/respondent for eviction of the respondents therein from the petition schedule property and put the applicant in possession of the same. The same was allowed vide Judgment dated 25.04.2016. Challenging the said Order, L.G.A.No.17 of 2017 was filed by the respondents therein under Section 7-A (3) of the Act 1982 before the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh as the Special Courts were abolished vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Krishna, Machilipatnam, it was transferred to this Court, maintaining the same number.

xx) LGA No.18 of 2017:

L.G.O.P.No.341 of 1997 under Sections 7-A(1) of the A. P. Land Grabbing) Act, 1982 (in short 'the Act 1982'), on the file of **District Judge, Krishna, Machilipatnam**, was filed by the applicant/respondent for eviction of

the respondents therein from the petition schedule property and redeliver the same to the applicant. The same was allowed vide Judgment dated 25.04.2016. Challenging the said Order, L.G.A.No.18 of 2017 was filed by the 1st respondent therein under Section 7-A (3) of the Act 1982 before the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh as the Special Courts were abolished vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Krishna, Machilipatnam, it was transferred to this Court, maintaining the same number.

xxi) LGA No.24 of 2017:

O.S.No.1 of 1994 was filed by the plaintiff for declaration of title and for delivery of possession of the plaint schedule properties on the file of **District Judge, Cuddapah**, and the same was dismissed along with connected LGOPs vide common Judgment dated 11.12.1998. Challenging the said judgment, the plaintiff filed A.S.No.1717 of 1999 before the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh. The appeal was re-numbered as LGA.24 of 2017, as per office Order, dated 29.09.2008. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Cuddapah, it was transferred to this Court, maintaining the same number.

xxii) LGA No.25 of 2017:

O.S.No.2 of 1994 was filed by the plaintiff for declaration of title and for delivery of possession of the plaint schedule properties on the file of **District**

Judge, Cuddapah, and the same was dismissed along with connected LGOPs vide common Judgment dated 11.12.1998. Challenging the said judgment, the plaintiff filed A.S.No.1765 of 1999 before the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh. The appeal was re-numbered as LGA.25 of 2017, as per office Order, dated 29.09.2008. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Cuddapah, it was transferred to this Court, maintaining the same number.

xxiii) LGA No.28 of 2017:

L.G.O.P.No.15 of 2009 under Section 7-A(1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of **A. P. Land Grabbing (Prohibition) Tribunal (District Judge) at Guntur**, was filed by the appellant/applicant for eviction of the respondents therein from the application schedule property and surrender vacant possession of the same to the applicant. The same was dismissed vide Order dated 25.07.2013. Challenging the said Order, L.G.A.No.6 of 2014 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at B. R. K. R. Bhavan, Tankbund, Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.6 of 2014 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.28 of 2017. After bifurcation of the State, as the

matter related to the jurisdiction of the District Court, Guntur, it was transferred to this Court, maintaining the same number.

xxiv) LGA No.30 of 2017:

L.G.C.No.25 of 1994 under Section 7(1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of the **Principal District Judge-cum-Special Court constituted under A. P. Land Grabbing (Prohibition) Act, 1982 at Visakhapatnam**, was filed by the applicant/respondent for declaration that the respondents therein as land grabbers and to evict them from the schedule property. The same was allowed vide judgment dated 30.06.2010. Challenging the said judgment, L.G.A.No.2 of 2012 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at Hyderabad by the respondents in L.G.C.No.25 of 1994. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.2 of 2012 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.30 of 2017. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Visakhapatnam, it was transferred to this Court, maintaining the same number.

xxv) LGA No.32 of 2017:

L.G.O.P.No.7 of 1990 under Section 7-A (1) of the A. P. Land Grabbing (Prohibition) Act, 1982 (in short 'the Act 1982'), on the file of the **Special Tribunal (District Judge) appointed under the Andhra Pradesh Land**

Grabbing (Prohibition) Act, 1982, at Cuddapah, was filed by the appellants/applicants for eviction and delivery of possession of the schedule property. The same was dismissed vide common Judgment dated 11.12.1998. Challenging the said judgment, L.G.A.No.13 of 2000 was filed under Section 7-A (3) of the Act 1982 before the Special Court under Land Grabbing (Prohibition) Act, 1982 at Hyderabad. After abolition of the Special Court vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, the L.G.A.No.13 of 2000 was transferred to the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh, where it was re-numbered as L.G.A.No.32 of 2017. After bifurcation of the State, as the matter related to the jurisdiction of the District Court, Cuddapah, it was transferred to this Court, maintaining the same number.

xxvi) LGA No.2 of 2024:

AP LGOP.No.01 of 2009 on the file of the **Principal District Judge, Prakasam at Ongole,** was filed by the appellant/applicant for eviction and delivery of possession of the schedule property. The same was dismissed vide Judgment dated 18.06.2024. Challenging the said judgment, L.G.A.No.2 of 2024 was filed under Section 7-A (3) of the Act 1982 before this Court, as the Special Courts were abolished as per G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016.

9. In LGA.No.1 of 2024 the facts are as follows:

i) The appellant-Varanasi Satyanarayana filed L.G.O.P.No.193 of 2015 (in short 'LGOP') under Section 1 (8) (1) of Andhra Pradesh Land Grabbing

(Prohibition) Act, 1982 (in short 'the Act') to declare the respondents No.1 & 2 as land grabbers and to evict them from the petition schedule property and deliver vacant possession of the same to the applicant. The LGOP was filed in the Court of the Principal District Judge, West Godavari at Eluru.

ii) Respondents No.1 and 2 filed counter/defence, denying the applicant as the absolute owner and also the identity of the property by submitting that the schedule property boundaries were not properly mentioned. They also denied to have encroached or grabbed the vacant property and submitted that the authorities gave the enjoyment certificate to them and they were paying the property tax and special taxes. Various other pleas were also raised.

iii) The 4th respondent Tahsildar, Eluru Mandal, Eluru also filed defence, *inter alia*, raising the plea that on physical verification of the site in Town and Government records, the site wherein the respondents 1 and 2 were said to have made encroachments was the canal poramboke, the government land and any dispute with respect thereto was beyond the jurisdiction of the Court in LGOP. Various other pleas were also taken including about W.P.No.5761 of 2015, as also W.P.No.167 of 2015, in which some interim orders were passed.

iv) LGOP No.193 of 2015 was finally dismissed by the learned Principal District Judge, West Godavari on 26.02.2024, recording the findings, *inter alia*, that the respondents 1 and 2 could not be said as the land grabbers and they could not be evicted, as the matter was also *sub judice* before the High Court.

v). Challenging the Order, dated 26.02.2024 the present appeal under

Section 7A (3) of the Act read with Rule 16 of the A.P.Land Grabbing (Prohibition) Rules, 1988 (in short 'the Rules 1988') has been filed.

10. Thus, the Appeals mentioned in para-5, Sl.Nos. (i) to (xviii), (xxiii), (xxiv) and (xxv) arise out of the Orders passed by the Special Tribunal under the Act 1982 and against the said Orders, the Appeals were filed before the Special Court constituted under the said Act. But after G.O.Ms.No.420, dated 02.09.2016, those Appeals were transferred to the erstwhile High Court of Andhra Pradesh, from where, on bifurcation of the State, the Appeals were allotted to this Court on the point of territorial jurisdiction.

11. The Appeals at Sl.Nos. (xix) and (xx) against the Order of the Special Tribunal under the Act 1982 were filed in the erstwhile High Court of Andhra Pradesh as by that time the Special Courts were abolished vide G.O.Ms.No.420, dated 02.09.2016. After bifurcation of the State, the Appeals were allotted to this Court on the point of territorial jurisdiction.

12. The Appeals at Sl.Nos. (xxi) and (xxii) were also filed before the District Judge, Kadapa and against the Orders, initially A.S (s) were filed in the erstwhile High Court of Andhra Pradesh, where they were re-numbered as Land Grabbing Appeals. After bifurcation of the State, the Appeals were allotted to this Court on the point of territorial jurisdiction.

13. The Appeal at Sl.No.(xxvi) arises out of the LGOP filed before the Special Tribunal under the Act 1982 and against the Order dated 18.06.2024 the Appeal has been filed in this Court under Section 7-A (3) of the Act 1982.

14. So far as the Appeal mentioned in Para-6 (supra) is concerned, the same arises out of the Order of the Special Tribunal and against the Order of dismissal dated 26.02.2024, the Appeal has been filed in this Court under Section 7-A (3) of the Act 1982.

15. So, there are two sets of Appeals. One, finally transferred to the erstwhile High Court of Andhra Pradesh, which were pending before the Special Court under the Act 1982 filed under Section 7-A (3) of the said Act in view of the abolition of the Special Courts vide G.O.Ms.No.420, dated 02.09.2016. The other set of appeals are those which have been filed in the High Court of Andhra Pradesh either erstwhile or present after reorganization, directly, after the Order of the Special Tribunal, in view of its abolition vide G.O.Ms.No.420, dated 02.09.2016. But all the Appeals are filed under the Act 1982.

II Point for consideration:

16. The point for determination is the maintainability of the Land Grabbing Appeals before the High Court under the Act 1982.

17. We heard on the point of maintainability of the appeal before this Court under Section 7A (3) of the A.P. Land Grabbing (Prohibition) Act, 1982.

III Consideration / Analysis:

18. To consider the above point, we would refer to the provisions of the Act 1982.

i) Statutory Provisions:

19. Section 7A of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 reads as under:

“7A. Special Tribunals and its powers, etc.

(1) Every Special Tribunal shall have power to try all cases not taken cognizance of by the Special Court relating to any alleged act of land grabbing, or with respect to the ownership and title to, or lawful possession of the land grabbed whether before or after the commencement of the Andhra Pradesh Land Grabbing (Prohibition) (Amendment) Act, 1987 and brought before it and pass such orders (including orders by way of interim directions) as it deems fit:

Provided that if, in the opinion of the Special Tribunal, any case brought before it is *prima facie* frivolous, or vexatious it shall reject the same without any further enquiry:

Provided further that if, in the opinion of the Special Tribunal any case brought before it is a fit case to be tried by the Special Court it may for reasons to be recorded by it transfer the case to the Special Court for its decision in the matter.

(2) Save as otherwise provided in this Act, a Special Tribunal shall, in the trial of cases before it, follow the procedure prescribed in the Code of Civil Procedure, 1908.

(3) An appeal shall lie, from any judgment or order not being interlocutory order of the Special Tribunal, to the Special Court on any question of law or of fact. Every appeal under this sub-section shall be preferred within a period of sixty days from the date of Judgment or order of the Special Tribunal:

Provided that the Special Court may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of sixty days.

(4) Every finding of the Special Tribunal with regard to any alleged act of land grabbing shall be conclusive proof of the fact of land grabbing, and of the persons who committed such land grabbing and every Judgment of the Special Tribunal with regard to the determination of the title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land:

Provided that the Special Tribunal shall by notification specify the fact of taking cognizance of the case under this Act. Such notification shall state that any objection which may be received by the Special Tribunal from any person including the custodian of evacuee property within the period specified therein will be considered by it:

Provided further that where the custodian of evacuee property objects to the Special Tribunal taking cognizance of the case, the Special Tribunal shall not proceed further with the case in regard to such property:

Provided also that the Special Tribunal shall cause a notice of taking cognizance of the case under the Act served on any person known or believed to be interested in the land, after a summary enquiry to satisfy itself about the persons likely to be interested in the land.

(5) It shall be lawful for the Special Tribunal to pass an order in any case decided by it, awarding compensation in terms of money for wrongful possession, which shall not be less than an amount equivalent to the market value of the land grabbed as on the date of the order and profits accrued from the land payable by the land grabber to the owner of the grabbed land and may direct the re-delivery of the grabbed land to its rightful owner. The amount of compensation and profits so awarded and cost of re-delivery, if any, shall be recovered as an arrear of land revenue if the Government are the owner or as a decree of a Civil Court, in any other case:

Provided that the Special Tribunal shall, before passing an order under this sub-section, give to the land grabber an opportunity of making his representation or of adducing evidence, if any, in this regard and consider every such representation and evidence.

(6) Any case, pending before any Court or other authority immediately before the commencement of the Andhra Pradesh Land Grabbing (Prohibition) (Amendment) Act, 1987 as would have been within the jurisdiction of a Special Tribunal, shall stand transferred to the Special Tribunal, having jurisdiction, as if the cause of action on which such suit or proceeding is based had arisen after such commencement.

(7) Every case brought before the Special Tribunal shall be disposed of finally by the Special Tribunal, as far as possible, within a period of six months from the date of its having been brought before it.

(8) The Special Tribunal shall have all the powers of a Civil Court for purposes of review.”

20. A perusal of the Section 7A makes it clear that under sub-section (3) an appeal lies from any judgment or order not being interlocutory order of the ‘Special Tribunal’, to the ‘Special Court’ on any question of law or of fact.

21. The period of limitation has been prescribed for filing appeal. The power has also been conferred on the Special Court to entertain the appeal after the expiry of the period of limitation on being satisfied that there is sufficient cause for not filing the appeal within the period of limitation.

22. The ‘Special Tribunal’ has been defined under Section 2 (i-b) as under:

“Section 2: Definitions:

(i-b): “Special Tribunal” means a Court of the District Judge having jurisdiction over the area concerned and includes Chief Judge, City Civil Court, Hyderabad”

23. The “Special Court” has been defined under Section 2 (i-a) as under:

“(i-a): Special Court” means a Special Court constituted under Section 7”

24. Section 7 of the Act 1982 reads as under:

“Section 7. Constitution of Special Courts- (1) The Government may, for the purpose of providing speedy enquiry into any alleged act of land grabbing, and trial of cases in respect of the ownership and title to, or lawful possession of, the land grabbed, by notification, constitute 1[a Special Court].

(2) A Special Court shall consist of a Chairman and four other members, to be appointed by the Government.

(3) The Chairman shall be a person who is or has been a Judge of a High Court and of the other four members, two shall be persons who are or have been District Judges (hereinafter referred to as Judicial Members) and the other two members shall be persons who hold or have held a post not below the rank of a District Collector (hereinafter referred to as Revenue Members).

Provided that the appointment of a person who was a Judge of a High Court as the Chairman of the Special Court shall be made after consultation with the Chief Justice of the High Court concerned:

Provided further that where a sitting Judge of a High Court is to be appointed as Chairman, such appointment shall be made after nomination by the Chief Justice of the High Court concerned, with the concurrence of the Chief Justice of India.

(4) The Government may, from time to time likewise, reconstitute the Special Court constituted under sub-section (1) or may, at any time, abolish such Special Court.

(4A) The Chairman or other member shall hold office as such for a term of two years from the date on which he enters upon his office, or until the Special Court is reconstituted or abolished under sub-section (4), whichever is earlier.

(4B)(a) Subject to the other provisions of this Act, the jurisdiction, powers and authority of the Special Court may be exercised by benches thereof one comprising of the Chairman, a judicial member and a Revenue member and the other comprising of a Judicial Member and a Revenue Member.

(b) Where the bench comprises of the Chairman, he shall be the Presiding Officer of such a bench and where the bench consists of two members, the Judicial Member shall be the Presiding Officer.

(c) It shall be competent for the Chairman either suo motu or on a reference made to him to withdraw any case pending before the bench comprising of two members and dispose of the same or to transfer any case from one bench to another bench in the interest of justice.

(d) Where it is reasonably apprehended that the trial of Civil Liability of a person accused of an offence under this Act, is likely to take considerable time, it shall be competent for the Chairman to entrust the trial of the criminal liability of such offender to another bench in the interest of speedy disposal of the case.

(e) Where a case under this Act is heard by a bench consisting of two members and the members thereof are divided in opinion, the case with their opinions shall be laid before another judicial member or the Chairman and that member or Chairman, as the case may be after such hearing as he thinks fit, shall deliver his opinion and the decision or order shall follow that opinion.

(5) The quorum to constitute a meeting of any bench of the Special Court shall be two.

(5A) The Special Court may, by notification, make regulations not inconsistent with the provisions of this Act or the rules made thereunder relating to the procedure to be followed for the conduct of the cases and for regulating the manner of taking decisions.

(5B) The Special Court may cause a public notice of the substance of such regulations for the information of the general public.

(5C) Every regulation made under this section shall, immediately after it is made, be laid before the Legislative Assembly of the State if it is in session, and if it is not in session in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modifications in the regulation or in the annulment of the regulation, the regulation shall from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulments shall be without prejudice to the validity of anything previously done under that regulation.

(5D) (i) Notwithstanding anything in the Code of Civil Procedure, 1908 (V of 1908) the Special Court may follow its own procedure which shall not be

inconsistent with the principles of natural justice and fair play and subject to the other provisions of this Act and of any rules made thereunder while deciding the Civil liability.

(ii) Notwithstanding anything contained in Section 260 or Section 262 of the Code of Criminal Procedure, 1973 (2 of 1974) every offence punishable under this Act shall be tried in a summary way and the provisions of Sections 263 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial.

(iii) When a person is convicted of an offence of land grabbing attended by criminal force or show of force or by criminal intimidation, and it appears to the Special Court that, by such force or show of force or intimidation the land of any person has been grabbed, the Special Court may if it thinks fit, order that possession of the same be restored to that person after evicting by force, if necessary, any other person who may be in possession of the property.

(6) No act or proceeding of 1[the Special Court] shall be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution or re-constitution thereof.”

25. As per Sub-Section (2) of Section 7 of the Act, the Special Court consists of a Chairman and four other members to be appointed by the Government. Sub-section (3) provides for the Chairman, who is or has been a Judge of a High Court and of the other four members, two shall be the persons, who are or have been District Judges, as Judicial Members, and the other two members shall be persons who hold or have held a post not below the rank of a District Collector. Under sub-section (4), the Government has the power to reconstitute and may also abolish such Special Court.

ii) G.O.Ms.No.420, dated 02.09.2016:

26. In exercise of powers under Section 7 (4) of the Act 1982, the G.O.Ms.No.420, dated 02.09.2016 was notified, *inter alia*, to abolish the Special Court.

27. G.O.Ms.No.420, dated 02.09.2016 reads as under:

“GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

The Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (Act No.12 of 1982) – Abolition of Special Court constituted under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 and transfer of the pending cases under the Act No.12 of 1982 to the respective Civil Courts in the State of Andhra Pradesh – Notification – Issued.

REVENUE (EA&AR) DEPARTMENT

G.O.Ms.No.420

Dated: 02-09-2016
Read the following:

1. Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (Act No.12 of 1982)
2. G.O.Ms.No.561, Desk Officer (LR) Revenue Department, Dated 04-08-1988
3. Lr.Dis.No.229/2016/Reqr/Estt/SC of the Registrar, Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, dated: 04-06-2016.

ORDER:

Whereas, in the reference 2nd read above, Government have issued notification for constitution of Special Court under Sub-Section (1) read with sub-section (3) of Section 7 of the Andhra Pradesh Land Grabbing (Prohibition) Act for the purpose of providing speedy enquiry into any alleged act of land grabbing, and trial of cases in respect of the ownership and title to, or lawful possession of, the land grabbed.

2. In the reference 3rd read above, the Registrar I/c.Special Court under A.P. Land Grabbing (Prohibition) Act, 1982 has made certain proposals for appointment of members to the Special Court. The proposal has been examined and it was decided not to utilize the services of Special Court under A.P. Land Grabbing (Prohibition) Act, 1982, as only small number of cases are pending in respect of the residuary State of Andhra Pradesh.

3. Government after careful examination of the matter, have decided to abolish the Special Court constituted under the provisions of Land Grabbing (Prohibition) Act, 1982 and to **transfer the pending cases under the said Act to the respective Civil Courts in the State of Andhra Pradesh**. Accordingly, the following notification will be published in an Extra ordinate issue of State of Andhra Pradesh Gazette dated: 02-09-2016.

NOTIFICATION

In exercise of the powers conferred by sub-section (4) of section 7 of **A.P. Land Grabbing (Prohibition) Act, 1982** (Act 12 of 1982), the Governor of Andhra Pradesh hereby abolish the Special Court constituted under the provisions of Land Grabbing (Prohibition) Act, 1982; save as otherwise provided hereunder:

- (i) All cases of post cognizance pending before the Special Court relating to the State of Andhra Pradesh along with the notification charges that were deposited by the parties to the case and lying to the credit of the Special Court under A.P. Land Grabbing (Prohibition) Act shall stand transferred to the Principal district Judges of the respective District Courts in the State of Andhra Pradesh and the pending cases shall be tried and disposed off as Land Grabbing Original Petitions (LGOPs) in terms of Act 12 of 1982.
- (ii) All Land Grabbing Case S.Rs (LGCSRs) and Taken Up Cases relating to the State of Andhra Pradesh that are pending for taking cognizance shall stand transferred to Principal District Judges of the respective District Courts in the State of Andhra Pradesh and the said cases shall be tried and disposed off as Land Grabbing Original Petitions (LGOPs) in terms of said Act 12 of 1982.
- (iii) All Land Grabbing Appeal S.Rs (LGASRs) **relating to the State of Andhra Pradesh that are pending for taking cognizance and Transfer Suit(s) that are received from the Hon'ble High Court for trial along with the pending cases before this Court, shall stand transferred to Hon'ble High Court of Andhra Pradesh. The LGASRs shall be disposed off in terms of Act of 1982.**
- (iv) All the disposed cases relating to the State of Andhra Pradesh shall stand transferred to respective District Courts in Andhra Pradesh for preservation of disposed records in the District Courts.
- (v) The personnel working under the control of the Special Court who are allotted to the State of Andhra Pradesh shall be transferred by way of accommodating them in the office of the Spl.CS&CCLA or as the Government of Andhra Pradesh may decide, by an appropriate order.

5. The Registrar (I/c), Special Court Under Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA
PRADESH)

J.C.SHARMA
SPECIAL CHIEF SECRETARY TO GOVERNMENT”

**iii) Submissions of learned counsels &
the Report of the Registrar Judicial:**

28. Sri Dammalapati Srinivas, learned Advocate General, on 02.04.2025 submitted and such submission is on record in the Order dated 02.04.2025 in the batch of the Appeals that the G.O.Ms.No.420, dated 02.09.2016 was issued by the Government without any prior approval or consultation with the High Court, but after G.O.Ms.No.420, the then administrative committee of the common High Court consisting of seven Hon'ble Judges resolved to direct the Registrar, Land Grabbing Court, Hyderabad for transferring all the cases pending before the Special Court at the time of abolition, to the High Court to be decided by it.

29. Report was also called from the Registrar Judicial, Andhra Pradesh High Court, on the aspect of filing of the Appeals before this Court under which provision of law, as also various appeals which were transferred to this Court from the Special Court under the Act 1982, which Special Court was abolished vide G.O.Ms.No.420, then also by virtue of what provision of law.

30. The Registrar Judicial submitted the report dated 27.03.2025 to the effect that vide resolution dated 20.10.2016 on subject No.4 of the then administrative committee of the common High Court of Judicature for the State

of Telangana and for the State of Andhra Pradesh resolved to direct the Registrar, Land Grabbing Court, Hyderabad to transfer;

(a) All pending Land Grabbing cases, post cognizance stage, to respective District Courts.

(b) All pending Land Grabbing cases, at pre-cognizance stage, to respective District Courts.

(c) All Land Grabbing Appeals, Land Grabbing Suits and the Land Grabbing Appeals at SR stage to the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and State of Andhra Pradesh.

(d) All disposed case records pertaining to the District Courts to the respective Districts for preservation.

Pursuant to the aforesaid, the Registrar of the Land Grabbing Court, Hyderabad had transferred the respective cases to the High Court for disposal in accordance with law.

31. Learned counsel for the appellant submitted that Section 7A subsection (3) provides for an appeal from the judgment or order, other than the interlocutory order of a Special Tribunal to the Special Court on any question of law or of fact. He submitted that the Special Court was abolished vide G.O.Ms.No.420 Revenue (EA & AR) Department, dated 02.09.2016, but in spite thereof, in his submission, the appeal would be maintainable, as the statute provides the remedy of appeal under Section 7A (3) of the Act and in the absence of the Forum of the Special Court, the appeal shall lie to the High

Court. He submitted that the constitution of the Special Courts is provided by Section 7 of the Act and under sub-section (4), the Government from time to time likewise reconstitute the Special Court constituted under sub-section (1) or may, at any time abolish such Special Court. Referring to the notification G.O.Ms.No.420, clause (iii), he submitted that all Land Grabbing Appeal S.Rs (LGASRs) relating to the State of Andhra Pradesh that were pending for taking cognizance and Transfer Suits that were received from the High Court for trial along with the pending cases before the Special Court, shall stand transferred to the High Court of Andhra Pradesh. The LGASRs shall be disposed of in terms of the Act 1982. Based thereon, he submitted that the present appeal would be maintainable before the High Court even after abolition of the Special Court.

32. Learned counsel for the appellant placed reliance in the case of ***Patil Chandramouliswar Reddy v. Madige Pedda Dasthagiri¹***, to contend that Section 7A of the Act states about the constitution of the Special Tribunal. A Special Court constituted in terms of Section 7 of the Act, as defined in Section 2 (i) (ia) of the Act, is a Forum, which has jurisdiction over the then State of Andhra Pradesh, which is now abolished.

33. Learned counsel for the respondents 1 & 2 in LGA No.1 of 2024 submitted that the respondents have filed counter affidavit, supporting the judgment of the Principal District Judge, in which there is no illegality.

34. On the point of maintainability, he submitted that the Act 1982 provides for appeal before the Special Court but by G.O.Ms.No.420, dated

¹ LGA No.1 of 2019, APHC
Decided on 28.08.2019

02.09.2016 while abolishing Special Court, pending appeals have been passed to the High Court for decision under the Act 1982. He submitted that, otherwise, the High Court is not the appellate Court under the Act 1982.

iv) Right of Appeal and Appellate Forum:

35. It is the settled principle of law that, the Right of Appeal is not a matter of procedure but is a substantive Right. The institution of a suit carries with it the implication that all remedies in force at the time of the filing of the suit were to be preserved to the parties till the rest of the career of the suit. The appeal or a remedy to go to higher Court accrues to a litigant on the very date the */s* commences and although it may be actually exercised when the adverse judgment is pronounced, such right is to be governed by the law prevailing at the date of the institution of the suit.

36. It is also well settled position in law that any repealing law which repeals an earlier law shall not affect the remedies available to a party which were available to the party on the date when the suit was filed. It would continue to be in existence for the litigant just as it was available to him or to her on the date of the filing the */s*. However, a vested right to go to a higher Court can be taken away by the subsequent enactment, if the latter expressly provides or a bare reading of it shows that the right of going to a higher Court as per the earlier law had been taken away by a necessary intendment.

37. The Hon'ble Apex Court in ***ECGC Limited v. Mokul Shriram EPC JV²*** with respect to the accrual of the Right of Appeal and Right to Forum,

² (2022) 6 SCC 704

referred to the Constitution Bench judgment in ***Garikapati Veeraya v. N. Subbiah Choudhry***³ and held in para-12 as under, in which, in sub-para 23, the following principles were laid down.

“12. Subsequently, the Constitution Bench in a judgment in *Garikapati Veeraya v. N. Subbiah Choudhry* [*Garikapati Veeraya v. N. Subbiah Choudhry*, AIR 1957 SC 540] approved the judgment in *Hoosein Kasam Dada* [*Hoosein Kasam Dada (India) Ltd. v. State of M.P.*, (1953) 1 SCC 299 : 1953 SCR 987 : AIR 1953 SC 221] , though the issue was in respect of right of appeal to the Federal Court under the Government of India Act, 1935. The argument was that the appellant had a right to file an appeal as the suit, out of which the proceedings arose before this Court, was filed on 22-4-1949. Hence, he had acquired a vested right to appeal to the Federal Court which has since been replaced by the Supreme Court. It was the said argument which was accepted by the Constitution Bench when the following principles were delineated : (*Garikapati Veeraya case* [*Garikapati Veeraya v. N. Subbiah Choudhry*, AIR 1957 SC 540] , AIR p. 553, paras 23-24)

“23. From the decisions cited above the following principles clearly emerge:

(i) That the legal pursuit of a remedy, suit, appeal and second appeal are really but steps in a series of proceedings all connected by an intrinsic unity and are to be regarded as one legal proceeding.

(ii) The right of appeal is not a mere matter of procedure but is a substantive right.

(iii) The institution of the suit carries with it the implication that all rights of appeal then in force are preserved to the parties thereto till the rest of the career of the suit.

(iv) The right of appeal is a vested right and such a right to enter the superior court accrues to the litigant and exists as on and from the date the lis commences and although it may be actually exercised when the adverse judgment is pronounced such right is to be governed by the law prevailing at

³ AIR 1957 SC 540

the date of the institution of the suit or proceeding and not by the law that prevails at the date of its decision or at the date of the filing of the appeal.

(v) This vested right of appeal can be taken away only by a subsequent enactment, if it so provides expressly or by necessary intendment and not otherwise.”

38. The Hon’ble Apex Court referred to the Constitution Bench judgment in ***Vitthalbhai Naranbhai Patel v. CST***⁴ wherein it was observed that when a *lis* commences, all rights get crystalised and no clog upon a likely appeal can be put, unless the law was made retrospective, expressly or by clear implication.

39. From Section 7 of the Act, it is evident that the High Court is not the Special Court under Section 2 (i) (i-a) read with Section 7. There is no dispute on this aspect, as it is also submitted by the appellant’s counsel that the High Court is not the Special Court for the purposes of the Act. So, it becomes clear that under the Act, from the Order of the Special Tribunal, the appeal lies to the Special Court, but not to the High Court.

40. The law is also well settled with respect to the Forum that Right to Forum is not an accrued right. In ***Neena Aneja v. Jai Prakash Associates Ltd.***⁵ it was held that right to forum is not an accrued right. Section 6(e) of the General Clauses Act protects the pending legal proceeding for enforcement of the accrued right from the effect of repeal; it does not mean the legal proceeding at a particular forum was saved from the effect of repeal. Referring to the said judgment in ***Neena Aneja*** (supra), the Hon’ble Apex Court in ***ECGC Limited*** (supra) observed in Para-29 as under:

⁴ AIR 1967 SC 344

⁵ (2022) 2 SCC 161

“29. It is to be noted that in *Neena Aneja* [*Neena Aneja v. Jai Prakash Associates Ltd.*, (2022) 2 SCC 161 : (2022) 1 SCC (Civ) 768] , this Court held that right to forum is not an accrued right. Section 6(e) of the General Clauses Act protects the pending legal proceeding for enforcement of the accrued right from the effect of repeal; it does not mean the legal proceeding at a particular forum was saved from the effect of repeal. This Court found that there was no express intention in the repealing enactment that all pending cases would stand transferred to the fora created under the 2019 Act. This Court held as under : (SCC pp. 216 & 219, paras 83-84 & 89)

“83. Having stated the above position, we need to harmonise it with the principle that the right to a forum is not an accrued right, as discussed in *Part C* of this judgment. Simply put, while Section 6(e) of the General Clauses Act protects the pending legal proceedings for the enforcement of an accrued right from the effect of a repeal, this does not mean that the legal proceedings at a particular forum are saved from the effects from the repeal. The question whether the pending legal proceedings are required to be transferred to the newly created forum by virtue of the repeal would still persist. As discussed, this Court in *New India Assurance* [*New India Assurance Co. Ltd. v. Shanti Misra*, (1975) 2 SCC 840] and *Maria Cristina* [*Maria Cristina De Souza Sodder v. Amria Zurana Pereira Pinto*, (1979) 1 SCC 92] has held that forum is a matter pertaining to procedural law and therefore the litigant has to pursue the legal proceedings at the forum created by the repealing Act, *unless a contrary intention appears*. This principle would also apply to pending proceedings, as observed in *Ramesh Kumar Soni* [*Ramesh Kumar Soni v. State of M.P.*, (2013) 14 SCC 696 : (2014) 4 SCC (Cri) 340] , *Hitendra Vishnu Thakur* [*Hitendra Vishnu Thakur v. State of Maharashtra*, (1994) 4 SCC 602 : 1994 SCC (Cri) 1087] and *Sudhir G. Angur* [*Sudhir G. Angur v. M. Sanjeev*, (2006) 1 SCC 141] . In this backdrop, what is relevant to ascertain is whether a contrary intent to the general rule of retrospectivity has been expressed under the 2019 Act to continue the proceedings at the older forum.

84. Now, in considering the expression of intent in the repealing enactment in the present case, it is apparent that there is no express language indicating

that all pending cases would stand transferred to the fora created by the 2019 Act by applying its newly prescribed pecuniary limits. In deducing whether there is a contrary intent, the legislative scheme and procedural history may provide a relevant insight into the intention of the legislature.

41. In ***H. P. State Electricity Regulatory Commission v. H. P. SEB***⁶ the Hon'ble Apex Court laid down three basic principles with respect to the right of appeal, after referring to the judgment in the case of ***Garikapati Veeraya*** (supra) in paragraph - 22 which read as under:

“22. On a proper understanding of the authority in *Garikapati Veeraya* [*Garikapati Veeraya v. N. Subbiah Choudhry*, AIR 1957 SC 540] , which relied upon the Privy Council decision in *Colonial Sugar Refining Co. Ltd.* [*Colonial Sugar Refining Co. Ltd. v. Irving*, 1905 AC 369 : (1904-07) All ER Rep Ext 1620 (PC)] , three basic principles, namely,

22.1. The forum of appeal available to a suitor in a pending action of an appeal to a superior tribunal which belongs to him as of right is a very different thing from regulating procedure;

22.2. That it is an integral part of the right when the action was initiated at the time of the institution of action; and

22.3. That if the court to which an appeal lies is altogether abolished without any forum constituted in its place for the disposal of pending matters or for lodgment of the appeals, vested right perishes; are established.”

42. Para-22.3 in ***H. P. State Electricity Regulatory Commission*** (supra) makes it clear that one of the basic principles is that if the Court to which an appeal lies is altogether abolished without any forum constituted in its

⁶ (2014) 5 SCC 219

place for the disposal of pending matters or for lodgment of the appeals, vested right perishes.

43. Recently, in ***Charan Singh v. State of U.P.***⁷, the Allahabad High Court reiterated the principles on right of appeal in Paragraphs 14 and 15 as under:

“14. Having heard learned counsel for the parties and having gone through the record, we are of the view that the learned Single Judge, who had made the reference, had not considered the provisions of Section 230(2)(d) of the U.P. Revenue Code, 2006, in its right perspective, and therefore, while only considering the provision of Section 231 of the U.P. Revenue Code, 2006 the reference was made. Had the court been shown the provisions of Section 230(2)(d) of the U.P. Revenue Code, 2006 then it would have become clear that such remedies as were available to the party which had filed any lis before the commencement of the new Act then all the remedies would have continued as were available to the litigant at the time of the filing of the Suit. All remedies upon the filing of the Suit namely the filing of Appeals, Second Appeals, Revisions etc. are really but steps in a series of proceedings connected by an intrinsic unity and are to be treated to be as a one legal proceeding. The Right of Appeal is not a matter of procedure but is a substantive Right. The institution of a Suit carries with it the implication that all remedies in force at the time of the filing of the Suit were to be preserved to the parties till the rest of the career of the Suit. The Appeal or a remedy to go to higher Court accrues to a litigant on the very date the lis commences and although it may be actually exercised when the adverse judgment is pronounced such right is to be governed by the law prevailing at the date of the institution of the Suit. In the instant case, since all remedies available at the time of the notification of the U.P. Revenue Code, 2006, had to continue, the remedy of Revision would also continue, even if it was not an inherent right which had accrued to the litigant as would be the case with an appeal.

⁷ 2024 SCC OnLine All 7422

15. Any repealing law which repeals an earlier law shall not affect the remedies available to a party which were available to the party on the date when the suit was filed. It would continue to be in existence for the litigant just as it was available to him or her on the date of the filing the lis. **A vested right to go to a higher Court can be taken away by a subsequent enactment if the latter expressly provides or a bare reading of it shows that the right of going to a higher Court as per the earlier law had been by a necessary intendment taken away.**

44. The question therefore for our consideration is, in the present appeals, as to whether the Right of Appeal to the Special Court from the Order of the Special Tribunal under the Act 1982 has been taken away expressly or by necessary intendment. We make it clear that Section 7-A (3) of the Act 1982 providing the remedy of appeal to the Special Court has remained unchanged. There is no amendment to the Act 1982 taking away the Right of Appeal to the Special Court. But, the Forum of the Special Court for appeal has been abolished. The question therefore is whether such abolition of the Forum by necessary intendment, read in the light of Section 7 (4) of the Act 1982 which permits the State to abolish the Forum is to be considered as taking away the Right of Appeal under Section 7-A (3) of the Act 1982 by necessary intendment, though in the presence of Section 7A (3), the Right of Appeal cannot be said to have been taken away expressly.

45. The factual position in the present case is that, the appellate Forum has been abolished by issuing G.O.Ms.No.420, dated 02.09.2016 by the State Government. The said G.O.Ms.No.420, dated 02.09.2016 has been issued in exercise of powers under Section 7 (4) of the Act 1982. In Section 7-A (3) of

the Act 1982 conferring the Right of Appeal and creating the Forum of Special Court i.e., Appellate Court from the Orders of the Special Tribunal, there is no amendment. In other words, that provision has not been repealed. Any alternative Forum therefore to pursue the Right of Appeal has not been created by the legislature. We emphasize by the legislature or by legislation. The question therefore is whether by G.O.Ms.No.420, dated 02.09.2016 the appeals pending before the Special Court constituted under the Act 1982 on abolition of the Special Court, without there being repeal of the provision for appeal and also without conferring any power on the State to create a new appellate forum, those appeals pending before the Special Court could, by the said G.O.Ms.No.420, dated 02.09.2016 be transferred to the High Court to be decided as per the provisions of the Act 1982 i.e., exercising the appellate jurisdiction. The question is whether the Right of Appeal conferred by the statute and to be exercised before a particular Forum created under the Act of 1982, could be changed by the Government order and a new Appellate Forum (High Court) could be created, which is not provided by the Statute i.e., Act of 1982.

46. The Forum is a matter pertaining to procedural law and therefore, the litigant has to pursue the legal proceedings at the Forum provided or created by the Act or in case of repeal the Forum provided by the repealing Act unless contrary intention appears. That principle applies to the pending proceedings as well. So, if by the repealing Act, the Forum has been abolished

and substituted by a new Forum, unless the contrary intention appears, the appeals pending before the abolished forum would be before the new Forum.

47. In other words, we may say that if the proceedings under the Act 1982 instituted before the Special Tribunal were pending on the date G.O.Ms.No.420, dated 02.09.2016 was issued, the person aggrieved from the decision of the Tribunal would have still Right of Appeal which accrued on the date of the institution of the proceedings, but he cannot claim as of right to be heard in appeal before particular Forum and he will have to approach the new Forum, unless a contrary intention is expressed.

48. But, here the complexity is that there is no repeal of the statute nor of the provision, providing for appeal to a particular Forum i.e., the Special Court under the Act 1982. The abolition of the Special Court for appeals is by the G.O.Ms.No.420, dated 02.09.2016, which provides for transfer of the pending appeals to the High Court and such provision in our view is in conflict with Section 7A (3) of the Act 1982, which provides that appeals would be before the Special Court. The constitution of the Special Court itself has been provided under Section 7 (1) of the Act 1982. The High Court is not the Special Court under the Act 1982 under Section 7 read with Section 2 (ia).

49. The abolition of the forum by G.O.Ms.No.420 dated 02.09.2016 is within the powers conferred by Section 7-A of the Act 1982. So, vested right to appeal either in the pending appeals before Special Court at the time of abolition, or for the proceedings pending in the Special Tribunal at the first instance on the date of abolition, in our view had perished on abolition of forum

of appeal vide G.O.Ms.No.420, dated 02.09.2016. It is true that by the same G.O.Ms.No.420, dated 02.09.2016, the pending appeals were provided to be decided by the High Court exercising the powers under the Act 1982, but that part of the G.O.Ms.No.420, in our view, is beyond the power of the State Government under Section 7-A of the Act 1982 and also contrary to the provision of Section 7-A of the Act 1982. On abolition, the Special Court might have come to an end, but in the absence of any legislation by the Legislature, creating a new Forum, the pending appeals could not be either transferred to the High Court to be decided under the Act 1982 nor the High Court could be the appellate forum for the appeals under the Act 1982. It could be so made, only by the Legislature, which has not been done.

50. We are not saying that in place of the Special Court under the Act 1982, the High Court cannot be made the Appellate Court under the Act 1982, but what we are saying is that, that can be done only by the amendment in the Act 1982, as the appeal and the appellate Forum are the creation of the statutes. The High Court not being the Special Court under the Act 1982, and the High Court not having been conferred the appellate power under the Act 1982, and the Order of the Special Tribunal being of the Special Tribunal under the Act 1982 and not by the regular Civil Courts, under the Code of Civil Procedure, the High Court cannot be the appellate Court for the orders passed under the Act 1982.

51. The provision made by the Government under the G.O.Ms.No.420, dated 02.09.2016, changing the Forum, in the manner it has been done, is, in

our view, unknown to law. Any such power was also not given to the Government under Section 7-A of the Act 1982 by the Legislature/Parliament to substitute the appellate Forum created by the Act 1982 itself. The only power given by the Act 1982 was to constitute, reconstitute or abolish the Special Court. On abolition of the Special Court what could be constituted or reconstituted was only the Special Court as per Section 7 read with Section 2 (1a) of the Act, but not an entirely different forum, different from the statutory Forum of which the constitution was also provided by the Act, as to who shall be the Chairman & Members etc. We are of the considered view that the High Court could not be made an appellate Court under the Act 1982, may be for the appeals pending before the abolished Special Courts, by issuing a Government Order, beyond the scope of powers given by Section 7-A of the Act 1982.

v) Notification contrary to or in excess of power given by Statute:

52. The case in *Collector of Central Excise v. Parle Exports (P) Ltd.*⁸ was cited by the learned standing counsel for the High Court to contend that while interpreting an exemption clause, liberal interpretation should be imparted to the language thereof and the notification must be read as a whole in the context of other relevant provisions. When a notification is issued in accordance with the power conferred by the statute, it has statutory force and validity and therefore, the exemption under the notification is as if it were contained in the Act itself.

⁸ (1989) 1 SCC 345

53. In the aforesaid case, the notification was issued under Rule 8 of the Central Excise Rules. It was observed that the notification should be read along with the Act. It was also observed that the principle is well settled that when two views of a notification are possible, it should be construed in favour of the subject as notification is part of fiscal enactment. Para-17, on which reliance was placed, reads as under:

“17. How then should the courts proceed? The expressions in the Schedule and in the notification for exemption should be understood by the language employed therein bearing in mind the context in which the expressions occur. The words used in the provision, imposing taxes or granting exemption should be understood in the same way in which these are understood in ordinary parlance in the area in which the law is in force or by the people who ordinarily deal with them. It is, however, necessary to bear in mind certain principles. The notification in this case was issued under Rule 8 of the Central Excise Rules and should be read along with the Act. The notification must be read as a whole in the context of the other relevant provisions. When a notification is issued in accordance with power conferred by the statute, it has statutory force and validity and, therefore, the exemption under the notification is as if it were contained in the Act itself. See in this connection the observations of this Court in *Orient Weaving Mills (P) Ltd. v. Union of India* [AIR 1963 SC 98 : 1962 Supp 3 SCR 481] . See also *Kailash Nath v. State of U.P.* [AIR 1957 SC 790 : (1957) 8 STC 358] The principle is well settled that when two views of a notification are possible, it should be construed in favour of the subject as notification is part of a fiscal enactment. But in this connection, it is well to remember the observations of the Judicial Committee in *Coroline M. Armytage v. Frederick Wilkinson* [(1878) 3 AC 355, 370] that it is only, however, **in the event of there being a real difficulty in ascertaining the meaning of a particular enactment that the question of strictness or of liberality of construction arises.** The Judicial Committee reiterated in the said decision at p. 369 of the report that in a taxing Act provisions

establishing (*sic* enacting) an exception to the general rule of taxation are to be construed strictly against those who invoke its benefit. **While interpreting an exemption clause, liberal interpretation should be imparted to the language thereof, provided no violence is done to the language employed. It must, however, be borne in mind that absurd results of construction should be avoided.”**

54. There is no dispute on the principles of law that in taxing statute while interpreting an exemption clause, liberal interpretation should be imparted. There can also be no dispute that when a Notification is issued in accordance with the power conferred by the statute, it has statutory force and validity. There would also be no dispute that the Notification should be read along with the Act. But at the same time, the settled principle is, which is also reflected from ***Parle Exports*** (supra) that while interpreting the Notification no violence is to be done to the language employed by the statute. The Notification no doubt has a statutory force and validity, but when the Notification is issued in accordance with the power conferred by the statute. If there is no power conferred by the statute or the notification issued in purported exercise of the power is in fact beyond the power conferred by the statute, to accord statutory force and validity to such notification would not be the intendment of the legislature. Such notifications cannot be held to have the statutory force or/and validity to the extent of being beyond the scope of the power conferred by the statute.

55. In the present case, as observed, in the earlier part of this judgment, the Act 1982 did not confer any power on the State to issue notification for

creation of a new Forum for the appeals under the Act 1982. Though the State had the power in terms of Section 7A to re-constitute and also to abolish the Special Court, but other than the Special Court, it has no power to create a distinct Forum and making the same as the Appellate Authority under the Act 1982. The Special Court is defined under the Act, so, constitution or re-constitution by the notification should only be in terms of that Section. Any different constitution even of the Special Court, contrary to the provisions of the Act could not be, by issuing notification by the State.

56. So, we are of the considered view that the judgment cited by the learned standing counsel for the High Court in *Parle Exports (P) Ltd.* (supra) does not support his contention that the notification should be construed liberally to provide the appellate forum and as the notification provides for the appellate forum on abolition of the forum created by the statute to provide the remedy of appeal in that new forum, the notification would have the statutory force and validity. We reject such contention being without substance.

57. In *Jayantilal Amratlal Shodhan v. F. N. Rana*⁹ on which, learned standing counsel for the High Court placed reliance, in particular paragraph-16 thereof, to contend that the notification will have a statutory force, the Hon'ble Apex Court held in Para-16 which reads as under:

“16. In this background we may consider the effect of the Presidential notification. **It cannot be and has not been denied that it was open to the Legislature by making an express provision in the Act to entrust the functions of the Central Government that is to confer powers and impose**

⁹ AIR 1964 SC 648

duties under Article 258(2) in relation to matters under Sections 4, 5 A, 7, 9 and 11 and related sections to Commissioners of Divisions in the State. Such entrustment of power would not be open to challenge on the ground that it was unauthorised. If entrusted by enactment, it would have the force of law. It was open to the Parliament by appropriate legislation incorporated in the Land Acquisition Act or otherwise to provide that the power to issue notifications under Sections 4 and 6 of the Land Acquisition Act, and to appoint the Collector, be exercised by an officer to be named by the appropriate Government. Issue of a notification by the appropriate Government designating the officer to exercise the powers would unquestionably have the force of law, within the meaning of Section 2(d). Instead of making detailed provisions and cataloguing the entrustment of functions in the different statutes which may be entrusted to the authorities of the State by the exercise of legislative power, the Constitution has invested the President with authority to entrust the functions to the Government of the State or their officers. The effect of Article 258(1) is merely to make a blanket provision enabling the President by notification to exercise the power which the Legislature could exercise by legislation, to entrust functions to the officers to be specified in that behalf by the President and subject to the conditions prescribed thereby. **By the entrustment of powers under the statute, the notification merely authorises the State or an officer of the State in the circumstances and within the limits prescribed to exercise the specified functions.** Effect of the Presidential notification is that, wherever the expression “appropriate Government” occurs in the Act in relation to provisions for acquisition of land for the purposes of the Union, the words “appropriate Government or the Commissioner of the Division having territorial jurisdiction over the area in which the land is situate”, were deemed to be substituted. In other words, by the issue of the Presidential notification, the Land Acquisition Act must be deemed pro tanto amended. It would be difficult to regard such an amendment as not having the force of law.”

58. In ***Jayantilal Amratlal Shodhan*** (supra) the Hon'ble Apex Court has laid down the principle of law that it is open for the legislature by making an express provision in the Act to entrust the functions of the Central Government that is to confer powers and enforce duties under Article 258 (2) of Constitution of India in relation to the specified matters and such entrustment of power would not be open to challenge on the ground that it was unauthorised, and if entrusted by the enactment, it would have the force of law. There cannot be any dispute so far as the principle of law is concerned that if a statute confers the power on the State, then such entrustment of power could not be challenged.

59. But, Section 7-A confers the power on the State Government to do act as specified therein by issuing Notification. That entrustment of power is not an issue here. The notification issued by the Government of G.O.Ms.No.420, dated 02.09.2016 under Section 7, no doubt, shall have the force of law, but to the extent of entrustment of power and duties by the said provision and not beyond that.

60. In ***Subhash Ramkumar Bind Alias Vakil v. State of Maharashtra***¹⁰ the Hon'ble Apex Court observed that Notification in common English acceptation means and implies a formal announcement of a legally relevant fact and in the event of a statute speaking of a notification being published in the Official Gazette, the same cannot but mean a notification published by the authority of law in the Official Gazette. It is on formal

¹⁰ (2003) 1 SCC 506

declaration and publication of an order and shall have to be in accordance with the declared policies or in the event the requirement of the statute then in that event in accordance therewith. Relevant part of para-20 of ***Subhash Ramkumar Bind Alias Vakil*** (supra) reads as under:

“20.....We find, however, that there is some justification in such a contention but the second count is rather important inasmuch as the requirement of the statute is the issuance of a notification. Notification in common English acceptation means and implies a formal announcement of a legally relevant fact and in the event of a statute speaking of a notification being published in the Official Gazette, the same cannot but mean a notification published by the authority of law in the Official Gazette. It is on formal declaration and publication of an order and shall have to be in accordance with the declared policies or in the event the requirement of the statute then in that event in accordance therewith.”

61. In ***Subhash Ramkumar Bind Alias Vakil*** (supra) the Hon'ble Apex Court further observed and held that the question of there being any notification even in the guise of an administrative order does not and cannot arise. The requirement of the statute is sacrosanct. We lay emphasis that the requirement of the statute is sacrosanct. So, even if a notification is there, what is of utmost importance is that, if that notification fulfils the requirement of the statute. Any notification in contravention of the statutory provisions would have no validity. A notification issued in exercise of the power conferred, can also not be permitted to override the statutory provisions.

62. In ***State of Madhya Pradesh v. G. S. Dall and Flour Mills***¹¹ the Hon'ble Apex Court held that executive instructions can supplement a Statute or cover areas to which the Statute does not extend. But they cannot run contrary to the statutory provisions or whittle down their effect.

63. In ***Jaiveer Singh v. The State of Uttarakhand***¹² the Hon'ble Apex Court recently held that it is a trite law that the Government cannot amend or supersede statutory rules by administrative instructions. It can, if the rules are silent on any particular point, fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed. It was further held that an authority cannot issue orders/office memorandum/executive instructions in contravention of the statutory rules.

vi) Resolution of the Administrative Committee:

64. We would now also advert to the resolution of the Administrative Committee of the High Court of Judicature at Hyderabad for the State of Telangana and State of Andhra Pradesh, dated 20.10.2016, as already mentioned in earlier part of this judgment.

65. In ***Tej Prakash Pathak v. Rajasthan High Court***¹³ the Hon'ble Apex Court reiterated that where the statutory rules are silent, they can be supplemented in a manner consistent with the object and spirit of the Rules by an administrative order. There, the administrative order was by the administrative committee of the High Court.

¹¹ 1992 Supp (1) SCC 150

¹² 2023 SCC OnLine SC 1584

¹³ (2025) 2 SCC 1

66. In ***Tej Prakash Pathak*** (supra) the Hon'ble Apex Court referred to a three-Judge Bench judgment of the Hon'ble Apex court in ***Sivanandan C.T v. High Court of Kerala***¹⁴ ***Salam Samarjeet Singh v. High Court of Manipur***¹⁵. In ***Salam Samarjeet Singh*** (supra) the decision of the Full Court to depart from the expected exercise of preparing the merit list as per the unamended rules was held clearly violative of the substantive legitimate expectation of the candidate. The Hon'ble Apex court observed and held that where there are no rules or rules are silent on the subject, administrative instructions may be issued to supplement and fill in gaps in the rules. In that event administrative instructions would govern the field provided they are not ultra vires the provisions of the rules or the statute or the Constitution. But where the rules expressly or impliedly cover the field, the recruiting body would have to abide by the rules.

67. Paragraphs – 60 to 62 of ***Tej Prakash Pathak*** (supra) reads as under:

“(E) Procedure prescribed in the extant rule not to be violated

60. In *Sivanandan C.T.* [*Sivanandan C.T. v. High Court of Kerala*, (2024) 3 SCC 799 : (2024) 1 SCC (L&S) 67 : 2023 INSC 709] the issue before the Constitution Bench was whether for selection minimum marks could be prescribed contrary to the extant rules and the advertisement. Answering in the negative, the Constitution Bench, speaking through one of us (Dr D.Y. Chandrachud, C.J.), held : (SCC pp. 811-12, paras 15-16)

“15. ... The Administrative Committee of the High Court decided to impose a cut-off for the viva voce examination actuated by the bona fide reason of

¹⁴ (2024) 3 SCC 799

¹⁵ (2024) 14 SCC 179

ensuring that candidates with requisite personality assume judicial office. **However laudable that approach of the Administrative Committee may have been, such a change would be required to be brought in by a substantive amendment to the rules which came in much later as noticed above. This is not a case where the rules or the scheme of the High Court were silent. Where the statutory rules are silent, they can be supplemented in a manner consistent with the object and spirit of the Rules by an administrative order.**

16. In the present case, the statutory rules expressly provided that the select list would be drawn up on the basis of the aggregate of marks obtained in the written examination and the viva voce. This was further elaborated in the scheme of examination which prescribed that there would be no cut-off marks for the viva voce. This position is also reflected in the Notification of the High Court dated 30-9-2015. In this backdrop, **we have come to the conclusion that the decision of the High Court suffered from its being ultra vires the 1961 Rules besides being manifestly arbitrary.”**

61. Following *Sivanandan C.T.* [*Sivanandan C.T. v. High Court of Kerala*, (2024) 3 SCC 799 : (2024) 1 SCC (L&S) 67 : 2023 INSC 709] , a three-Judge Bench of this Court in *Salam Samarjeet Singh v. High Court of Manipur* [*Salam Samarjeet Singh v. High Court of Manipur*, (2024) 14 SCC 179 : 2024 SCC OnLine SC 2316 : 2024 INSC 647] held : (*Salam Samarjeet Singh case* [*Salam Samarjeet Singh v. High Court of Manipur*, (2024) 14 SCC 179 : 2024 SCC OnLine SC 2316 : 2024 INSC 647] , SCC para 34)

“34. ... **Prescribing minimum marks for viva voce segment may be justified for the holistic assessment of a candidate, but in the present case such a requirement was introduced only after commencement of the recruitment process and in violation of the statutory rules.** The decision of the Full Court to depart from the expected exercise of preparing the merit list as per the unamended rules is clearly violative of the substantive legitimate expectation of the petitioner. It also fails the tests of fairness, consistency and predictability and hence is violative of Article 14 of the Constitution of India.”

62. There can therefore be no doubt that where there are no rules or the rules are silent on the subject, administrative instructions may be issued to supplement and fill in the gaps in the rules. **In that event administrative instructions would govern the field provided they are not ultra vires the provisions of the rules or the statute or the Constitution. But where the rules expressly or impliedly cover the field, the recruiting body would have to abide by the rules.**”

68. In ***High Court of Judicature at Madras v. Thirumala***¹⁶, the Madras High Court held that an administrative order passed by the High Court is subject to judicial scrutiny and not vice-versa.

69. In ***R. Ranjith Singh v. State of Tamil Nadu***¹⁷ the Hon’ble Apex Court observed and held as under in paragraphs-20 & 21:

“20. This Court in the case of *State of Madhya Pradesh v. G.S. Dall and Flour Mills*, 1992 Supp (1) SCC 150 has held that executive instructions can supplement a Statute or cover areas which the Statute does not extend. They cannot run contrary to the statutory provisions or whittle down their effect. In the present case, the G.O. dated 13.07.1995, G.O. dated 24.10.1996 and G.O. dated 10.06.2009 are executive instructions and based upon the executive instructions, the statutory provisions as contained under the statutory rules could not have been made applicable as has been done in the present case.

21. This Court in the case of *Jaiveer Singh v. The State of Uttarakhand*, 2023 INSC 1024 has held as under:

“34. *It can thus be seen that it is a trite law that the Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point, it can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed. It is a settled proposition of law that an authority cannot issue orders/office memorandum/executive instructions in contravention of the statutory rules.*

¹⁶ 2023 SCC OnLine Mad 1808

¹⁷ 2025 SCC OnLine SC 1009

However, instructions can be issued only to supplement the statutory rules but not to supplant it.

This Court has again held in the aforesaid case that the Government cannot issue executive instructions in contravention of the statutory rules.”

vii) Separation of powers:

70. In ***Ram Jawaya Kapur v. State of Punjab***¹⁸ the Hon’ble Apex Court held that ordinarily the executive power connotes the residue of governmental functions that remain after legislative and judicial functions are taken away. The functions of the different parts or branches of the Government have been sufficiently differentiated and consequently it can very well be said that our Constitution does not contemplate assumption by one organ or part of the State, of functions that essentially belong to another. The executive indeed can exercise the powers of departmental or subordinate legislation when such powers are delegated to it by the legislature. It can also when so empowered, exercise judicial functions in a limited way. The executive Government can never go against the provisions of the Constitution or of any law. Paragraph – 14 of ***Ram Jawaya Kapur*** (supra) reads as under:

“14. It may not be possible to frame an exhaustive definition of what executive function means and implies. Ordinarily the executive power connotes the residue of governmental functions that remain after legislative and judicial functions are taken away. The Indian Constitution has not indeed recognised the doctrine of separation of powers in its absolute rigidity but the functions of the different parts or branches of the Government have been sufficiently differentiated and consequently **it can very well be said that our Constitution does not contemplate assumption, by one organ or part of the State, of**

¹⁸ (1955) 1 SCC 553

functions that essentially belong to another. The executive indeed can exercise the powers of departmental or subordinate legislation when such powers are delegated to it by the legislature. It can also, when so empowered, exercise judicial functions in a limited way. The executive Government, however, can never go against the provisions of the Constitution or of any law. This is clear from the provisions of Article 154 of the Constitution but, as we have already stated, it does not follow from this that in order to enable the executive to function there must be a law already in existence and that the powers of the executive are limited merely to the carrying out of these laws.”

71. In the present case, we are of the view that the executive has certainly transgressed these powers in providing that the Appeals pending before the Special Court under the Act 1982 on the abolition of the Special Court by G.O.Ms.No.420, dated 02.09.2016, would be transferred to the High Court which the High Court will decide under the Act 1982.

72. Similarly, we are of the view that the executive power exercised by the High Court in passing the resolution to the same effect and thus giving effect to the Government Order for the said purpose has also transgressed its power on administrative side by conferring to it the appellate powers making it an Appellate Court, under the Act 1982 which were not conferred on the High Court by the Statute i.e., Act of 1982, but were conferred on the Special Court under the said Act.

viii) Devolution:

73. Sri S. Vivek Chandrasekhar, learned standing counsel for the High Court, submitted that by the devolution, the right of appeal on the abolition of the Special Court, would be with the High Court. We are of the view that any

such doctrine of devolution cannot be attracted or pressed. The expression 'devolution', is defined in *Oxford Dictionary* 8th Edition as follows:

“The act of giving power from a central authority or government to an authority or a government in a local region”.

74. The devolution in its ordinary sense therefore entails the transfer of power from Central Authority to a lower tier of government. It may be referred as the “de-concentration of power”. On abolition of the Special Court created under the Act 1982, how the appellate powers conferred on a Special Court constituted under the Act 1982, would devolve upon the High Court by applying the said principle of 'devolution' could not be addressed or explained by the learned standing counsel.

75. In ***Dhurandhar Prasad Singh v. Jai Prakash University***¹⁹ the devolution has been dealt with but in the context of a civil suit, where during pendency of the suit, the plaintiff dies and so with the leave of the Court, the matter can be pursued by the person upon whom the interests of the deceased devolves, in the context of the Order 22 Rule 10 of Code of Civil Procedure. We do not find the applicability of such principle of 'devolution' in the case of the present nature.

76. We are not in agreement with any such submission advanced by the learned standing counsel for the High Court, which is rejected having no substance.

¹⁹ (2001) 6 SCC 534

ix) Successive Forum:

77. The learned standing counsel for the High Court further submitted that because the Special Court is subordinate to the High Court and therefore, on the abolition of the Special Court, the High Court being superior Court, by applying the doctrine of 'successive forum' the High Court would be the appellate Court. Successive Forum may succeed to the forum abolished, but for that the successive forum has to be created by the competent authority and legislation. In the present case, the High Court has not been made the successive forum or the appellate Court under the Act 1982 on abolition of the Special Court, by any legislation/statute. Consequently, we do not find force in the submission based on the alleged doctrine of 'successive forum'.

**x) Consideration of the authorities cited
by the appellants 'counsel**

78. In ***State of A.P. v. P.V.Hanumantha Rao (Dead) through LRs.***²⁰ upon which learned counsel for the appellant placed reliance, the Hon'ble Apex Court on examination of the provisions of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 and in the light of its objects and reasons observed that in cases of alleged land grabbing, exclusive jurisdiction is conferred on Special Court. Jurisdiction of a civil Court on such subject matter stands ousted. The Special Court has been conferred powers of a civil court to examine all questions of title and possession with respect to the land alleged to have been grabbed. The findings of the Special Court are binding and conclusive on the parties and all others having interest in the land which is

²⁰ (2003) 10 SCC 121

alleged to have been grabbed. Against the decision of the Special Court, no appeal is provided. The only remedy of the aggrieved party is to approach the High Court under Article 226 or 227 of the Constitution of India.

79. That matter in ***P. V. Hanumantha Rao (Dead) through LRs.*** (supra) had arisen out of the order passed by the Special Court before the learned Single Judge and from the order in the writ petition the matter was taken to the Hon'ble Apex Court. The question was with respect to the scope of interference by the High Court in the exercise of the writ jurisdiction in the order of the Special Court. It was held that the remedy of the writ petition was not against the decision of the subordinate court, tribunal or authority but it was against the decision making process. In the decision-making process, if the court, tribunal or authority deciding the case, had ignored vital evidence and thereby arrived at erroneous conclusion or had misconstrued the provisions of the relevant Act or misunderstood the scope of its jurisdiction, the constitutional power of the High Court under Articles 226 and 227 could be invoked to set right such errors and prevent gross injustice to the party complaining. The Hon'ble Apex Court referred to its decision in ***Surya Dev Rai v. Ram Chander Rai***²¹ to reiterate that in the exercise of power under Article 226 or 227 of the Constitution, the High Court had the right to interfere (1) where there was an error manifest and apparent on the face of the proceedings, such as when it was based on clear misreading or utter disregard of the provisions of law, and (2) a grave injustice or gross failure of justice had occasioned thereby. In the

²¹ (2003) 6 SCC 675

supervisory jurisdiction under Article 227 or in exercise of the power under Article 226 of the Constitution, the High Court would not convert itself into a court of appeal and indulge in re-appreciation or evaluation of evidence.

80. From the aforesaid judgment, it is evident that when the Order of the Special Court was final under the Act 1982, the remedy would be to file writ petition or petition under Article 227 of the Constitution to the High Court.

81. Consequently, if the Order of the Special Tribunal under the Act 1982, which exercises original jurisdiction, if the remedy of appeal has been taken away, as the Forum of Appeal has been abolished, i.e., the Special Court, and so, the Order of the Special Tribunal becomes final under the Act 1982 or even with respect to the appeals pending before the Special Court against the Order of the Special Tribunal, on abolition of the Special Court, the Order of the Special Tribunal would be open to challenge in a writ petition under Article 226 or may be under Article 227 of the Constitution in the exercise of supervisory powers to this Court.

82. The scope of interference with such order by this Court may be different i.e., within the scope and on the parameters as laid down in various judgments, including as referred to above, but on that count, i.e., the abolition of the Appellate Forum or a Special Court, we are of the view that, that would not make this Court an Appellate Court like the Special Court or the Appellate Court like under Section 96 or 106 CPC from the decree or order of the regular Courts passed in the exercise of original civil jurisdiction. Neither it can be said that the appeal would lie to this Court nor that this Court would become

appellate authority/court under the Act of 1982 nor that the appellate powers as under the Act 1982 vested with the Special Court or by virtue of any other provision conferring the appellate powers, would be available for interference in the Order of the Special Tribunal.

83. The aforesaid authority in ***P. V. Hanumantharao (Dead) through LRs*** (supra) is of no help to the appellants for the contention that the appeal would lie to this Court against the Order of the Special Tribunal or the appeals pending against the Order of the Tribunal before the Special Court, could be transferred to this Court, to be decided as an appellate Court under the Act 1982.

84. In ***V. Visalakshi v. Special Court under A.P.Land Grabbing (Prohibition) Act, Hyderabad***²² upon which also learned counsel for the appellant placed reliance, a Coordinate Bench of the erstwhile High Court of Andhra Pradesh on consideration of the provisions of the Act 1982, as also the authority in ***P. V. Hanumantha Rao (Dead) through LRs*** (supra), observed with respect to the scope of the jurisdiction of the High Court under Article 226 and 227 of the Constitution, and finding that, on the analysis of the material available, which material was categorically and properly examined by the Special Court, refused to interfere with the Order of the Special Court in the exercise of the writ jurisdiction. That was a matter, where the Order of the Special Court was challenged before the High Court in a petition under Article 226 of the Constitution of the India. The question of maintainability of appeal

²² 2012 SCC OnLine AP 573

before the High Court, as Special Court or on abolition of the Special Court, under the Act 1982 was not an issue for consideration nor was decided.

85. In ***Patil Chandramouliswar Reddy*** (supra) on which the appellants' counsels placed reliance, is not relevant to the controversy involved herein. There, the points for determination were with respect to the jurisdiction of the Special Tribunal and the sustainability of the order passed by the Special Tribunal in the facts and in law as in that case. Simply an observation was made in paragraph - 9.4 that, the Special Court constituted in terms of Section 7 of the Act, as is defined in Section 2 (i) (ia) of the Act, is a Forum, which has jurisdiction over the then State of Andhra Pradesh, which is now abolished. That is a fact, on which there is no dispute that the Special Court has been abolished. But, this judgment is not on the point whether the High Court would become the appellate Court under the Act 1982, on abolition of the Special Court by G.O.Ms.No.420, dated 02.09.2016.

IV Conclusions:

86. We are of the view that for the consideration made above and the settled legal position as discussed in this judgment, notwithstanding the G.O.Ms.No.420, dated 02.09.2016 and the Administrative Resolution of the Committee of the then Common High Court of Andhra Pradesh, Subject Item No.4, dated 20.10.2016, the Land Grabbing Appeals would not be maintainable before this Court. The High Court is not the Appellate Court for the purpose of the appeals under the Act 1982.

87. However, the powers of this Court under Article 226/227 of the Constitution of India are available. An Order even if made final under the Statute either by not providing the appeal or subsequently taking away that appeal right, may be retrospectively, expressly or by necessary intendment, as in the present case by abolition of the appellate Forum under the Act 1982, shall be open to judicial review and a party, if aggrieved from the Order of the Special Tribunal, will have the right, being aggrieved person, to approach this Court under Article 226/227 of the Constitution of India.

88. In ***Nawab Shaqafath Ali Khan*** (supra), it was held that the High Court has the jurisdiction in appropriate cases to convert a revision application or writ petition into an appeal or vice versa in exercise of its inherent power, but subject to the fulfillment of other conditions. In the said judgment, it was further held that for the said purpose, an appropriate case for exercise of such jurisdiction must be made out. We are of the view that there is no jurisdiction to entertain the appeal and the writ petition requires fulfillment of procedural requirements. We therefore do not find the present cases appropriate for conversion into writ petitions.

89. We may sum up by holding that;

- (i) Right to Appeal is a statutory right. Right to Appellate Forum is only procedural;
- (ii) Right to Appeal vests on the date the */is* is commenced. It can be taken away by a subsequent enactment, if the latter expressly

provides or even by a necessary intendment of the reading of the subsequent enactment;

- (iii) If the Court to which an appeal lies is abolished without any Forum constituted in its place for the disposal of pending matters or for filing of the appeals, the vested right to appeal perishes;
- (iv) Section 7 of the Act 1982 confers the right of appeal from the Order of the Special Tribunal before the Special Court. Constitution of the Special Court is prescribed by the Act itself under Section 2 (1a) read with Section 7. The High Court is not the Special Court under the Act 1982. The High Court is not the Appellate Court under the Act 1982;
- (v) Section 7 (4) of the Act 1982 confers the power on the State Government by notification to re-constitute the Special Court or may at any time abolish such Special Court. The power given to the State Government by the Statute is to constitute, re-constitute or abolish the Special Court. The Statute does not confer any power on the State Government to create a new appellate Court for the purposes of the Act 1982, other than the constitution, re-constitution of the Special Court which is defined under the Act;
- (vi) The State Government has no power to provide for an Appellate Forum/Court, different from the Appellate Forum, i.e., the Special Court as provided by the Act 1982;

- (vii) The G.O.Ms.No.420, dated 02.09.2016 to the extent of abolition of the Special Court by notification is within the powers of the State Government, but to the extent the said G.O.Ms.No.420 provided for the High Court as the Appellate Court to which the Appeals under the Act 1982 will be transferred and decided as the Appellate Court under the Act 1982, is beyond the statutory powers conferred on the State Government and to that extent, the Government Order is in transgression of the executive powers of the State and in excess of the power conferred by the Act 1982;
- (viii) The Resolution No.4, dated 20.10.2016 of the Administrative Committee of the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, directing for transfer of the pending appeals before the Special Court under the Act at the time of its abolition to the High Court to be decided pursuant to the G.O.Ms.No.420, dated 02.09.2016 would also not confer the appellate powers on the High Court nor make it an Appellate Court under the Act 1982, as the right to appeal and the appellate Forum are creation of the Statute. By the said resolution, the power could not be conferred on itself, contrary to the statutory provisions;
- (ix) There is no repeal of Section 7A of the Act 1982, which provides that the appeal under the said Act from the Order of the Special

Tribunal shall lie to the Special Court. There is only abolition of the Special Court by the Government Order/Notification;

- (x) Any Notification can only supplement but not supplant the statutory provisions. The notification in the present case has the effect of supplanting the legal provisions of the statute of the Act 1982 to the extent of creation of the appellate Forum, other than the one provided by the Act 1982;
- (xi) The doctrine of 'devolution' and 'successive forum', as argued by the learned standing counsel are not attracted. Thereby it cannot be said that on abolition of the Special Court, the High Court would become the appellate Court for the purposes of the appeals under the Act 1982;
- (xii) The Land Grabbing Appeals are not maintainable and the High Court is not the Appellate Court for the appeals under the Act 1982.
- (xiii) The Orders of the Special Tribunal under the Act 1982 are therefore final under the Act 1982, but they shall be open for judicial review by the High Court in the exercise of its jurisdiction under Article 226/227 of the Constitution of India;

V Result:

90. In the result, it is held that all the aforesaid Appeals are not maintainable in this Court. The right of appeal of the appellants against the orders of the Special Tribunal under the Act 1982, against which the appeals

have been filed before this Court directly or the appeals filed before the then Special Court and transferred to this Court to decide as Appellate Court under the Act 1982 are not maintainable. The aforesaid Appeals are therefore dismissed as not maintainable.

91. As the Appeals were pending since long and we find those not to be maintainable, while dismissing the appeals as not maintainable, to secure the interest of the parties, we provide that in case the appellants seek to prefer writ petitions, they can do so, within a reasonable period, say a period of 3 (three) months from the date of this judgment. For a period of 3 (three) months, the interim orders, if granted earlier in the Appeal(s), in those appeals such interim order shall continue to operate.

92. We make it clear that we have considered and decided only the maintainability of the appeals and not considered the merits of the impugned orders either way.

93. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

Date: 28.08.2025

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Note:

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