

# 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**

**WRIT APPEAL Nos. 1090, 1106, 1218 of 2014, 785 of 2015 &  
1429 of 2016**

**W.A.No.1090 of 2014**

Between:

State of Andhra Pradesh,  
Rep. By its Principal Secretary (Revenue),  
Secretariat, Hyderabad & 3 others

.....APPELLANTS

AND

Pinnamraju Venkatapathi Raju and 2 others

.....RESPONDENTS

**W.A.No.1106 of 2014**

Between:

State of Andhra Pradesh,  
Rep. By its Principal Secretary (Revenue),  
Secretariat, Hyderabad & 2 others

.....APPELLANTS

AND

Pinnamraju Venkatapathi Raju and 6 others

.....RESPONDENTS

**W.A.No.1218 of 2014**

Between:

Mrs.Parveen Asghar Mehdi and 3 others

..... APPELLANTS

AND

Pinnamraju Venakatapathi Raju and 5 others

.....RESPONDENTS

**W.A.No.785 of 2015**

Between:

State of Andhra Pradesh,  
Rep. By its Secretary,  
Municipal Administration & Urban Development Dept.,  
Secretariat, Hyderabad & another

..... APPELLANTS

AND

M/s. Clover Associates (P) Ltd., and another

.....RESPONDENTS

**W.A.No.1429 of 2015**

Between:

State of Andhra Pradesh,  
Rep. By its Secretary,  
Municipal Administration & Urban Development Dept.,  
Secretariat, Hyderabad & another

..... APPELLANTS

AND

M/s. Clover Associates (P) Ltd., and 3 others

.....RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: **28.11.2025**

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

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**RAVI NATH TILHARI, J**

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**MAHESWARA RAO KUNCHEAM, J**

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

**+ WRIT APPEAL Nos. 1090, 1106, 1218 of 2014, 785 of 2015 &  
1429 of 2016**

% 28.11.2025

**W.A.No.1090 of 2014**

Between:

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AND

Pinnamraju Venkatapathi Raju and 2 others

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AND

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**W.A.No.1218 of 2014**

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Mrs.Parveen Asghar Mehdi and 3 others

..... APPELLANTS

AND

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**W.A.No.1429 of 2015**

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..... APPELLANTS

AND

M/s. Clover Associates (P) Ltd., and 3 others

.....RESPONDENTS

|                                                                                              |                                                              |
|----------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| ! Counsel for the appellants<br>In W.A.Nos.1090, 1106 of 2014,<br>785 of 2015 & 1429 of 2016 | : Sri D.Yathindra Dev,<br>learned Special Government Pleader |
|----------------------------------------------------------------------------------------------|--------------------------------------------------------------|

|                                                      |                      |
|------------------------------------------------------|----------------------|
| Counsel for the appellants<br>In W.A.No.1218 of 2014 | : Sri P.Balaji Varma |
|------------------------------------------------------|----------------------|

|                                                                    |                                                              |
|--------------------------------------------------------------------|--------------------------------------------------------------|
| Counsel for the Respondent No.3-<br>M/s.Clover Associates Pvt.Ltd. | : Sri K.Divya Chaitanya,<br>representing Sri N.Ashwani Kumar |
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< Gist :

> Head Note:

? Cases Referred:

1. (2006) 12 SCC 33
2. (1997) 1 SCC 388
3. (2009) 3 SCC 571
4. 2025 SCC OnLine 1264
5. 1974 3 SCC 459

**HONOURABLE SRI JUSTICE RAVI NATH TILHARI****THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM****WRIT APPEAL NOS: 1090, 1106, 1218 of 2014, 785 of 2015 & 1429 of 2016****COMMON JUDGMENT:-** (per Hon'ble Sri Justice Ravi Nath Tilhari)

Heard Sri D.Yathindra Dev, learned Special Government Pleader for the appellants in W.A.Nos.1090, 1106 of 2014, 785 of 2015 & 1429 of 2016 Sri P.Balaji Varma, learned counsel for the appellants in W.A.No.1218 of 2014. Heard Sri K.Divya Chaitanya, learned counsel representing Sri N.Ashwani Kumar, learned counsel for respondent No.3 - M/s Clover Associates Private Ltd.

**I. FACTS:****i) Case of the writ petitioners**

2. The facts of the case are that one Mr.Addepalli Venkatappaya Sastry (in short 'A.V.Sastry') was the owner of the land in an extent of Acs.10-50 cents in Sy.No.1011 of Waltair ward, Visakhapatnam under the registered sale deed dated 07.05.1954 bearing document No.1387/54. He filed declarations under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (in short 'ULC Act'). Certain extent of land was declared as surplus. Claim of the writ petitioners 1 & 2 namely Pinnamraju Venkatapati Raju (in short P1) and Kasi Naga Kanaka Brahman (in short P2) was that during the year 1983 Addepalli Venkatappaya Sastry sold extents of 2,752 sq.mts. to P1 and in the year 1987 he sold an extent of 2,879 sq.mts. to P2 and delivered the possession to those

petitioners. P1 made constructions in the said land in the year 1986 and P2 thereafter.

3. The State Government issued G.O.Ms.No.455 Revenue (U.C.I) Department dated 29.07.2002 (in short 'G.O.Ms.No.455') under Section 23 of ULC Act for allotment or regularisation of land with or without construction in possession of the 3<sup>rd</sup> parties. Petitioners 1 & 2 applied for regularisation under G.O.Ms.NO.455. As per the condition No.4 (e)(ii), the excess land in possession of occupier (other than the excess land holder or his successors) on which there was already a structure and even though the possession was not supported by any registered document of purchase, allotment could be made if the same was supported by any one of the primary documents viz., (1) electricity connection, (2) construction permission, (3) payment of property tax and (4) water supply connection. The petitioners 1 & 2, relying on house tax receipts, municipal assessment number and pass books as on 1985 and 1987 to show their possession and existence of structures, sought for regularization. The Government issued G.O.Ms.No.256 Revenue (UC.I) Department dated 27.02.2006 (in short 'G.O.Ms.No.256') regularizing an extent of 2,752 sq.mts. in favour of petitioner No.1 and another G.O.Ms.No.424 Revenue (UC.I) Department dated 06.04.2006 (in short 'G.O.Ms.No.424') regularizing an extent of 2,870 in favour of petitioner No.2.

4. Petitioner No.3 – M/s. Clover Associates (P) Ltd., a construction firm, entered into a registered possessory agreements of sale coupled with general power of attorney dated 08.05.2006 and 02.08.2006 with petitioner Nos.1 & 2

and also with the sons of the original land owner Addepalli Venkatappaya Sastry by paying consideration. Petitioner No.3 is said to have entered into similar agreement with one Sri Rama Co-operative Housing Building Society (in short 'Co-operative Society'), which was having land adjacent to the land of petitioner No.1, after obtaining the requisite permission from the civic bodies, and commenced construction activity. During the year, 2006 when the Municipal Authorities tried to demolish the structures existing in the land covered by G.O.Ms.No.256 and 424, the petitioner No.3 filed O.S.No.1524 of 2006 in the Court of Principal Senior Civil Judge, Visakhapatnam for permanent injunction, in which initially ad-interim temporary injunction was granted which was later on made absolute.

5. Later on, on the allegation that the petitioner Nos.1 & 2 produced fabricated tax receipts and pass books to claim regularization, the Government by memo No.59377/UC.I/2006-1 dated 23.03.2007 (in short 'memo dated 23.03.2007') kept the G.O.Ms.Nos.256 and 424 in abeyance with a direction to the District Collector, Visakhapatnam to conduct enquiry and submit a detailed report. Three reports were submitted. In the reports of the Special Officer and competent authority, Urban Land Ceiling Visakhapatnam dated 04.07.2007 and Commissioner of Municipal Corporation, GVMC, Visakhapatnam dated 01.06.2007, it was reported that there were structures existing on ground. Whereas, in the report of the District Collector dated 25.03.2008, the land was reported to be vacant. The Government being of the view that some structures were existing, decided to

collect highest slab rate and to allow the regularization. Accordingly G.O.Ms.No.493 dated 26.03.2008 (in short 'G.O.Ms.No.493') was issued and the Government memo dated 23.03.2007 was withdrawn. The Special Officer and Competent Authority, Urban Land Ceiling Visakhapatnam and Commissioner of Municipal Corporation, GVMC, Visakhapatnam were directed to collect the differential amount from the petitioners. The said differential amount was paid by P3.

6. The unofficial respondent Nos.4 to 7 (in W.A.No.1106/2014 arising out of W.P.No.23838 of 2011), filed W.P.No.9842 of 2008, challenging G.O.Ms.No.256 & 424, as also W.P.No.2771 of 2009 challenging G.O.Ms.No.493. Challenging G.O.Ms.No.493 and for consequential reliefs, another W.P.No.23315 (PIL) of 2009 was also filed by one N.Jayakumar Rao which was dismissed on 26.03.2010 mainly on the ground that the said petitioner failed to make out that any public interest was involved observing further that it was to meet the personal requirement of some private individuals. In W.P.Nos.9842 of 2008 and 2771 of 2009, initially interim direction was issued not to make further constructions but subsequently it was modified to the effect that the respondent Nos.1 & 2 in W.A.No.1090 of 2014 (respondent Nos.7 & 8 in W.P.No.29014 of 2013) could utilise the land allotted under the G.Os., without encroaching upon the rights of the neighbouring lands and if any encroachment took place, it was left open to the petitioners of W.P.Nos.9842 of 2008 & 2771 of 2009, to file suit. These two Writ petitions

were subsequently dismissed with liberty to avail appropriate remedies, vide order dated 06.12.2013.

7. On the allegations of committing irregularities in issuing NOC for allotment of Government surplus land in favour of the writ petitioner Nos.1 and 2, an enquiry was conducted against one P.Yerrayya, the then Special Officer, Urban Land Ceiling, Visakhapatnam. The same was dropped vide Government Memo No.19196/Vig.III(1)/2009-2 dated 19.08.2010. Against Respondent Nos.1 & 2 in W.A.No.1090 of 2014, also, on the allegations that they produced fabricated tax receipts to avail the benefit of regularization under G.O.Ms.No.455, the Government directed the District Collector to prosecute them for the offences under Sections 420, 465, 468 and 471 IPC. On the complaint of the Special Officer, ULC., FIR No.128 of 2011 dated 06.03.2011 was registered. The said respondents 1 & 2 challenged the same in Crl.P.No.3353/2011 which was allowed vide order dated 09.11.2011 and the proceedings in Crime No.128 of 2011 of III Town P.S., Visakhapatnam City were quashed.

8. The respondent Nos.1 & 2 in W.A.No.1090 of 2014 (i.e., the writ petitioners of W.P.No.23838 of 2011) filed W.P.No.23838 of 2011 when the Government again proposed to keep G.O.Ms.Nos.256, 424 and 493 in abeyance and when the memo dated 20.09.2011 was issued keeping those GOs in abeyance, the writ petition No. 23838 of 2011 was amended to challenge the memo dated 20.09.2011. Vide interim order dated 11.10.2011 the memo dated 20.09.2011 was suspended pending further orders.

9. In the meantime vide proceedings dated 18.10.2011, the building permission dated 18.04.2009 which was granted to M/s Clover Associates Private Ltd., was cancelled. Writ Petition No.28783 of 2011 was filed by M/s. Clover Associates (P) Ltd., and one another, challenging the proceedings dated 18.10.2011. The District Collector of Greater Visakhapatnam Municipal Corporation, had also issued letter to stop construction and the water supply. Challenging the same, M/s Clover Associates Private Ltd., filed W.P.No.6529 of 2011. Both the W.P.Nos.28783 & 6529 of 2011 were allowed on 28.12.2011. Challenging the said judgment, W.A.No.1429 of 2016 & W.A.No.785 of 2015 respectively have been filed by the State of Andhra Pradesh.

10. The Government had issued G.O.Ms.No.557 dated 05.09.2012 (in short 'G.O.Ms.No.557') appointing the Special Chief Secretary and Chief Commissioner of Land Administration, A.P., Hyderabad, as Enquiry Officer, to enquire into the allegations of production of fabricated tax receipts as also the issuance of G.O.Ms.Nos.256, 424 & 493. As per G.O.Ms.No.557, the Government decided to enquire into the whole matter including the issues as per clauses (a) to (c) thereof as under:-

"10. In view of the position, Government have decided to appoint the Special Chief Secretary & Chief Commissioner of Land Administration, AP, Hyderabad as Enquiry Officer to enquire into the whole matter. Accordingly, Government hereby appoint the Special Chief Secretary & Chief Commissioner of Land Administration, AP, Hyderabad to enquire in to the whole matter, including the following issues:

- a) to enquire into the allotment / regularization of ceiling surplus land in favour of the applicants Sri P. Venkata Pathi Raju N.K. Brahmam and members of Sri Rama Co-Operative Housing Society based on the fake and fabricated documents submitted by them.
- b) to enquire into issuance of G.Os for regularization.

c) to enquire into the role played by the Clover Associates Limited in obtaining withdrawal of abeyance orders issued in Mem.No.59377/ UC.I/ 06-1, dated 23.3.2007 by collecting highest slab rate, vide G.O.Ms.No.493, Revenue (UC.I) Department dated 26.3.2008.”

11. G.O.Ms.No.557 dated 05.09.2012 in full reads as under:

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Urban Land (Ceiling & Regulation) Act, 1976 – Visakhapatnam Urban Agglomeration – Allotment of excess land to an extent of 2,752 sq.mtrs and 2,870 sq.mtrs., in Waltair ward under section 23(4) of the Act under occupation of 3rd parties i.e., Sri P. Venkatapathi Raju, S/o. P. Ramabhadra Raju and Sri K. Naga Kanaka Brahman, S/o. Satya Rao respectively vide G.O.Ms.No.256, dt.27.02.2006 and G.O.Ms.No.424, dt.06.04.2006 – Allegation of submission of fake documents by the applicants – certain allegations - Assurance given by the Hon'ble Minister for Revenue to the Legislative Council to enquire in to the issue by a senior IAS Officer – Appointment of the Special Chief Secretary and Chief Commissioner of Land Administration, AP, Hyderabad as Enquiry Officer – Orders Issued.

REVENUE (UC.I) DEPARTMENT

G.O.Ms.No. 557.

Dated:05. September, 2012.

Read the following:

- 1) G.O.Ms.No.256, Revenue (UC.I) Department dated 27.02.2006.
- 2) G.O.Ms.No.424, Revenue(UC.I) Department, dated 6.4.2006
- 3) G.O.Ms.No.493, Revenue(UC.I) Department, dated 26.3.2008
- 4) Govt. Memo.No.4027 /UC.I/2011, dated 20.9.2011.

\* \* \*

ORDER:

The Special Officer & Competent Authority, Urban Land Ceiling, Visakhapatnam has submitted proposals for allotment of surplus land to an extent 2752 sq.mtrs., and 2870 sq.mtrs., in T.S.No.1011/1A1A3B & T.S.No.1011/1A1A3C Part of Waltair ward, Visakhapatnam in favour of Sri P. Venkatapathi Raju and Sri K. Naga Kanaka Brahman respectively under section 23(4) of UL(C&R) Act, 1976 stating that dwelling houses with D.No.7-5-1/55/1 and 7-5-1/55/2 are existing in the land and recommended the proposals for regularization. Accordingly, Government have issued orders vide G.O.Ms.No.256, Revenue (UC. I) Department, dt.27.02.2006 and G.O.Ms.No.424, Revenue (UC.I) Department, dt.06.04.2006 allotting the above said land in favour of the two applicants.

2. **Meanwhile, the Collector, Visakhapatnam in his report dt.19.12.2006, has stated that the allottees Sri P. Venkatapathi Raju and Sri K. Naga Kanaka Brahman have obtained the allotment orders by producing fake documents and requested to rescind the orders issued in G.O.Ms.No.424, Revenue (UC.I) Department, dt.06.04.2006 in favour of Sri K. Naga Kanaka Brahman and accordingly, the orders issued in G.O.Ms.No.424, Revenue (UC. I) Department, dt.06.04.2006 were kept in abeyance vide Govt.Memo.No.59377/UC. I/2006-1, dt.23.03.2007.**

3. **Sri P. Venkatapathi Raju and Sri K. Naga Kanaka Brahman have filed representations before the then Hon'ble Minister (Rev.), and among other things, have stated that they are willing to pay highest slab rate.** The request of the applicants was considered by the Government and decided to apply the highest slab rate in the year 2002 i.e., Rs.1,750/- per sq.mtrs., and accordingly, modification orders were issued fixing the highest slab rate vide G.O.Ms.No.493, Revenue (UC. I) Department, dt.26.03.2008 and the abeyance orders issued vide Govt.Memo.No.59377/UC. I/2006-1, dt.23.03.2007, were withdrawn.

4. When the matter stood thus, the Director General, Anti Corruption Bureau, Hyderabad has conducted discreet enquiry and recommended for initiating departmental action against two private persons, Sri.K.Naga Kanaka Brahman and Sri.P.Venkatapathi Raju who have submitted fake and fabricated house tax book and tax receipts to Sri P.Yerraiah formerly Special Officer & Competent Authority, Urban Land Ceiling, Visakhapatnam to grab valuable Government land and therefore to prosecute the above two private persons in a court law u/s 420 IPC and 435,465 and 471 IPC after due verification besides taking action against Sri.P.Yerraiah, the then Special Officer & Competent Authority, Urban Land Ceiling, Visakhapatnam.

5. The Government vide Memo.No.58904/Vig. III(1)/2010-1, dt.29.01.2011, directed the Collector, Visakhapatnam to initiate necessary measures for prosecuting the two persons viz., Sri K. Naga Kanaka Brahman and Sri P. Venkatapathi Raju in a Court of Law u/s 420 IPC for submitting fake and fabricated house tax book and tax receipts. Accordingly, the Station House Officer, III Town Police Station, Visakhapatnam registered a case in Cr.No.128/2011, dt.06.03.2011 u/s 420 IPC, 465 IPC, 468 IPC and 471 IPC. The accused Sri K. Naga Kanaka Brahman and Sri P. Venkatapathi Raju filed CRLP. MP.No.3550/2011 in CRLP.No.3353/2011 before the Hon'ble High Court against the criminal case No.128/11 registered against them and obtained interim stay orders dt.18.04.2011 against prosecution.

6. The Special Officer & Competent Authority, Urban Land Ceiling, Visakhapatnam in his letters dt.25.3.2011, dt.7.11.2011 and the District Collector, Visakhapatnam vide Letter dt.23.3.2011, requested the Government to pass necessary orders keeping in view of the orders of the Hon'ble High Court in W.P.No.5769/2011 dt.8.3.2011 filed by M/s Clover Associates Private Limited.

7. Accordingly, the orders issued in G.O.Ms.No.256, Revenue (UC.I) Department, dt.27.02.2006, G.O. Ms. No.424 Revenue (UC.I) Department, dt.06.04.2006 and G.O.Ms.No.493, Revenue (UC. I) Department, dt.26.03.2008, were kept in abeyance vide Govt. Memo. No. 4027/UC.I/2011, dated. 20.09.2011.

8. Sri P. Venkatapathi Raju and two others have filed W.P.No.23838/2011 against the above said abeyance orders and the Hon'ble High Court in its interim Orders in W.P.M.P.No.33262/2011 in W.P.No.23828/2011 dated.11/10/2011 suspended the above orders issued vide Govt. Memo. No.4027/UC.I/2011, dated. 20.09.2011.

9. **While the matter stood thus, Sri Balasani Lakshmi Narayana, Sri Nimmakayala China Rajappa and Sri Dadi Veerabhadra Rao, MLCs have given notice in LCQ No.5850 (Starred) regarding the illegal regularization of the above land and the action taken and to be taken thereon. During the discussion in the Council on 2.12.2011 during the question hour, the Hon'ble Minister for Revenue, Relief, Rehabilitation and Urban Land Ceiling has assured the House that a detailed enquiry will be held into the whole matter by appointing a senior IAS Officer.**

10. In view of the position, Government have decided to appoint the Special Chief Secretary & Chief Commissioner of Land Administration, AP, Hyderabad as Enquiry Officer to enquire into the whole matter. Accordingly, Government hereby appoint the Special Chief Secretary & Chief Commissioner of Land Administration, AP, Hyderabad to enquire in to the whole matter, including the following issues:

a) to enquire into the allotment / regularization of ceiling surplus land in favour of the applicants Sri P. Venkata Pathi Raju N.K. Brahmam and members of Sri Rama Co-Operative Housing Society based on the fake and fabricated documents submitted by them.

b) to enquire into issuance of G.Os for regularization.

c) to enquire into the role played by the Clover Associates Limited in obtaining withdrawal of abeyance orders issued in Mem.No.59377/ UC.I/ 06-1, dated 23.3.2007 by collecting highest slab rate, vide G.O.Ms.No.493, Revenue (UC.I) Department dated 26.3.2008.

11. The Enquiry Officer should complete the enquiry and submit the enquiry report within a month for taking further necessary action.

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

ANIL CHANDRA PUNETHA

PRINCIPAL SECRETARY TO GOVERNMENT

To

The Special Chief Secretary & Chief Commissioner of Land Administration, AP, Hyderabad.

Copy to:

The Special Officer & Competent Authority,  
Urban Land Ceiling Hyderabad

The Collector & District Magistrate, Visakhapatnam

PS to Principal Secretary, Revenue Department

PS to Hon'ble Minister for Revenue.

SC/SF

//FORWARDED :: BY ORDER//

SECTION OFFICER

12. The Chief Commissioner of Land Administration & Spl. Secretary vide proceedings in D.O.Lr.No.UC2/585/2012 dated 28.05.2013 wrote to the Government, inter-alia that no useful purpose would be served by enquiring into the allegations unless the G.O.Ms.Nos.256, 424 and 493 were cancelled and the possession was restored to the Government. He made request to take action so as to proceed further with the enquiry.

13. The letter dated 28.05.2013 reads as under:

**D.O.Lr.No.UC2/585/2012 dated 28.05.2013.**

Dear Sri Meenna,

Sub: Urban Land (C&R) Act, 1976 - Visakhapatnam Urban Agglomeration- Allotment of excess land to an extent of 2,752 Sq.mts and 2,870 Sq.Mts in Waltair u/s 23(4) of the Act in favour of Sri P. Venkatapathi Raju, Sri P.Ramabhadra Raju and Sri K.Nagakanakabrahmam in G.O.Ms.No.256 dated 27.02.2006 and G.O.Ms.No.424 dated:6.4.2006 - Allegation of submission of fake documents by the applicants - Appointment of the Spl.C.S & CCLA, A.P., Hyderabad as Enquiry Officer – cancellation of G.O.Ms.No. 424 dated:6.4.2006 - Reg.

Ref: 1.G.O.Ms.No.256, Revenue (UCI) Dept. dated: 27.2.2006.  
2. G.O.Ms.No.424, Rev.(UC.1) Dept. Dt:06.04.06  
3. G.O.Ms.No.493, Rev. (UC.1) Dept. Dt:26.03.08  
4. G.O.Ms.No.557, Rev. (UC.1) Dept. Dt:05.09.12.

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The Government in the reference 4<sup>th</sup> cited has appointed the Special Chief Secretary and Chief Commissioner of Land Administration, A.P., Hyderabad as Enquiry Officer to enquire into

1. to enquire into the allotment / regularization of ceiling surplus land in favour of the applicants P. Venkatapathi Raju, K. Nagakanaka Brahman and members of Sri Rama co-operative housing society based on fake and fabricated documents submitted by them.
2. to enquire into the issuance of G.Os for regularization
3. to enquire into the role played by the Clovers Associate Limited in obtaining withdrawal of abeyance orders issued in Memo No.59377/UC1/06-1 dated: 23.3.2007 by collecting highest slab rate vide G.O Ms.No.493 Revenue UC.I Department dated 26.3.2008.

It is submitted that Sri P.Venkatapathi Raju & K.Naga Kanaka Brahman submitted applications under G.O.Ms.No.455 and got regularization vide G.O.Ms.No.256, dt.27.2.2006 and G.O.Ms.No.424, dt.6.4.2006. The Govt. issued regularization orders in favour of Sri Rama Co-op Society vide G.O.Ms.No.398, dt.28.3.2006 relaxing the conditions in G.O.Ms.No.455 through G.O.Ms.No.350, dt.20.3.2006.

Based on the report of Commissioner, GVMC, the District Collector, Visakhapatnam requested the Government to rescind the G.O.Ms.No.424, dt.06.04.2006 issued on the fake documents. The Govt. vide Memo No.59377/UC.I/06-1, Revenue (UC.I) Dept., dt.23.03.2007 kept the G.O.Ms.No.424 Revenue (U.C.I) Department dated 06.04.2006 in abeyance until further orders.

The Govt. issued G.O.Ms.No.493, dt.26.3.2008 withdrawing the abeyance in respect of G.O.Ms.No.424, dt.6.4.2006 based on the fact that some structures are existing on the land which is evidenced by the SO & CA, ULC, VSP report dt.7/2007 and Commissioner, GVMC report dt.1.6.2007 and ordered to collect the highest slab rate in G.O.Ms.No.455 ie., Rs. 1,750/- per Sq.Mtr.

Meanwhile, the SO, ULC, VSP has addressed to the Commissioner, Stamps & Registration Dept. not to register, Commissioner, GVMC to stop further construction, Superintending Engineer, Transco to disconnect power supply.

M/s Clover Associates filed W.P.No.5769/2011 & W.P.No.6806/2011 in which the Hon'ble High Court directed the SO, ULC, MRO & Collector, VSP to take action in accordance with Law and not to interfere with the construction.

M/s Clover Associates have filed W.P.No.11147/2011 & W.P.S.R.No.57625/2011 in which the Hon'ble High Court directed the Sub-Registrar - shall not decline to entertain any document evidencing the sale transactions of the petitioner for the purpose of registration. He shall entertain the same and deal with same in accordance with Law.

M/s Clover Associates have filed W.P.No.6529 & 28783/2011 in which the Hon'ble High Court passed orders that "So long as the Government orders in favour of the vendors of the petitioner, are in force and have not been revoked or cancelled, the respondents 2 (Commissioner, GVMC), & 3 (S.O.ULC, VSP) have no authority to issue the impugned proceedings. The second respondent has no power to revoke the building permission granted to the petitioner vide B.A.No.11056/08/ACP-II/G1 dated:18.4.2009. Since, the issuance of letter Rc.No.431/06/B1, dated:05.03.2011 by the third respondent (S.O.ULC, VSP) is illegal and arbitrary, any consequential proceedings issued by the second respondent in pursuance of the said proceedings of the third respondent, are liable to be set aside.

Accordingly, the Writ Petitions are allowed setting aside the impugned proceedings. No costs". Allowed.

On the orders passed by Hon'ble High Court in W.P.No.6529/2011, the SO, ULC, VSP has sought for the opinion of the G.P.Rev. (Assn.) A.P., Hyderabad. The G.P. has opined that no purpose would be served in filing the Writ Appeal against the Common Order delivered by the Hon'ble Court dt.28-12-2011:

The Govt. vide Memo No.4027/UC.I/2011, dated: 20-09-2011 kept G.Os 256, dt.27.2.2006, 424, dt.6.4.2006 & 493, dt.26.3.2008 in abeyance till further orders. Aggrieved by this, M/s Clover Associates filed W.P.No. 23838/2011.

The Hon'ble High Court has suspended the operation of Govt. Memo No.4027/UC.I/2011, dated: 20-09-2011 in W.P.M.P.No.33262/ 2011 and the main W.P.No.23838/2011 is pending.

Hence, it is very clear that the G.Os.256, 424,398 & 493 are in operation as on today. It is by now established that all these G.Os were obtained by fraud and fabrication of documents and hence the same is mentioned in the terms of reference of enquiry of CCLA as below.

1. to enquire into the allotment / regularization of ceiling surplus land in favour of the applicants P. Venkatapathi Raju, K. Nagakanaka Brahmam and members of Sri Rama co-operative housing society based on fake and fabricated documents submitted by them.
2. to enquire into the issuance of G.Os for regularization
3. to enquire into the role played by the Clovers Associate Limited in obtaining withdrawal of abeyance orders issued in Memo No.59377/UC1/06-1 dated: 23.3.2007 by collecting highest slab rate vide G.O Ms.No.493 Revenue UC.I Department dated 26.3.2008.

Since the enquiry itself is to allotments and regularization on fake and fabricated documents and also role played by Clover Associates Ltd in obtaining withdrawal of abeyance Memo through a G.O., it is imperative that first through a proper speaking order all the above G.Os. obtained by fraud and fabrication of documents are cancelled and then only enquiry can proceed as to who is responsible for the same and accordingly disciplinary and criminal action as required can be proposed after an enquiry.

No useful purpose would be served by this enquiry unless the above G.Os. 256, 424, 398 & 493 are cancelled and the possession of land restored back to the Government.

I request you to take immediate action in this direction and inform to proceed further with the enquiry.

The following records of the Government received in this case are returned herewith. The receipt of the same may please be acknowledged.

1. C.No.59377/UCI (1)/06.
2. C.No.12233/UC1/03
3. C.No.56053/UC3(1)/05.

Yours sincerely,

(I.Y.R. KRISHNA RAO)

Sri B.R.Meena, I.A.S.,  
Prl.Secretary to Govt.  
Revenue (UC) Department,  
A.P.Hyderabad.

14. The District Collector, Visakhapatnam issued notice dated 16.09.2013

to the writ petitioners to attend the enquiry. The notice reads as under:

Office of the Chief Commissioner of  
Land Administration, A.P., Hyderabad.

**NOTICE**

CCLA's Ref.No.UC2/585/2012, dated 16.09.2013

Sub:- Urban Land (C&R) Act, 1976 – Visakhapatnam Urban Agglomeration  
-Allotment of excess land to an extent of 2,752 Sq.mts and 2,870 Sq.mts in Waltair Ward U/s 23(4) of the Act under occupation of 3<sup>rd</sup> parties i.e Sri P.Venkatapathi Raju S/o P.Ramabhadra Raju and Sri K.Naga Kanaka Brahmam S/o Satya Rao respectively vide G.O.Ms.No.256, dt.27.2.2006 and G.O.Ms.No.424, dt. 6.4.2006 – Allegation of submission of fake documents by the applicants - Certain allegations - Assurance given by the Hon'ble Minister for Revenue to the Legislative Council to enquire into the issue by a Senior IAS Officer - Appointment of the Special Chief Secretary and Chief Commissioner of Land Administration, A.P., Hyderabad as Enquiry Officer - Conduct of enquiry - Reg.

Ref: 1.DGP, ACB, A.P., Hyderabad Lr. Rc. No.12/RE-WVP/2007-S11, dt.17.4.2009.

2. Govt. Memo No.58904/Vig. III (1)/2010-1, dt.29.1.2011.

3.G.O.Ms.No.557 Rev. (UC.I) Dept. dt.5.9.2012.

4. CCLA's Ref.No.UC2/585/2012, dt.4.9.2013.

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It is to inform that the Government vide G.O.Ms.No.557 Rev. (UC.1) Dept. dt.5.9.2012 have appointed the Chief Commissioner of Land Administration, A.P., Hyderabad & Spl. Chief Secretary to Government to enquire in to the whole matter including the following issues.

*a) To enquire in to the allotment/regularization of ceiling surplus land in favour of the applicant Sri P. Venkata Pathi Raju, N.K.Brahmam and members of Sri Rama Co-op Housing Society based on the fake and fabricated documents submitted by them.*

*b) To enquire in to issuance of G.Os. for regularization.*

*c) To enquire into the role played by the Clover Associates Ltd in obtaining withdrawal of abeyance orders issued in Memo No.59377/UC.I/06-1, dt: 23.3.2007 by collecting highest slab rate, vide G.O.Ms. No. 493, Rev.(UC.I) Dept. dt. 26.3.2008.*

Hence, the individuals shown at the address entry are requested to attend the final enquiry before the Enquiry Officer i.e the Spl.CS & CCLA on 27.9.2013 at 11.30 AM in the Office of the Chief Commissioner of Land Administration, Nampally Station Road, Abids, Hyderabad along with documentary evidence, if any, with them.

If any individual fails to attend the enquiry, further action will be taken based on the material available on record.

Sd/-Smt:Parvathi Subramanian,

For Chief Commissioner

To

Sri Vemulapalli Koteswara Rao,  
10-50-5/8, G-5,  
Sunny side Homes,  
Opp. Appollo Hospitals,  
Waltair Main Roads,  
Visakhapatnam – 530002.  
Phone:9848193123

//Attested//

Assistant Secretary (UC)

15. Challenging the G.O.Ms.No.557, the letter dated 28.05.2013 and the notice dated 16.09.2013, W.P.No.29014 of 2013 was filed by the writ petitioners.

**ii) Case of the State/Writ Appellants:**

16. The State filed the counter affidavit in the writ petition. Their stand was that Addepalli Venkatappaya Sastry filed statement under Section 6(1) of the ULC Act and in C.C.No.7119 of 1976. After enquiry, the competent authority determined the surplus land (vacant land) to an extent of Ac.0.9713 sq.mts. which vested in the State Government by publication in the official gazette and it was handed over to the Mandal Revenue Officer (Urban) on 27.07.1992 for safe custody. The writ petitioners got regularisation of the land said to have been purchased by them from Addepalli Venkatappaya Sastry by producing fabricated tax receipts. G.O.Ms.Nos.256 & 424 were kept in abeyance. But, subsequently abeyance orders were withdrawn deciding to collect higher slab rate existing as on the date of G.O.Ms.No.455, though there was no provision of collecting the higher slab rate for any structure either temporary or permanent having no primary documents as per the guidelines issued for regularisation vide G.O.Ms.No.455. However, the writ petitioner Nos.1 & 2 were permitted to pay the differential amount which was paid by petitioner No.3, which amounted to benami transaction prohibited under law.

17. In W.P.No.29014 of 2013, the respondent No.2, the Chief Commissioner of Land Acquisition filed counter affidavit. It was inter-alia submitted that the enquiry was conducted from 16.09.2013 and also concluded on 03.10.2013, after giving adequate opportunity to all the parties. However, the Enquiry report could not be submitted to the Government in view

of the interim orders passed on 07.10.2013. It was further submitted that the enquiry was directed in response to LCQ.No.5850 raised by public representatives in the House of Legislative Council and in the public interest to draw out the truths and irregularities if any, during the process of issuance of the regularization G.Os in favour of the writ petitioners. It was also submitted that after the submission of the report, the Government had to take an appropriate decision and at that stage it was neither just or reasonable to stall the process of enquiry.

18. In the counter affidavit in para-18 it was submitted that the respondent No.2 issued notices to make enquiry as ordered by the Government in G.O.Ms.No.557. Notices were issued to 18 individuals including writ petitioners to attend the enquiry fixed on dates, 16.09.2013, 27.09.2013 and was completed on 03.10.2013. The writ petitioners had submitted their representations along with the enclosures by post.

19. Para Nos.18 & 19 of the counter affidavit of respondent No.2 in W.P.No.2904 of 2016 read as under:

18. It is to submit that it is true that the 2<sup>nd</sup> respondent issued notices to the petitioners as a part of enquiry as ordered by the Government in G.O.Ms.No.557 Rev.(UC.I) Dept. dt.5.9.2012. The 2<sup>nd</sup> respondent has given adequate opportunity to the petitioners to appraise their case before the Enquiry Officer. As the part of enquiry, notices were issued to (18) individuals including present writ petitioners to attend the enquiry fixed on 16.9.2013, 27.9.2013. Final hearing was taken up and completed on 3.10.2013.

Sri P. Venkatapathi Raju & Sri V. Koteswara Rao, present Writ Petitioners have submitted their representations along with enclosures by post which was received on 16.09.2013 for examination and requested to grant (30) days of time to attend the enquiry as one Sri P. Venkatapati Raju is unable to attend the enquiry on 16.9.2013 due to Samikyandhra Bandh and Sri V. Koteswara Rao is unable to attend the enquiry as he is going to Russia on 12.09.2013 for ten days. Accordingly, the enquiry was adjourned to 27.09.2013. Again Sri P. Venkatapathi Raju and Sri G.V. Ramana represented on behalf of Sri V. Koteswara Rao sent representations through post dated 26.09.2013 received on 27.09.2013 stating

that they are unable to attend the enquiry on 27.09.2013. Again the case was adjourned and posted to 03.10.2013 and final Notice to attend the enquiry on 03.10.2013 were issued. They attended the enquiry on 03.10.2013 and submitted a petition seeking (30) days time to obtain documents pertaining to Revenue, GVMC and other Governmental Agencies in support of their claim which were very much available in the record of enquiry.

19. It is submitted that Sri P. Venkatapathi Raju and Sri V. Koteswara Rao Writ Petitioners have already submitted material papers vide their representation dt. 12.9.2013 received in the office on 16.9.2013, the original records of the Government and SO, ULC, VSP contain the original reports of the Revenue, GVMC, and Government and all material papers are available on record. They only sought time to postpone the enquiry on one pretext or another. Hence their request for further extension of time was not considered and the case was taken up for enquiry and concluded on 03.10.2013 on the basis of their written submissions and material available on record. Thus, after giving adequate opportunity, the enquiry was completed on 03.10.2013.

### **iii) Common Judgment in Writ Petitions:**

20. Both the W.P.Nos.23838 of 2011 and 29014 of 2013 were allowed by the learned Single Judge vide common judgment dated 21.03.2014.

21. Challenging the judgment dated 21.03.2014 in W.P.No.23838 of 2011, the State has filed W.A.No.1106 of 2014 and the respondent Nos.4 to 7 in W.P.No.23838 of 2011 have filed W.A.No.1218 of 2014.

22. Challenging the common judgment dated 21.03.2014 in W.P.No.29014 of 2013, the State has filed W.A.No.1090 of 2014.

23. As stated above challenging the judgment in W.P.No.28783 of 2011 State filed W.A.No.1429 of 2014 and challenging the judgment in W.P.No.6529 of 2011 the State filed W.A.No.785 of 2014.

24. Learned Single Judge allowed the writ petition Nos.23838 of 2011 and 29014 of 2013 vide common judgment dated 21.03.2024. It was held that the regularisation were made pursuant to G.O.Ms.No.455. The G.O.Ms.No.256 & 424 of regularisation were kept in abeyance but by levying higher slab rate, which was paid, the order of abeyance was withdrawn. The public interest

litigation W.P.No.23315 of 2009 questioning the withdrawal was also dismissed. So, there was no force in the stand of the present appellants.

25. The contention as raised by the learned Special Government Pleader in the writ petitions that, the G.O.Ms.No.493 dated 26.03.2008 issued in the exercise of the powers under Section 23 of ULC Act, did not permit the regularisation in favour of the single individual but permitted regularisation only in favour of any industry or for providing residential accommodation to the employees of the industry, was held unsustainable by the learned Single Judge. To the criminal proceedings against the petitioner Nos.1 & 2 for producing alleged fabricated tax receipts to claim regularisation under G.O.Ms.No.455, it was observed that those were also quashed, which order attained finality. To initiate the investigation, again on the same allegation the learned Single Judge found un-justified. The learned Single Judge further recorded that in view of the contents of the letter dated 28.05.2013 by the Enquiry Officer, he had prejudged the issue and so any enquiry would be an empty formality because the Enquiry Officer had already made up his mind and so, there would be violation of the principles of natural justice, referring to the case of **SIEMENS Ltd., v. Sate of Maharastra**<sup>1</sup>.

## **II. Submissions of learned Special Government Pleader:**

26. Learned Special Government Pleader for the appellants submitted that the judgment of the Writ Court cannot be sustained. He submitted that the criminal case against the petitioners or/and against the Special Officer were

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<sup>1</sup> (2006) 12 SCC 33

quashed but on that ground initiation of the proceedings vide G.O.Ms.No.557 to hold enquiry with respect to the regularisation of land matter, could not be unsustainable. He submitted that the G.O.Ms.No.455 did not permit regularisation in favour of single individual. The G.O.Ms.No.455 was issued under Section 23 of the ULC Act but the learned Single Judge did not properly appreciate that fact and the legal position under Section 23 of the ULC Act. The regularisation in favour of petitioner Nos.1 and 2 could not be legally sustained. The petitioners had submitted forged tax receipts. They got regularisation, though they were not entitled for the surplus (vacant) land declared under ULC Act. The payment of higher slab rate for regularisation was not permissible and the payment thereof could not be the ground for regularization.

27. Learned Special Government Pleader further submitted that challenging the internal communication, the writ petition was not maintainable. With respect to the prejudging of the issue, he submitted that there was no such prejudgment by the Enquiry Officer. The enquiry officer appointed by G.O.Ms.No.557 made such observation only considering the judgment/order passed in different writ petition(s) by that time, but based thereon it could not be directed, 'not to hold enquiry'. If so required, the Enquiry Officer could be directed to be changed.

**Submissions of learned counsel for the Writ Petitioners:**

28. Learned counsel for the writ petitioners submitted that there was no challenge to G.O.Ms.Nos.256 & 424 by which the direction was given to

collect the higher slab rate existing on the date of G.O.Ms.No.455. The direction to pay higher slab rate was complied and the GO keeping in abeyance, the regularisation G.O.(s), was withdrawn. So the matter could not be reopened for enquiry. He submitted that the enquiry officer had prejudged the issue. So, any fair and impartial enquiry could not be conducted. The enquiry would be vitiated for violation of the principles of natural justice. Thus, the learned counsel for the writ petitioners supported the judgment of the Writ Court and requested to dismiss the Writ Appeal (s).

### **III. Point for consideration:**

29. The point for consideration is:

“Whether the impugned common orders dated 21.03.2014 and 28.12.2011 are legally sustainable or call for interference?”

### **IV. Consideration:**

30. We have considered the aforesaid submissions and perused the material on record.

31. In W.A.Nos.1106 of 2014, 1218 of 2014 arising out of writ petition No.23838 of 2011 and in W.A.No.1090 of 2014 arising out of W.P.No.29014 of 2013, the common judgment dated 21.03.2014 is under challenge.

32. In W.A.Nos.1429 of 2016 arising out of W.P.No.28783 of 2011 and W.A.No.785 of 2015 arising out of W.P.No.6529 of 2011, the common judgment dated 28.12.2011 is under challenge.

33. However, both the judgments passed in different writ petitions as aforesaid, are almost on common facts and the main basis is same that, the G.O.Ms.No.256, 424 & 493 stands. So, the order impugned in W.P.Nos.28783 & 6529 of 2011 in which the cancellation of building permission and stoppage of construction and water supply was challenged, were not justified. Consequently, all the writ appeals are being considered and decided by the common judgment. The fate of W.A.No.1429 of 2016 and W.A.No.785 of 2015 would be dependant on the fate of W.A.Nos.1106 of 2014, 1218 of 2014 and 1090 of 2014.

34. Vide G.O.Ms.Nos.256 & 424 the regularization was done of the surplus (vacant) land declared under the ULC Act which vested in the Government, in favour of the writ petitioners. On the allegation that they produced fake documents, and the report of the Collector of Visakhapatnam dated 10.09.2006 that they obtained allotment orders by producing fake documents, the G.O.Ms.Nos. 256 & 424 were kept in abeyance vide Govt.Memo.No. 59377/UC.I/2006-1, dated 23.03.2007, but later on, on the request of the petitioners to pay the higher slab rate, G.O.Ms.No.493, was issued withdrawing the Government Memo dated 23.03.2007. However, this G.O.Ms.No.493 does not reflect on the entitlement, or eligibility of the writ petitioners for regularization in their favour under G.O.Ms.No.455, which was issued under Section 23 of the ULC Act. Learned Special Government Pleader had submitted that the writ petitioners did not fall for regularization and so the enquiry was ordered vide G.O.Ms.No.557 inter-alia in issuance of

regularization G.O.Ms.Nos.256 & 424 i.e., as to how those G.Os., were issued. On that aspect, nothing was mentioned in G.O.Ms.No.493 and merely on payment of higher slab rate the regularization G.Os, were restored. He submitted that the payment of higher slab rate could not be the basis for regularization of Government land in favour of the writ petitioners. In fact, such has nothing to do with the regularisation in the absence of entitlement for regularisation. We find that such submissions are not without force.

35. Section 23 of the Urban Land (Ceiling and Regulation) Act, 1976 which provides for disposal of vacant land acquired under the Act, reads as under:

**“23. Disposal of vacant land acquired under the Act -**

(1) It shall be competent for the State Government to allot, by order, in excess of the ceiling limit any vacant land which is **deemed** to have been acquired by the State Government under this Act or is acquired by the State Government under any other law, **to any person for any purpose relating to, or in connection with, any industry or for providing residential accommodation of such type as may be approved by the State Government to the employees of any industry and it shall be lawful for such person to hold such land in excess of the ceiling limit.**

Explanation.-For the purposes of this section,-

(a) where any land with a building has been acquired by the State Government under any other law and such building has been subsequently demolished by the State Government, then, such land shall be deemed to be vacant land acquired under such other law;

(b) "industry" means any business, profession, trade, undertaking or manufacture.

(2) In making an order of allotment under sub-section (1), the State Government may impose such conditions as may be specified therein including a condition as **to the period within which the industry shall be put in operation or, as the case may be, the residential accommodation shall be provided for:**

Provided that if, on a representation made in this behalf by the allottee, the State Government is satisfied that the allottee could not put the industry in operation, or provide the residential accommodation, within the period specified in the order of allotment, for any good and sufficient reason, the State Government may extend such period to such further period or periods as it may deem fit.

(3) Where any condition imposed in an order of allotment is not complied with by the allottee, the State Government shall, after giving an opportunity to the allottee to be heard in the matter, cancel the allotment with effect from the date of

the non-compliance of such condition and the land allotted shall revert in the State Government free from all encumbrances.

**(4) Subject to the provisions of sub-sections (1), (2) and (3), all vacant lands deemed to have been acquired by the State Government under this Act shall be disposed of by the State Government to subserve the common good on such terms and conditions as the State Government may deem fit to impose.**

(5) Notwithstanding anything contained in sub-sections (1) to (4), where the State Government is satisfied that it is necessary to retain or reserve any vacant land, deemed to have been acquired by that Government under this Act, for the benefit of the public, it shall be competent for the State Government to retain or reserve such land for the same."

36. As per Section 23(1), it shall be competent for the State Government to allot, by order, in excess of the ceiling limit any vacant land which is deemed to have been acquired by the State Government under the ULC Act, 1976 or has been acquired by the State Government under any other law, to any person for any purpose relating to, or in connection with, any industry or for providing residential accommodation of such type as may be approved by the State Government to the employees of any industry and it shall be lawful for such person to hold such land in excess of the ceiling limit. On a plain reading of Section 23(1), the allotment made there under refers to allotment of vacant land in favour of the person whose land has been declared vacant i.e., in excess of ceiling limit. Such a person can be allotted vacant land, in excess of the ceiling limit, but only for the purpose as specified in sub-Section (1).

37. Section 23 of the Urban Land (Ceiling and Regulation) Act, 1976 under sub-Section (1) therefore acknowledges for the allotment of the vacant land in excess of the ceiling limit and deemed to have been acquired by the State Government, which may be allotted to such person, whose land is declared as vacant for the purpose relating to, or in connection with, any industry or for

providing residential accommodation of such type as may be approved by the State Government, to the employees of any industry and it shall be lawful for such person to hold such land in excess of the ceiling limit, if the same has been allotted by the State Government to that person for the purposes under sub-Section (1).

38. As per Section 23(4), subject to the provisions of sub sections (1), (2) & (3), vacant lands deemed to have been acquired by the State Government under the ULC Act shall be disposed of by the State Government to subserve the 'common good' on such terms and conditions as the State Government may deem fit to impose. The provisions of sub-sections (1), (2) and (3), relate to allotment of vacant land in excess of ceiling limit to that person whose land has been declared surplus. So, where sub sections (1) (2)& (3) did not apply and allotment has not been made in favour of the person whose ceiling limit is fixed the land in excess of the ceiling limit, i.e., the vacant land vested in the state that land can also be disposed of by the State Government under sub section (4) for common good on such terms and conditions as the State Government may deem it fit to impose.

39. In exercise of the powers under Section 23, the Government issued G.O.Ms.No.455, which reads as under:

**GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Urban Land (Ceiling & Regulation) Act, 1976 - Allotment of excess lands U/s 23 of the Act which are already under occupation of 3<sup>rd</sup> parties - Policy guidelines – Issued.

**REVENUE (U.C.I) DEPARTMENT**

**G.O. Ms. No.455**

**Dated:29-7-2002.  
Read the following:**

1. G.O.Ms.No. 840, Revenue (UC.II) Department, Dated: 16.6.1982.
2. Judgment of High Court of A.P. in W.P.No. 19344/1995 and batch, dated: 3.2.1997.

**ORDER:**

Orders were issued in the G.O. 1<sup>st</sup> read above creating a centralised pool of excess vacant lands taken over by Government under the provisions of Urban Land (Ceiling & Regulation) Act, 1976 and indicating the priorities for allotting such excess vacant lands, after meeting the needs of the Government Departments.

2. It has come to the notice of Government that the excess land holders themselves or their successors or other interested persons have been questioning the determination of excess land, on various grounds resulting in continuous litigation even for decades. There have also been several instances of such persons protracting the litigation by filing Appeals/W.Ps etc. on one ground or the other and obtaining stay orders. Taking advantage of such long drawn litigations, in many cases the excess land holders have resorted to sell the excess land to 3<sup>rd</sup> parties by executing a variety of documents and entering into transactions unknown to the law or illegal under the law. While doing so, the fact that such land has been declared surplus already or is the subject matter of pending proceedings before the statutory authorities under the Act or before the Courts of Law in respect of the such lands has been concealed by the excess landholders or their successors. Many persons, driven by the need for a plot of land and to have a shelter of their own, have innocently purchased such excess lands through registered or unregistered documents and also built houses with or without the requisite permissions. Such sales are null and void in terms of the provisions of section 5(3) and 10(4) of the Act. When the authorities attempt to take possession of the excess land after conclusion of all long drawn litigations, it is noticed in many cases that the excess land on ground is already occupied and covered by structures. Fresh problems have arisen.

3. When possession of excess land was taken physically, either with structures or by demolishing structures raised thereon, a fresh round of litigation commenced. The High Court of Andhra Pradesh has dealt with these aspects in detail in its orders 2<sup>nd</sup> read above and gave certain directions.

4. The Government while keeping in view the observations of High Court and after careful consideration of the issue of occupation of excess land by third parties (i.e., other than the declarants/excess land holders or their successors) and taking into account all ground realities and the practical aspects of the problems **and the difficulties encountered in the strict enforcement of the law and bearing in mind the fact that the Urban Land (Ceiling and Regulation) Act, 1976 is an expropriatory law, have, as a matter of policy, decided to allot the excess lands to such respective third parties in occupation U/s.23 of the Act, subject to the following conditions:**

(a) i) The allotment shall be considered where the excess land already vested with Government U/s 10(3) of the Act free from all encumbrances and the excess lands that may so vest with them in future.

ii) In cases where the lands applied for allotment are not covered by any declaration filed, the competent authority shall get the statements filed, if so required under the Act by issuing notices under section 6(2), and then take further action to determine surplus or otherwise. In case of declaring surplus, further action shall be taken upto the stage of vesting of surplus land in Government U/s 10(3) and only thereafter applications received for allotment in respect of such surplus lands shall be dealt with in accordance with these orders.

(b) The allotment shall be subject to withdrawal of all litigations filed either by the occupant of excess land, or the excess and holder, or any other interested person

and pending before any Court or Authority relating to the excess land as on the date of this G.O.

(c) The excess lands covered by Appeals/W.Ps/W.As/ SLPs or any other suit or proceedings including land grab cases **filed by Government** and pending before any Court or Authority shall be considered for allotment if applied for under these orders **only after** such cases are finally disposed of by such Court or Authority, and the Government or other party deciding not to carry such order in further appeal **or** the Government deciding to withdraw litigations in any case.

(d) The allotment shall be subject to payment of amount to Government at the rates indicated separately for each agglomeration in Schedule - I to this order.

(e) Allotment under these orders shall be confined to;

(i) Excess land in the possession of occupier, (other than the excess land holder or his successors) where such possession is evidenced by a registered document of purchase from the excess land holder or person claiming through him/her regardless of the fact of such land being covered by a structure or not.

(ii) Excess land in the possession of occupier, (other than the excess land holder or his successors) on which there is already a structure, though the possession is not supported by any registered document of purchase. "Structure" for the purpose of this G.O. shall include any construction which is constructed with walls and covered with a roof of RCC/Tiles/A.C.Sheets/Zinc Sheets or tubular structure but does not include a hut or a shed without walls. In Guntur and Vijayawada and Visakhapatnam agglomerations structures with walls and covered with roof of palmyhra leaves traditionally may be considered as structure.

(f) In cases covered by clause (e) (i) above, the year of registered document based on which the occupant/applicant came into possession shall be considered for determining the time periods of possession and then for calculating the amount payable as per the rates indicated in Schedule- I to this order;

(g) In cases covered by clause (e) (ii) above, the year of coming into possession shall be the earliest of the years with reference to the dates of any or all of the following primary documents (From Sl.No.1 to 4) pertaining to the structure existing on the excess land and for determining the time periods of possession and then to calculate the amount payable with reference to the rates indicated in schedule-I to this order. The documents at Sl.No.5 & 6 below are to be considered as supporting documents alone filing of which is optional. Filing of one of these documents has to be necessarily supported with one of the documents at Sl.No.1 to 4 below.

**PRIMARY DOCUMENTS:**

- (1) Electricity connection
- (2) Construction permission
- (3) Payment of property tax
- (4) Water supply connection

**SUPPORTING DOCUMENTS:**

- (5) Household supply card
- (6) Telephone connection.

**(h) Allotment of vacant surplus land not covered by any registered document of purchase shall not be considered under these orders.**

(i) The registered transactions of purchase of excess lands that took place prior to the date of this G.O. alone will be considered for allotment under these orders.

(j) These orders apply for allotment of surplus land occupied by 3<sup>rd</sup> parties (other than land holder/declarant his successors in interest) alone. Orders regarding exemption of surplus lands occupied by the surplus land holder/declarant or his successors in interest are being issued separately.

(k) Allotment shall be **free of cost** up to the limits indicated in the table below, in case the occupier thereof is a person **below poverty line, as explained below:**

|                                                                 |                           |
|-----------------------------------------------------------------|---------------------------|
| If the excess land occupied falls in Municipal Corporation Area | 67 Sq.mts (80 Sq.yards)   |
| If the excess land occupied falls in Municipalities             | 84 sq.mts. (100 sq.yards) |
| If the excess land falls in Panchayat Areas                     | 100 Sq.mts (120 Sq.yards) |

Amount shall be collected for the land over and above the free limits, at the rates specified in **Schedule-1** when the total land in possession does not exceed 300 sq. mtrs. (Examples of calculation amount payable are shown in Schedule-I)

A person shall be considered to be one falling in the category of "**below Poverty Line**" if the aggregate annual income of such person and his/her spouse as the case may be, is **Rs. 12,000/-** per annum or below as on the date of this order. The income has to be declared by the occupier himself/herself in the form of affidavit shown in **Schedule-III** to this order. It will be taken into consideration for deciding his/her case for allotment. If any information as to income or other matters given in such affidavit is found to be false, incorrect, incomplete or misleading, he/she shall be liable for such penalty or civil and criminal action as the Government may decide.

(l) A person occupying surplus land exceeding 300 Sq. mt will automatically be regarded as a person falling **above poverty line irrespective of income.**

(m) If the entire land is allotted free of cost to persons below poverty line, it shall be heritable but not alienable for a period of 10 years. This restriction does not apply if amount is paid for a portion or total extent of land occupied.

(n) Allotment of excess land free of cost to persons below poverty line shall be made in the name of adult female member of the family wherever practicable.

(o) The allotment of surplus land **covered by structure under these orders** is intended to regularise occupation of surplus land only and shall not be construed as approval or regularisation of structures thereon. For regularisation of structures if required under the relevant rules the concerned local Authority shall be approached.

(p) The amount payable in respect of the excess land applied for allotment as per the rates shown in **Schedule - I**, shall be in lump sum by way of Demand Draft/Pay Order, Banker's Cheque drawn in favour of the Special Officer & Competent Authority, Urban Land Ceiling of the Urban Agglomeration concerned and the same shall be enclosed to the Application to be filed.

(q) The allotment of excess land made under these orders either on payment of amount or free of cost as the case may be does not require any registration under the Indian Registration Act, 1908 and no Stamp duty shall be payable under Indian Stamp Act 1899. Orders of allotment made shall be communicated to the concerned Registering authorities and Revenue authorities for taking necessary entries of such allotment in the records.

(r) In respect of land allotted to third parties under these orders, no amount shall be payable to the land holders/declarants U/s 11 of the Act (not exceeding Rs.10/- per square meter in respect of Hyderabad Urban Agglomeration and not exceeding Rs. 5/- per square meter in respect of Visakhapatnam, Vijayawada, Guntur and Warangal Urban Agglomerations), since consideration exceeding the said rates is

believed to have been received already by the excess land holders from such third parties while putting them in possession.

(s) The maximum extents that can be allotted under these orders are as indicated below.

| Name of Urban Agglomeration | Maximum extent (in Square meters) that can be allotted per person/family |                                                                                            |                                       |                                                                                            |
|-----------------------------|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|---------------------------------------|--------------------------------------------------------------------------------------------|
|                             | If covered by Registered Document of sale                                |                                                                                            | If not covered by Registered Document |                                                                                            |
|                             | When the land is Vacant                                                  | When the land is covered by structures                                                     | When the land is Vacant               | When the land is covered by structures                                                     |
| Hyderabad                   | 3000                                                                     | Entire extent covered by structures and land appurtenant thereto not exceeding 3000 Sq.mts | No allotment                          | Entire extent covered by structures and land appurtenant thereto not exceeding 3000 Sq.mts |
| Visakhapatnam               | 4500                                                                     | -do- not exceeding 4500 Sq.mts                                                             | No allotment                          | -do-not exceeding 4500 Sq.mts                                                              |
| Vijayawada                  | 4500                                                                     | -do- not exceeding 4500 Sq.mts                                                             | No allotment                          | -do- not exceeding 4500 Sq.mts                                                             |
| Guntur                      | 6000                                                                     | -do- not exceeding 6000 Sq.mts.                                                            | No allotment                          | - do- not exceeding 6000 sq.mts.                                                           |
| Warangal                    | 6000                                                                     | -do- not exceeding 6000 Sq.mts.                                                            | No allotment                          | -do- not exceeding 6000 Sq.mts.                                                            |

(t) When the vacant land allotted under these orders exceeds the ceiling limit prescribed for the respective Urban Agglomeration, such excess extent over and above the ceiling limit shall be exempted as a matter of policy U/s 20(1) (a) of the Act simultaneously while issuing orders of allotment of such land.

(u) Under these orders only one of the members of the family (viz., applicant, his or her spouse and their minor children) shall be eligible for the allotment **vacant land** already in their possession upto the maximum limit shown in clause (s) above. The vacant land in the possession of any or all members of the family over and above

the maximum limits if any, shall be surrendered to the Government under the provisions of the Act, as a condition for allotment.

5. On payment of the amounts prescribed for the excess (ie surplus) land occupied and after such verification and inspection as may be considered necessary, proposals for allotting the excess land in the name of the occupier thereof shall be sent to Government. The allotment made by Government shall be conclusive proof of title of the occupant over such excess land allotted.

6. All amounts realised under these orders shall be credited to the head of account mentioned hereunder, and shall be utilised exclusively for the purposes of common good of the people of the State.

0075 - Miscellaneous General Services

MH 105 - Sale of Land and Property

SH (04) - Sale of Urban Land (to be opened)

7. The third party occupants over the excess (i.e surplus) lands shall apply for allotment in the form shown in **Schedule -II** to this order to the Special Officer and Competent Authority, Urban Land Ceiling concerned in whose jurisdiction the excess land is situated within a period of **90 days** from the date of these orders. Those who apply after expiry of 90 days, but **before 31-3-2003** have to pay interest calculated 12% P.A. on the amount payable under these orders.

8. The Government shall be competent to refuse or reject any case of allotment of excess land, even though it otherwise satisfies all the conditions prescribed in this order, if such allotment of excess land with or without structures thereon is not in public interest or if such land is required for a public purpose. Government decision in this regard shall be final and shall not be questioned in any court of law. In cases where allotment is refused or rejected the compensation amounts paid along with application shall be refunded without any interest to the applicant.

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

**N.S.HARIHARAN,  
PRINCIPAL SECRETARY TO GOVERNMENT"**

40. A perusal of G.O.Ms.No.455, makes it evident that it was issued, as there were several instances where the excess land holders had resorted to sell the excess land to 3<sup>rd</sup> parties by executing a variety of documents and entering into transactions unknown to the law, or illegal under the law, during the pendency of the ceiling proceedings. So many 3<sup>rd</sup> persons, driven by the need for a plot of land and to have a shelter of their own, had innocently purchased such excess land. The Government therefore in exercise of powers under Section 23 of the ULC Act, on consideration of occupation of excess land by 3<sup>rd</sup> parties (other than the declarants/excess land holders or their

successors); the ground realities, and the practical aspects of the problems, provided for the allotment of such excess/vacant land to those 3<sup>rd</sup> parties in occupation, subject to the conditions under G.O.Ms.No.455. The said G.O.Ms.No.455 clearly provided that “allotment of vacant/surplus land not covered by any registered document of purchase shall not be considered.” In other words, the G.O.Ms.No.455 was only for those 3<sup>rd</sup> parties in occupation of excess/surplus land of the original owners, who had a registered document of purchase from the original land holders during the ceiling proceedings. If there was no such registered document of purchase, the G.O.Ms.No.455 was not applicable and in the absence of any such document, even if any 3<sup>rd</sup> person was in occupation of surplus/vacant land, allotment/regularisation scheme under G.O.Ms.No.455 was not available.

41. Now the case of the writ petitioners is that A.V.Sastry had transferred the land to an extent of 2,752 sq.mts to P1 in the year 1983, and to an extent of 2,879 sq.mts to P2 in the year 1987. So their claim is based on the sale deeds from A.V.Sastry. The writ petitioners have not brought on record the alleged sale deeds of 1983 & 1987, respectively, in their favour but a mention has been made in the possessory agreement of sale coupled with General Power of Attorney by the writ petitioners in favour of M/s.Clover Associates Private Ltd which shows that the alleged transaction of sale deed from A.V.Sastry in favour of the writ petitioners was during the pendency of the ceiling proceedings under the ULC Act. Here, we may refer to Section 4(4)(a) of the ULC Act, 1976 which provides that in any State to which the ULC Act

applies in the first instance, if, on or after 17.02.1975, but before the appointed day, any person has made any transfer by way of sale, mortgage, gift, lease or otherwise (other than a bona fide sale under a registered deed for valuable consideration) of any vacant land held by him and situated in such State to any other person, whether or not for consideration, then for the purposes of calculating the extent of vacant land held by such person the land so transferred shall be taken into account, without prejudice to the rights or interests of the transferee in the land so transferred. Thus, Section 4 (4)(a) of ULC Act, deals with the sale, mortgage, gift, lease etc on or after 17.02.1975 but before the appointed day. The protection *prima facie* is not available to the sale deed executed after the appointed day. The 'appointed day' has been defined in Section 2(a) which means i) in relation to any State to which the ULC Act applies in the first instance, the date of introduction of the Urban Land (Ceiling and Regulation) Bill, 1976 in Parliament; and ii) in relation to any State which adopts the ULC Act under clause (1) of Article 252 of the Constitution, the date of such adoption. So, *prima-facie* from the document of possessory agreements of sale coupled with general power of attorney, the alleged sale deeds if at all in favour of the petitioners were during the pendency of the ceiling proceedings and after the appointed day. We say the alleged sale deeds, if at all, for the reason that neither in the writ petition the particulars i.e., document number, date etc has been mentioned nor in the possessory agreements of sale coupled with general power of attorney. A perusal of G.O.Ms.No.455 in para 4 clause (h) & (i), which is reproduced

hereunder, clearly provided that allotment of vacant surplus land not covered by any registered document of purchase shall not be considered under the said Government order. So a registered document of purchase was must for claiming the benefit under G.O.Ms.No.455. Clauses (h) & (i) of G.O.Ms.No.455 reads as under:

- “(h) Allotment of vacant surplus land not covered by any registered document of purchase shall not be considered under these orders.
- (i) The registered transactions of purchase of excess lands that took place prior to the date of this G.O. alone will be considered for allotment under these orders.”

42. A perusal of the possessory agreement of sale coupled with General Power of Attorney, shows that the legal representatives of A.V.Sastry, the original land holder, had joined in the General Power of Attorney making ‘as vendor of the second part’ clearly stating that ‘the vendor of the first part’ does not have any registered sale deed in his favour. The writ petitioners in G.O.Ms.Nos.256 & 424 are the ‘vendors of the first part’. So, *prima facie*, it becomes evident that, there was no registered document of purchase, in favour of the writ petitioners from the original holder of the land.

43. The matter therefore required consideration and enquiry in the issuance of G.O.Ms.Nos.256, 424 & 493 for regularisation of the land in favour of the writ petitioners; when the claim of the writ petitioners was based on the alleged sale deeds from A.V.Sastry about their entitlement under sub-section (4) of Section 23 read with G.O.Ms.No.455. Any such determination or consideration had not been made by the authorities, which is also not reflected from the G.O.Ms.Nos.256 & 424.

44. G.O.Ms.No. 424 reads as under:

**“GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Urban Land(Celling & Regulation) Act, 1978 -Visakhapatnam Urban Agglomeration - Allotment U/s 23(4) of the Act of excess land acquired by State Government and under occupation of 3<sup>rd</sup> parties Sri. K.Naga Kanaka Brahmam S/o Satyarao to subserve the common good - Orders - Issued.

**REVENUE (UC.I) DEPARTMENT**

G.O.Ms.No.424.

Dated: 6.4.2006.

Read the following:-

- 1) G.O.Ms.No.455 Revenue (UC.I) Deptt. Dated:29-7-2002
- 2) From the S.O & C.A.,ULC,VSP, Rc.No. 431/06 B1, dt.25.3.2006.

**ORDER:**

In the G.O.1<sup>st</sup> read above, guidelines have been issued for allotment of excess lands already under the occupation of 3<sup>rd</sup> parties.

2. The Special Officer & Competent Authority, Urban Land Ceiling, Guntur vide reference 2<sup>nd</sup> read above has accordingly submitted proposals based on the applications filed, for allotment U/s.23(4) of the Urban Land (C&R) Act, 1976 of excess land acquired by the State Government and under the occupation of 3<sup>rd</sup> parties with a view to regularize the unauthorized occupation.

3. The Government after careful examination of the proposals hereby allot under 23(4) of the Act the excess land of 2870 Square Meters in S.No.1011/1A1A3C Part, Waltair Ward, falling in Ward No.21, of Visakhapatnam Municipal Corporation to Sri.K.Naga Kanka Brahmam S/o Satya Rao who is reported to be in possession of the excess land supported by House Tax Assessment No.100002/00078, dated 01.04.1985 and also paid Rs.5,54,000/- being the amount payable as per the guidelines issued under G.O.1<sup>st</sup> read above, vide DD.Nos.076983, dt.13.8.2005 on IOB, Visakhapatnam and 920033, dt.23.3.2006 on Karnataka Bank Limited, Visakhapatnam.

4. The name of the allottee viz Sri.K.Naga Kanka Brahmam S/o Satya Rao, shall be incorporated in Revenue, Registration & Survey records accordingly by the authorities concerned. The Chief Commissioner of Land Administration and the Commissioner & Inspector General of Registration & Stamps shall ensure compliance of these orders.

5. A copy of this order, together with sketch of the land allotted, measurements thereof, its boundaries and with topographical details,

duly attested by the competent authority shall be delivered to the allottee under proper acknowledgment.

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

S.V.PRASAD  
PRINCIPAL SECRETARY TO GOVERNMENT"

45. G.O.Ms.No. 256 reads as under:

**"GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Urban Land(Ceiling & Regulation)Act, 1978 -Visakhapatnam. Urban Agglomeration -Allotment U/s. 23 (4) of the Act of excess land acquired by State Government and under occupation of 3<sup>rd</sup> parties Sri.P.Venkatapathi Raju S/o P.Rama Bhadra Raju to sub-serve the common good - Orders - Issued.

**REVENUE (UC.I) DEPARTMENT**

G.O.Ms.No.256.

Dated: 27.2.2006.

Read the following:-

- 1) G.O.Ms.No.455 Revenue (UC.I) Deptt. Dated:29-7-2002.
- 2) From: the S.O & C.A.,ULC,VSP, In CC.No.7119/76/01, dt.4.2.2006.

**ORDER:**

In the G.O.1<sup>st</sup> read above, guidelines have been issued for allotment of excess lands already under the occupation of 3<sup>rd</sup> parties.

2. The Special Officer & Competent Authority, Urban Land Ceiling, Guntur vide reference 2<sup>nd</sup> read above has accordingly submitted proposals based on the applications filed, for allotment U/s 23(4) of the Urban Land (C&R) Act, 1976 of excess land acquired by the State Government and under the occupation of 3<sup>rd</sup> parties with a view to regularize the unauthorized occupation.

3. The Government after careful examination of the proposals hereby allot under section 23(4) of the Act the excess land of 2752 Square Meters in S.No. 1011/1A1a3b, Waltair Ward, falling in Ward No.21, or Visakhapatnam Municipal Corporation to Sri.P.Venkatapathi Raju S/o P.Rama Bhadra Raju who is reported to be in possession of the excess land supported by House Tax Assessment No.31052, Tax Receipt dt.14.3.1988 and also paid Rs.10,47,480/- being the amount payable as per the guidelines issued under G.O.1<sup>st</sup> read above, vide DDNos.900150, dt.13.8.2005 2) 900151, dt.13.8.2005 3) 900152, dt.13.8.2005 4) 900153,

dt.13.8.2005 5) 900154, ct. 13.8.2005 6) 900155, dt.13.8.2005 Karnataka Bank Limited, Visakhapatnam and 7) 076984, dt.13.8.2005 8) 076985, dt.13.6.2005 9) 076986, dt.13.8.2005 10) 076981, dt.13.8.2005 11) 076982, dt.13.8.2005 on Indian Overseas Bank, Jagadamba Center Branch, Visakhapatnam.

4. The name of the allottee viz Sri.P. Venkatapathi Raju S/o P.Rama Bhadra Raju, shall be incorporated in Revenue, Registration & Survey records accordingly by the authorities concerned. The Chief Commissioner of Land Administration and the Commissioner & Inspector General of Registration & Stamps shall ensure compliance of these orders.

5. A copy of this order, together with sketch of the land allotted, measurements thereof, its boundaries and with topographical details, duly attested by the competent authority shall be delivered to the allottee under proper acknowledgment.

6. The Special Officer and Competent Authority, ULC, Visakhapatnam is directed to verify the genuineness of the primary documents relied upon with reference to the original records of the department concerned and report the result to Government within a month.

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

**S.V. PRASAD,  
PRINCIPAL SECRETARY TO GOVERNMENT.**

46. A perusal of the G.O.Ms.Nos.256, 424 & 493 further does not show that the allotment/regularisation was for the purpose of sub-section (1) of Section 23 nor that it was for any 'common good' purpose under Section 23(4) of the Act. So, the matter of allotment/regularisation of the land keeping in view the entitlement of the writ petitioners for such regularisation/allotment was never considered, and simply on the ground that there were some construction on the land and so on payment of higher slab rate for those constructions, the allotment/regularisation was made and maintained. The basic question of eligibility & entitlement for allotment/regularisation in the light of the legal provisions has not been considered at all. If the writ petitioners were not entitled for the allotment/regularisation under the ULC Act and r/w. G.O.Ms.No.455, the regularisation G.O.Ms.No.256, 424 and 493 could not

have been issued. The question of payment of higher slab rate in case of no entitlement would not be relevant for allotment or regularisation of vacant/surplus ceiling land.

47. In the writ petitions, decided vide common order, a specific plea was taken by the learned Special Government Pleader based on Section 23, but such plea has not been decided which is clearly reflected from the impugned judgment itself. No reason has been assigned as to why such plea could not be sustained, vide para 17 and 32 of the judgment under challenge. The relevant part of the impugned judgment reads as under:

“17. On the other hand, the learned Special Government Pleader appearing for the official respondents in both the writ petitions contended that **the petitioners 1 and 2 have no primary document of sale deed in their favour to show that they purchased the land from the original owner Venkatappay Sastry. They relied on property tax receipts to show that there existed certain structures and that they are in possession of the property to avail the benefit of regularization under G.O.Ms.No.455 dated 29.7.2002.** He stated that the **authorities, on enquiry, found that the tax receipts produced by petitioners 1 and 2 are fabricated documents. In the earlier rounds of litigation either in public interest litigation or in the criminal petition, there was no enquiry on the aspect of the fraud played by the petitioners 1 and 2 in producing fabricated property tax receipts. Therefore, when the fraud had been noticed by the authorities, they are always at liberty to conduct enquiry.** He stated that the G.O.Ms.No.493 dated 26.3.2008 has been issued in exercise of power under Section 23 of the ULC Act and the said provision does not permit the regularization in favour of any individual and the regularization can be made in connection with any industry or for providing residential accommodation of such type as may be approved by the State Government to the employees of any industry and it shall be lawful for such person to hold such land in excess of the ceiling limit. He stated that in the present case, as the regularization was not in favour of any industry or for providing residential accommodation of the employees of the industry, the G.O. cannot be sustained

and that when ULC Act. does not provide for regularization, issuing G.O.Ms.No.493 dated 26.3.2008 modifying the regularization made under the earlier G.O.Ms.No.256 and 424 dated 27.2.2006 and 6.4.2006, is illegal. In support of this contention, the learned Government Pleader relied on the judgment of a Division Bench of this court in MD. AMMANULLAH GHOURI V. GOVERNMENT OF A.P. As the 3rd petitioner alleged to have played role in getting the modification under G.O.Ms.No.493 dated 26.3.2008, the Government intends to conduct enquiry and the same cannot be found fault with. With these submissions, he sought to dismiss the writ petitions.”

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“32. The contention of the learned Special Government Pleader is that the impugned G.O.Ms.No.493 dated 26.3.2008, was issued in exercise of the jurisdiction under Section 23 of the ULC Act and whereas the said provision does not permit regularization in favour of single individuals and hence on that ground the said G.O. cannot be sustained. The initial regularizations were made in view of the policy decision of the Government under G.O.Ms.No.455, dated 29.7.2002 and in view of the subsequent circumstances, by G.O.Ms.No.493 dated 26.3.2008, the Government had withdrawn the abeyance of G.O.Ms.Nos.256 and 424 and levied higher slab rates and in a public interest litigation, which was filed questioning the said G.P., was dismissed by a Division Bench of this court. Therefore, I do not find any force in the contention of the learned special Government Pleader and the judgment of the Division Bench (1 supra) relied on by him, cannot be made applicable to the facts of the present case.”

48. The learned Single Judge in our view, though observed in para 32, that the initial regularisation were made in view of the policy decision vide G.O.Ms.No.455, but did not consider even prima facie the applicability of G.O.Ms.No.455 which was under Section 23(4) to the case of the writ petitioners, though a specific plea was taken that the writ petitioners had no primary document of sale deed to show that they had purchased the land from

the original owner and the writ petitioners were not entitled for regularisation additionally for other reasons.

49. The land declared vacant/surplus in excess of the ceiling limit vests in the State Government. That becomes the ownership of the State. Surplus/vacant land so vested can be used only for the purposes and in terms of the mandate of the ULC Act. Contrary to the statutory purposes and contrary to the statutory provisions it cannot be allotted to or regularised in favour of any person. So, any allotment on regularisation could be only in accordance with Section 23(4) read with the G.O.Ms.No.455 and not contrary to it.

**Public Trust Doctrine:**

50. There is a well known doctrine of public trust.

51. In *M.C.Mehta v. Kamalnath*<sup>2</sup> the Hon'ble Apex Court held that the public trust doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. It was further observed that the doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership.

52. Para Nos.33 & 34 of MC.Mehta (supra) read as under:-

“33. It is no doubt correct that the public trust doctrine under the English Common Law extended only to certain traditional uses such as navigation, commerce and fishing. But the American Courts in recent cases have ex-

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<sup>2</sup> (1997) 1 SCC 388

panded the concept of the public trust doctrine. The observations of the Supreme Court of California in *Mono Lake* case {33 Cal 3d 419} clearly show the judicial concern in protecting all ecologically important land,s for example fresh water, wetlands or riparian forests. The observation of the Court in *Mono Lake* case to the effect that the protection of ecological values is among the purpose of public trust, may give rise to an argument that the ecology and the environment-protection is a relevant factor to determine which lands, waters or airs are protected by the public trust doctrine. The Courts in United States are finally beginning to adopt this reasoning and are expanding the public trust to encompass new types of lands and waters. In *Phillips Petroleum co. vs. Mississippi* {108 SCt. 791 (1988)}, the United States Supreme Court upheld Mississippi's extension of public trust doctrine to lands underlying nonnavigable tidal areas. The majority judgment adopted ecological concepts to determine which lands can be considered tide lands. *Phillips Petroleum* case {108 SCt 791(1988)} assumes importance because the Supreme Court expanded the pubic trust doctrine to identify the tide lands not on commercial considerations but on ecological concepts. We see no reason why the public trust doctrine should not be expanded to include all eco-systems operating in our natural resources.

**34. Our legal system - based on English Common Law - includes the public trust doctrine as part of its jurisprudence. The State is the trustee of all natural resources which are by nature meant for public use and enjoyment. Public at large is the beneficiary of the sea- shore, running waters, airs, forests and ecologically fragile lands. The State as a trustee is under a legal duty to protect the natural resources. These resources meant for public use cannot be converted into private ownership."**

53. In *Fomento Resorts and Hotels Limited v. Minguel Martins*<sup>3</sup>, the Hon'ble Apex Court held that the doctrine of public trust puts an implicit embargo on the right of the State to transfer public properties to private party if such transfer affects public interest, and mandates affirmative State action for effective management of natural resources and empowers the citizens to question ineffective management thereof. The Hon'ble Apex Court observed that the heart of the public trust doctrine is that it imposes limits and obligations upon the Government agencies and their administrators on behalf of all the people and especially the future generations. The public trust

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<sup>3</sup> (2009) 3 SCC 571

doctrine was held to be a tool for exerting long-established public rights over short-term public rights and private gain.

54. Para Nos.52 to 55 of Fomento Resorts (supra) reads as under:

“52. The matter deserves to be considered from another angle. The public trust doctrine which has been invoked by Ms. Indira Jaising in support of her argument that the beach in question is a public beach and the appellants cannot privatize the same by blocking/obstructing traditional access available through survey No.803 (new No.246/2) is implicitly engrafted by the State Government in Clause 4(ix) of the agreement. That doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. These resources are gift of nature, therefore, they should be freely available to everyone irrespective of one's status in life.

53. The public trust doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. This doctrine puts an implicit embargo on the right of the State to transfer public properties to private party if such transfer affects public interest, mandates affirmative State action for effective management of natural resources and empowers the citizens to question ineffective management thereof.

54. The heart of the public trust doctrine is that it imposes limits and obligations upon government agencies and their administrators on behalf of all the people and especially future generations. For example, renewable and non-renewable resources, associated uses, ecological values or objects in which the public has a special interest (i.e. public lands, waters, etc.) are held subject to the duty of the State not to impair such resources, uses or values, even if private interests are involved. The same obligations apply to managers of forests, monuments, parks, the public domain and other public assets. Professor Joseph L. Sax in his classic article "The Public Trust Doctrine in Natural Resources Law: Effective Judicial Intervention" (1970), indicates that the Public Trust Doctrine, of all concepts known to law, constitutes the best practical and philosophical premise and legal tool for protecting public rights and for protecting and managing resources, ecological values or objects held in trust.

55. The Public Trust Doctrine is a tool for exerting long-established public rights over short-term public rights and private gain. Today, every person exercising his or her right to use the air, water, or land and associated natural ecosystems has the obligation to secure for the rest of us the right to live or otherwise use that same resource or property for the long term and enjoyment by future generations. To say it another way, a landowner or lessee and a water right holder has an obligation to use such resources in a manner as not to impair or diminish the people's rights and the people's long term interest in that property or resource, including down-slope lands, waters and resources.”

55. Recently, in ***Kamla Nehru Memorial Trust v. U.P.State Industrial Development Corporation Limited***<sup>4</sup>, where the question was with respect of the cancellation of the land allotted, the Hon'ble Apex Court held that when a substantial tract of industrial land is allocated without a comprehensive evaluation, it raises critical questions about adherence to these principles of Public Trust Doctrine which mandates that public resources be managed with due diligence, fairness, and in conformity with public interest. So, the doctrine of public trust has been applied to the matter of allotment of land as well.

56. Para Nos.29 to 32 in *Kamla Nehru Memorial Trust* (supra) reads as under:

“29. We, therefore, consider it necessary to examine whether UPSIDC's procedure for industrial land allotment meets standards of administrative propriety, particularly in light of the Public Trust Doctrine (Doctrine) mandating that public resources be managed with due diligence, fairness, and in conformity with public interest.

30. The Doctrine emanates from the ancient principle that certain resources (seashores, rivers and forests) are so intrinsically important to the public that they cannot be subjected to unrestricted private control. Rooted in Roman law and incorporated into English common law, this Doctrine recognizes that the Sovereign holds specific resources as a trustee for present and future generations.

31. In the Indian context, the Doctrine has evolved to encompass public resources meant for collective benefit, reflecting the constitutional mandate under Article 21. As held in *Natural Resources Allocation In re*, while the Doctrine does not impose an absolute prohibition on transferring public trust property, it subjects such alienation to stringent judicial review to ensure legitimate public purpose and adequate safeguards.

32. When a substantial tract of industrial land is allocated without a comprehensive evaluation, it raises critical questions about adherence to these principles. The Doctrine requires that allocation decisions be preceded by a thorough assessment of public benefits, beneficiary credentials, and safeguards ensuring continued compliance with stated purposes.”

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<sup>4</sup> 2025 SCC online 1264

57. Consequently, keeping in view the doctrine of 'public trust' and the mandate under the statutory provisions of ULC Act read with G.O.Ms.No.455, we are of the view that the decision of the State to enquire into the various aspects of regularisation of the surplus/vacant land in favour of the writ petitioners; for their entitlement for allotment/regularisation or/and as to how those GOs i.e., G.O.Ms.No.256, 424 and 493 came to be issued, was a decision which ought not to have been interfered with by the learned Single Judge in the exercise of the writ jurisdiction.

58. When the issue was raised by a public representative in the Legislative Council and the State Government took a decision to enquire the matter, that aspect, in a democratic country, required giving due weight, in favour of holding enquiry. It could not be interfered with on the grounds as in the impugned order. It required investigation as the matter related to the public property, declared surplus under the statutory provisions. The public property in the hands of the State and the Government, the public authorities cannot be distributed or allotted or done away, contrary to the statutory provisions or given to any person merely because such person is ready to make the payment at some higher slab or rate.

59. So far as the decision in the previous writ petitions, and quashing of the criminal proceedings is concerned, they were with respect to the tax receipts etc., if those were genuine or not. The question of the existence of building on the vacant land and so payment at what rate or no building at all, are not of much relevance to consider the entitlement for allotment or regularisation as

per the G.O.Ms.No.455, which provided for the regularisation either with or without construction. But, the issue involved is with respect to the entitlement of the writ petitioners for allotment or regularisation of ceiling vacant/surplus land, in terms of Section 23 ULC Act and the G.O.Ms.No.455, in the absence of the basic eligibility criteria of there being a registered deed of purchase from the original owner.

**Enquiry Officer prejudging the issue:**

60. So far as the contention with respect to the enquiry officer prejudging the issue is concerned, we are of the view that merely because what the Enquiry Officer wrote in the letter to the Government, it could not be said that the Enquiry Officer prejudged the issue. Even if it be taken that it reflected the mind of the Enquiry Officer prejudging the issue and therefore giving rise to the apprehension of violation of the principles of natural justice, on such a ground at best the direction could be issued to change the enquiry officer, but not to stall the enquiry and to quash the G.O.Ms.No.557.

61. In ***S.Parthasarathi v. State of Andhra Pradesh***<sup>5</sup>, the Hon'ble Apex Court held that there must be a "real likelihood" of bias and that means there must be a substantial possibility of bias. The court will have to judge the matter as a reasonable man would judge of any matter, in the conduct of his own business. It was held that the test of likelihood of bias, is based on the "reasonable apprehension" of a reasonable man fully cognizant of the facts.

62. Para Nos. 12 to 16 in ***S.Parthasarathi*** (supra) reads as under:

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<sup>5</sup> 1974 3 SCC 459

“12. According to the High Court, none of the circumstances relied on by the appellant was sufficient to establish bias on the part of the inquiring officer. The High Court said that it was because various officers had complained to Manvi while he was the Director-in-charge about the conduct and behavior of the appellant that he wanted a medical opinion as to his mental condition and that as the letter written by Manvi to the Medical Officer was not produced before the court nor the Medical Officer examined, no inference of bias could be made.

13. The letter written by the Medical Officer (Ex. B-8) would indicate that Manvi wanted to get rid of the services of the appellant on the ground of his mental imbalance and it was for that purpose that he tried to get a certificate to the effect that the appellant was mentally unsound. We are of the opinion that the cumulative effect of the circumstances stated above was sufficient to create in the mind of a reasonable man the impression that there was a real likelihood of bias in the inquiring officer. There must be a "real likelihood" of bias and that means there must be a substantial possibility of bias. The court will have to judge of the matter as a reasonable man would judge of any matter in the conduct of his own business.

14. The test of likelihood of bias which has been applied in a number of cases is based on the "reasonable apprehension" of a reasonable man fully cognizant of the facts. The courts have quashed decisions on the strength of the reasonable suspicion of the party aggrieved without having made any finding that a real likelihood of bias in fact existed, the Court, after a review of the relevant cases held that real likelihood of bias was the proper test and, that a real likelihood of bias had to be made to appear not only from the materials in fact ascertained by the party complaining, but from such further facts as he might readily have ascertained and easily verified in the course of his inquiries.

15. The question then is : whether a real likelihood of bias existed is to be determined on the probabilities to be inferred from the circumstances by court objectively, or, upon the basis of the impressions that might reasonably be left on the minds of the party aggrieved or the public at large.

16. The tests of "real likelihood" and "reasonable suspicion" are really inconsistent with each other. We think that the reviewing authority must make a determination on the basis of the whole evidence before it whether a reasonable man would in the circumstances infer that there is real likelihood of bias. The court must look at the impression which other people have. This follows from the principle that justice must not only be done but seen to be done. If right minded persons would think that there is real likelihood of bias on the part of an inquiring officer, he must not conduct the enquiry; nevertheless, there must be a real likelihood of bias. Surmise or conjecture would not be enough. There must exist circumstances from which reasonable men would think it probable or likely that the inquiring officer will be prejudiced against the delinquent. The court will not inquire whether he was really prejudiced. If a reasonable man would think on the basis of the existing circumstances that he is likely to be prejudiced, that is sufficient to quash the decision. We should not, however, be understood to deny that the court might with greater propriety apply the "reasonable suspicion" test in criminal or in proceedings analogous to criminal proceedings.”

63. In the present case the learned Single Judge based on the contents of the Enquiry Officer's letter, as referred to above, observed about the enquiry officer prejudging the issue. We are of the view that even if there be no 'actual bias' or even if any bias cannot be inferred, but, as per the observations made by the learned Single Judge in the order, it be taken that there was a reasonable apprehension of bias, from the point of view of a reasonable man, then also at the best the enquiry officer could be directed to be changed. It was even then not a case to quash the G.O.Ms.No.557 so as to stall the enquiry.

**Other aspects:**

64. Learned Single Judge further did not consider this aspect of the matter that the Enquiry Officer had already conducted the enquiry with notice and participation of the writ petitioners. This fact was clearly mentioned in the counter affidavit of the respondent No.2. In the Writ Petition, the interim order was granted later on and in view of that interim order, the enquiry report was not submitted to the Government for further course of action. The conclusion of the enquiry with due participation of the writ petitioners was a factor which required consideration, when it was raised in the counter affidavit.

65. So far as the dismissal of WP.No.23315 of 2009 (PIL) as not pressed or withdrawn is concerned that would not come in the way of adjudication of the dispute on merits in other petitions, in accordance with law. So that could not be a reason to allow the writ petitions of the writ petitioners against the writ appellants.

## **V. Conclusion:**

66. For the consideration made above our conclusions are as under:

i) the exercise of power by the State in the public trust, required the State to preserve the vacant/surplus land and or to ensure its allotment, regularisation or disposal, only in accordance with the mandate of the statute and not in violation thereof.

ii) When the State, finding that the allotment/regularisation of vacant/surplus land, required enquiry, such decision being in consonance with the doctrine of public trust, required no judicial interference at the stage of the enquiry.

iii) The G.O.Ms.No.455 was for allotment/regularisation of occupation of the surplus/vacant land of the original owner, in favour of 3<sup>rd</sup> parties, who had purchased vide registered deed of purchase from the original owner during ceiling proceedings prior to the date of G.O.Ms.No.455, which were null and void in terms of Section 5(3) and 10(4) of the Ceiling Act. As per para 4(h) of G.O.Ms.No.455, "allotment of vacant surplus land not covered by any registered document of purchase shall not be considered under G.O.Ms.No.455."

iv) The writ petitioners though pleaded in the writ petitions about the sale deeds in the year 1983 and 1987, in their favour, by original land owner, but

a) any such registered document of purchase was neither filed nor its description was disclosed in the writ petition;

b) in Possessory agreement of sale coupled with General Power of Attorney dated 08.05.2006 and 02.08.2006 it was clearly stated that 'vender of the first part' i.e., writ petitioners, had no registered sale deed from the original land owner.

Consequently, the entitlement of the writ petitioners for allotment/regularisation of the surplus/vacant land under the G.O.Ms.No.455 being questionable requires enquiry for which G.O.Ms.No.557 was issued.

v) This plea was specifically raised by the State in the writ petitions, (para 17 of the judgment of the learned Single Judge) but the same was not considered and decided by recording any finding on the aspect of registered document of purchase in favour of the writ petitioners, considering para 4 (h) & (i) of G.O.Ms.No.455

vi) The G.O.Ms.No.557, i.e., enquiry ordered by the State Government, was pursuant to the question raised in the legislative council by the people representative. Such a decision of the State, to hold enquiry, required no interference in the exercise of the jurisdiction under Article 226 of the Constitution of India and that too at the stage of initiation of enquiry.

vii) The judicial review is permissible in the decision of the Government to hold the enquiry, but in such matters where the question is of allotment of ceiling surplus land, vested in State Government, contrary

to or in violation of the statutory provisions and breach of the doctrine of public trust, the enquiry must be held and brought to a logical end.

viii) Even if as per the view of learned Single Judge, the enquiry officer appointed by G.O.Ms.No.455 had pre-judged the issue and so an impartial enquiry was not expected, the enquiry could not be stalled but a direction could have been issued, to change the enquiry officer and get the enquiry conducted through another enquiry officer.

ix. The impugned judgment therefore deserves to be interfered with.

67. Consequently, we are of the view that W.A.Nos.1090, 1106 & 1218 of 2014 deserve to be allowed and the common order dated 21.03.2014 deserves to be set aside, and the G.O.Ms.No.557 Revenue (UC.I) Department, dated 05.09.2012 deserves to be revived to be proceeded with.

#### **VI. Result:**

68. In the result,

A) We set aside the common judgment dated 21.03.2014 and allow W.A.Nos.1090, 1106 & 1218 of 2014 with the following direction:-

i) G.O.Ms.No.557 Revenue (UC.I) Department, dated 05.09.2012 is revived;

ii) The Enquiry Officer by designation, as appointed under G.O.Ms.No.557, but relating to the present State of Andhra Pradesh or such other officer not below of such rank as may be appointed by the State Government, shall conduct the enquiry with due opportunity to

the writ petitioners, in accordance with law and submit its report to the State Government in a sealed cover.

iii) The State Government shall consider the enquiry report and giving the writ petitioners due opportunity to file the response and on consideration of such response, if so filed, the final decision shall be taken by the State Government.

iv) The Enquiry Officer as also the State Government shall give due consideration to the provisions of the ULC Act and the G.O.Ms.No.455 dated 29.07.2002 on the subject as also the observations made in this judgment, and specially vide para 66 (supra)

v) The aforesaid exercise shall be completed in all respects within a period of six months from today.

B. So far as W.A.Nos.1429 of 2016 & 785 of 2015 are concerned, the fate of those Writ Appeal (s) is dependant on the final outcome of the enquiry and the decision to be taken, as aforesaid. So, we direct the listing of the W.A.No.1429 of 2016 & 785 of 2015 after seven (07) months from today.

C. A copy of the decision taken pursuant to the aforesaid directions in 'A' (supra) shall be placed on the record of all the above Writ Appeal(s).

No orders as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

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**RAVI NATH TILHARI,J**

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**MAHESWARA RAO KUNCHEAM,J**

Dated: .11.2025  
Note: L.R. copy be marked  
B/o.  
AG

**HONOURABLE SRI JUSTICE RAVI NATH TILHARI**  
**THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

**WRIT APPEAL NOs: 1090, 1106, 1218 of 2014, 785 of 2015 & 1429 of 2016**

Dated: .11.2025  
Note: L.R. copy be marked  
B/o.  
AG