2025 INSC 1465

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9996 OF 2025

THE STATE OF TELANGANA

REPRESENTED BY FOREST DIVISIONAL OFFICER ... APPELLANT(S)

VERSUS

MIR JAFFAR ALI KHAN (DEAD) THR. LRS. & ORS. ... RESPONDENT(S)

J U D G M E N T

S.V.N. BHATTI, J.

1. An extent of 102 Acres in Survey No. 201/1 Gurramguda Forest Block, Hayathnagar Mandal, Ranga Reddy District, State of Telangana, is the Subject Matter of the Civil Appeal.

1.1 The Civil Appeal examines the legality of the order dated 15.10.2014 of the Forest Settlement Officer ("FSO") made under Sections 4 and 6, read with Section 10 of the Telangana Forest Act, 1967[1] ("Telangana Forest Act"). The consideration of the issues would require examination of the scheme of the Hyderabad (Abolition of Jagirs) Regulation, 1358F[2] ("the Abolition Regulation"), Telangana Atiyat Enquiries Act, 1952 ("Atiyat Enquiry Act"), Telangana Abolition of Inams Act, 1955 ("Abolition of Inams Act").

1.2 On 30.11.2005, Mir Jaffar Ali/Respondent no. 1 ("Claimant") filed a claim petition before the FSO claiming a succession right through Salar Jung-

[1] Previously, A.P. Act No. 1 of 1967.
[2] Corresponding to ~1949 AD.

III to the Subject Matter of the Civil Appeal. The FSO, at the first instance, *vide* order dated 03.09.2010, rejected the claim for exclusion from the proposed notification as a reserved forest, and held that the Subject Matter is Government land. The Claimants filed an appeal before the Appellate Authority, IXth Additional District Judge, Ranga Reddy District. The Appellate Authority, by order dated 14.03.2012, set aside the order dated 03.09.2010 of the FSO and remanded the matter to the FSO for fresh enquiry.

1.3 On remand, the FSO, by order dated 15.10.2014, accepted the claim of the Claimants for Subject Matter as Arazi-Makta of Salar Jung-III and requested the Divisional Forest Officer to exclude the subject matter of appeal from the notifications issued under Sections 4 and 6 of the Telangana Forest Act from Gurramguda Forest Block and send a revised map for Turkayamjal and Gurramguda villages for final proposals under Section 15 of the Telangana Forest Act to the Government. The Forest Department, aggrieved by the exclusion of subject matter from the reserve forest notification, filed CMA No. 5 of 2015 before the Appellate Authority, the Principal District Judge, Ranga Reddy District, at L B Nagar ("Principal District Judge"). On 23.09.2016, CMA No. 5 of 2015 was dismissed. The State, represented by the Forest Department, filed CRP No. 417 of 2017 in the High Court of the State of Telangana, and, by the order impugned, the release of the subject matter from the reserve forest notification was upheld. Hence, the appeal at the instance of the State represented by the Forest Department.

I. THE LEGAL JOURNEY

2. The above brief narrative leads us to the cause for the commencement of the present litigation, wherein the Claimants claim to be the successors-in-interest of Salar Jung-III of the erstwhile State of Hyderabad. Stated further, on 13.09.1948, the Indian Army commenced Operation Polo, resulting in the surrender of the Sovereign of the Nizam of Hyderabad. The State of Hyderabad became part of the Union of India. In 1949, the Abolition Regulation was promulgated, resulting in the abolition of all the Jagirs in the erstwhile Nizam State. Government Order 9 dated 27.10.1949 was issued to reorganise the survey and settlement department, resulting in the revision surveys of land in the erstwhile State of Nizam. On 14.03.1952, the Atiyat Enquiry Act was promulgated and published. On 20.07.1955, the Abolition of Inams Act was promulgated and notified in the Official Gazette. These enactments, with a few legislative amendments over the years, have been in operation in the administration and regularisation of land tenures, grant of pattas, etc., in the State of Telangana.[3] In Claim Petition No. 1 of 2005 in File No. 786 of 2005, filed for exclusion of subject matter from the reserved forest, the Claimants presented their case as follows:

a. That Late Saheb Begum Saheba, wife of Ali Zaman Khan Muneer-ul-Mulk, purchased the Arazi-Makta of Sahab Nagar through a registered sale deed bearing D.C. No. 1243, dated 05.03.1248H. The property devolved from Saheb Begum Saheba to her son Alam Ali Khan (Sirajul Mulk), then to her grandson Turab Ali

[3] *See*, *State of AP (now State of Telangana) v. AP State Waqf Board and Others* (2022 2 SCC 383) for a comprehensive assimilation of the march of legislation in the State of Telangana.

Khan (Salar Jung I), then to Laiq Ali Khan (Salar Jung II), and finally to Yousuf Ali Khan (Salar Jung III). Salar Jung III was a one-month-old minor when his father died. The estate was taken over by the Nizam's Government, through the Court of Wards, and was returned to Salar Jung III upon his attaining majority, *via* a Farman in 1330F.

b. Claimant Nos. 2 and 3 before the FSO were the surviving sons of Late Abdullah, the maternal uncle of Salar Jung III. Claimant 1 (Mir Jaffer Ali Khan) was the surviving nominee appointed by the Court in Application No. 84/71 in C.S. No. 13 of 1958 dated 20.08.1971 to deal with cases relating to the properties of Late Salar Jung III. The claimants relied on the judgment in C.S. No. 13 of 1958, dated 05.03.1959, of the High Court, which is said to have allotted shares among successors-in-interest of Salar Jung-III. Further, the judgment in O.S. No. 156 of 1980 dated 12.10.2004, of the City Civil Court, Hyderabad, declares the Claimants to be the successors of Salar Jung-III.

c. The Nazim Atiyat/Revenue Department declared that Late Yousuf Ali Khan (Salar Jung-III) was in possession and enjoyment of Maktas comprised of Jagirs, Seri and Inam lands. This was published in the Hyderabad Government Gazette No. 1 dated 29.03.1956. According to this notification, Saheb Nagar village is explicitly mentioned under the item "self-acquired purchased lands" at Serial No. D. The name of Salar Jung-III was mutated

in the Revenue Records as Pattedar/Owner of the land in Survey No. 201 of Saheb Nagar village.

d. The Claimants relied on a letter of the Jagir Administrator (No. 808/CH, dated 24.04.1954) addressed to District Collectors of Hyderabad, Mahaboobnagar, and Nalgonda, which stated that the Jagir Administrator had released Arazi-Makta through an order dated 09.02.1954 to the estate of Salar Jung III. The list annexed to the letter included the Arazi-Maktas of Saheb Nagar village.

3. The Forest Department, represented by the Divisional Forest Officer, resisted the Claim Petition No. 1 of 2005 filed for exclusion from the reserved forest, and the gist is noted as follows:

a. The Board of Revenue, through a letter dated 23.07.1953, had already transferred 570 acres out of the total 770.27 acres in Sy. No. 201 of Saheb Nagar Kalan village to the Forest Department for the establishment of a soil conservation research centre. Out of the transferred extent, 102 acres in Sy. No. 201/1 was included in the "Gurramguda Forest Block."

b. This land was officially notified under Section 4 of the Telangana Forest Act, *via* G.O.Ms. No. 772 dated 18.06.1971, and published in the Gazette. A proclamation under Section 6 of the Telangana Forest Act was subsequently issued on 05.01.1972.

c. The Claimants filed their petition after a 53-year lapse. Due to this significant delay, the Claimants have no right to the land.

The District Collector, Ranga Reddy District, had already approved proposals under Section 15 of the Telangana Forest Act *vide* a letter dated 02.03.2008, thereby negating the rights of the Claimants.

d. While the letter No. 808/CH dated 24.04.1954 released certain lands to the Salar Jung Estate, it did not specify survey numbers. This lack of specificity made it difficult to identify the land on the ground. Furthermore, the claim over Sy. No. 201/1 was illegal and baseless because that specific land had already been transferred to the Forest Department in 1953.

e. As per the High Court judgment in CCCA No. 84/1982, Jagirs were inalienable and non-heritable, restricted only to usufruct for life. Therefore, the land in question is "neither patta nor inam, and it is a Government land". Hence, the application of the Inams Abolition Act by any authority does not arise.

f. A joint inspection conducted by the Mandal Revenue Inspector and Surveyor revealed that the 102 acres in Sy. No. 201/1 was physically vacant (covered with eucalyptus and bushy trees) and was under the absolute occupation of the Forest Department.

g. There was no clarity in the judgment of O.S. No. 156/1980 regarding the declaration of Mir Jaffar Ali Khan as the legal successor of Salar Jung-III.

4. While considering the same set of circumstances and documents, the FSO reached contradictory conclusions. To appreciate the consideration by

the FSO in the order dated 15.10.2014, we find it apposite to present the comparative table of the orders dated 03.09.2010 and 15.10.2014.

FINDING	**FSO ORDER DATED 03.09.2010 (SMT. U. ACHYUTHA KUMARI)**	**FSO ORDER DATED 15.10.2014 (SRI S. YADAGIRI)**
STATUS OF LAND	The land is a Government Land ("Kancha Poramboke Sarkari") and not private patta land. The rights of Salar Jung III were restricted to usufruct for life and were inalienable. The land was part of the Salar Jung Jagir, which was abolished in 1949 and vested in the State.	The land is "Arazi-Makta", meaning it was the private, self-acquired property of Salar Jung III, independent of the state-granted "Jagir" (state grant resumable on death). Classified land as "Arazi-Makta" (Private Purchased Land) based on the Jagir 1828 Sale Deed (1243 Hijri), 1954 Administrator's release Letter (No. 808/CH), 1956 Gazette Notification listing Sahebnagar Kalan under "List D"(Purchased Lands) rather than List A/B (Jagir Lands) and 1968 Nazim Atiyat Order.
APPLICABILITY OF HIGH COURT JUDGMENT [CCCA 84/1982] (**16.08.1985**)	Relied on CCCA No. 84/1982 and held that the High Court had already examined the nature of rights in Sy. No. 201/1 and declared that Salar Jung III had only a life interest (usufruct) and could not alienate the land. Therefore, any claim of private title was void ab initio.	Distinguished CCCA No. 84/1982 and held that the judgment was not binding on the current claimants because they were not parties to that suit. The High Court in 1985 did not have the benefit of the 1954 Release Letter or the 1956 Gazette notification. Since these vital title documents were not adjudicated upon in the earlier case, the issue was decided differently based on this new evidence.
JAGIR ADMINISTRATOR LETTER (1954)	Did not give weight to the 1954 release orders and focused instead on the Board of Revenue order, which transferred 570 acres (including the subject 102 acres) to the Forest Department in 1953.	Relied on letter No. 808/CH (24.04.1954) from the Jagir Administrator, which declared Saheb Nagar Kalan as "Arazi-Makta" and released it to the Salar Jung Estate.
REVENUE RECORDS	The sudden change in revenue entries in 1980-81, i.e., from "Salar Jung Sarkari" to "Arazi-Makta," was made without any reference to orders from the District Collector, implying manipulation.	Accepted the report of the Tahsildar (dated 16.02.2008) stating that revenue records from 1975-1983 showed Salar Jung as the pattadar.
OTHER PROCEEDINGS	The Joint Collector's proceedings (No. B3/8854/85 dated 03.11.1997), which, following the High Court's order, directed the correction of revenue entries to record the land as "Kancha Poramboke Sarkari" and deleted the names of other assignees.	Accepted the Civil Court judgment (O.S. No. 156/1980 & 1451/1983) declaring the claimants as the legal successors of Salar Jung III.

FOREST CONSERVATION ACT, 1980	Implicitly applied the Forest Conservation Act by upholding the reservation process and noting that the land was under the Forest Department occupation.	The Forest Conservation Act does not apply, and Central Government approval is not required for exclusion. Since the land is private patta land and not forest land, its exclusion from the notification is a correction of record, not de-reservation.
POSSESSION	The Forest Department has been in possession since 1953. The Joint Inspection Report confirmed the land was fenced, trenched, and planted with eucalyptus by the Forest Department. Hence, the long-standing possession fortified the State's claim.	Legal title overrides physical occupation. If the initial inclusion of the land in the Forest Block (S. 4 Notification) was based on the incorrect premise that it was Government land, then the subsequent possession was unauthorised.
LIMITATION/DELAY	The claim was barred by limitation/delay, as it was filed after 53 years.	Condoned the delay under Section 16 of the Act because the final Section 15 Notification had not been issued, keeping the claim process open.
CONCLUSION	The claim was rejected because the land was deemed Government land, not private patta, and the claimants failed to prove a valid title superior to the Government's claim.	The claim was allowed. Ordered the exclusion of 102 acres from the Gurramguda Forest Block and requested the DFO to revise the block map accordingly

5. On appeal, in CMA No. 5 of 2015, the learned Principal District Judge framed five points for consideration, and the summary of the findings is as follows:

CONSIDERATION	FINDING
Whether the claimants are the legal heirs of Salar Jung-III?	Affirmed by the District Judge. The claimants have been declared successors in OS 156/1980. These findings have attained finality.
Whether the claim made by the respondents is barred by limitation?	The claim is within limitation. The final notification under Section 15 of the Telangana Forest Act had not yet been issued. The FSO has the authority to entertain claims and condone delay before the Section 15 notification.
Whether the 102 acres in Sy. No. 201 is private patta land of Salar Jung III?	The land is Arazi-Makta (self-purchased private land) of Salar Jung III, purchased by his ancestor in 1823 AD. It was explicitly released from government integration by the Jagir Administrator in 1954 and is not Government Land.

Whether the claimants are entitled to the deletion of this land from the forest block notification?	The land is private property and not government land; it must be excluded from the Forest Block. The FCA's requirement for Central Government approval does not apply to the exclusion of wrongly included private patta lands.
Whether the findings of the FSO need interference?	No interference required.

6. The High Court, through the impugned judgment in CRP No. 417 of 2017, exercising the supervisory jurisdiction under Article 227 of the Constitution of India, refused to examine the record, which goes to the root of the claim of right and title to the subject matter through succession to the estate of Salar Jung III. At the same time, the High Court expanded the consideration of a few facts in issue and recorded findings. The above approach would warrant independent scrutiny by this Court. The summary of the High Court's findings is as follows:

a. High Court's jurisdiction under Article 227 of the Constitution is supervisory and limited to correcting patent errors, perversity, or grave injustice. The FSO and the Principal District Judge had recorded concurrent findings of fact based on evidence. Unless there is an error apparent on the face of the record, the High Court cannot interfere with such concurrent findings.

b. It concurred with the findings of the authorities below that the land in Sy. No. 201/1 of Saheb Nagar Kalan village is the private, self-acquired property ("Arazi-Makta") of the late Salar Jung-III and not Government land.

c. The title was established through a Persian sale deed dated 05.03.1243F (approximately 1833 AD), purchased by the great-grandmother (Begum Saheba) of Salar Jung III. This proved the land was self-acquired private property.

d. The letter No. 808/CH dated 24.04.1954 from the Jagir Administrator, declared Saheb Nagar Kalan as "Arazi-Makta" (purchased/private land) and ordered its release from integration in favour of the Salar Jung Estate, confirming it did not fall under the Abolition Regulation.

e. The Hyderabad Government Gazette dated 29.03.1956, listed Saheb Nagar Kalan under "List D" as "purchased land" rather than Inam land.

f. Nazim Atiyat Order (File No. 2/56) dated 26.06.1968 held that Arazi-Makta villages (including the subject village) were released in 1954 as they did not fall under the Abolition Regulation.

g. Revenue records (pahanies) from 1974-75 to 1982-83 recorded the land as "Salar Jung Sarkari" in the pattadar column, supporting the private title. The Government failed to produce any revenue records or documents to substantiate that the land in Sy. No. 201/1 was Government land.

h. Since the land was determined to be private patta/purchased land, the definition of Arazi-Makta under Section 2(c) of the Abolition of Inams Act does not apply. Consequently, the

claimants were not required to seek remedies before the Inams Abolition Court.

i. High Court judgment in CCCA No. 84 of 1982, to claim the land was Government property, was not binding on Claimants because they were not parties to that appeal or O.S. No. 906 of 1977.

j. A previous judgment[4] by a Special Court held that similar lands in Lingojiguda (part of the same Salar Jung estate release) were private lands, not Government property.

k. While a notification under Section 4 was issued in 1971, the final notification under Section 15 of the Telangana Forest Act had not yet been issued. Therefore, the Claimants' rights were not extinguished.

l. The FSO was authorised under Section 16 of the Telangana Forest Act to condone the delay in filing claims if sufficient cause is shown. Hence, the FSO had validly condoned the delay and admitted the claim filed in 2005.

m. The prior approval of the Central Government (under the Forest Conservation Act, 1980) is required only for using forest land for non-forest purposes. Since this case involved the exclusion of private patta land that had been wrongly included in the forest block, such permission was not required.

[4] LGA No. 31 of 1997.

II. ARGUMENTS

7. We have heard Learned ASG Aishwarya Bhati, Learned Senior Counsel C.S. Vaidhyanathan and Challa Kodandaram for the Appellant. Learned Senior Counsel Basava Prabhu Patil for the Claimants, and Vipin Sanghi and A Sirrajuddin for the impleaded Respondents in the Civil Appeal.

8. The learned counsel have argued the matter in great detail and have objectively assisted the Court without repetition on the core issues. Therefore, it is convenient to set out the arguments as follows.

A. Arguments from the Appellant's side

9. After the abolition of Jagirs under the Abolition Regulation, the land vested solely with the State. Consequently, Jagirdars were entitled to a commutation amount in lieu of cash payments. The subject land comprises 102 acres in Survey No. 201/1, Saheb Nagar, Hyderabad, which formed part of the Saheb Nagar Kalan village. The allotment by the Board of Revenue and the de-reservation by the State demonstrate that the right, title, and interest in Saheb Nagar Kalan vest with the government.

10. The revenue term, Arazi-Makta, is by no means a self-acquired land. In *Mohd. Shaukat Hussain Khan v. State of AP*,[5] this Court construed Arazi-Makta as a minor Inam. Furthermore, the definitions in Section 2 of the Abolition of Inams Act include Arazi-Makta within the definition of 'Inam'. Even the glossary denotes that Arazi-Makta is not self-acquired land. The claimants filed the claim 33 years after the State Government released the Section 6 notification, and the FSO has entertained such claims despite a

[5] (1974) SCC 2 376.

statutory embargo under Section 6 of the Telangana Forest Act, which, in effect, prescribes a period of 6 months to 1 year from the date of such publication.

11. The impugned judgment failed to note that, post the enactment of the Forest Conservation Act, 1980, the FSO cannot exclude or eliminate any land forming part of a forest block without prior approval of the Central Government. The FSO lacks jurisdiction to decide the claim, and it also does not explain how it issued differing orders despite the same set of facts. Once steps are initiated for reserving a forest, the State government's actions should not have been interfered with by the orders impugned.

12. The Claimants have produced forged documents in a calculated attempt to manufacture a fictitious historical lineage, and thereby assert illegal claims over the subject land. The Jagirs, on abolition, stood vested in the Government from 15.08.1949. 570 acres in Survey No. 201 of Saheb Nagar Kalan village, including the disputed land, were transferred to the Forest Department by order dated 23.07.1953. Undisputedly, they have been in the possession of the Forest Department ever since. Anyone seeking to assert title or ownership over the suit property should have resorted to appropriate proceedings within a period of 12 years from 15.08.1949 or, at any rate, from 23.07.1953. Reliance is placed on Sections 3 read with 2(j) and Article 65 of the Schedule to the Limitation Act.

13. Sections 4, 5 and 10 of the Telangana Forest Act cannot be construed as empowering the FSO to adjudicate on ownership and title to any land proposed to be constituted as a Reserve Forest. Assuming the FSO had

jurisdiction to entertain the present claim, it does not have the discretion to condone the delay of 33 years. Moreover, the authenticity of the document of sale has not been proved and cannot be considered in the summary proceedings by the FSO.

14. The counsel also laid emphasis on the Atiyat Courts' inability to pass determinative orders with respect to the subject matter's title. The Inams Abolition Act includes Arazi-Makta within the definition of 'Inam'; therefore, an Arazi-Makta is not private land. The arguments also delved into Sections 9 and 10 of the Telangana Forest Act, wherein the counsel noted that the power of the FSO is to admit claims wholly or in part, and to follow the required procedure for acquisition under the Land Acquisition Act, 1894.

B. Arguments from the Respondent's side

15. The State's appeal is unsustainable because it seeks to disturb the concurrent factual findings of the FSO, the Principal District Judge, and the High Court. He further emphasises that the final notification under Section 15 of the Telangana Forest Act has not been issued, and the bar under Section 5 continued to operate. As a result, the FSO had exclusive jurisdiction to adjudicate the dispute. They contend that the State cannot rely on earlier Civil Court and High Court decisions to defeat their claim.

16. On the title, the Respondents trace the ownership to a purchase in 1249H by Saheb Begum Saheba, the great-grandmother of Salar Jung-III of Makta lands, which later formed Saheb Nagar Kalan. They also show that these lands have consistently appeared in revenue records as Arazi-Makta belonging to the Salar Jung Estate, with separate village records and continuous reflection of private ownership at least until the mid-80s. They

point to the takeover of the estate by the Nizam's Court of Wards after the death of Salar Jung II, the restoration of estate to Salar Jung III by a Farman in 1912, subsequent estate and Jagir legislation, and Jagir Administrator's order dated 24.04.1954 and the 1956 Gazette notification which released 12 Arazi-Makta villages from integration and clarified that these were not Inam lands.

17. The counsel would submit that the claim petition filed under Section 6 of the Telangana Forest Act was within time, as the notification under Section 15 had not yet been issued.

18. We have taken note of the arguments for and against the impugned orders, and have perused the documents in support of the Claimants' contention that the subject matter should not be declared a reserved forest. Before we consider the documents on merits and jurisdictional errors, if any, before the Principal District Judge and the High Court, the binding precedents on Jagir Administration, Atiyat Enquiry Act, and Abolition of Inams are prefaced.

18.1 The Division bench in the High Court of Hyderabad at Andhra Pradesh in Writ Appeal No. 887 of 2006 vide judgment and order dated 26.10.2007, has elucidated the powers and scope of the Nazim Atiyat Court. It was thereby concluded that under the Atiyat Enquiry Act, the Atiyat Court was limited to making enquiries into rights, title, or interest in Atiyat grants and related succession claims. Further, it found that in the case of erstwhile Jagir lands, the Atiyat Courts only had jurisdiction to issue cash grants (such as commutation sums) and had no jurisdiction to confer property rights over the

immovable Jagir lands. However, the decisions in Writ Petition No. 14439 of 2006 and Writ Appeal No. 887 of 2006 were set aside by this Court in Special Leave Petition (Civil) No(s). 23392 of 2007 on 13.12.2007 and allowed K.S.B. Ali (petitioner in the said SLP) to avail an appropriate remedy. The extract of this Court's Order is hereunder:

> *"1. Heard petitioner's counsel and learned counsel/ASG for contesting respondents HUDA, State of A.P. and other contesting respondents.*
>
> *2. The petitioner herein has sought permission to withdraw the W.P. No. 14439/2006 filed before the High Court of A.P. from which Writ Appeal No. 887/2006 has arisen. The contesting respondents have no objection for withdrawal of the writ petition filed by the petitioner with liberty to take appropriate remedy. Permission sought is granted. The impugned judgment as well as the judgment passed by the learned Single Judge are set aside. The Writ Petition No. 14439/2006 is dismissed as withdrawn. The issues raised are left open.*
>
> *3. The special leave petition is disposed of accordingly."*

18.2 The Journey did not stop there because K.S.B Ali filed another Writ Petition in the High Court. The decision in the Writ Petition was the subject matter of Writ Appeal No. 1159 of 2009, decided on 18.07.2012.[6] The Court, in passing the said judgment, relied on the findings in Writ Appeal No. 887 of 2006.[7] The relevant portion is extracted hereunder:

> *"30. At this stage of the analysis, the points framed for determination and the conclusions recorded by the Division*

[6] (2012) SCC OnLine AP 858.
[7] (2008) 1 ALD 548 (DB).

Bench of this Court (judgment dated 26.10.2007) in W.A No. 887 of 2006 [reported in 2008 (1) ALD 548 (DB)] may be noticed (notwithstanding the plenary eclipse of that judgment, in view of the order of the Supreme Court dated 13.12.2007 in SLP (Civil) No. 23397 [23392] of 2007).

The issues framed (in WA No. 887 of 2006):

(1) What were the powers and jurisdiction of the Nazim Atiyat under the provisions of the 1952 Act?

(2) What is the scope and purport of the order dated 15.2.1954 of the Nazim Atiyat Court?

(3) What is the true purport of the order dated 24.12.1954 of the Honourable Revenue Minister and whether the said order falls within the scope of the 1960 Act and gets validated under the provisions of the said Act even if the Honourable Revenue Minister had no jurisdiction to pass the said order?

(4) Whether Muntakhab No. 57 of 1955 dated 12.5.1955 is in conformity with the order dated 15.2.1954 of the Nazim Atiyat Court, and if not, whether the same is enforceable in law?

(5) What is the scope of the order dated 1.4.1963 in Writ Petition No. 227 of 1960 of this Court and whether this order operates as constructive res judicata against the appellant?

(6) Whether the Royal Firman has a bearing on the relief claimed by the appellant in the present proceedings?

(7) What is the effect of the judgment dated 13.6.1976 in OS No. 512 of 1973 on the file of the IV-Additional Judge, City Civil Court, Hyderabad?

The conclusions recorded (in WA No. 887 of 2006):

(a) On Issue No. 1 — <u>that the Atiyat Courts (under me 1952 Act) whether pre-amendment or post the 1956 amendment thereto had no power to make a grant regarding Jagir lands;</u>

had power to make only cash grants except in case of Inam lands, by whatever name the cash grants are called; and in any event in case of erstwhile Jagir lands, Atiyat Courts could only make cash grants and had no jurisdiction to confer property rights … "

(Emphasis supplied)

18.3 The decision dated 18.07.2012 rendered by the Division Bench of the High Court, was affirmed by this Court *in K.S.B. Ali v. State of A.P.*[8] This Court reiterates the conclusions of the Division Bench in the earlier round. The relevant portion is extracted hereunder:

"33. After answering the questions in the manner stated above, the High Court has summarised' the position as under: (Malik Sultana case SCC On Line AP paras 98-99) "Summary of our Conclusions: (a) Neither the State nor any officer of the State, including the Principal Secretary or the Special Chief Secretary to the Government, Revenue Department is conferred judicial or quasi-judicial jurisdiction, power or authority, either as Court, a Tribunal or a persona designate, to adjudicate disputed questions of title to immovable property, even where one of the competing claimants to such title is the State…"

18.4 The principles laid down in *KSB Ali's case (supra)* are referred to for appreciating the consistent view of the precedents on the jurisdiction of the Atiyat court.

18.5 One of the issues in *State of Andhra Pradesh (Now State of Telangana) v. Andhra Pradesh State Wakf Board and others*,[9] is whether the Atiyat Court's

[8] (2018) 11 SCC 277.
[9] (2022) 20 SCC 383.

order is relevant to determine the nature of the grant. The dispute traces back to the erstwhile Hyderabad State's system of Jagirs and Inams and the subsequent commutation framework introduced by pre-Constitution regulations. The judgment notes that after Jagir grants were abolished under the Abolition Regulation, the Atiyat Courts' jurisdiction was held to survive mainly for succession-type determinations, i.e., adjudicating entitlement among Claimants to receive commutation sums treated as "Atiyat grants" under the scheme of the Atiyat Enquiry Act. This Court explicitly stated that, in this post-abolition setting, the Atiyat Court had no jurisdiction to decide the nature and extent of wakf property, and hence its findings on whether land was wakf could not be used as a lawful basis to conclude title/character of the land. It was held that on the date of that order, the Nazim Atiyat's jurisdiction was essentially confined to distribution/succession of commutation. Therefore, any finding in that order determining title to an immovable property or the land being in the nature of Mashrut-ul-Khidmat/Madad-e-Maash etc. was beyond its jurisdictional scope. The relevant paragraphs of the said judgment are excerpted hereunder:

> *"**179.** Atiyat grants have been defined to mean in the case of jagirs abolished under the Abolition Regulation, the commutation sums payable under the Commutation Regulation. The Atiyat grant exclude inams under the Inams Abolition Act but contemplates the payment of compensation within the ambit of Atiyat grants. The inquiry is to be held by Atiyat Courts in accordance with the provisions of the Act including inquiries into claims to succession arising in respect of such grants. An appeal lies to the Board of Revenue against the order of the Nazim Atiyat in terms of Section 11 of the Act.*

The decision of the Civil Court is to prevail on questions of succession, legitimacy etc. in terms of Section 12 of the Act. Section 13 gives finality to the decision of the Atiyat Court."

xxx

***182**. It is to be noted that the Enquiries Act is applicable in respect of Atiyat grants alone. Atiyat grants after the commencement of Jagir Abolition Regulation mean only the commutation sum payable under the Commutation Regulation or the compensation payable under the Inams Abolition Act or cash grants etc.*

xxx

***183**. … Therefore, after the Atiyat grants stood abolished in terms of Abolition Regulation, the Atiyat Courts would have jurisdiction to decide issues relating to succession of the commutation amount payable to the heirs."*

18.6 The findings in paragraphs 146, 179, 180, 182 and 183 in *AP Wakf Board (Supra)* can be summarised and stated as a ratio of the judgment as follows. The Government Pleader's presence before the Nazim Atiyat was only to facilitate implementation or payment of grants, and the State was not a party. Hence, the State was not estopped or bound on merits merely due to that appearance (Emphasis supplied). Under the Atiyat Enquiry Act's scheme, "Atiyat grants" (in jagirs abolished under the Abolition Regulation) effectively refer to commutation sums payable under the Commutation Regulation. Further, the Atiyat Court's enquiry is aimed at entitlement or succession to such grants, with civil court primacy on succession/legitimacy issues.

18.7 In *Trinity Infraventures Ltd. v. M.S. Murthy,*[10] to which one of us (Justice Pankaj Mithal) was a party to the bench, is also relevant to the present discussion. This case involves a dispute originating from a 1958 partition suit (C.S. No. 14 of 1958) regarding the Paigah estates in Hyderabad. One of the issues addressed by this Court was whether a preliminary decree in a partition suit could be used by assignees of the decree to dispossess third parties (claimants therein) who asserted independent title to the land (Sy No. 172 of Hydernagar). It was held that a partition suit determines rights *inter-se* between family members. Hence, the finding in the preliminary decree dated 28.06.1963 that the land was "Mathruka" was only incidental to adjudicate claims of legal heirs and is not determinative of title against third parties like claim petitioners or the State *(paragraph 120 of the said judgment).* Further, the Schedule in the partition suit did not even mention survey numbers or boundaries for Hydernagar, yet the receiver and assignees arbitrarily identified specific lands (Survey No. 172) to execute the decree.

18.8 Another issue the said judgment dealt with was whether the State has a legitimate claim after a series of setbacks in prior decisions. This Court held that though the High Court decided that pattas were granted prior to 1948 and that land did not vest in the State, the State of Telangana was not a party before the Division Bench. Therefore, such findings are not binding on the State. Further, non-filing of the appeal did not prejudice the State's claims or amount to acquiescence. Hence, the declaration in para 414(d) of the impugned order in the said judgment must be understood only *qua* the

[10] (2023) SCC OnLine SC 738.

appellants and claimants therein and cannot operate against the State *(paragraphs 172-174 of the said judgment)*.

18.9 The Subject Matter consists of large tracts of land. No individual officer, who is not a juristic person of the Government under the scheme of the Constitution nor under the Code of Civil Procedure, 1908 ("CPC") can file a suit or initiate any proceeding in the name and the post he is holding. The State is a juridical person, and this Court in *Conservator of Forest v. Collector*[11] and *Collector v. Bagathi Krishna Rao*[12] laid down the need for the State being represented by the Secretary to the Government or the District Collector. In these decisions, this Court had drawn an analogy from Sections 79 (which directs that the State shall be the authority to be named as the plaintiff or the defendant in a suit by or against the Government), 80 (directs notice to the Secretary of that State or the Collector of the district before the institution of the suit) and Rule 1 of Order XXVII of the CPC (lays down as to who should sign the pleadings), to conclude that the procedural designation creates a presumption that the Collector is the complete representative of the State's interests in the District, being the custodian of the record of rights and revenue records.

18.10 In *R. Hanumaiah v. State of Karnataka*,[13] this Court held that suits for declaration of title against the Government require a significantly higher standard of proof specifically establishing possession for over 30 years because all unoccupied land is presumed to belong to the State. This higher threshold is required to protect public assets. Since government properties

[11] (2003) 3 SCC 472.
[12] (2010) 6 SCC 427.
[13] (2010) 5 SCC 203.

are vast and difficult to monitor, they are uniquely vulnerable to encroachment, which is often facilitated by the negligence or collusion of the very officers entrusted to protect them. Recognising that any loss of government land is ultimately a loss to the community, it was held that the courts must be vigilant to ensure public property is not converted into private hands by unscrupulous elements. It was further emphasised that a plaintiff cannot succeed merely due to a weakness of the Government's defence or absence of contest but it must independently prove its own title.

18.11 In *Chaman Lal v. State of Punjab*,[14] this Court has held that a suit seeking relief against the State, or the Union of India is not maintainable unless the Government is formally impleaded as a party. Relying on Section 79 read with Order I of the CPC and Article 300 of the Constitution of India, this Court held that the State is a necessary party in such disputes. Merely suing subordinate officers or independent agencies is a fatal defect; if the State is not formally joined, the suit is liable to be dismissed for want of a necessary party, and any decree passed is unenforceable against the Government.

19. The prior judgments and orders *vis-à-vis* the Subject Matter of the present Civil Appeal are discussed below.

19.1 In CCCA No. 84 of 1982 dated 16.08.1985, the Bench, speaking through Justice Seetharam Reddy, dealt with the subject matter. The suit schedule in that case consisted of new Sy Nos. 152/1, 152/2 (old survey number 106) in Kutubullahapur Village, and new Sy Nos. 200, 201, 70/1 to 70/3 (old survey numbers 166, 166/1, 20/1 to 20/3) in Saheb Nagar Kalan

[14] (2014) 15 SCC 715.

Village. Points 1, 3 and 4 determined in CCC Appeal No. 84 of 1982 are relevant and reproduced below:

> *"(1) What is the nature of right, which the Jagirdar had in the Jagir granted to him by the Nizam? Whether he had only a right of usufruct, or whether he had a right to assign any patta in favour of others?*
>
> *xxx*
>
> *(3) Whether the claim of the respondent is barred by limitation?*
>
> *(4) Whether the Government has perfected the title in respect of the suit land by adverse possession? ..."*

19.2 The High Court opined that there was no authority placed before it to depict the powers vested in Jagirdar to issue pattas in favour of the plaintiff. Ultimately, the High Court held that the very scope of the grant in favour of the Jagirdar was limited and restricted to the expansion in favour of a third party. The High Court examined the Farman and held that it was not a direct conveyance of title to the property but an administrative order directing the Revenue Department to grant a *patta*. It required execution by subordinate authorities, and there was no implementation of this order. No survey was conducted, no subdivision was made to separate the 570 acres from the larger Sy No. 201, and no boundaries were fixed. The High Court noted that the title cannot pass by mere mental disposition. Since the specific administrative steps (like issuing a *patta* certificate) were never completed, the plaintiff never acquired a valid title to the land. It notes that it is incomprehensible as to how the Jagirdar, whose grant was limited for life, had assigned suit lands in favour of the respondent. It also notes that the Government had expressed its

intention to make over the Subject Matter to the Forest Department, which was not in dispute.

19.3 Thus, the High Court held that the defendant-appellant (the State represented by the Secretaries to the Forest Department and Revenue Department) had perfected their title.

19.4 The Judgment passed in CCCA No. 84 of 1982 was challenged before this Court in Civil Appeal No. 3354 of 1988. This Court observed that the High Court had examined the history, origin, and method of jagir grants in the State of Hyderabad. After perusing a plethora of documents, the High Court concluded that the powers of the Jagirdar were merely usufructuary in nature, and he lacked the authority to grant patta to third parties. This Court further noted that the High Court had correctly re-appreciated the evidence to establish that the respondent-State was in possession of the land, thereby fortifying its title by adverse possession. Consequently, the claim set up against the Government by an alleged assignee of Salar Jung III in O.S. No. 906 of 1977 has attained finality.

19.5 The second claim for the present subject matter was considered by the Division Bench of the High Court in OSA No. 47 of 2013. The Division bench considered Survey No. 201 of Saheb Nagar Kalan village; thus, the subject matter of the Original Side Appeal is the subject matter of the present dispute. The Court held that the appellant (Defendant No. 111) and Respondents 18 and 19 (Defendants 4 and 5) were necessary parties to Application No. 1054 of 2010, which sought to record a compromise and pass a final decree in the partition suit (C.S. No. 13 of 1958). It was further reiterated that unless a final decree is passed, no party can claim absolute right over the property. The

Court found that the applicants did not derive any valid rights to the land in question based on the sale deeds executed by Defendant No. 2. The Court referred to the order dated 22.03.1962, which directed the division of the right to collect *Nuzul* (rent) from Nuzuldars, not the division of the Nuzul lands themselves (Sy. No. 201). Therefore, the Court held that it was not proper to pass a final decree in view of a compromise between the parties. Lastly, the High Court found that for effective adjudication of the dispute, it is necessary to implead the State of Andhra Pradesh, through its Secretary, Revenue Department and through its Secretary, Environment and Forests Department as party-defendants.

19.6 It is apposite to note that the judgment was delivered by the Division Bench in OSA No. 47 of 2013 on 29.04.2014, and the FSO passed a contradictory order with respect to the same Subject Matter on 15.10.2014.

20. It is true that in exercise of jurisdiction under Article 227 of the Constitution of India, the High Court could go into the question of facts or look into the evidence if justice so requires it if there is any misdirection in law or a view of fact taken in the teeth of preponderance of evidence.[15] The High Court also should not interfere with a finding rendered within the jurisdiction of the inferior tribunal except where the findings are a perverse misreading of documents and not based on any material evidence, or it results in manifest injustice. The High Court, in the supervisory jurisdiction of Articles 226 and 227 of the Constitution of India, distinguishes between overseeing the functioning of courts and tribunals within its jurisdiction and the overreaching of its jurisdiction. Through the "jurisdiction" defined in the

[15] 1977 (2) SCC 437.

Articles, the High Court refrains from overreaching into the discretion conferred on the courts and tribunals subordinate to it. However, the High Court, as part of its jurisdictional obligation, is expected to intervene when the subordinate court or tribunal has acted with a patent lack of jurisdiction, has exceeded its authority or has failed to exercises a jurisdiction legally vested in it.

20.1 Similarly, the supervisory jurisdiction confers power on the High Court to set aside orders where the finding of fact is so manifestly perverse or irrational that no reasonable judicial mind could have arrived at it; often described as a perversity apparent to the face of the record. Ancillary and incidental to the above two illustrations, the High Court corrects orders passed in grave dereliction of duty or in flagrant abuse of fundamental principles of law or justice by the court or tribunal subordinate to it. The limitation is that the High Court, in exercise of supervisory jurisdiction, ought not enter into a factual dispute, reweigh the evidence, or substitute its own view for the finding of fact recorded by the subordinate court or tribunal.[16] We conclude by noting that the High Court can and should interfere with findings of fact arrived at by the subordinate court, if they are not based on evidence or based on a manifest misreading of evidence.[17]

21. We keep in our perspective, the scope and inquiry before the FSO under Section 10 of the Telangana Forest Act, and the supervisory jurisdiction exercised by the High Court under Article 227 of the Constitution of India

[16] (2022) 15 SCC 190.
[17] (1997) 5 SCC 76.

while dismissing the Revision filed against the orders of the Principle District Judge and the FSO.

III. ANALYSIS

A. Array of Parties in the Claim Petition No. 1 of 2005

22. Through the orders impugned in the Civil Appeal, a twin effect is sought to be achieved; *viz.*, exclusion of the Subject Matter from the notifications issued under Sections 4 and 6 of the Telangana Forest Act from the Gurramguda Forest Block. Incidentally, the said deletion results in taking away the vesting of land in the Government as per the extant procedure under the Abolition Regulation.

23. The Division Bench decided OSA No. 47 of 2013 on 29.04.2014. The judgment in the OSA deals with the publication of notification of the Subject Matter for inclusion as a reserved forest under Sections 4 and 6 of the Telangana Forest Act, and the pendency of the Claim Petition of the present Claimants before the statutory authorities. The FSO decided the claim on 15.10.2014. The array of parties through the cause title of Claim Petition No. 1 of 2005 in File No. 786 of 2005 is reproduced hereunder:

> *"1. Mir Jaffer Ali Khan, S/o Late Mir Mehdi Ali Khan, Shia Muslim, Aged about 70 years. Occupation: Business, R/o. H.No. 10-1-123/B, Masab Tank, Saifabad, Hyderabad- 500 028, A.P.*
>
> *2. Nawab Syed Abdul Wahab, S/o Late Nawab Syed Abdullah, Muslim, aged __ years, Resident of H.No.6-2-977, Khairatabad, Hyderabad.*
> *3. Nawab Syed Abdul Hameed, S/o. Late Nawab Syed Abdullah, Muslim, aged ___ years. Resident of H.No.6-2-977, Khairatabad, Hyderabad.* **[Claimants]**

AND

State of Government of A.P. Forest Dept' Represented by Divisional Forest Officer, Hyderabad/FSO Hyderabad.

[Respondent]"

24. It may be noted that the State Government of Andhra Pradesh, firstly, is not represented by the District Collector, who is the custodian of Government rights and interest in lands which stood vested in the Government. Independent of the above omission, as has been noted in OSA No. 47 of 2013, the State has to be represented by the Secretary, Revenue Department and the State of A.P., through its Secretary, E&F Department. The Cause Title, as read above, shows Respondent as the State of A.P. Forest Department, represented by the Divisional Forest Officer/FSO Hyderabad. The subject matter of the appeal is stated to have been transferred by the Government in favour of the Forest Department by an order of the Board of Revenue on 23.07.1953. The Board of Revenue claims vesting of the subject matter in the Government pursuant to the Abolition Regulation. The inclusion or exclusion as a reserved forest is an incidental consequence, but the primary consideration could be the right and title to the Subject Matter of the Civil Appeal.

24.1 The State of Andhra Pradesh (now, the State of Telangana) must have been represented by the aforementioned authorities. After the directions were issued in OSA No. 47 of 2013, the Forest Department failed to bring to the notice of the primary authority the misdescription of the Respondent in Claim Petition No. 1 of 2005. The above omission is not treated as a deliberate omission by a party to the *lis*, but is noticed by this Court as complete complacency on the part of the official respondents in getting proper and

necessary parties arrayed as respondents to the *lis*, and subsequently inviting orders from the court or statutory authority. The Board of Revenue and the District Collectors are the custodians of the records of abolition of Jagirs, determination of commutation amount, and disbursement of commutation to the heirs of Jagirdars.

24.2 We are conscious that the direction issued by the Division Bench in OSA No. 47 of 2013 at best could be limited to the array of parties in C.S. No. 13 of 1958. The Forest Department is complacent in not taking the right objections at the right time. The learned counsel appearing for the parties, having noticed the misdescription or incomplete description of proper and necessary parties, alternatively argued that the matter could be remanded to the High Court or primary authority, amend the cause title as required by law, hear such party, and decide the matter.

24.3 The suggestion is noted, and for the view we are proposing to take, this argument is not accepted favourably inasmuch as the documents on which the Claimants are relying would be the core issue for consideration either by this Court or by the Tribunal. We make it clear that the incorrect array of parties is not being treated as the decisive factor in deciding the Civil Appeal.

B. The scope and jurisdiction of FSO under the Telangana Forest Act

25. A summary inquiry conducted by a statutory authority such as the FSO under Section 10 of the Telangana Forest Act is fundamentally distinct from a civil trial conducted by a competent civil court under the CPC. The jurisdiction exercised by such authorities is creature of statute, limited both in scope and depth, and intended to serve administrative or regulatory

objectives, rather than to finally adjudicate complex civil rights or title disputes. The CPC itself recognises this distinction. Proceedings before Revenue Courts, Small Causes Courts, and other special tribunals are expressly exempted from the application of the CPC, except specifically provided. Accordingly, an FSO conducts a fact-finding or claim-verification exercise, often based on limited material, without the trappings of a regular trial. Any attempt by statutory authority to finally pronounce upon title would amount to jurisdictional overreach attracting the supervisory jurisdiction of the Appellate Tribunal and the High Court. When the dispute over question of title surfaces, the administrative machinery must halt, and the parties must be directed to the competent Civil Court, which is the sole repository of the power to declare ownership.

25.1 The Telangana Forest Act was enacted primarily to consolidate and amend the law relating to the protection and management of forests in the State of Telangana. Section 3 empowers government to constitute any land as a reserved forest, but in the manner provided under the Telangana Forest Act. Section 4 of the said Act provides for issuing a notification to constitute any land as a reserved forest by publishing a notification in the Gazette of the State and the district concerned. Section 5 bars suits related to the lands notified under Section 4 for constituting as reserved forests between the intermittent stage of notifications under Sections 4 and 15 of the said Act. Under Section 6 of the Telangana Forest Act, the FSO is empowered to issue a proclamation setting out the details of the proposed integration of land as a reserved forest. Section 10 deals with claims to certain rights. For the present purpose, the relevant portion of Section 10 is excerpted below:

*"**10.** Claims to certain rights - (1) where the claim relates to a right in or over any land other than the following rights:-*

(a) a right of way;

(b) a right to water-course, or to use of water;

(c) a right of pasture; or

(d) a right to forest produce; the Forest Settlement Officer shall, after considering the particulars of such claim, and the objections of the forest officer, if any, pass, an order, admitting or rejecting the same wholly or in part after recording the reasons therefor.

(2)(a) If any claim is admitted wholly or in part under sub-section (1), the Forest Settlement Officers may-

(i) accept the voluntary surrender of the right by the claimant or determine the amount of compensation payable for the surrender of the right of the claimant, as the case may be; or

(ii) direct the exclusion of the land from the limits of the proposed forest; or

(iii) acquire such land in the manner provided by the Land Acquisition Act, 1894 (hereinafter in this sub- section referred to as the said Act.) (...)"

25.2 A plain reading of Section 10(1) discloses that when the claim relates to a right in or over any land, other than right of way, water course, use of water, pasture or to forest produce; the FSO, considering the particulars of such claim, i.e., the claim relating to a right in or over any land and the objections of the Forest Officer, passes an order admitting or rejecting the claim wholly or in part, and requirement is that the FSO records reasons. Assuming a case where it falls under Section 10(2)(a)(i), the FSO is authorised to accept voluntary surrender or determine the compensation payable for the surrender

of the right of the Claimant. Sub-section (2)(a) of Section 10 typically deals with a situation where the claim to a right in or over any land is partly or wholly admitted by the FSO. The second clause deals with directing the exclusion of the lands from the limit of the proposed forest. The third option is to acquire such land in terms of the Land Acquisition Act, 1894 and the FSO becomes the Land Acquisition Officer for this purpose. Section 10 enables an FSO to decide the claim to a right in or over any land and conditions on the acceptance and extent of inquiry before the FSO. The determining words in the provision are a claim that relates to a right in or over any land. To wit, the scope and jurisdiction of the inquiry relate to the claim to a right and the admission or rejection of the said claim in or over any land. The FSO, in his jurisdiction, can admit a claim to a right in or over any land, but in the summary procedure, cannot assume the jurisdiction of deciding the very existence of the right in an inquiry under Section 10 of the Telangana Forest Act. The right so claimed before the FSO is a right recognised in law. Extending the scope of inquiry over and above the explicit words of Section 10 would be violative of the very language of the provision. After perusing the scheme of the Act, we are of the view that the inquiry under Section 10 is summary in nature because, upon considering the claim and objection, the FSO does not decide rival claim but merely admits or rejects the claim to a right in or over any land.

C. <u>The nature and origin of the Claimant's case.</u>

26. The Claimants state that Salar Jung-III was the last surviving owner of the Subject Matter. Salar Jung-III has come into possession and

administration of the estate through a Farman in 1330F[18] (after attaining majority). On 02.03.1949, Salar Jung-III died issueless. C.S. No. 13 of 1958 was filed by the successors of late Salar Jung-III for partition and separate possession of the properties of Salar Jung-III. In OSA No. 47 of 2013, the High Court considered, in a dispute between *inter-se* successors, the right and title to the Subject Matter. The High Court, in paragraph 21 of the judgment dated 29.04.2014, excerpted the prayers in the plaint in C.S. 13 of 1958 and also the schedule of properties of Salar Jung-III for which a preliminary decree was prayed for.

26.1 A perusal of the judgment, between the alleged successors of Salar Jung-III, discloses that Sy No. 201/1, admeasuring 102 Acres at Saheb Nagar Kalan, is not mentioned in the schedule or does not fall within item 18 to the schedule appended to the plaint. The said finding goes to the very root of the claim of the alleged successors-in-interest of Salar Jung-III, including the Claimants herein. We take note of the array of parties in the OSA and the present claim; and the finding in OSA is not put against the claimant to disallow the claim, but the reported judgments are looked at to bring home the lukewarm approach of the Forest Department in presenting proper and available objections on the alleged right of the claimants.

26.2 The verification of the list of properties of Salar Jung-III as to whether the subject matter is one of the personal properties, and what the pre and post-survey record notes on this behalf have missed the attention. The findings of the FSO, the Principal District Judge and the High Court in the

[18] Corresponding to 1920-21 AD.

impugned judgments hold that the property is one of the items of Salar Jung-III, and make reference to C.S. No. 13 of 1958. The consequence of these findings is that the Division Bench of the High Court of Andhra Pradesh declares that Survey No. 201 is not part of the estate of Salar Jung-III. The finding is between the successors-in-interest of Salar Jung-III. In a summary procedure, the FSO holds that the claim is traceable through C.S. No. 13 of 1958 to the sale deed dated 05.03.1248H. The finding recorded by the High Court in OSA No. 47 of 2013 could not have been either ignored or explained away as not binding on the Claimants herein. The said approach is definitely beyond the authorities, including the learned Single Judge, as held in the impugned judgment. The infirmity which goes to the root of the matter is merely appreciated in understanding the conspectus of the claim accepted by the impugned orders/judgments.

27. On 01.10.1948, the Abolition Regulation was promulgated. The regulation abolishes Jagirs and vests the Jagirs in the State. On 15.08.1949, the Abolition Regulation came into force. Through notifications dated 07.09.1949 and 20.09.1949, the Jagirs of Salar Jung-III were transferred for administration under the Abolition Regulation. The Claimants admit that, at the first instance, the subject land vested in the Government under the Abolition Regulation. To claim divestment from the Government and revest in the estate of Salar Jung-III, the Claimants rely on a copy of the letter no. 808/CH dated 24.04.1954 said to have been received from the Jagir Administrator, Hyderabad, Deccan addressed to the District Collectors of (1) Hyderabad, (2) Mahabubnagar, and (3) Nalgonda. Copy of letter dated 24.04.1954 is signed by Assistant Jagir Administrator (Cases). The purport of

the letter is that *vide* decision dated 09.02.1954, the Jagir Administrator released Arazi-Maktas of Salar Jung-III from the purview of the Jagir Administrator. The letter further reads that the lands be released from integration as Arazi-Maktas. It is further stated that, in terms thereof, the lands treated as Arazi-Maktas have been excluded from integration and continue to be the estate of Salar Jung-III. The claimants refer to, and rely upon, the Gazette Notification dated 29.03.1956 published by Nazim Atiyat for Inam Enquiry and judgment dated 26.06.1958 in File No. 2/56 of 1956. These three documents are relied upon, firstly, admitting the movement of all Jagirs from the Salar Jung estate to Jagir Administration, thereby divesting from the Government and revesting with the successors-in-interest of Salar Jung-III.

28. On the contrary, the Forest Department claims that the Board of Revenue, through a letter dated 23.07.1953, allotted 570 acres in Sy No. 201 to the Forest Department for establishing a soil conservation centre. On 15.04.1967, the Telangana Forest Act came into force and on 26.07.1971, a notification under Section 4 of the Telangana Forest Act was issued, initiating the process to declare an extent of 102 acres in Sy No. 201/1 as a reserved forest. This was followed by a proclamation dated 15.12.1971 under Section 6 of the Telangana Forest Act, and publication of the proclamation under Section 6 in District Gazette No. 1. On 08.06.1976, an extent of 367 acres of this Forest Block was de-reserved and made over to Hyderabad Urban Development Authority. Stated in a nutshell, the subject land under Jagir Administration is vested in the Government. The Government allotted the land to the Forest Department, steps for recording the land as a reserved

forest were initiated, a portion of the land was de-reserved, and the balance of the land continued to stay with the Forest Department. It is very pertinent to refer to the judgment of the High Court in CCCA No. 84 of 1982 on adverse possession and continuous enjoyment of the Government from the date of vesting till 1977, when the suit was filed. These findings are referred to in the paragraphs above and are not repeated for brevity. The important aspect is that in a suit instituted by the District Collector, as shown as defendant, a finding is recorded that by operation of adverse possession, the title stood prescribed in favour of the Government. O.S. No. 906 of 1977 was filed by claiming as assignee of a *patta* from Salar Jung-III to a vast extent of land in Saheb Nagar Kalan, including the Subject Matter. The distinction to the present claimants is that they are successors-in-interest to Salar Jung-III. When the claim of a *patta* for the Subject Matter initiated in 1977 was rejected by the High Court and this Court,[19] beyond the jurisdiction of FSO, a claim presented in a summary inquiry under Section 10 of the Telangana Forest Act is allowed. These findings are contrary to the findings recorded by the Division Bench and this Court concerning the Subject Matter. To explain away the legal effect of vesting of the land in the State Government, the Principal District Judge and the High Court, through the impugned judgments, observed that the present claimants are not parties to the *lis* in CCCA No. 84 of 1982. The observation is made in the absence of proper and correct array of parties, much less, relevant documentary evidence, as considered in CCCA No. 84 of 1982.

[19] Civil Appeal No. 3354 of 1988.

D. Claimants' case

29. The case of Claimants can be compartmentalised into (a) Pre Jagir Abolition Record, i.e., sale deed dated 05.03.1248H in favour of Saheb Begum Saheba, (b) Post Jagir Abolition and (c) decisions on the Subject Matter. The schedule of property as stated in the translated typed copy of the said sale deed is excerpted hereunder for immediate reference:

> *"Boundaries of the said Maqtas are as per the link documents and purchase document of Late Mir Muzaffar Ali Khan named above written on the 2nd of Safar 1229H are as follows:*
> *Limits of Maqta No.I mentioned above, behind Qazi tank, with a Pun of Rs.20/- per annum:*
> *East: Adjacent to Chintal Bowli and old trench up to Chalka with trees as limit.*
> *Boundaries of land in between the said area, with a pun of Rs.5/- per annum:*
> *East: Adjacent to the boundary stones as limit*
> *West: Annexing Inam land of Benkat Bhatimit.*
> *South: Adjacent with Sorakunta water channel as limit. Boundaries of 2nd Maqta inside Qazi Tank with annual Pun of Rs.8/-:*
> *East: Adjacent to the mouth of Tank as limit*
> *West: Annexing the houses of Balaguda as limit*
> *North: Abetting the public road as limit*
> *South: Annexing Inam land of Kishna Rao landlord and some land of tank as limit. Boundaries of land in between the said area, with a pun of Rs.5/- per annum:*
> *East: Adjacent to the boundary stones as limit*
> *West: Annexing Inam land of Benkat Bhat as limit*
> *North: Abetting water channel as limit*

South: Annexing land of the said village and its stones and trees as limit.

Written on 5th Rabi al-Awal 1249AH corresponding to 1243F.

Issued to the Receiver-cum-Commissioner, Estate of Salar Jung, on his application dated: 4th May 1966.

Sd/- Director, State Archives 13/9 3.9.1966

- Sd/- Assistant Director Archivist State Archives, 02.9.1966 Hyderabad"

a. Pre Jagir Abolition

DATE	EVENT DETAILS	REMARKS COLUMN
05.03.1832 (05.03.1248 HIJRI)	Alleged Sale Deed (Saheb Begum) Execution of the instrument in favour of Saheb Begum Saheba for three Maktas.	1. This is a certified copy said to have been issued on 03.09.1966 by the Archives Department. 2. At no stage of the proceedings was an effort made to verify the veracity and authenticity of the document. 3. The certified copy is relied on for the first time by the Claimants through the Claim Petition dated 30.11.2005. The instrument plainly refers to three schedules, and there is nothing on record to correlate the schedules with resurveying old survey numbers and corresponding new survey numbers. 4. Assuming without admitting that in the Gazette dated 29.03.1956, a few of the properties of Salar Jung III were enquired into, and it is not clear whether this document is related to item numbers 29 and 30 of List C or Serial Number 3 of List D of the eastern circle, District Hyderabad.

b. Post Jagir Abolition/Atiyat Enquiry Act:

24.04.1954	Jagir Administrator Letter No. 808/CH Release of villages/lands to the Salar Jung Estate.	1. Letter dated 24.04.1954 by itself is not a letter, or a decision said to have been taken by the Jagir Administrator. 2. Letter dated 09.02.1954 is the letter through which a few villages are claimed to have been released by the Jagir Administrator from integration. 3. The admitted case is that the letter dated 09.02.1954, the primary document through which the claim of the separate property of Salar Jung III, is not filed. The letter calls upon further action from the District Collectors. 4. The Claimants have not placed any document evidencing a proceeding in terms of or pursuant to the letter dated 09.02.1954 of Jagir Administrator. 5. The statement enclosed with the letter shows the estates' location and area of Maktas in the Hyderabad district. 6. In respect of Saheb Nagar, the area shown is 2262 Acres and 36 Guntas. The sale deed refers to three parcels of land, and the three parcels are not referred to in the statement at all. The claim is now for an extent of 102 Acres in Old Sy. No. 20/1 to 20/3 corresponding to 201/1. 7. The said extent is not synchronising with the alleged sale deed of the predecessor-in-interest of Salar Jung-III. 8. The remarks column refers to Letter No. 808 dated 24.04.1954 from the Jagir Administrator and letter dated 17.07.1954, as release orders were issued at the possession of Maktas under the Hyderabad district. The dates in the remarks column, ex-facie, contradict the letter dated 24.04.1954.

26.09.1955/ 15.10.1955	Judgment in file 19/C of the Deputy Jagir Administrator.	The clarification of Dy Jagir Administration dated 26.09.1955 discloses (a) that the alleged communication dated 24.04.1954, 09.02.1954, 17.07.1954, is not acted upon. Therefore, the Collectors were asked to **effect the release orders** already as per the statement, with the exception of public spaces of Maktas. The Collector was also tasked to conduct an enquiry.
29.03.1956	Gazette Notification No. 1550/1 Published by Nazim Atiyat for Inam Enquiry.	The notification is issued by the office of Nizamat Atiyat. The notification purports to initiate an enquiry into the estates of Salar Jung-III. The notification invites objections from the parties interested in the villages annexed to the notice. Saheb Nagar Kalan is shown in Lists C and D. In List C, it is shown as Inam land, and in List D as purchased land.

c. Decisions on the Subject Matter

26.06.1968	Nazim Atiyat Judgment (File No. 2/56/1956) Inam Enquiry findings regarding the nature of the lands.	The Nazim Atiyat holds that out of the remaining 31 villages, 12 villages have been declared as Arazi Makta, and released in the year 1954; and did not come under the purview of Jagir Abolition Regulation. At Serial Number 9, Saheb Nagar Kalan is stated. The same order refers to the Abolition of Inams Act and that the Atiyat Courts ceased to have jurisdiction over Arazi-Makta and Inam lands. Hence, no order was passed regarding Arazi-Makta as they were not Jagir land.
22.09.1981/ 2004	OS Nos. 156 of 1980 and 1451 of 1980	1. The suit declares on the succession to the commutation amount, not title or entitlement to the subject matter.

		2. The decree facilitates working out a remedy on the commutation amount payable to the Jagirs taken over from the estate of Salar Jung-III.

30. The claim for title is firmed up through the order of Nizamat Atiyat dated 26.06.1968, the orders impugned as already noted in the paragraphs above, accepted (a) alleged release of land from integration and (b) in an enquiry by Nizamat Atiyat, a few villages are held as Arazi-Makta. Therefore, the Subject Matter is liable to be excluded from a final notification under Section 15 of the Telangana Forest Act. As discussed above, this Court has authoritatively declared the outer limit of the jurisdiction of the Atiyat Court, and held that Nazim Atiyat's jurisdiction is confined to the distribution of commutation.[20] By applying the said ratio, we note that the order of Nazim Atiyat Court is not determinative of the subject matter's status; and consequently, the findings in the impugned order are contrary to the findings by this Court. Moreover, independent of the view taken by the FSO on the determinative character of the Nazim Atiyat Court's orders, the impugned orders failed to appreciate the inconclusiveness in the order of the Atiyat Court, when it redirected the matter to be settled as per the Inams Act.

31. The impugned judgments/orders clearly lay down conclusions which are explicitly contrary to the view taken by the High Court and this Court in previous decisions. The foundation of the claim is based on the sale deed dated 05.03.1248H, release orders, and orders of Nazim Atiyat. This

[20] *AP Waqf Board (supra).*

foundation does not make out a case, and the judgment and decree of the civil court relied on by the FSO and the alleged entry in revenue records pale into insignificance. If the argument of the Claimants is accepted, the same can be utilised for a vast extent of property, for which all the rights have been settled under one enactment or another.

32. The intrinsic examination of the documents relied on by the Claimants does not establish that the Subject Matter is a self-acquired property of Salar Jung-III. It is admitted that with the abolition of Jagirs, the land stood vested in the Government. Having admitted that at the first instance, the estate of Salar Jung-III was divested of its entitlement and possession through a valid regulation, accepting such scanty records/copies of letters for retransfer in favour of the estate of Salar Jung-III is highly improbable, and acceptance of such a claim is nothing short of a perverse recording of a finding. The decree and judgment in O.S. No. 156 of 1980, by any measure of interpretation, cannot be extended to affect the process initiated in 1949, continued till 12.10.2004. The claim of an alleged assignee of Salar Jung-III was found to be untenable on the ground that the Jagirdar, except for having a life interest, does not have the right of alienation or assignment. The revenue records have been found to be tampered with and fudged with incorrect entries. The possession of the Government was held adverse to the assignee claimant, and the acquisition of title by adverse possession by the Government was upheld. The commonality in both cases is that the plaintiff in O.S. No. 906 of 1977 claims as assignee, and the present claimants claim as successors to the estate of Salar Jung-III. A regularly instituted suit in 1977 was found to be beyond the period of limitation, and curiously, in a summary enquiry under

Section 10 of the Telangana Forest Act, it is held that the claim is not barred by limitation. The orders impugned fell into a serious error of law in appreciating the difference between a claim barred by limitation and consideration of condonation of delay under Section 16 of the Telangana Forest Act. Even if the Tribunal has the power to condone the delay in filing a claim, the same does not have the effect of upsetting the title acquired through prescription. The impugned orders, either as ancillary or incidental to accepting the claim, hold title in favour of the Claimants. The fundamental error of law is that the Forest Department is a transferee of the then Government of Andhra Pradesh. A claim on title is always between the Government and the rival claimant. The proceedings under the Telangana Forest Act cannot go thus far to unsettle the proceedings initiated under Jagir Abolition Regulation, Jagir Abolition Commutation, and the Abolition of Inams Act.

33. In fine, we hold that the claim of right through the sale deed dated 05.03.1248H, release order from Jagir Administration, adjudication by Nizam Atiyat Court of the Claimants has been accepted either through non-consideration of the documents filed by the Claimants, its legal effect vis-à-vis the government, and/or by exceeding the jurisdiction of inquiry under Section 10 of the Telangana Forest Act. The limitation for filing objections is liberally applied by holding that there is power to condone the delay. The District Court and the High Court fell into error of law in affirming the view taken by the FSO through the order dated 15.10.2014. The claim for the Subject Matter of the Claimants in Claim Petition No. 1 of 2005 for the appreciation and examination of the very case of the Claimants fails, and the

claim is thus rejected. It is held that the Subject Matter has been Government land and the proposals for final notification under Section 15 of the Telangana Forest Act have been validly instituted. The impugned judgments, for the above reasons, are unsustainable, warrant interference, and accordingly, the order of FSO dated 15.10.2014, as confirmed by the Principal District Judge and the High Court, is set aside.

34. The Appellant has kept the proposal for final declaration under Section 15 of the Telangana Forest Act pending from 1971 till 20.12.2004. It is a matter of common knowledge that lung spaces are shrinking in all cities, and the twin cities of Hyderabad and Secunderabad are no exceptions. Hence, the Chief Secretary, State of Telangana, is directed to ensure completion of pending proposals under Section 15 of the Telangana Forest Act for including the Subject Matter as a reserved forest within 8 weeks, and file the compliance status report before the Registry of this Court.

35. The Civil Appeal allowed accordingly. No order as to costs. Pending applications, if any, stand disposed of.

.....J
[PANKAJ MITHAL]

.....J
[S.V.N. BHATTI]

New Delhi;
December 18, 2025

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9997 OF 2025

SRI AGA SYED NAIMATH ULLAH SHUSTRI ... APPELLANT(S)

VERSUS

THE STATE OF TELANGANA
REPRESENTED BY
DIVISIONAL FOREST OFFICER
AND OTHERS ... RESPONDENT(S)

J U D G M E N T

S.V.N. BHATTI, J.

1. The Civil Appeal assails the judgment and final order dated 20.01.2023 in CRP No. 417 of 2017. The Civil Appeal is entertained by granting leave to the Appellant to assail the order dated 20.01.2023. The Appellant is not a party to the proceedings initiated before the Forest Settlement Officer in Claim Petition No. 1 of 2005 and the consequential cases filed before the Principal District Judge and the High Court in CMA No. 5 of 2015 and CRP No. 417 of 2017. The Civil Appeal has been tagged with Civil Appeal No. 9996 of 2025 filed by the State of Telangana, aggrieved by the very same judgment dated 20.01.2023.

2. The Appellant herein claims an independent right and title in the instant Civil Appeal by upsetting the claim of Mir Jaffar Ali (Respondent No. 1) in Civil Appeal No. 9996 of 2025, and also the right of the State of Telangana as having vested in the State in terms of Hyderabad (Abolition of Jagirs) Regulation, 1358F (Corresponding to ~1949 AD). There are two conjunctive

parts to the challenge; one assails the order dated 20.01.2023, while the other seeks to establish rights of the Appellant to the common Subject Matter of the tagged Civil Appeals. The substantive Civil Appeal No. 9996 of 2025 filed challenging the order dated 20.01.2023 *vide* a Judgment of even date has held that the claim of Mir Jaffar Ali and others *vis-à-vis* State Government is untenable. Consequently, the impugned order dated 20.01.2023 in CRP No. 417 of 2017 has been tagged, heard along with, and set aside. We hasten to add that this Court is not to be treated as a court of first instance. The claim of the Appellant, we are of the view, need not independently for the first time be considered by this Court in examining whether the claim is tenable through Syed Aga (through Nawab Mir Alam Bahadur). The Civil Appeal stands disposed of in terms of the Judgment in Civil Appeal No. 9996 of 2025.

3. In view of the above, the present Civil Appeal is dismissed. No order as to costs. Pending applications, if any, stand disposed of accordingly.

.....J
[PANKAJ MITHAL]

.....J
[S.V.N. BHATTI]

New Delhi;
December 18, 2025