HIGH COURT OF ANDHRA PRADESH

* * * *

WRIT APPEAL Nos. 205, 259 of 2014, 848 of 2022

&

WRIT PETITION No.26568 of 2014

W.A.No.205 of 2014:

Between:
M/s.Sri City Pvt. Ltd., Chennai
Rep. by its Managing Director

.....APPELLANT

AND
N.Sakkubayamma (died) per LRs and others

.....RESPONDENTS

W.A.No.259 of 2014:

Between:
The A.P.Industrial Infrastructure Corporation Ltd.,
Hyderabad, represented by its Managing Director and another

.....APPELLANTS

AND
N.Sakkubayamma (died) per LRs and others

.....RESPONDENTS

W.A.No.848 of 2022:

Between:
The Government of Andhra Pradesh,
Revenue Department, Hyderabad
Rep. by its Principal Secretary and 3 others

.....APPELLANTS

AND
N.Sakkubayamma (died) per LRs and others

.....RESPONDENTS

W.P.No.26568 of 2014:

Between:
T. Chengaiah and 60 others

.....PETITIONERS

AND
The State of Andhra Pradesh,
Rep. by its Principal Secetary,
Revenue Department (Assignment)
Hyderabad and 4 others

.....RESPONDENTS

DATE OF JUDGMENT RESERVED : 28.11.2025
DATE OF JUDGMENT PRONOUNCED : 11.05.2026
DATE OF JUDGMENT UPLOADED : 11.05.2026

SUBMITTED FOR APPROVAL:

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

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No

3. Whether Your Lordships wish to see the fair copy of the Judgment? Yes/No

_____
RAVI NATH TILHARI, J

_____
MAHESWARA RAO KUNCHEAM, J

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

+ **WRIT APPEAL Nos. 205, 259 of 2014, 848 of 2022**
&
WRIT PETITION No.26568 of 2014

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Between:
M/s.Sri City Pvt. Ltd., Chennai
Rep. by its Managing Director
.....APPELLANT
AND
N.Sakkubayamma (died) per LRs and others
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W.A.No.259 of 2014:
Between:
The A.P.Industrial Infrastructure Corporation Ltd.,
Hyderabad, represented by its Managing Director and another
.....APPELLANTS
AND
N.Sakkubayamma (died) per LRs and others
.....RESPONDENTS

W.A.No.848 of 2022:
Between:
The Government of Andhra Pradesh,
Revenue Department, Hyderabad
Rep. by its Principal Secretary and 3 others
.....APPELLANTS
AND
N.Sakkubayamma (died) per LRs and others
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W.P.No.26568 of 2014:
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T. Chengaiah and 60 others
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The State of Andhra Pradesh,
Rep. by its Principal Secetary,
Revenue Department (Assignment)
Hyderabad and 4 others
.....RESPONDENTS

! Counsel for the Appellants : Sri K. S. Murthy, Sr.Advocate
Assisted by Sri D. Prakasam Reddy (W.A.No.205/2014)

Sri G. Rama Chandra Rao, (W.A.No.259/2014)

GP for Land Acquisition (W.A.No.848/2022)

Sri G. R. Sudhakar, (for Petitioners in W.P.No.26568/2014)

Counsel for the Respondents : Sri V. Sudhakar Reddy, (in Writ Appeals)

< Gist :

> Head Note:

? Cases Referred:

1. 2004 (2) ALD 451 (LB)
2. AIR 1982 SC 32
3. (2026) 2 SCC 182
4. 2001 SCC OnLine AP 462
5. 2024 SCC OnLine AP 762
6. 2004 SCC OnLine AP 217
7. (2023) 10 SCC 755
8. 1970 (1) SCC 125
9. (2022) 7 SCC 508
10. (2020) 2 SCC 569
11. (2016) 12 SCC 504
12. 2008(4) ALT 638
13. 2001 SCC OnLine AP 1037
14. 2014 SCC OnLine SC 1885
15. 2025 SCC OnLine SC 630
16. 2026 INSC 450
17. 2026 SCC OnLine AP 46

HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT APPEAL NOs: 205, 259 of 2014 & 848 of 2022 and

WRIT PETITION NO.26568 of 2014

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

Heard Sri K.S.Murthy, learned Senior Counsel assisted by Sri D.Prakasam Reddy, learned counsel for the appellant in W.A.No.205 of 2014; Sri G.Rama Chandra Rao, learned counsel for the appellants in W.A.No.259 of 2014; Learned Assistant Government Pleader for Land Acquisition in W.A.No.848 of 2022; Sri G.R.Sudhakar, learned counsel for the petitioners in W.P.No.26568 of 2014 and Sri V. Sudhakar Reddy, learned counsel appearing for the respondents in the Writ Appeals.

2. W.A.No.205 of 2014 has been filed by M/s.Sri City Private Limited, Chennai through its Managing Director (respondent No.8 in W.P.No.23208 of 2010). W.A.No.259 of 2014 has been filed by the Andhra Pradesh Industrial Infrastructure Corporation Limited and its Chairman (APIICL) (respondent Nos.5 & 6 in W.P.No.23208 of 2010). W.A.No.848 of 2022 has been filed by the State of Andhra Pradesh (A.P.) and its authorities (respondent Nos.1 to 4 in W.P.No.23208 of 2010). All the aforesaid writ appeals have been filed challenging the judgment/order dated 04.11.2013 passed by the learned Single Judge in W.P.No.23208 of 2010 filed by the writ petitioners(respondents in the writ appeals).

3. W.P.No.26568 of 2014 has been filed by the writ petitioners, (other than the writ petitioners of W.P.No.23208 of 2010) challenging the order dated 26.07.2007 of resumption of land to set aside the same and inter-alia seeking direction to the State authorities to resort to the acquisition proceedings under the Land Acquisition Act, 1894 ('the L.A. Act, 1894') in case of such requirement for public purpose.

4. The writ petition No.26568 of 2014 has been filed with the delay of almost seven (07) years submitting the explanation that, after the order in W.P.No.23208 of 2010 they came to know about the memo filed by the Revenue authorities in W.P.No.23208 of 2010, clarifying the nature of the rights of the writ petitioners in their land, being non-alienable.

5. Learned counsels submit that W.P.No.26568 of 2014 involves similar facts and the issues as in W.P.No.23208 of 2010 which was allowed by the learned Single Judge and against which the Writ Appeals have been filed.

6. The private respondents in the writ appeals will be referred as the petitioners/writ petitioners and the writ appellants as the appellants/writ appellants.

7. We have considered the counter affidavits, Memos filed by either side, brief submissions and the entire material on record.

I. Facts:

8. Briefly stated, the writ petitioners claim that they were displaced from their land at Sriharikota, which were acquired for establishing a

Rocket Launching Station (RLS). They were given compensation amount and the rehabilitation facilities by granting land situated in Tondur Village. The State of A.P. issued G.O.Ms.No.1024, Industries and Commerce Department dated 02.11.1970 ('G.O.Ms.No.1024') for that purpose.

G.O.Ms.No.1024:

9. The G.O.Ms.No.1024, dated 02.11.1970 reads as under:

Government of Andhra Pradesh

Abstract

REHABILITATION – SHAR project Rehabilitation or displaced persons on account of the construction of the project at Sriharikota Island – Principles to be followed orders – issued.

Industries & Commerce (F.II) Department

G.O.Ms.No.1024 dated 02.11.1970

Read the following:

1. From the Collector, Nellore Lr.No.B.9/20336/69, dated 10.07.1970.

Order

The various matters connected with the rehabilitation of persons displaced consequent upon the acquisition of the lands under the Sriharikota project in Nellore District were considered at a meeting of the officers concerned, presided by the Chief Secretary on 23.09.1970, Government have carefully considered the decisions taken at the meeting. Government order that the following principles shall be adopted for rehabilitating the displaced persons.

1. The rehabilitation costs at Rs.500/- per family shall be born by the Atomic energy Department Government of India.
2. Displaced families who do not desire to be rehabilitated in the rehabilitation centres established by Government shall be given an outright cash grant of Rs.500/- per family by the Atomic Energy Department Government of India.
3. Displaced families seeking rehabilitation at the rehabilitation centres shall be provided house sites at the rate of 10 cents per family free of cost. They shall be provided with transport at Government costs to enable them to shift along with their belongings from the acquired village to the rehabilitation centres. Having regard to the practice followed in the case of other rehabilitation schemes the displaced families will be permitted to revoke free of cost the dismantled materials of residential buildings, while in respect of non-

residential buildings such removal may be permitted on payment of 75 percent of the assessed cost. At the rehabilitation centres the scrub jungles will be cleared and house sites and approach and internal roads will be laid at Government Cost. Amenities will also be provided at the rehabilitation centres in the shape of drinking water wells, community halls, school buildings and terminals, the scale being determined in accordance with requirements and taking into account the availability of funds. If after meeting the above items of expenditure any surplus funds are available out of the total allotment for rehabilitation calculated at .500/- per family which will be provided by the Government of India, the Collector, Nellore is requested to submit suitable proposals for provision of further amenities.

4. If any rehabilitation measures are required beyond Rs.500/- per family, it will be the responsibility of the State Government to find the resources for them. The Collector, is requested to draw no proposals and submit them to Govenment to saction. No amount should be sent without prior orders of Government.
5. Displaced families will also be granted, free of cost Government land for cultivation purposes equivalent of the extent acquired from them subject to a maximum of 5 acres of dry land or 2 acres of wet land per family. The remaining lands in the rehabilitations are after meeting. The above requirements will be assigned to landless poor persons among the displaced, **under the normal assignment policy**.
6. This order issues with the concurrent of Finance Department vide 4149/SSPP/70-1, dt.2.11.1970..

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

Deputy Secretary to Government

10. The State and its authorities resumed the writ petitioners' land for establishing a Special Economic Zone (SEZ) by M/s.Sri City Private Limited.

11. Their further case is that certain lands were sought to be acquired for establishing Industrial State. The Land Acquisition Officer (LAO) and Revenue Divisional Officer (RDO), Tirupati issued notice on 28.12.2006 published in a local daily newspaper that, on the basis of requisition made

by APIICL, a draft notification under Section 4(1) of the L.A. Act, 1894 was published on 16/18.03.2006, and the declaration under Section 6 was made and published between 11.11.2006 and 15.11.2006. The enquiries were completed and the final opportunity was given to the persons interested to submit their objections, if any, on or before 05.01.2007.

W.P.No.561 of 2007:

12. The writ petitioners apprehending their forceful dispossession, filed W.P.No.561 of 2007 on 04.01.2007 seeking declaration that the notice and the action of the State seeking to dispossess the writ petitioners, without following due process of law, was illegal and contrary to the provisions of L.A. Act. However, in the writ petition, the LAO filed the counter and had taken a stand that the lands were assigned to the family members of the petitioners during the year 1970 and as per the G.O.Ms.No.1307 dated 23.12.1993 the reclamation and development charges for the DKT lands equivalent to the market value, to the assignees whose lands were resumed once for all for public purpose, by paying just and reasonable ex-gratia amount @ Rs.3.00 lakhs per acre for wet lands and Rs.2.50 lakhs per acre for dry lands apart from value of the trees to the DKT patta holders or their legal heirs, on par with the owners of the patta lands situated in Thonduru village. They stated further that, after completion of the Award enquiry, an Award was passed on 30.06.2007 for the patta lands to an extent of Ac.63.83 cents and

payment was made to the awardees. With regard to the lands in Thonduru Village, it was their stand that the action was being taken separately which was under progress and that the State would follow due legal procedure to resume DKT lands by paying reasonable ex-gratia to the assignees or their legal heirs.

13. The judgment dated 17.07.2008 passed in W.P.No.561 of 2007 reads as follows:

> "The petitioners are residents of Thonduru Village of Varadaiahpalyam Mandal in Chittoor District. It is stated that originally the petitioners were residing at Sriharikota, which was acquired by the Government for the purpose of establishing a Rocket Launching Station. After several deliberations, the 1st respondent issued G.O.Ms.No.1024, Industries and Commerce Department, dated 02.11.1970 providing rehabilitative facilities, pursuant to which the petitioners were granted lands situated in Thonduru Village. However, even the said lands were sought to be acquired for the purpose of establishing an industrial estate. The petitioners came to know of the said proceedings when the 3rd respondent issued a notice dated 28.12.2006 which was published in a local daily stating that on the basis of a requisition made by the APIIC, a draft notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, "the Act") was published on 16.03.2006 followed by declaration dated 11.11.2006 under Section 6 of the Act. It is also mentioned even the award enquiry was completed as per the provisions of the Act and to provide a final opportunity to the persons interested the notice dated 28.12.2006 was issued to submit the objections, if any, on or before 5.1.2007. Aggrieved by the said action and apprehending forcible dispossession, the petitioners filed the present writ petition on 4.01.2007seeking a declaration that the notice dated 28.12.2006 as well as the action of the respondents in seeking to dispossess them without following due process of law contemplated under the Act is arbitrary and illegal.
>
> In the counter affidavit filed by the Land Acquisition Officer while stating that the lands in question were assigned to the family members of the petitioners during the year 1970, It is explained as under:

"...As per G.O.Ms.No. 1307 dated 23.12.1993 the reclamation and development charges for the DKT lands equivalent to the market value to the assignees whose lands are resumed once for all for public purposes by paying just and reasonable exgratia @ Rs.3.00 lakhs per acre for wet lands and Rs.2.50 lakhs per acre for dry lands apart from tree value to the DKT pattadars and their legal heirs on par with the owners of patta lands situated in Thonduru village."

It is further stated that after completion of Award enquiry, an Award was passed on 30.06.2007 so far as the patta lands to an extent of Ac.63.83 cents are concerned and payment was also made to the awardees. It is further explained that with regard to the lands in Thonduru Village action is being taken separately and it is under progress. It is also stated that the Government would follow due procedure under the Rules and Regulations in force in order to resume DKT lands by paying reasonable exgratia to the assignees and their legal heirs.

I have heard the learned counsel for the petitioners and perused the material on record.

Having regard to the facts and circumstances, even assuming that the petitioners herein are not the owners of the land in question, but they are only assignees, I find force in the submission made by the learned counsel for the petitioners that, they cannot be denied the exgratia payable to the DKT pattaholders. As noticed above, it is clear from the counter affidavit filed by the Land Acquisition Officer that the respondents are taking necessary steps for payment of such exgratia to the DKT pattaholders.

As a matter of fact, the 5th respondent, who got itself impleaded to the writ petition, stated in the counter affidavit that the impugned notice dated 28.12.2006 has nothing to do with the lands belonging to the petitioners and that the same was only with regard to the patta lands. However, even the 5th respondent conceded that the exgratia is payable to the assignees as per G.O.Ms.No. 1307 dated 23.12.1993.

Having regard to the statement made in the above counter affidavits in which entitlement of the petitioners to receive the exgratia in terms of G.O.Ms.No.1307 dated 23.12.1993 is not disputed, **the writ petition is disposed of with a direction to the respondents to determine the compensation so payable to the petitioners in terms of G.O.Ms.No. 1307 dated 23.11.1993 and pass appropriate orders in accordance with law**

after giving an opportunity of hearing to the petitioners, as expeditiously as I possible, preferably within a period of three months from the date of receipt of a copy of this order. No costs."

14. The W.P.No.561 of 2007 was disposed of vide judgment dated 17.07.2008 with a direction to the respondents therein to determine the compensation so payable to the petitioners in terms of G.O.Ms.No.1307 and pass orders in accordance with law after giving an opportunity of hearing to the petitioners. The learned Single Judge had observed that "having regard to the facts and circumstances, even assuming that the petitioners herein are not the owners of the land in question, but they are only assignees, I find force in the submission made by the learned counsel for the petitioners that they cannot be denied the ex-gratia payable to the DKT patta holders. The learned Single Judge also observed that "as a matter of fact, respondent No.5 (M/s.Sri City Private Limited) who got itself impleaded in the writ petition, stated in the counter affidavit that the impugned notice dated 28.12.2006 had nothing to do with the lands belonging to the petitioners and that the same was only with regard to the patta lands. However even the respondent No.5 conceded that the exgratia was payable to the assignees as per G.O.Ms.No.1307 dated 23.12.1993".

G.O.Ms.No.1307:

15. G.O.Ms.No.1307 dated 23.12.1993 is as under:

"GOVERNMENT OF ANDHRA PRADESH

COMPENSATION - Government assigned lands coming under submergence in Major and Medium Irrigation & Power Projects etc - Payment of compensation to assigned lands, when resumed for public purpose - orders

REVENUE (ASSIGNMENT.I) DEPARTMENT

G.O.Ms.No.1307 Dated: 23-12-1993

Read the following: -

1. G.O.Ms.No. 180, Rev.(B) Dept., dt 9-2-84
2. G.O.Ms.No.603, Rev.(B) Dept., dt 28-5-86
3. G.O.Ms.No.43, Rev.(B) Dept., dt 23-1-88
4. G.O.Ms.No.428, Rev.(B) Dept., dt 25-4-92
5. From the CLR. Lr.No.G1/2632/80, dt 22-2-92

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ORDER:-

In G.O.Ms.No.180, Revenue (B) Department, dt 9-2-84 and G.O.Ms.No.603, Revenue (B) Department, dt 28-5-86, orders were issued to the effect that Government lands, which have been assigned on

“D” form patta to landless poor persons and which will come under submersion of any Major, Medium Irrigation and Power Projects, or are required for industrial projects, shall be resumed by the Government and assignees of such lands shall be paid compensation on compassionate grounds at the market value fixed for similar patta lands in the village, which were acquired under the provision of Andhra Pradesh Land Acquisition Act 1984. It was however, ordered that no compensation need be paid, where alternative lands are given to the assignees.

2. Subsequently the said orders were modified in G.O.Ms.No.43, Revenue (B) Department, dt. 23-1-1988 restricting such compensation to be commensurate with the verifiable improvements made to the land by the assignees. Further clarification was issued in G.O.Ms.No.428, Revenue (Asn.I) Department, dt 25-4-92.

3. The Commissioner of Land Revenue in his letter 5th read above, has stated that it is just and proper that the assignees, whose lands are resumed once for all in Projects, are paid suitable compensation on par with other pattadars, as they are also displaced by virtue of resumption of their lands and they also lose their livelihood. It is, therefore, suggested that, exgratia equivalent to the market value of the land, be paid subject to certain conditions.

4. In the Empowered Committee Meeting held on 21-6-93, during the discussions, the issue regarding payment of compensation equivalent to the market value to the assignees, whose lands are resumed once for all for public purpose on par with other pattadars as suggested by Commissioner of Land Revenue came up for discussion and it was decided to place the proposal before the Cabinet.

5. The Government after careful examination of the matter in consultation with the commissioner of Land Revenue, Irrigation and Command Area Development Department and Finance Department hereby order payment of / ex-gratia equivalent to the market value, to the assignees whose lands are resumed for the projects and other public purposes and equivalent to valuation for other private orchards and structures, wells etc removing the distinction stipulated in para (3) of G.O.Ms.No.428, Revenue (Asn.l) Department, dt 25-4-92, subject to the following conditions:-

(a) that the amount is to be treated as ex-gratia;

(b) that the assignees would not be entitled for making references under Section 18 and Section 28-A of Land Acquisition Act to the Courts;

(c) an amount equivalent to 15% for the lands resumed prior to 30-4-82 and 30% after what date, on the market value payable under Section 23(2) of Land Acquisition Act may be considered for being included in the total ex-gratia payable to the assignees as solatium;

(d) that the assignees will not be entitled for interest or additional market value under the Land Acquisition Act;

(e) that the above conditions shall be made applicable to all the assigned lands resumed on or after 9-2-1984 (i.e. that date of issue of G.O.Ms.No. 180, Revenue, dated 9-2-04, in supersession of G.O.Ms.No.43, Revenue (B) Department, dt 23-1-88.

6. The Commissioner of Land Revenue shall take action in the matter accordingly.

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

M.NARAYANA RAO,

SECRETARY TO GOVERNMENT”

16. We may observe that it is the admitted position as submitted by the learned counsels for both the sides that, the writ petitioners' land was not the subject matter of the acquisition notification under the L.A. Act.

17. The writ petitioners' land was resumed vide ROC.F/1326/07 dated 23.09.2008 by the Chairman, Thondur Cooperation Joint Forming Society ('CJFS') & Revenue Divisional Officer, Tirupati. The order of resumption was passed that the land mentioned in the schedule thereto was leased out to the persons names mentioned in the schedule and as per the lease conditions, the lessee must make arrangements for cultivation of land within three years from the date of lease and it could not be encroached and the lessee must be the villager. As per condition Nos.1 & 2 of the lease, the Government sought to resume the land for APIICL to establish industrial zone to provide employment. Notice was issued vide ROC.F/1326/07 dated 06.08.2008 to which the explanation was submitted by the lease holders stating inter-alia that the land in Survey number, as mentioned in the schedule, was given in lieu of rehabilitation compensation for Sri Harikota evacuees. The land did not belong to the Cooperation Joint Forming Society ('CJFS') and the compensation sought to be paid was not acceptable. On consideration of the reply the CJFS lease patta was cancelled vide Rc.No.F/1326/07 dated 23.09.2008 by the RDO. It was held that the lessee was a member of the CJFS by paying amount and obtained admission No.78 and the CJFS lease/patta was cancelled in terms of condition No.17. The Tahsildar was directed to

conduct panchanama and to take possession for the State and mutate the name of the State.

18. The cancellation of CJFS lease/patta vide Rc.No.F/1326/07 dated 23.09.2008 reads as under:

"Office of the Thondur & Revenue Divisional Officer
Present: Sri M. Venkateshwara Rao, M.Com.,
RC.No.F/1326/07, Date: 23.09.2008.

Sub: CJFS Lands - - Chittoor District – Varadaiahpalem Mandal – Thondur Village Sri /Smt. Nimmala Sakkubayamma W/o. Munuswamy, informed in the schedule DKT/ CJFS. Alloted through Lease - Applicable land acquisition by the Government -orders issued.

Ref: 1. Zonal Manager, APICC, Tirupati, Lr, No.ZO(Spl. Officer)/TPT/LA/Thondur, 13/06, DT. 23.02.2006.
2. Chairmen, Co-operative Joint Forming Society, Thonduru and Revenue Divisional Officer, Tirupati Notice. R.C.No.F/1326/07, Dated. 06.08.2008.

ORDER:

The following land is leased out to the persons mentioned in the schedule who are members of the Cooperative Joint forming Society by way of DKT / CJFS lease.

SCHEDULE

Sy.No.	Extent Ac. Cents	Punja/ Sanja	DKT/ CJFS Sanctioned Lease Order No. and Date	Application, CJFS Lease holder Name	Father/ Husband Name
1	2	3	4	5	6
114/2	2.40	Punja	145/4/1401	Nimmala Sakkubayamma	Munuswamy.

As per the lease conditions of the DKT/CJFS lessee must make arrangements for cultivation of land within 3 years from the date of lease and it cannot be encroached and he must be the villager:

As per condition No.1 and 2 of the lease granted to the DKT/CJFS pattadar/ Legal heir, the Government is sought to acquire the same for the purpose of

APIC Tirupati to establish economic zone and provide employment. The notice was issued to you in the 2nd cited:

The DKT/ CJFS lease holder submitted explanation. It is stated therein that the land in Sy.No.144/2 admeasuring Ac. 2.72 cents was given in lieu of rehabilitation compensation for Sri Harikota evacuees, the said land does not belong to the Cooperation Joint Forming Society and the compensation sought to be paid by the Government treating it as Government by way of Rs.3,00,000/ - for wet land and Rs.2,50,000/- per acre for dry land is not acceptable. **But they have not submitted any record**.

As per the records the land in Sy:No.144/2, admeasuring Ac. 2.40 cents as per the application patta No. 145/4/1401 it was allotted to Nimmala Sakkubayamma. Thereafter the application lands are brought under Thondur Cooperative Joint Forming Society limits. As explained by you it is not true to say that the said land belongs to Government. You became member of Thondur Cooperative Joint Forming Society by paying amount and obtained admission No.78. As you are members of the said society and interms of condition No. 17 of the patta, the above land is sought to be acquired for public purpose i.e. infavour of A.P.I.I.C. Tirupati for establishing economic zone and to provide employment (the application patta is converted into CJFS). The CUFS lease patta is cancelled and the Government passes an order to that effect.

The compensation sought to be paid to this land admeasuring Ac.2.40cents is Rs.2,50,000/- per acre which comes to Rs.6,02,119/- along with the compensation to the trees and you can receive the same within 30 days from the date of receipt of this notice.

The Tahasildar Vardaiahpalem is requested to conduct panchanama and take possession on behalf of the Government by mutating the Government name and send this same to this office. Appeal against this order can be preferred to the Joint Collector within 30 days.

Sd/-,
Chairmen, Thondur CJFS &
Revenue Divisional Officer,
Tirupati."

19. The resumption/patta cancellation order dated 23.09.2008 mentioned that the DKT/CJFS pattadars or legal heirs did not submit any

record to support that the land was given in lieu of rehabilitation compensation for Sri Harikota evacuees and that it did not belong to the CJFS. As per the records, the land in Sy.No.144/2, admeasuring Ac.2.40 cents as per the application patta No.145/4/1401 was allotted to Nimmala Sakkubayamma. Thereafter the application lands were brought under Thondur CJFS Limits. The said persons became member of the society by paying amount and obtained admission No.78 as per condition number 17 of patta, the above land was required for public purpose in favour of APIIC for establishing economic zone etc. So, patta was cancelled.

W.P.No.26439 of 2008:

20. The writ petitioners filed W.P.No.26439 of 2008 being aggrieved from various proceedings in Rc.No.F/1326/07, dated 23.09.2008, by which while resuming the lands of the petitioners, they were informed that they would be paid compensation @ Rs.2,50,000/- per acre along with compensation for the trees.

21. The prayer in W.P.No.26439 of 2008, was as follows:

".....the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, **declaring orders dated 23-9-2008 made in Rc.No. F/1326/2007 issued by the 2nd respondent in treating** petitioners-land Situated in Sriharikota Colony, Thonduru, Tada Post, Varadaiahpalyam Mandal, Chittoor District belongs to Government and seeking to pay exgratia under the guise of cancelling the pattas without following the due procedure contemplated under the Land Acquisition Act **as arbitrary, illegal, without jurisdiction, colourable exercise** of power, non-application of mind to the relevant facts, discriminatory, violative of the Fundamental Rights Guaranteed under Articles 14, 19 & 21 and constitutional Right guaranteed under Article 300-A of the constitution of

India and **consequently set-aside the same while directing the respondents not to disposses petitioners from their land and pass**"

22. The Writ Petition No.26439 of 2008 was disposed of vide judgment dated 15.12.2008, providing that the compensation to the petitioners shall be determined in accordance with the L.A. Act and it shall be open to the writ petitioners to produce all necessary material by way of evidence for claiming compensation. The Revenue Divisional Officer was directed to conduct enquiry and pass orders accordingly. The judgment reads as under:

> "Petitioners who are eighteen in number are aggrieved by as many proceedings Rc.No.F/1326/07, dated 25.09.2008, of the second respondent. By various such proceedings while resuming the lands of the petitioners for establishment of Special Economic Zone by Andhra Pradesh Industrial Infrastructure Corporation Limited (APTIC) - fourth respondent, petitioners were informed that they would be paid compensation at Rs.2,50,000/- per acre along with compensation for trees.
>
> In view of the order proposed, it is not necessary to give elaborate factual background. The brief factual background may be noticed as follows. The petitioners originally hailed from the Villages surrounding Sriharikota, Nellore. In 1970, all the lands in these Villages were taken over by the Government of India for establishment of Rocket Launching Station (RLS). The Government issued orders in G.O.Ms.No.1024, dated 02.11.1970, containing guidelines for rehabilitation package for the land oustees (displaced persons. An extent of Acs.2.00 wet land or Acs.5.00 dry land was provided as compensation. The land was situated in Tada area. Petitioners and others occupied the land. Some of them constructed houses. They developed the land in that area now known as "Sriharikota Colony". However, regular pattas were not granted. In 1991 an attempt was made by the revenue Officials to resume the land for alleged violation of conditions of grant. Ultimately, the Chief Commissioner of Land Administration set aside cancellation orders. Thereafter, on 16.09.2000, Government issued a memo to the effect that the assignees/land oustees are entitled for the rights of alienation and enjoyment of land in their own way. In

furtherance thereof, pattas were given by the third respondent with absolute rights.

In 2006, the land is sought to be acquired for Multi-Product Special Economic Zone (SEZ) to be developed by APIIC under private public model. Notification under Section 4(1) as well as Section 6 of the Land Acquisition Act, 1894 (the Act, for brevity, was published in November 2006. However, no notification was issued in respect of the lands claimed by the petitioners. They then approached respondent Nos.2 and 3 apprehending expropriatory measures, in vain. Public notices were issued to take possession, aggrieved by which, some of the affected persons filed W.P.No.561 of 2007 challenging public notice dated 28.12.2006. Having regard to the counter affidavit filed by second respondent, namely, Revenue Divisional Officer, the writ petition was disposed of on 17.07.2008 directing the respondents to determine the compensation in terms of G.O.Ms.No. 1307, dated 23.11.1993., In obedience thereto, second respondent issued notice of resumption of the land and offered a compensation of Rs.3,00,000/- for wet land RS.2,50,000/- for dry land per acre. The petitioners submitted explanation along with documentary proof questioning the jurisdiction of the Revenue Divisional Officer and also the very genuineness of public purpose. The petitioners allege that without considering the explanations and documents filed by them, second respondent passed orders vide Rc.No.F/1326/07, dated 25.09.2008, purporting to resume the land and ordering payment of Rs.2,50,000/- per acre for dry land and Rs.3,00,000/- per acre for wet land as compensation. **All the petitioners were given separate orders, aggrieved by which, the present writ petition is filed.**

At the stage of admission itself, fourth respondent (APIIC) and fifth respondent, who entered into a Memorandum of Understanding (MOU), filed the counter affidavits opposing the writ petition. They mainly contend that when the land of the petitioners is resumed for public purpose of SEZ on payment of adequate compensation, petitioners cannot have any grievance. They also oppose stay of developmental activities on the ground that some of the land proposed for the SEZ has already been taken over and developmental works have already been commenced involving huge expenditure. They contend that except the lands of the petitioners, which are situated in pockets in middle of the area handed over to fifth respondent, all land has been delivered to fifth respondent. They further contend that in

respect of the other lands belonging to other owners situated in Thondur Village, Varadaiahpalem Mandal of Chittoor District, Award was passed by the Revenue Divisional Officer, vide Award No.A-13/2007, dated 30.06.2007, whereunder a total sum of Rs.3,00,000/- per acre for wet land and Rs.2,50,000/- per acre for dry land inclusive of solatium, additional compensation and enhanced interest were ordered to be paid, and therefore, petitioners would also be entitled for the same.

After hearing the learned Counsel for the petitioners, learned Assistant Government Pleader for respondent Nos.1 to 3, learned Standing Counsel for respondent No.4 and learned Counsel for respondent No.5, **this Court is of considered opinion that the controversy in this case is with regard to quantum of compensation to be paid to the assignees of Government land when the same is resumed for public purpose. Whether the State is liable to pay compensation, if so, what are the principles for determining such compensation,** is a question, which is no more *res integra*. This aspect of the matter was considered in P.Mallaiah v Government of A.P., wherein this Court relied on the judgment of Larger Bench in LAO-cum-RDO, Chevella Division, Domalaguda, Hyd v. Mekala Pandu and disposed of similar contentions in the following manner.

Whether the Government is bound to pay compensation to the assignees under the provisions of the Act where such assigned lands are resumed by the Government for public purpose? A Full Bench of five learned Judges of this Court in State of Andhra Pradesh v Bondapalli Sanyasi while overruling the earlier decision of Full Bench of three learned Judges in State of A.P. v P.Peda Chinnayya, held that when the land is resumed in terms of the grant, no compensation be payable towards resumption of land and that compensation, however, is payable if the lands have not been resumed by following due process of law. The Full Bench of seven learned Judges in Mekala Pandu case (supra) on reconsideration of the issue did not accept the view of the Full Bench of five learned Judges in Bondapalli Sanyasi case (supra) and held that assignees of Government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession by the State in accordance with the terms of the grant. It was also held that the conditions incorporated in patta/deed of

assignment shall not operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land.....

In Mekala Pandu (Supra) the Larger Bench laid down as under.

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

(emphasis supplied)

The Award No.A-13/2007, dated 30.06.2007, appears to be consent Award. Depending on the facts and circumstances of each case, even a consent Award has to be made considering the correct value at which a willing vendor has agreed to purchase from willing seller. In addition to such compensation, needless to mention, every landowner is entitled for solatium and additional compensation payable under the Act and also for additional interest of about 46% (as agreed by the Government in these cases), and all the benefits under the Act and benefits as already paid to other landowners. **Therefore, this Court is of considered opinion that applying principle laid down by this Court in Mekala Pandu (supra), compensation to the petitioners should be determined in accordance with the Act. It shall be open to the petitioners to produce all necessary material by way of evidence for claiming compensation. Revenue Divisional Officer may conduct enquiry and pass orders accordingly.**

The Writ Petition is disposed of accordingly. No costs."

23. The judgment dated 15.12.2008 in W.P.No.26439 of 2008, makes it evident that basing on ***LAO-cum-RDO, Chevella Division,***

Domalaguda, Hyd v. Mekala Pandu[1] it was held that the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of the Land Acquisition Act and any condition incorporated in patta/deed of assignment shall not operate as a clog putting any restriction on the right of the assignees to claim full compensation as owner of the land. However, it is further evident that the petitioners were not held or declared as the owner of the land. But they were considered at par owners of the land for payment of compensation, though assignees, as per ***Mekala Pandu*** (supra). The proceedings of the resumption of the land dated 23.09.2008 were not set aside nor it was held that the land could not be resumed or ought to have been acquired under the provisions of the Land Acquisition Act, 1894.

24. The judgment in (W.P.No.561 of 2007) ***G.Meena v. The Government of Andhra Pradesh*** dated 17.07.2008, had also proceeded on the ground that the petitioners were not the owners of the land. They were only assignees and based thereon it was held that the petitioners could not be denied the *ex gratia* as payable to the DKT patta holders in terms of G.O.Ms.No.1307 dated 23.12.1993. The direction was issued to determine the compensation in terms of G.O.Ms.No.1307, and pass appropriate orders. Pursuant to such direction, the order was passed on 23.09.2008 cancelling the lease and determining the compensation to be paid @ Rs.2,50,000/- per acre along with compensation for the trees. The

[1] 2004(2) ALD 451 (LB)

petitioners were considered as DKT/CJFS lease holders. The compensation was determined in terms of G.O.Ms.NO.1307.

25. The petitioners did not challenge the judgment dated 17.07.2008 in W.P.No.561 of 2007 or the judgment dated 15.12.2008 in W.P.No.26439 of 2008. The respondents in the writ petition (writ appellants) also did not challenge those judgments, dated 17.07.2008 in W.P.No.561 of 2007 or/and dated 15.12.2008 in W.P.No.26439 of 2008.

26. The position that thus emerges is as under:

i) that as per W.P.No.561 of 2007, the direction was given to grant compensation in terms of G.O.Ms.No.1307 i.e., *ex-gratia*, applicable to assignment of land on resumption;

ii) that as per W.P.No.26439 of 2008 the writ petitioners were held entitled to compensation at par the owners of the land under the L.A. Act, 1894.

iii) The resumption order dated 23.09.2008 was not interfered with;

iv) The orders were passed for grant of compenstaiton to the writ petitioners, as assignees of DKT pattas at par the owners of the land. In other words, for the purposes of grant of compensation to the assignees of the land, no distinction was made between the owners of the land whose were acquired and the writ petitioners, the assignees whose lands were resumed.

v) The writ petitioners were never held the owners of the land.

vi) The aforesaid judgments dated 17.07.2008 & 15.12.2008 in W.P.Nos.561/2007 and 26439/2008 attained finality as no party challenged he same.

27. After the judgment in W.P.No.26439 of 2008, the compensation was determined vide ROC.SEZ/881/2010 dated 21.07.2010, after notice to the petitioners. As per the proceedings, the Revenue Divisional Officer, Tirupati ordered for an amount of Rs.3,00,000/- and Rs.2,50,000/- per acre for wet and dry lands respectively to the eligible assignees for their DKT lands. Those proceedings determined the amount of compensation, including trees value, observing that the value of the DKT lands were fixed on par with the patta lands inclusive of market value of the land, solatium, additional market value and percentage of enhancement agreed in Negotiation Committee.

Proceedings dated 21.07.2010

28. Those proceedings ROC.SEZ/881/2010 dated 21.07.2010 read as under:

"Proceedings of the Revenue Divisional Officer, Tirupati.

Present: Sri A. Prasad, M.Sc.,

Roc.SEZ/881/2010 Dt.21-07-2010.

Sub:- LAND - Chittoor District - Tirupati Division - Varadaiahpalem Mandal Thonduru village - lands in Sy.No.74/2 etc., resumed and alienated to APIIC - Sri Erakam Seshaiah and 17 others filed Writ Petition No.26439 of 2008 regarding payment of ex-gratia - Enquiry conducted - Orders - issued.

Read:- 1. This office proceedings in Roc:F/1326/07 d1.25.09.2008.
2.Orders dated 15.12.2008 of Hon'ble High Court of Andhra Pradesh, Hyderabad in. WP No.26439 of 2008.
3. This office Notice in Roc. 881/2010 d1.01.04.2010.

ORDER:

In the reference 1st read above orders have been issued resuming the land to an extent of Ac.50.39 situated in Thonduru village of Varadaiahpalem Mandal and the same was alienated to APIC for the purpose of establishment of Industrial Park (SIZ). Aggrieved by the orders Sri Erakam Seshaiah and 17 others, residents of Sriharikota Colony, Thonduru village of Varadaiahpalem Mandal have filed Writ Petition No.26439 of 2008 before the Hon'ble High Court of Andhra Pradesh, Hyderabad and the same was disposed on 15.12.2008. While disposing the case the Hon'ble Court has observed as follows.

The Award No.A-13/2007 dated 30.06.2007 of Thonduru village appears to be consent Award. Depending on the facts and circumstances of each case, even a consent Award has to be made considering the correct value at which a willing vendor has agreed to purchase the willing seller. In addition to such compensation, needless to mention every landowner is entitled for solarium and additional compensation payable under the Act and also for additional interest of about 46% (as agreed by the Government in these cases), and all the benefits under the Act and benefits as already paid to other landowners. Therefore, this Court is of considered opinion that applying principle laid down by this Court in Mekala Pandu (supra), compensation to the petitioners should be determined in accordance with the Act. It shall be open to the petitioners to produce all necessary material by way of evidence for claiming compensation. The Revenue Divisional Officer may conduct enquiry and pass orders accordingly. The writ petition is disposed of accordingly.

The brief history of the case is as follows.

The APIIC has placed requisition for acquisition of patta lands and alienation of DKT and Government lands in Satyavedu and Varadaiahpalem Mandals for establishment of Industrial Park (SEZ). Action has been initiated for acquisition of patta lands under Land Acquisition Act. The Draft Notification under Section 4(1) and Draft Declaration under Section 6 have been made as envisaged under Land Acquisition Act.

In order to fixation of market value of the land proposed for acquisition, the sales which taken place preceding three years of notification the true market value of the lands were not reflected. Moreover, consequent of the acquisition of the lands all the persons interested are compelled to change their place of occupation. Keeping in view of this, the sales were discarded. All the lands proposed for acquisition are fertile lands having high agricultural potentiality. The potentiality of the land can be determined keeping in view of the fertility of the land, availability of ground water, approach road facilities and its proximity to the

nearby town etc., The lands situated in Thonduru village are having all the said potentialities. However the local enquiry reveals that prevailing market value of the wet lands in the area is Rs 1,45,000/- per acre and dry lands is Rs.1,20,000/- per acre. But as verified from the sale statistics the true market value of the lands were not reflected and in consequence of the acquisition of the land, the land loosers are compelled to change their place of occupation. Considering the above facts, the market value is fixed at Rs.1,20,000/- per acre for Dry land and Rs. 1,45,000/- per acre for Wet lands for the lands proposed for acquisition which is just and reasonable.

The requisition department viz., the A.P.I.I.C Ltd., has filed a written consent in Form V as required under provision of A.P.Land Acquisition (Negotiation Committee) Rules 1992, to the District Collector, and Chairman, Negotiation Committee, to pass consent award through the Negotiation Committee under Section 11(2) of the LA Act 1894. Hence Form I notices under the provisions of A.P.Land Acquisition (Negotiation Committee) Rules 1992, have been issued to all the land owners/ persons interested in the lands proposed for acquisition. In response to the notice in Form I all the land owners/persons interested in the land have agreed for passing consent award and given consent in Form III (Agreement) and in Form IV (affidavit) to that effect.

During the negotiations under the chairmanship of the District Collector, Chittoor held on 27.02.2007, the land owners have agreed for increase of 47.5% and 46.71% on the land value of wet lands and dry lands respectively and apart from tree value fixed for the trees. The details of the package are as follows.

Land Value per acre for Wet lands	
Market value per acre as per PV	Rs.1,45,000-00
Solatium @ 30% of the M V	Rs. 43,500-00
Addl. Market Value @ 12% per annum	Rs. 17,400-00
Total	Rs.2,05,900-00
% of enhancement agreed in Negotiation committee	47.5%
Rate per acre as per negotiations	Rs.3,00,000-00

Land Value per acre for Dry lands	
Market value per acre as per PV	Rs.1,20,000-00
Solatium @ 30% of the M V	Rs. 36,000-00
Addl. Market Value @ 12% per annum	Rs. 14,400-00
Total	Rs.1,70,400-00
% of enhancement agreed in Negotiation committee	46.71%
Rate per acre as per negotiations	Rs.2,50,000-00

As such the market value of the lands were fixed per acre as follows towards acquisition of lands in respect of lands situated in Satyavedu and Varadaiahpalem Mandals.

As per P.V		As per Negotiations	
Wet	Dry	Wet	Dry
Rs.1,45,000/-	Rs.1,20,000/-	Rs.3,00,000/-	Rs.2,50,000-00

Basing on the above rates the awards have been passed in respect of following villages of Satyavedu and Varadiahpalem Mandals acquiring patta lands under Land Acquisition Act.

Name of the village	**Date of Award**	**No.of Awards**	**Extent for Award passed**		**Total Extent**
			Consent	Compulsory	
Appaiahpalem	18.03.07	1	72.43	0.00	72.43
Aroor		15	694.325	42.255	736.58
Gollavaripalem		2	60.96	26.74	87.70
Mallavaripalem		15	806.23	79.58	885.81
Chengambakam		2	84.49	0.00	84.49
Cherivi	15.06.07	19	968.41	0.00	968.41
Siddhma Agraharam	18.03.07	2	102.23	4.12	106.35
Mopurupalle		8	369.59	0.00	369.59
Thondur	30.06.07	1	63.83	0.00	63.83
Total→		**65**	**3222.495**	**152.695**	**3375.19**

It has also further decided during District Level Negotiation Committee that ex-gratia for DKT lands will be paid on par with patta lands i.e. Rs.3.00 lakhs for Wet lands and Rs.2.50 lakhs for Dry lands inclusive all benefits derived under package deal. The value fixed in respect of DKT lands inclusive of all benefits i.e., Solatium, Addl. Market value and also percentage of enhancement agreed in Negotiation Committee.

An extent of DKT lands Ac.2739.00 situated in the above villages were resumed and alienated of APIIC by paying exgratia of Rs.3.00 lakhs and 2.50 lakhs per acre for wet and dry lands respectively to the eligible assignees in terms of G.O.Ms.No.1307 Revenue (Assign.I) Department dated 23.12.1993.

The lands in question are imperative and they were already resumed and alienated to APIIC to maintain contiguity with the lands acquired under Land Acquisition Act in and around of Thonduru village of Varadaiahpalem and Satyavedu Mandals.

Sequel to the orders of the Hon'ble High Court vide reference 2nd read above, a notice has been issued to the petitioners vide reference 3rd above Sri Erakam Seshaiah, Sri B.Koteswaraiah, Sri Nimmala Chinnaiah, Sri B.Damodaram and Sri Mada Ravi have attended for enquiry on 08.04.2010 and given statement that they were not willing to give their assigned lands for SEZ

purpose and requested to withdraw from acquisition. As the land was already resumed and alienated to APIIC, it is hereby ordered to pay exgratia to the assignees/petitioners as follows:

Sl. No.	Survey No. And Sub Division No.	Extent	Classification	Name of the assignee	Exgratia amount including tree value
1.	77/2	2.72	Dry	Erakam Seshaiah	6,88,317.00
2.	74/2	3.04	Dry	Balajangam Koteswaraiah	11,85,295.00
3.	79/1	2.48	Dry	Balajangam Damodaram	6,20,000.00
4.	78/1	2.36	Dry	Erakam Jamuna	8,35,734.00
5.	77/1	2.67	Dry	Erakam Prakash	10,87,556.00
6.	78/2	2.05	Dry	Balajangam Chengamma	8,40,210.00
7.	157/3	2.37	Dry	Nimmala Chinnaiah	5,95,965.00
8.	144/2	2.40	Dry	Nimmala Sakkubayamma	6,02,119.00
9.	176/3	2.40	Dry	Pillari Narayanaswamy Reddy	6,47,190.00
10.	149/3B	1.21	Dry	Erakam Murugan	3,02,500.00
11.	157/2	2.52	Dry	Nimmala Chengaiah	6,31,560.00
12.	73/2	2.68	Dry	Muthuku Balaiah	6,71,786.00
13.	82/1A	1.00	Dry	Erakam Balasubramanyam	2,54,440.00
14.	181/3	2.41	Dry	V.Chinna Masthan	6,03,096.00
15.	85/3	2.40	Dry	Nadikaram Chandramma	10,45,839.00

The Tahsildar, Varadaiahpalem is instructed to draw and disburse the ex-gratia amount which was already deposited and available with the Tahsildar, Varadaiahpalem to the above assignees under proper acknowledgement.

In the circumstances explained above the value of the DKT lands was fixed on par with patta lands inclusive of market value of the land, solatium, additional market value and percentage enhancement agreed in Negotiation Committee. Hence it is hereby ordered that an amount of Rs.3.00 lakhs and Rs.2.50 lakhs for Wet and Dry lands per acre respectively will be paid to the eligible assignees for their DKT lands situated in Thonduru village of Varadaiahpalem Mandal which were already resumed and alienated to APIIC.

This orders issued in compliance of Hon'ble High Court orders dated 15.12.2008 in W.P.No.26439 of 2008.

//tcbo//

Sd/-A.Prasad

Revenue Divisional Officer
Tirupati.

Administrative Officer"

W.P.No.23208 of 2010:

29. Challenging the proceedings in ROC.SEZ/881/2010 dated 21.07.2010, W.P.No.23208 of 2010 was filed by the writ petitioners. The prayer made was as follows:

> "...issue a Writ Order or Direction more particularly one in the nature of Writ of Mandamus **declaring order dated 21.7.2010 made in Roc.SEZ/881/2010, passed by the 3rd respondent, and the consequential action** of the respondents in seeking to dispossess the petitioners from their land, as arbitrary, illegal, unjust, violative of principles of natural justice, without jurisdiction, colourable exercise of power, violative of Fundamental Rights guaranteed to the petitioners under Articles 14, 19 and the Constitutional Right guaranteed under Article 300-A of the Constitution of India and consequently set aside the impugned order and direct the respondents to follow the procedure contemplated under the Land Acquisition Act, if they wanted to acquire petitioners Land and not to interfere with the possession and enjoyment of the land, till they follow the due procedure of law."

30. In W.P.No.23208 of 2010 under challenge was only the order dated 21.07.2010, by which determination of the compensation was made in terms of the directions issued in W.P.No.26439 of 2008. The order of resumption vide ROC.F/1326/07 dated 26.07.2007 was not under challenge. It is so evident from the prayer of W.P.No.23208 of 2020 as reproduced above.

31. The order of resumption had been challenged in the previous W.P.No.26439 of 2008 but the same was not interfered with. The petitioners were treated as assignees vide the judgment dated 15.12.2008 in W.P.No.26439 of 2008 which was never challenged by the writ petitioners.

32. Writ Petition No.23208 of 2010 was allowed on 04.11.2013. The order of resumption and the proceedings dated 21.07.2010 were set aside. Further directions were issued to the respondents in W.P.No.23208 of 2010 (writ appellants) as follows:

> "i) a notification under Section 4(1) of the Land Acquisition Act be issued within a period of four weeks from today.
>
> ii) Section 6 declaration be issued within a period of two weeks, thereafter.
>
> iii) As the petitioners have full notice and information of resumption and non-payment of compensation, notice under Section 9 be issued within a period of four weeks from the date of publication of Section 6 declaration,
>
> iv) Award determining the compensation payable to petitioners be passed in another two weeks thereafter.
>
> The 1st respondent ensures completion of the land acquisition proceedings as directed within the time stipulated above.
>
> Writ petition is allowed. There shall be no order as to cost."

33. In W.P.No.23208 of 2010, learned Single Judge (as his lordship then was) observed that the Government memo No.9734 A/ASN II(3) 9 dated 16.09.2000, was issued by the Principal Secretary to the Government to the Collector, Nellore District and directed to take necessary action in terms of the said memo which provided that the assignees (repatriates) were very much entitled for the rights of alienation of land assigned to them as per G.O.Ms.No.1024 dated 02.11.1970.

Government Memo dated 16.09.2000:

34. Memo No. 9734A/Asn.II(3) 9 dated 16.09.2000 reads as under:

"GOVERNMENT OF ANDHRA PRADESH

REVENUE DEPARTMENT

Memo No: 9734A/Asn.II.(3)9 Dated: 16-9-2000

Sub: Land - Nellore District - Assigned lands - Assigned to Srihari Kota repatriates (evacuees) as per G.O.Ms. No: 1024 Ind. & Com. Dept. dated 2-11-1970 - Alienated to third parties - cancellation of pattas - Clarification - Sought for - Reg.

Ref: 1. G.O.Ms. No: l024, Ind. & Com. Dept. dt. 2-11-1970.

2. From the CLR, Lr. No: Spl.B1/1100/89, dt. 2-11-1992

3. From the Collector, Nellore, Lr. No: B2/22222/91, Dt. 10-12-92.

4. Petition from Sri Maddineni Narasimha Rao, Dated 17-9-93.

5. Petition from Sri V. Sudhakar Reddy, Dt. Nil.

Government of India established a Rocket Launching Station at Sriharikota, Nellore District. At that time, the inhabitants of Sriharikota had been evicted and rehabilitated in other villages. In the G.O. first cited, orders were issued providing certain rehabilitative facilities and benefits to them.

2. Besides, the G.O. further provides that those displaced persons whose lands were acquired would also be granted Government land equivalent to the extent acquired from them free of cost for cultivation purposes subject to a maximum of Ac. 5-00 of dry land or Ac. 2-00 of wet land per family. The remaining lands in the rehabilitation area after meeting the above requirements would be assigned to landless poor persons **among the displaced under the normal assignment policy.**

3) The Collector, Nellore has that the **lands were assigned to the displaced persons under "D' patta conditions only whose lands were acquired for the above** project. Many of the original grantees to whom lands were assigned had sold away their lands to others. **The assignees were issued resumption. orders under Section (2) (a) of POT (AL) Act and resumed the lands to Government.**

4. Aggrieved by this Sri V. Sudhakar Reddy and some other persons approached the High Court of A.P. in this regard.

5. Meanwhile, the Collector, Nellore in his letter dated 23-10-1991 sought for a clarification, whether the assignees (Repatriates) as **per G.O.Ms.No.1024, Ind. & Commerce Department dated 2-11-1970 are conferred with the right of alienation of land assigned to them.**

6. The High Court of Andhra Pradesh in a batch of W.Ps filed by V.Sudhakar Reddy and some of other purchasers in a common judgment dated 27-12-1996 directed the Government to dispose of the representations filed by the petitioners after hearing the petitioner's counsel after giving notice to him. Till Government disposed of the representations, status quo obtaining as on today regarding possession was directed to be continued.

7. In pursuance of High Court directions, notices were issued to the petitioner's to appear before the Government for hearing whose representations were pending before the Government. The case came up for hearing on 26-8-2000. Heard the petitioners. The Revision petition is allowed.

8. After careful examination of the matter, the Government is of the opinion that assignees (repatriates) are very much entitled for the rights of alienation of land assigned to them as per G.O.Ms. No: 1024, Industries & Commerce Department dated 2-11-1970.

9. The Collector, Nellore is therefore, **directed to issue regular pattas to the petitioners with all rights due therein.**

10. The Collector, Nellore shall-take necessary action accordingly:

A.V.S. REDDY;
PRINCIPAL SECRETARY TO GOVERNMENT."

35. As per the said memo dated 16.09.2000, Government of India established a Rocket Launching Station at Sriharikota, Nellore District. At that time, the inhabitants of Sriharikota had been evicted and rehabilitated in other villages. G.O.Ms.No.1024, Industries & Commerce department dated 02.11.1970 were issued providing certain rehabilitative facilities and benefits to them. It mentions that the assignees were issued resumption orders under Section (2)(a) of Andhra Pradesh Assigned Lands (prohibition of Transfers) Act, 1977 and resumed the lands to Government. Against the resumption order some persons approached the High Court in writ petitions, and pending the writ petitions, the Collector Nellore vide letter dated 23.10.1991 sought for a clarification, whether the assignees (Repatriates) as per

G.O.Ms.No.1024 were conferred with the right of alienation of land assigned to them. In batch of said writ petitions, decided by common judgment dated 27.12.1996 the High Court had directed the Government to dispose of the representations of the writ petitioners after hearing them and after giving notice to them and till the disposal of the representation, it was directed that, the status-quo shall be maintained with respect to the possession as on that date. Notices were issued to the writ petitioners for hearing whose representations were pending. The hearing was conducted on 26.08.2000. The representations were allowed and the Government was of the opinion that assignees (repatriates) were very much entitled for the rights of alienation of land assigned to them as per G.O.Ms.No.1024 dated 02.11.1970. The Collector was directed to issue regular pattas to the petitioners with all rights due therein.

36. Considering the memo dated 16.09.2000, it was held by this Court in W.P.No.23208 of 2010 that the Government is the final authority in the matter which had accepted that the assignment in favour of repatriates was not subjected to the restrictions of D-form assignments. Once the power of alienation was given to the assignees and recognised by the Government, the respondents were not well within their jurisdiction to treat the assignment in favour of petitioners as D-Form assignment and offer to pay exgratia. It was for the Government to decide the right and nature of assignment under G.O.Ms.No.1024 dated 02.11.1970. The Government decided the issue in favour of repatriates. The decision of the Government was binding. If proper and applicable import was given to the conceded right of alienation in favour

of assignees/repatriates, the position of the petitioners would be that of the owners who could independently deal with their property and not assignees with restricted right. It was then further observed that the respondent No.3 committed serious illegality by holding that for the purpose of maintaining contiguity with the lands acquired under the acquisition proceedings, the land belonging to the petitioners were imminently required and the lands were resumed and the petitioners were entitled for exgratia in terms of G.O.Ms.No.1307 dated 23.12.1990. The resumption was effected through an executive order and not in accordance with law. Placing reliance in ***M/s.Bishambar Dayal Chandra Mohan V. State of Uttar Pradesh and others*** [2] it was held that the 'law' in the context of Article 300A of the Constitution of India must mean an Act of Parliament or of a State Legislature, a rule, or a statutory order, having the force of law, that is positive or State-made law. The exgratia referred in G.O.Ms.No.1307 did not satisfy the requirements of law under Article 300A of the Constitution of India.

37. Further, referring to the judgment dated 15.12.2008 in W.P.No.26439 of 2008 in which it was declared that the compensation to the petitioners should be determined in accordance with the Act, it was held in W.P.No.23208 of 2010 that the proceedings impugned in W.P.No.23208 of 2010 did not satisfy such direction of this Court to pay compensation in accordance with the Act between the parties as in the earlier round of

[2] AIR 1982 SC 32

litigation. It was further observed that the Order in W.P.No.26439 of 2008 had become final and wrongly applied to singular fact situation.

38. The relevant part from the impugned judgment dated 04.11.2013 reads as under:

> "The Government, considering the hardship and disturbance to normal living conditions of displaced persons due to establishment of research and development space centre and also to avoid litigation or hardship to the repatriates, provided comprehensive package in the form of cash benefit and grant of agricultural land for cultivation. There is nothing on record to show that the grant is under the Darkasth Rules. The respondents failed to prove their stand that these are D-Form assignments. On the other hand; the Government through its Memo dated 16.9.2000 after careful examination of the matter decided that the assignees (repatriates) are very much entitled for the rights of alienation of assigned land as per G.O.Ms.No.1024 dated 2.11.1970. The Government which is the final authority in the matter has accepted that the assignment in favour of repatriates is not subjected to the restrictions of D-Form assignments. Once the power of alienation is given to the assignees and recognised by the Government, the respondents are not well within their jurisdiction to treat the assignment in favour of petitioners as D-Form assignment and offer to pay ex gratia. It is for the Government to decide the right and nature of assignment under G.O.Ms.No.1024 dated 02.11.1970. In the instant case, much earlier to any controversy cropping up, the Government decided the issue in favour of repatriates. The decision of the Government is binding on the respondents. If proper and applicable import is given to the conceded right of alienation in favour of assignees/ repatriates, the position of the petitioners will be that of owners who can independently deal with their property and not assignees with restricted right. The 3rd respondent has committed serious illegality by holding that for the purpose of maintaining contiguity with the lands acquired under the acquisition proceedings, the land belonging to the petitioners are imminently required and the lands were resumed and the petitioners are entitled for ex gratia in terms of G.O.Ms.No. 1307 dated 23.12,1990. The resumption is effected through an executive order and not in accordance with law.
>
> In ***M/s. BISHAMBAR DAYAL CHANDRA MOHAN ETC. V. STATE OF U.P AND OTHERS*** {AIR 1982 SC 32}, the Apex Court held that :

"The State Government cannot while taking recourse to the executive power of the State under Art. 162, deprive a person of his property. Such power can be exercised only by authority of law and not by a mere executive fiat or order. Art. 162, as is clear from the opening words, is subject to other provisions of the Constitution. It is therefore, necessarily subject to Art.300A. The word "law" in the context of Art.300A, must mean an Act of Parliament or of a State Legislature, a rule, or a statutory order, having the force of law, that is positive or State-made law. The effect of the Constitution (Fourth) Amendment Act, 1955, is that there, can be no "deprivation" unless there is extinction of the right to property. (Obiter)."

From the above, it is clear that the law means an act of Parliament or of a State legislature, Rule or a statutory order having the force of law i.e., positive or State made law. **The ex gratia referred to in G.O.Ms. No. 1307 does not satisfy the requirements of law under Article 300-A of the Constitution of India.**

Further, this Court while **disposing of W.P. No.26439 of 2008 categorically declared that compensation to the petitioners should be determined in accordance with the Act**. The order impugned in the writ petition, by no stretch of imagination, can be held to be satisfying the direction of this Court between the parties in earlier round of litigation. **The order in writ Petition No.26439 of 2008 had become final and wrongly applied to the singular fact situation**."

39. W.P.No.23208 of 2010 was thus allowed vide judgment dated 04.11.2013 and the order of resumption vide Rc.No.F/1326/07 dated 23.09.2008 was also set aside, with the directions to proceed under the Land Acquisition Act.

II. Submissions of the learned counsels:

i) For Appellants:

40. Learned senior counsel Sri K. S. Murtthy for the appellant with Sri D.Prakasam Reddy, submitted that three successive writ petitions were filed asking for declaration regarding the status of the writ petitioners in the land,

which were decided giving only the relief of monitory compensation. The 4th writ petition (W.P.No.23208 of 2010) was filed challenging the order of Revenue Divisional Officer fixing the compensation vide order dated 21.07.2010. In all the aforesaid three Writ Petition Nos. 561 of 2007, 18226 of 2007 and 26439 of 2008 which were filed by the same petitioners and decided by the Co-ordinate Benches the judgments proceeded treating the writ petitioners as the assignees of the government land. However, the fourth Writ Petition No.23208 of 2010 was decided declaring the status of the land as equivalent to patta lands relying upon the memo issued by the Principal Secretary to the Government dated 16.09.2000 by which the Collector was directed to issue regular pattas. He submitted that the memo dated 16.09.2000 is administrative in nature and it does not have any statutory force or backing. The assignment was done as per the statutory G.O.Ms.No1142 dated 18.06.1954 which was issued for the first time regarding the assigned lands and the status of the assigned lands. The GOs regarding assignment lands were issued from time to time and that G.O.Ms.No.1024, stated that the displaced families would be granted land for cultivation purpose. The Government Memo could not override or overrule the Government Order, which is statutory in nature issued in the name of the Governor. He relied in the case of ***K.V.Ramana Rao v. Government of Andhra Pradesh*** {2001 (4) ALD 852} to contend that the memo cannot and does not have an overriding effect over the Government Order. The G.O.Ms.No.1024 dated 02.11.1970, speaks about the rehabilitation facilities and not about alienation rights. The writ petitioners

had accepted that status of assignee in the year 1970 and could not re-agitate the issue in the fourth writ petition. The impugned order could not be passed in view of the judgments of co-ordinate benches in the previous writ petitions, and that too based on the Government Memo. He also placed reliance in ***Shahbna Abdulla v. Union of India*** {2024 INSC 612} to contend that the view taken in the impugned judgment, contrary to the judgments of Co-ordinate Benches between the same parties could not be legally passed.

41. Learned counsel for the appellant submitted that the judgments placed reliance in the impugned judgment were inapplicable. In ***Tukaram Kana Joshi v. Maharashtra Industrial Development Corporation*** {AIR 2013 SC 565} notification under Section 4(1) of the LA act was issued and the possession was taken but without compensation. In ***M/s.Bishambar Dayal Chandra Mohan etc., v. State of U.P*** {AIR 1982 SC 32} the goods were seized under the Essential Commodities Act. In the present case the assigned lands were resumed as per GOMs. paying the compensation as per the Government Order. In ***S.R.Ejaz v. T.N.Handloom Weavers' Cooperative Society Limited*** {(2002) 3 SCC 137} it was held that on expiry of lease the tenant cannot be dispossessed forcibly. The said judgment was not applicable as in the present case the assigned lands were resumed on payment of compensation at par the patta holders by the revenue department and for the same reason, he submitted that the decisions in ***State of UP v. Manohar*** {(2005) 2 SCC 126}, in ***Jilubhai Nanbhai Khachar etc. v. State of Gujarat*** {AIR 1945 SC 142} and ***DLF Qutab Enclave Complex Eductional Charitable Trust v. State of Haryana*** {(2003) 5 SCC

622} were also inapplicable to the present case as the land here was resumed by the Government, which resumption order was valid.

42. Sri K. S.Murthy, learned senior counsel for the appellants further submitted that all the lands mentioned in respect of the petitioners were resumed by the Government and alienated to APIIC and were purchased by Sri City from APIIC, which is in possession thereof. A school is being run by Chinmaya Mission, Hospital by Sankar Netralaya, Heliport with three helipads, Central Expressway, Melon Avenue, Commercial Avenue and 5th street are already established in parts of the subject lands.

43. A chart to the following affect with respect to all the thirty original writ petitioners has been filed mentioning as to which writ petitioners were given land to land and had filed the pattadar passbook, also mentioning which writ petitioners did not file the pass book and also mentioning with respect to the writ petitioners who filed the pass book without any evidence in the revenue records, the same is reproduced as under:.

WRIT PETITION - 23208 OF 2010 FILED BY SAKKUBAYAMMA AND 29 OTHERS OF THONDUR VILLAGE OF VARADAIAHPALEM MANDAL, CHITTOOR DISTRICT					
Sl. No.	Name / Father Names of the Petitioners as per WP	Pattadhar Pass Book (Yes or No)	Name of the Enjoyer as per Govt., Counter Affidavit	Remarks in Passbook	Remarks
1	N. Sakkubayamma W/o Munaswamy Sy no: 144/2 Extent: 2.72	Yes	N. Sakkubayamma W/o Munaswamy	Passbok filed, but no entry about Land to Land	
2.	G. Meena W/o Thyagarajan Sy no: 123/2 Extent: 2.47	Yes	G.Meena W/o. Thyagarajan 2. K. Sampath S/o. jayarami Reddy	Land to land given	

3	Sk. Govindaiah S/o Gurunadha Reddy	No	SK Govindaiah S/o. Gurunadha Reddy	No passbook filed	As per Govt's Counter Affidavit, Pujari Kamalamma is the Pattadar
4	Nadikara Mohan S/o Ranga Reddy Sy no: 125/2, 85/3 Extent: 2.35, 2.45	Yes	M. Sasi W/o. Mohan, D.in-law of Ranga Reddy (Sy no 125/2) Kuppi Reddy Dora S/o. Kuppi Reddy (Sy no 85/3)	Land to land given (memo)	
5	D. Saradamma W/o Ramadasu Sy no: 111/3 Extent : 2.3	Yes	M. Murugeshan S/o. Gangadharam	Land to land given	
6	Nadikara Ranga Reddy S/o Ramaswamy Reddy Sy no: 126/2 Extent: 2.65	Yes		Land to land given	Nadikara Ranga Reddy's name isnt mentioned either as pattadar or enjoyer in the Govt's counter
1	N. Mallika W/o Jayaram Reddy Sy no : 125/3 Extent: 2.37	Yes	Nataru Mallika W/o. Jarraiah Reddy	Land to land given	
8.	N. Chandramma W/o Ranga Reddy	No		No passbook filed	
9	C. Balaiah S/o Kuchelu Naidu	No	Kolavi Boopathamma @Pupathi S/o. Dhasaradan	No passbook filed	
10	Balajangam Koteswaraiah S/o Ramaiah Sy no : 74/2 Extent: 3.04	Yes	Balajangam Koteswaraiah S/o Ramaiah	Land to land given	
11	Balajangam Damodharam S/o Govinda Swamy Sy no : 79/1 Extent: 2.48	Yes	Balajangam Damodharam S/o Govindu Swamy	Land to land given	
12	Erakam Seshaiah S/o. Muthyala Naidu Sy no : 77/2 Extent: 2.72	Yes	Erakam Seshaiah S/o Muthyala Naidu	Land to land given	
13	Erakam Murugan	Yes	Erakam Murugan	Land to land	

	S/o Seshaiah Sy no : 149/3B Extent: 1.21		S/o Seshaiah	given	
14	Erakam Jamunamma W/o Seshaiah Sy no : 78/1 Extent: 2.36	Yes	Erakam Jamunamma W/o Seshaiah	Land to land given (Memo)	
15	Erakam Prakash So Muthyala Naidu Sy no : 77/1 Extent: 2.67	Yes	Erakam Prakash So Muthyala Naidu	Land to land given	
16	B. Rajendra S/o Nayanappa Reddy Sy no: 157/2 Extent: 2.52	Yes	B. Rajendra S/o Nayanappa Reddy	Land to land given (Memo)	Pattadar Passbook Filed as Exibit B2 by DW1 on 15.09.2016 in OS No. 21 of 2013 in the Court of Senior Civil Judge, Satyavedu
17	B. Chandraiah S/o Angappa Reddy Sy no: 181/3 Extent: 2.42	Yes	B. Chandraiah S/o. Ayyakannu Reddy	Land to land given	As per Passbook, name of the Petitioners father is Ayyakannu Reddy
18	Nimmala Venkatamma W/o Chinnaiah Sy no: 157/3 Extent: 2.37	Yes	Nimmala Venkatamma W/o Chinnaiah	Land to land given (Memo)	Passbook shows the name of Nimmala Venkatamma. Title deed shows in the name of Nimmala Chinnaiah
19	B. Chandraiah S/o. Challappa Reddy	No	B. Chandraiah S/o. Challappa Reddy	No passbook filed	
20	A. Sarojamma W/o Ramaiah	No	A. Sarojamma W/o Ramaiah	No passbook filed	
21	N. Seenaiah S/o Peeraiah	No	N. Seenaiah S/o Peeraiah	No passbook filed	
22	K. Parvathamma		Parvathamma	Land to land	Though the

	W/o Chandraiah sy no : 118/3B Extent: 1.00	Yes	W/o Chandraiah	given (Memo)	Passbook was issued in the name of Nimmala Chengaiah, it was struck off and the name of K.Parvathamma is mentioned with LT of Parvathamma. It should contain the LT of N.Chengaiah
23	SMS Ameed Saheb S/o Deva Shareeb Saheb	No	SMS Ameed Saheb S/o Deva Shareeb Saheb	No Passbook filed	
	Machi Meera Saheb So Shaik Dawwod Saheb	No	Machi Meera Saheb So Shaik Dawwo Saheb	No Passbook filed	
	M. Bibi W/o Moiddin Saheb	NO	Pudi Angamma W/o. Jayarami Reddy	No Passbook filed	
	Balajangam Chengamma W/o Krishnaiah Sy no : 78/2 Extent: 2.05	Yes	Balajangam Chengamma W/o Krishnaiah	Land to land given (Memo)	
	P. Munaswamy Reddy S/o Narayanaswamy Reddy Sy no : 176/3 Extent: 2.4	Yes	P. Munaswamy Reddy S/o Narayanaswamy Reddy	Land to land given	Pattadar passbook shows the name of Narayana swamy Reddy S/o. Munaswamy Reddy as Pattadar.
	K. Chandraiah So Challappa Reddy Sy no: 154/2 Extent: 2.84		K. Chandraiah S/o Challappa Reddy	Land to land given	
29	K. Ramamurthy S/o Rajavelu Reddy Sy no: 40/1 Extent: 2.57	Yes	1.K. Parvathamma W/o. Chandra Reddy Ext.Ac.1.28 2. K. Ramamurthy S/o. Rajavelu Reddy Ext.Acs. 1.29	Land to land given	As per Govt's Counter Kalangi Chinna Ponnu W/o Marimuthu is the Pattadar

30	E. Balasubramanyam S/o. Munaswamy Naidu Sy no : 82/1 Extent: 2.25	Yes	E. Balasubramanyam S/o. Munaswamy Naidu	Land to land given	As per Govt's Counter affidavit, he is having Ac.0.55 cents in Sy No.82/1A

44. Learned counsel further submitted that even if it be taken that some of the writ petitioners were issued pattadar pass books stating that the land was given in lieu of the land acquired at Sriharikota such endorsement was available only for 20 persons and out of those only the names of 10 persons were in the revenue records and there were no entry in the revenue records except mysteriously issued pattadar pass books for remaining 10 petitioners and they had not produced any documentary evidence to show their entitlement on the subject lands.

45. A chart mentioning which writ petitioner was involved in the previous writ petitions has also been submitted which is as follows:

Sl.No.	Name of the Writ Petitioner 23208/2010	Involved in Other W.P Nos		
1	N. Sakkubayamma w/o. Munaswamy	-	26439/08 R-1	18226/2007 R-12
2.	G.Meena W/o Tyagarajan	561/07 R-2	-	-
3.	SK Govindaiah W/o Gurunadha Reddy	561/07 R-3		
4.	Nadikara Mohan S/o Ranga Reddy	561/07 R-4		
5.	D.Saradamma Wo Ramadasu	561/07 R-5		
6.	Nadikara Ranga Reddy S/o Ramaswamy	561/07 R-6		

	Reddy			
7.	N.Mallika W/o Jayaram Reddy	561/07 R-7		
8.	Nadikara Chandramma Wo Ranga Reddy	561/07 R-8		
9.	M.C Balaiah S/o Late Mutuku Kuchelu Naidu	561/07 R-12 (C.Kuchelunaidu)	26439/08 R-12	
10.	Balajangam Koteswaraiah S/o Ramaiah	561/07 R-18	26439/08 R-2	
11.	Balajangam Damodaram S/o Govinduswamy	561/07 R-19	26439/08 R-3	-
12.	Erakam Sesaiah S/o Muthyala Naidu	561/07 R-20	26439/08 R-1	
13.	Erakam Murugan S/o Seshaiah	561/07 R-21	26439/08 R-10	
14	Erakam Jamunamma W/o Seshaiah	561/07 R-22	26439/08 R-4	
15	Erakam Prakash S/o Muthyala Naidu	561/07 R-23	26439/08 R-5	
16	B.Rajendra S/o Nayanappa Reddy	561/07 R-27	26439/08 R-11	
17	B.Chandraiah S/o Angappa Reddy	561/07 R-28? S/o. Ayyakannureddy	26439/08 R-14	
18	N.Venkatamma W/o Chinna	561/07 R-29	26439/08 R-7	
19	B.Chandraiah S/o Chellappa Reddy	561/07 R-31		
20	A. Sarojamma W/o Ramaiah		26439/08	

			R-18	
21	N.Seenaiah S/o Peeraiah	-	26439/08 R-17	
22	K.Parvathamma W/o Chandraiah	561/07 R-37		
23	S.M.S Ameed Saheb S/o Deva Shareeb Saheb	-	26439/08 R-16	
24	Machi Meera Saheb S/o Shaik davood Saheb	561/07 R-38		
25	M.Beebi W/o Moddin Saheb	561/07 R-39		
26	Balajangam Chengamma W/o Krishnaiah	561/07 R-41	26439/08 R-6	
27	P.Munaswamy Reddy S/o Narayanaswamy	-	- 26439/08 R-9	18226/07 R-11
28	K.Chandraiah S/o Challappa Reddy			
29	K.Ramurthy S/o Rajavelu Reddy			18226/07 R-10
30	E. Balasubramanyam S/o Munaswamy Naidu		26439/08 R-13	18226/07 R-7

46. Finally, learned counsel submitted that there is no illegality in resuming the land by the Government and further submitted that the payment of compensation in terms of the directions issued in the previous writ petitions shall be given to the writ petitioners, if not already paid, and if

there is some deficiency that is if some part remains to be paid pursuant to the direction, but the impugned order cannot be sustained holding the assignees as the owners of the land, based on the Government Memo and consequently the direction to acquire the land under the provisions of Land Acquisition Act, initiating the acquisition proceedings as per the directions given in the impugned judgment dated 04.11.2013 cannot be sustained. The impugned judgment dated 04.11.2013 deserves to be set aside.

47. Learned counsel for the appellant - APIIC in Writ Appeal No.259 of 2014 submitted that based on the orders passed in W.P.Nos.561 of 2007 and W.P.No.18226 of 2007 the compensation were determined as per the rate fixed in G.O.Ms.No.1307 dated 23.12.1993 and further determination was made as per the LA Act, 1894 granting an amount towards 30% of Solatium, Additional Market value @ 12% per annum and the enhancement agreed by negotiation committee @ 47.5%, pursuant to the directions in W.P.No.26439 of 2008. Consequently, therebeing resumption of land which was assigned to the writ petitioners and which resumption is valid and the compensation also having been determined and paid to the writ petitioners/deposited with the authorities, in terms of the orders passed in the previous writ petitions the direction issued in the impugned judgment to initiate the proceedings for acquisition under the LA Act and as per the direction issued, are illegal. There is no need nor a legal requirement to issue acquisition notification. Learned counsel for the appellant also relied upon the ***Mary Pushpam v. Telvi Curusumary*** {(2024) 3 SCC 224}.

48. Learned counsel submitted that out of 30 petitioners except Petitioner No. 28, others are either parties in W.P.No.561 of 2007 or in W.P.18226 of 2007 or in W.P.No.26439 of 2008 and some petitioners are parties in both the writ petitioners. He submitted that G.O.Ms.No.1024 provides for giving lands to two categories of people 1) persons who lost land and 2) persons who were displaced from the villages. He submitted that all the petitioners were displaced persons and not the land owners and were given the lands in terms of G.O.Ms.No.1024. So the assignment of land to them was as assignees of land without the right of alienation and consequently the alienation right could not be conferred by the Principal Secretary vide memo dated 16.09.2000, which memo could not override the Government order issued in the name of Governor. He referred to ***P.Tejaswari.v. State of AP*** {MANU/AP/0432/2024}. He submitted further that even under the memo the writ petitioners were not given any regular pattas by Collector with all the rights and finally.

49. He submitted further that the compensation in terms of G.O.Ms.1307 and the judgment of the full bench in ***Mekala Pandu*** (supra) was given to the writ petitioners, the assignees of the land, which has been deposited under the revenue deposit. There is no need for the acquisition and no compensation is to be paid under the new Act, 2013. He referred to ***Government of NCT of Delhi v. Sunil Jain*** {(2023) 8 SCC 700}.

50. Learned counsel for the State adopted the submissions of the learned counsels for the appellants.

ii) For respondents/writ petitioners:

51. Learned counsel for the respondents (writ petitioners) submitted that the land was given to the writ petitioners in lieu of their land acquired in SHAR. G.O.Ms.No.1024 dated 02.11.1970 was issued. Subsequently to clarify that the writ petitioners had the right to alienation, Government memo dated 16.09.2000 was issued. They submitted that the writ petitioners had the right of alienation and consequently, the order of resumption could not be passed. The Pattadar Pass book and the title deeds were issued. So, in case of any requirement of the land for any public purpose, it can only be acquired under the provisions of Land Acquisition Act. The same was not done there was violation of the writ petitioners right not to be deprived of their property same by authority of law. In their submission, the authority of law is the acquisition under the Land Acquisition Act. Learned counsels further submitted that there is no illegality in the order passed by the learned Single Judge.

52. With respect to the previous writ petitioners filed by the same petitioners which were decided treating the writ petitioners as the assignees of the land but allowing the compensation at par the land owners. In view of ***Mekala Pandu*** (supra) learned counsels for the writ petitioners submitted that after the order was passed calculating the compensation in terms of the judgment passed in the previous writ petitions, passing of the order determining the compensation gave a fresh cause of action to the writ petitioners and consequently they could file the fourth writ petition challenging the order dated 21.07.2010 and the previous judgment would

not come in the way of the writ petitioners. They supported the main judgment.

53. They also filed memo dated 17.06.2025 bringing on record the additional material papers termed as photocopy of the title deeds of some of the writ petitioners along with the copy of pattadar pass books.

54. Learned counsel for the respondents (writ petitioners) also filed a memo on their behalf submitting that some of the persons in Sriharikota colony, whose lands were also resumed, had approached the Joint Collector in revision and thereupon approached the Commissioner of Appeals in the office of Chief Commissioner, which allowed the appeal dated 20.06.2019 holding that the lands assigned to the displaced persons to SHAR project, Sriharikota were entitled for alienable rights on par with private patta lands and in the event of requirement of subject land and for any public purpose they were entitled for compensation under the provisions of right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

55. Learned counsels for the appellants placed reliance in the following judgments:

1) ***Rohan Vijay Nahar v. The State of Maharashtra***[3]
2) ***K. V. Ramana Rao v. Government of Andhra Pradesh***[4]
3) ***P. Tejeswari v. The State of AP***[5]

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[3] (2026) 2 SCC 182
[4] 2001 SCC OnLine AP 462
[5] 2024 SCC OnLine AP 762

4) ***Land Acquisition Officer-cum-Revenue Divnl Officer, Chevella Divn. V. Mekala Pandu***[6]

5) ***Yadaiah v. State of Telangana***[7]

56. Learned counsel for the respondents/writ petitioners placed reliance in the following judgments:

1) ***Narendrajit Singh V. State of U.P.***[8]

2) ***Sukh Dutt Ratra v. State of Himachal Pradesh***[9]

3) ***Vidya Devi v. State of Himachal Pradesh***[10]

4) ***Aligarh Development Authority v. Megh Singh***[11]

5) ***A.P.State Electricity Board Employees Union v. Joint Collector, Chittoor***[12]

57. We have considered the submissions advanced and perused the material on record.

58. From perusal of the impugned judgment in writ appeals it is evident that this Court proceeded on the basis that the writ petitioners became the land owners and were no more assignees, in view of the Government Memo dated 16.09.2000 They were assigned the lands under G.O.Ms.No.1024 dated 02.11.1970 but when the same was read along with the Government memo dated 16.09.2000, the Government treated them as owners of the

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[6] 2004 SCC OnLine AP 217
[7] (2023) 10 SCC 755
[8] 1970 (1) SCC 125
[9] (2022) 7 SCC 508
[10] (2020) 2 SCC 569
[11] (2016) 12 SCC 504
[12] 2008 (4) ALT 638

land. So, the resumption order did not satisfy the requirement of law under Article 300A of the Constitution of India. Taking of the lands from the writ petitioners was not in accordance to law. They could not be deprived of the right of property except by the procedure established by law which could be only under the Land Acquisition Act. The proceedings under the land acquisition Act were not initiated but the resumption order was passed which was not justified to deprive the writ petitioners of the land under Article 300A of the Constitution of India.

III. Point for consideration:

59. In the present case, the main point is as to whether the writ petitioners are the land owners or the assignees of the land? If they are the land owners then in that case, the land has to be acquired under the provisions of Land Acquisition Act by following the procedure prescribed therein and on payment of due compensation, which acquisition by notification admittedly has not been done. In the present case, the land has not been acquired but it has been resumed. If it is a case of resumption of land the writ petitioners being the assignees and having no alienable right, under the G.O.Ms.No.1024 dated 02.11.1970, then the question would be to what compensation the writ petitioners would be entitled? Further question would be whether the Government Memo dated 16.09.2000 can be considered as conferring the right of alienation so as to the writ petitioners being called ‘as owner of the land’. In other words, if that memo had the effect of changing the status of writ petitioners from the assignees to the land owners and then if that land could be taken by resumption order? Further, whether the

Government Memo dated 16.09.2000 is only clarificatory of G.O.Ms.No.1024 dated 02.11.1970. So the effect of the memo dated 16.09.2000 upon the G.O.Ms.No.1024 require consideration.

60. Further question would be when the resumption order dated 23.09.2008 was challenged in W.P.No.26439 of 2008 but was not interfered with, though at the time of decision of that writ petition No.26439 of 2008, the memo dated 16.09.2000 was also in existence, and the judgment in W.P.No.26439 of 2008 was also not challenged which attained finality, whether the resumption order could be set aside vide the impugned judgment dated 04.11.2013 in W.P.No.23208 of 2010 under challenge in the appeals and particularly when there was no challenge to the order of resumption in W.P.No.23208 of 2020.

IV. Consideration:

61. Firstly we consider ***Mekala Pandu*** (supra).

62. In ***Mekala Pandu*** (supra) reference was made to the Larger Bench on the following question of law;

> "Whether the claimants are entitled to payment of compensation under the provisions of the Land Acquisition Act, 1894 (for short 'the Act') when the assigned lands are resumed by the Government for a public purpose?"

63. The Larger Bench answered the reference holding that the assignees of the government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with

the terms of grant or patta, though such resumption is for a public purpose. It was held further that even in cases where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of the Land Acquisition Act, 1894, the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of the Land Acquisition Act. No condition incorporated in patta/deed of assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land. It is appropriate to reproduce paragraphs 110 to 114 of ***Mekala Pandu*** (supra):

> "**110.** In the result, we hold that 'no compensation' clause, restricting the right of the assignees to claim full compensation in respect of the land resumed equivalent to the market value of the land, is unconstitutional. The 'no compensation clause' infringes the fundamental rights guaranteed by Articles 14 and 31-A of the Constitution. We are conscious that Article 21 essentially deals with personal liberty. But in cases where deprivation of property would lead to deprivation of life or liberty or livelihood, Article 21 springs into action and any such deprivation without just payment of compensation amounts to infringement of the right guaranteed thereunder. The doctrine of 'unconstitutional conditions' applies in all its force.
>
> **111.** In the circumstances, we hold that the assignees of the government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with the terms of grant or patta, though such resumption is for a public purpose. We further hold that even in cases where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of the Land

Acquisition Act, 1894, the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of the Land Acquisition Act, 1894. No condition incorporated in patta/deed of assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land.

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

113. We accordingly overrule the Larger Bench judgment in *Bondapalli Sanyasi* (2 supra).

114. The Reference is accordingly answered."

64. In ***Yadaiah*** (supra) the Hon'ble Apex Court considered the point of compensation for resumption. It considered the judgment in ***Mekala Pandu*** (supra). The Hon'ble Apex Court observed that the real issue in those cases viz., ***Mekala Pandu*** (supra); and ***State of A.P. v. Bondapalli Sanyasi***[13] pertained to; 'no compensation' clauses in the assignment and not the non-payment of compensation for violating conditions regarding non-alienability. In ***Yadaiah*** (supra), the Hon'ble Apex Court further observed that the observation of the High Court in respect of a constitutional right to compensation, in the aforesaid case of ***Mekala Pandu*** (supra) were disapproved by the Hon'ble Apex Court in

[13] 2001 SCC OnLine AP 1037

A.P.Industrial Infrastructure Corpn.Ltd. v. Ramesh Singh[14] while dismissing the civil appeals/special leave petitions including against the decision in ***Mekala Pandu*** (supra), in the case of ***Ramesh Singh*** (supra). Paragraphs 84 and 85 of ***Yadaiah*** (supra) are reproduced as under:

> "**C.5.** ***Compensation for resumption***
>
> **84.** Finally, we consider the aspect of compensation in respect of the subject land, which has been pressed into aid by the learned Senior Counsel Mr Reddy by relying on the decision of the High Court in *Mekala Pandu* [*LAO* v. *Mekala Pandu*, 2004 SCC OnLine AP 217] to contend that in case any assigned land is resumed for public purpose as sought to be done in the instant case, then market value of the said land must be paid as compensation. The relevant paragraphs of the cited decision are extensively reproduced as follows : (*Mekala Pandu case* [*LAO* v. *Mekala Pandu*, 2004 SCC OnLine AP 217] , SCC OnLine AP paras 80-83, 92, 100 & 110-112)
>
> "*80. The question that falls for consideration is whether the terms of grant or patta enabling the State to resume the assigned lands for a public purpose without paying compensation equivalent to the market value of the land to the assignees are valid in law? Whether such restrictive conditions or covenants suffer from any constitutional infirmity?*
>
> *81*. The State while directing no compensation be paid equivalent to the market value of the assigned lands never took into consideration and had any regard to the length of time the land held by the grantee or assignee, the social objectives for which the assignment had been made by the State in discharge of its constitutional obligation of providing public assistance to the weaker sections of the society, the improvements or developments upon the land made by the assignees on any legitimate expectation of continuance of the assignment, heritable nature of the right under the grant, etc.
>
> *82. The question is whether the "no compensation clause" imposed in the grant of assignment, in effect, requires the assignee to relinquish some constitutional right? Whether the conditions imposed at the time of assignment are "unconstitutional conditions"?*

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[14] 2014 SCC OnLine SC 1885

83. The assignees are constitutional claimants. The constitutional claim cannot be subjected to governmental restrictions or sanctions except pursuant to the constitutionally valid rule or law. There is no legislation enacted by the State compelling it to assign the lands to the weaker sections of the society. The State obviously assigned and granted pattas as a measure of providing public assistance to the weaker sections of the society. The proposition is that as a general rule the State may grant privilege upon such conditions as it sees fit to impose; but the power of the State in that regard is not unlimited, and one of the limitations that it may not impose conditions which require the relinquishment of constitutional rights. That whenever State is required to make laws, regulations or policies, it must do so consistently with the directive principles with a view to securing social and economic freedom so essential for establishment of an egalitarian society. The directive principles of State policy reflect the hopes and aspirations of people of this great country. The fact that they are not enforceable by any court in no manner reduces their importance. They are nevertheless fundamental in the governance of the country and the State is under obligation to apply them in making laws and framing its policies particularly concerning the weaker sections of the society.

***

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

***

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

***

110. In the result, we hold that "no compensation" clause, restricting the right of the assignees to claim full compensation in respect of the land resumed equivalent to the market value of the land, is unconstitutional. The "no compensation clause" infringes the fundamental rights guaranteed by Articles 14 and 31-A of the Constitution. We are conscious that Article 21 essentially deals with personal liberty. But in cases where deprivation of property would lead to deprivation of life or liberty or livelihood, Article 21 springs into action and any such deprivation without just payment of compensation amounts to infringement of the right guaranteed thereunder. The doctrine of "unconstitutional conditions" applies in all its force.

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

112. In such view of ours, the view taken by this Court in *Bondapalli Sanyasi* [*State of A.P.* v. *Bondapalli Sanyasi*, 2001 SCC OnLine AP 1037] that whenever the land is taken possession of by the State invoking the terms of the grant, the right of an assignee to any compensation may have to be determined in accordance with the conditions in patta itself is unsustainable. With due respect, we are unable to agree with the view taken in this regard. We are also unable to agree with the view taken that the assignee shall be entitled to compensation in terms of the Land Acquisition Act not as owner but as an interested person for the interest he held in the property."

(emphasis supplied)

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

non-payment of compensation for violating conditions regarding non-alienability as involved in the case in hand. **That apart, the High Court's observation in respect of a constitutional right to compensation were disapproved by this Court** while dismissing the civil appeals/special leave petitions including against the decision in *Mekala Pandu* [*LAO* v. *Mekala Pandu*, 2004 SCC OnLine AP 217] as is discernible from the following order [*A.P. Industrial Infrastructure Corpn. Ltd.* v. *Ramesh Singh*, **2014 SCC OnLine SC 1885**] : (*Ramesh Singh case* [*A.P. Industrial Infrastructure Corpn. Ltd.* v. *Ramesh Singh*, 2014 SCC OnLine SC 1885] , SCC OnLine SC paras 1-4)

"*1*. Having regard to the peculiar facts and circumstances of the case noted in the impugned judgment(s) [*Ramesh Singh* v. *Collector & Mandal Revenue Officer*, 2004 SCC OnLine AP 1451] , we are satisfied that these are not fit cases for exercise of our jurisdiction under Article 136 of the Constitution of India.

2. Civil appeals and special leave petition are, accordingly, dismissed.

3. No costs.

4. ***Certain observations made in the impugned order(s) about the status of claimants as "constitutional claimants" are kept open to be considered in appropriate case, if necessary***."

(emphasis supplied)

65. In ***Yadaiah*** (supra) the Hon'ble Apex Court further observed and held that there is difference between the terms "acquisition" and "resumption" in the context of property laws. While both terms indicate deprivation of a right, there exists a significant distinction in their actual legal connotation. Acquisition denotes a positive act on behalf of the State to deprive an individual's enjoyment of a pre-existing right in a property in furtherance of its policy whereas resumption denotes a punitive action by the State to take back the right or an interest in a property which was granted by it in the first place. The Hon'ble Apex Court further held that

the term “resumption” must not therefore be conflated with the term “acquisition” as employed within the meaning of Article 300-A of the Constitution so as to create a right to compensation. The Hon’ble Apex Court held that the resumption order, in that case, was valid. It further held that the appellants therein were not entitled to any compensation under the existing constitutional framework.

66. Paragraphs 86, 87 and 88 of ***Yadaiah*** (supra) are being reproduced as under:

> “**86. Importantly, we must be cautious of the difference between the terms “acquisition” and “resumption” in the context of property laws. While both terms indicate deprivation of a right, there exists a significant distinction in their actual legal connotation. Acquisition denotes a positive act on behalf of the State to deprive an individual's enjoyment of a pre-existing right in a property in furtherance of its policy whereas resumption denotes a punitive action by the State to take back the right or an interest in a property which was granted by it in the first place. The term “resumption” must not therefore be conflated with the term “acquisition” as employed within the meaning of Article 300-A of the Constitution so as to create a right to compensation.** Keeping this mark distinction in view, it is not necessary for us to determine whether an expropriated owner has an impeachable constitutional right to compensation under Article 300-A of the Constitution in lieu of his acquired property.
>
> **87.** It is also pertinent to note that serious allegations prevail against the appellants for being involved with the land mafia to usurp the subject land for private interests which was the precise reason for the Government to introduce legislation in the nature of the 1977 Act. Resultantly, in the facts and circumstances of this case, we hold **that the appellants are not entitled to any compensation under the existing constitutional framework**.
>
> **D. *Conclusion***
>
> **88.** In light of the abovementioned discussion, we conclude that the proceedings emanating out of the Second SCN were valid; the subject land

> was nonalienable and hence was subject to the provisions of the 1977 Act. We further hold that the appellants had transferred the subject land in contravention to the provisions of the 1977 Act and therefore, **the resultant resumption order dated 27-1-2007 is valid. The appellants are also not entitled to any compensation on account of the requisition of the assigned land**."

67. In ***Yerikala Sunkalamma v. State of Andhra Pradesh***[15] also the Hon'ble Apex Court considered on the point of compensation in cases of resumption of land. The case of ***Mekala Pandui*** (supra) was considered. In that case State had admitted that pattdar passbooks were issued to the appellants therein years back and they were also paying taxes and revenue receipts which were also exhibited in the form of documentary evidence. It was observed that the rights specifically vested in the appellants by way of issuance of pattadar passbooks and what was vested in the appellant with the issuance of pattadar passbook was a property within the meaning of Article 300-A of the Constitution. No person shall be deprived of his property save by authority of law and considering the nature of the land, the area of the suit land and the duration of the litigation, the State was directed to pay compensation of the fixed amount as determined by the Hon'ble Apex Court.

68. It is relevant to mention that in the case of ***Yerikala Sunkalamma*** (supra) the appellants had a sale deed in their favour which never came

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[15] 2025 SCC OnLine SC 630

to be questioned by the State at any point of time vide para 45 of the judgment which reads as under:

> **"45.** Thus, mere recording of right under the Act of 1971, by itself, may not be a conclusive proof of title and ownership, but it definitely records rights of the person. Once the recording is done, followed by the issuance of a *pattadar* pass book, the presumption in favour of the holder of the pass book is that he is having right in the land in question. In the case on hand, the appellants have a sale deed in their favour which never came to be questioned by the State at any point of time."

69. In ***Yerikala Sunkalamma*** (supra) the appellants therein were unlawfully dispossessed from the subject land without any intimation of prior notice. They filed the suit for declaration of their title to the subject land. The Trial Court decreed the suit in favour of the appellants on the findings recorded to the effect that the resumption proceedings conducted by the Mandal Revenue Officer was committed with serious irregularities, as also on the finding recorded that the issuance of the pattadar passbook duly signed by the then Tahsildar in favour of the appellants combined with the land revenue receipts was served as clear indicators of the actual possession and enjoyment of the Subject Land by the appellants and that was considered to have sufficiently established the appellants' title and possession to the Subject Land, thereby entitling them to recover possession of the same. The High Court allowed the appeal and set aside the decree of the trial court on the ground that the appellants had failed to establish their title over the subject land, and they have further failed to produce any valid documents to counter the case of

the respondents that the subject land was a Government assigned land. The High Court had also taken the view that if a D-Form patta contains a condition permitting the Government to resume an assigned land for a public purpose, such condition remains binding irrespective of the duration of possession by the assignee or those claiming through them. The High Court noted that in cases of assigned lands, the proprietary rights remain with the Government, and as such, no assignee can claim a title beyond what is expressly stipulated in the conditions of assignment, and further that an assignee cannot lawfully transfer an assigned land and no transferee can claim a better title than the assignee.

70. In the State of Andhra Pradesh there are 3 distinct periods on the issue of assignments and non-alienation; prior to 1954 there was no condition of non-alienation; from 1954 to 1977 executive instructions in G.O.Ms.No.1142, which introduced the condition of non-alienation; and post 1977 the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (in short 'Assignment Act') was enacted. Section 2 (1) of the Act 1977 defined 'assigned lands' and 'assigned' as lands assigned to the "subject to the condition of non-alienation".

71. The Hon'ble Apex Court observed and held that a "Pattadar" is essentially a landowner who holds a land deed (Patta) directly from the government and is registered in the land revenue accounts as the holder or occupant of the land, liable to pay land revenue. It was elaborated that a patta is a type of land deed issued by the government, indicating

ownership or the right to hold land. Consequentially, the person who holds this land deed (Patta) is called a Pattadar. The Pattadars are responsible for paying land revenue to the government and their names are registered in the land revenue accounts of the government as a Pattadar, or as an occupant, or a khatadar.

72. It was further held that a Pattadar Passbook is a document that contains all the information about the landowner, including their landownership details. Revenue officials, such as Tehsildars, are responsible for maintaining land records and verifying, modifying, and registering Pattas. The Patwari is the land record official at the village level, who maintains records of rights and other records concerning land.

73. Drawing the distinction between Land Patta Holder and Land Allottee, the Hon'ble Apex Court observed that upon a comparison between the two expressions, it can be seen that a Land Patta Holder is a person who has been granted a Patta (a legal document) that confers rights over a specific piece of land, typically indicating ownership or entitlement to use the land. On the other hand, a Land Allottee is a person to whom land has been allotted by the Government or relevant authority, often under specific conditions and for designated purposes. Pointing further difference, the Hon'ble Apex Court held that with respect to the nature of rights, the Land Patta Holder possesses rights that are often permanent, heritable, and transferrable, as established under various land revenue regulations. However, a Land Allottee, may not

have the same level of rights. Allotment can be conditional and may not confer full ownership rights. For example, the conditions of allotment may restrict transferability or impose specific usage requirement. With respect to the legal understanding, it was observed that the Patta Holder is recognized as having a legal claim to the land, which can be defended in court. The Patta serves as evidence of ownership or entitlement. A Land Allottee, on the other hand, may have limited rights, especially if the allotment was made under specific government schemes or conditions that restrict ownership rights. For instance, the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (the “Act of 1977”), imposes restrictions on the transfer of assigned lands. While Land Patta Holders generally have the right to transfer their interests in the land, subject to any conditions specified in the patta, the allottees may face restrictions on transferring their rights, particularly within a specified period or without government permission.

74. Referring to the provisions of the Andhra Pradesh (Record of Rights in Land and Pattadar Pass Books) Act, 1971, the Hon’ble Apex Court observed that the purpose of a Pattadar Passbook is to ensure that there remains a record of rights in respect of a particular stretch of land. Therefore, a person holding a Pattadar Passbook is mandated under the said Act to have necessary entries of alienation, transfer of land etc. But observed further that mere recording of right under the Act of 1971, by itself, may not be a conclusive proof of title and ownership, but it definitely

records rights of the person. Once the recording is done, followed by the issuance of a pattadar pass book, the presumption in favour of the holder of the pass book is that he is having right in the land in question.

75. Referring to the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act 1977, it was observed that it restricts the transfer of assigned lands, indicating that an allotment does not equate to full ownership rights. No right or title in such assigned land shall vest in any person acquiring the land by such transfer. However, such transfer of assigned land, if any, in favour of another landless poor person in good faith, for a valuable consideration, is saved.

76. Paragraphs 38 to 52 and 115 till 126 and conclusion para 127 of ***Yerikala Sunkalamma*** (supra) are reproduced as under:

> **"38.** Before adverting to the rival submissions canvassed on either side, we must try to understand as to who is a Pattadar : A "Pattadar" is essentially a landowner who holds a land deed (Patta) directly from the government and is registered in the land revenue accounts as the holder or occupant of the land, liable to pay land revenue.
>
> **39.** To put it more elaborately, a "Patta" is a type of land deed issued by the government, indicating ownership or the right to hold land. Consequentially, the person who holds this land deed (Patta) is called a Pattadar. The Pattadars are responsible for paying land revenue to the government and their names are registered in the land revenue accounts of the government as a Pattadar, or as an occupant, or a khatadar. A Pattadar Passbook is a document that contains all the information about the landowner, including their landownership details. Revenue officials, such as Tehsildars, are responsible for maintaining land records and verifying, modifying, and registering Pattas. The Patwari is the land record official at the village level, who maintains records of rights and other records concerning land.

40. Upon a comparison between a Land Patta Holder and a Land Allottee, it can be seen that a Land Patta Holder is a person who has been granted a Patta (a legal document) that confers rights over a specific piece of land, typically indicating ownership or entitlement to use the land. On the other hand, a Land Allottee is a person to whom land has been allotted by the Government or relevant authority, often under specific conditions and for designated purposes.

41. There exist several key differences between a Land Patta Holder and a Land Allottee. With respect to the nature of rights, it can be seen that a Land Patta Holder possesses rights that are often permanent, heritable, and transferrable, as established under various land revenue regulations. *For instance*, the Assam Land and Revenue Regulation, 1886, states that a Patta Holder has a permanent, heritable and transferable right of use and occupancy in their land. However, a Land Allottee, may not have the same level of rights. Allotment can be conditional and may not confer full ownership rights. *For example*, the conditions of allotment may restrict transferability or impose specific usage requirement.

42. As far as their legal standing is concerned, the Patta Holder is recognized as having a legal claim to the land, which can be defended in court. The Patta serves as evidence of ownership or entitlement. A Land Allottee, on the other hand, may have limited rights, especially if the allotment was made under specific government schemes or conditions that restrict ownership rights. For instance, the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (the "**Act of 1977**"), imposes restrictions on the transfer of assigned lands. While Land Patta Holders generally have the right to transfer their interests in the land, subject to any conditions specified in the patta, the allottees may face restrictions on transferring their rights, particularly within a specified period or without government permission.

43. At this juncture, we must also look into a few relevant legal provisions, particularly the Act of 1971 and the Act of 1977 respectively, as they existed during the date on which, according to the respondents herein, the alleged resumption proceedings took place i.e., on 03.02.1989.

i. <u>The Andhra Pradesh (Record of Rights in Land and Pattadar Pass Books) Act, 1971</u>

44. A bare perusal of the Act of 1971 indicates that the purpose of a Pattadar Passbook is to ensure that there remains a record of rights in respect of a particular stretch of land. Therefore, a person holding a Pattadar Passbook is

mandated under the said Act to have necessary entries of alienation, transfer of land, etc. The Act of 1971 is reproduced below:

"1. Short title, extent and commencement: *- (1) This Act may be called the Andhra Pradesh (Record of Rights in Land and Pattadar Pass Books) Act, 1971.*

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force in such area or areas and on such date or dates as the Government may, by notification, from time to time specify in this behalf."

Section 2(4) defines the term "*land*" as under:

"(4) "Land" means land which is used or is capable of being used for purposes of agriculture, including horticulture but does not include land used exclusively for non-agricultural purposes"

Section 2(4-a) defines who is "*Mandal Revenue Officer*" as under:

"[(4-a) "Mandal Revenue Officer" means the Officer-in charge of a Revenue Mandal and includes any Officer of the Revenue Department authorised by the Commissioner to perform the functions of the Mandal Revenue Officer under this Act"

Section 2(6) defines the term "*Occupant*" as under:

"(6) "Occupant" means a person in actual possession of land, other than a tenant or a usufructuary mortgagee."

Section 2(7) defines who is "*Pattadar*" as under:

"(7) "Pattadar" includes every person who holds land directly under the Government under a patta whose name is registered in the land revenue accounts of the Government as pattadar or an occupant or khatadar and who is liable to pay land revenue."

Section 2(9) defines "*Records of Rights*" as under:

"(9) "Record of Rights" means records prepared and maintained under the provisions, or for the purposes of this Act"

Sections 6, 6-A and 6-B read thus:

*"**6. Presumption of correctness of entries in record of rights -** Every entry in the record of rights shall be presumed to be true until the contrary is proved or until it is otherwise amended in accordance with the provisions of this Act.*

6-A. Passbook holder to have entries of alienation etc. recorded in Passbook:—

(1) Every Owner, Pattadar, mortagee, occupant, or tenant of any land shall

apply for the issue of a Passbook to the Mandal Revenue Officer on payment of such fee, as may be prescribed:

Provided that where no application is made under this subsection, the Mandal Revenue Officer may suo-moto issue a passbook after following the procedure prescribed under subsection (2) and collect the fee prescribed therefor.

(2) On making such application, the Mandal Revenue Officer shall cause an enquiry to be made in such manner as may be prescribed and shall issue a passbook in accordance with the Record of Rights with such particulars and in such form as may be prescribed:

Provided that no such passbook shall be issued by the Mandal Revenue Officer unless the Record of Rights have been brought up to date.

(3) The entries in the passbook may be corrected either suo-moto or on application made to the Mandal Revenue Officer in the manner prescribed.

(4) The Government may prescribe by rules the manner in which the pass book may be issued to all owners, pattadars, mortgagees or tenants and to such other person in accordance with the Records of Rights.

(5) The passbook issued under sub-section (1) and duly certified by the Mandal Revenue Officer and any other authority as may be prescribed shall be the record of the title in respect of an owner and the rights and interests in land in respect of others. Every entry in the passbook shall be presumed to be correct and true unless the contrary is proved.

6-B. Passbook holder to have entries of alienation etc. recorded in passbook:— *Notwithstanding anything contained in the Registration Act, 1908, every passbook holder presenting a document of title-deed before a registering officer appointed under the said Act, on or after coming into force of the Andhra Pradesh Record of Rights in Land (Amendment) Act, 1980, relating to alienation or transfer recorded in the passbook by such registering officer or by the recording authority in respect of all other cases of transfers of land effected otherwise than under a registered document."*

45. Thus, mere recording of right under the Act of 1971, by itself, may not be a conclusive proof of title and ownership, but it definitely records rights of the person. Once the recording is done, followed by the issuance of a *pattadar* pass book, the presumption in favour of the holder of the pass book is that he is having right in the land in question. In the case on hand, the appellants have a sale deed in their favour which never came to be questioned by the State at any point of time.

ii. <u>The Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977</u>

46. The Act of 1977 restricts the transfer of assigned lands, indicating that an allotment does not equate to full ownership rights. The Act of 1977 is another piece of legislation, which is protective in its nature, with a view to prevent transfers and alienations of assigned lands. The said Act further provides for restoration of such lands to the assignees. Section 3 of the Act of 1977 declares that notwithstanding anything to the contrary in any other law for the time being in force, no land assigned to a landless poor person for the purpose of cultivation or as a house site shall be transferred and shall be deemed never to have been transferred; and accordingly no right or title in such assigned land shall vest in any person acquiring the land by such transfer. However, such transfer of assigned land, if any, in favour of another landless poor person in good faith, for a valuable consideration, is saved. The Competent Authority is assigned with the duty to take possession of the assigned land after evicting the purchaser in possession and restore the assigned land to the original assignee or his legal heir, or where it is not reasonably practicable to do so, to resume the same to government for assignment to landless poor persons in accordance with the Rules.

47. Section 2(1) defines the expression "assigned lands". The same reads thus:

*"**Section 2. Definitions**:— In this Act, unless the context otherwise requires*,

(1) "assigned lands" means lands assigned by the Government to the landless poor persons under the rules for the time being in force, subject to the condition of non alienation and includes lands allotted or transfered to landless poor persons under the relevant law for the time being in force relating to land ceilings; and the word "assigned" shall be construed accordingly."

48. Section 2(3) defines who is a "landless poor person" and the same reads thus:

"(3) "landless poor person" means a person who owns an extent of land not more than 1.011715 hectares (two and half acres) of wet land or 2.023430 hectares (five acres) of dry land or such other extent of land as has been or may be specified by the Government in this behalf from time to time, and who has no other means of livelihood."

49. Section 2(6) defines the term "transfer" as under:

"(6) "transfer" means any sale, gift, exchange, mortgage with or without possession, lease or any other transaction with assigned lands, not being a testamentary disposition and includes a charge on such property or a contract relating to assigned lands in respect of such sale, gift, exchange, mortgage, lease or other transaction."

50. A plain reading of the above provisions would show that three types of land are treated as assigned lands for the purpose of the Act of 1977 : (i) the land assigned by the Government to a landless poor person under the rules for the time being in force; (ii) the land allotted/transferred to the landless poor person under relevant law relating to land ceilings; (iii) the land which is allotted or transferred subject to the condition of non-alienation. Any person who owns an extent of less than 1.011715 hectares (2.50 acres) of wet land or 2.023430 hectares (5.00 acres) of dry land is a landless poor person. Assigned land is heritable and it can be transferred by testamentary disposition. However, any sale, gift, exchange, lease, or any other transaction in relation to assigned land is treated as transfer and Section 3(1) declares that such land shall not be transferred and shall be deemed never to have been transferred. Any such transfer of assigned land shall not confer any right on the purchaser of such assigned land and the land shall not vest in any person acquiring the land by any such transaction.

51. Section 3 of the Act of 1977 reads thus:

*"**Section 3. Prohibition of transfer of assigned lands:—** (1) Where, before or after the commencement of this Act, any land has been assigned by the Government to a landless poor person for purposes of cultivation or as a house site, then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to such land, it shall not be transferred and shall be deemed never to have been transferred; and accordingly no right or title in such assigned land shall vest in any person acquiring the land by such transfer.*

(2) No landless poor person shall transfer any assigned land, and no person shall acquire any assigned land, either by purchase, gift, lease, mortgage, exchange or otherwise.

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

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

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

52. Section 3(2) of the Act of 1977 declares that no landless poor person shall transfer any assigned land and no person shall acquire any assigned land. Subsection (3) of Section 3 declares that any transfer or acquisition made in contravention of the provisions of sub-section (1) or sub-section (2) shall be deemed to be null and void. Sub-section (5) carves out an exception and a plain reading of sub-section (5) would show that nothing in sub-sections (1) to (4) of Section 3 shall apply to the assigned land which was purchased by a landless poor person in good faith and for valuable consideration from the original assignee or his transferee, prior to the commencement of the Act provided that such person is in possession of the land "as a person cultivating the land or uses it as a house-site" on the date of such commencement."

.....

"**ix. <u>Payment of compensation in cases of resumption of land.</u>**

115. In *Land Acquisition Officer-cum-R.D.O.* v. *Mekala Pandu*, 2004 SCC OnLine AP 217, a Full Bench comprising of 7 Judges had to be constituted in the High Court of Andhra Pradesh for the purpose of answering the reference - "*whether the claimants are entitled to payment of compensation under the provisions of the Land Acquisition Act, 1894 (for short, the Act, 1894") when the assigned lands are resumed by the Government for a public purpose*?"

116. For the sake of clarity, we find it necessary to give a background of how the aforesaid question came to be referred to the High Court in *Mekala Pandu* (supra). The High Court had the occasion to address the issue of compensation in lieu of assigned lands resumed by the Government initially in *State of A.P.* v. *P. Peda Chinnayya*, 1996 SCC OnLine AP 60, wherein it held thus:

"Where the Government resorts to the provisions of the Act for acquisition of the patta lands without resorting to the terms of the grant for resumption, it is

liable to pay compensation under the Act, but such compensation will be only the market value of the interest of the owner or the assignee of the land, subject to the clog. In such cases of acquisition, the claimant would also be entitled to consequential reliefs, such as those of solatium and interest etc., under the Act. In a case where the patta lands are resumed by the Government, the assignees cannot claim compensation under the Act, but can claim compensation equal to the market value of their interest in the land, subject to the clog. In such cases, no solatium may be payable but interest may be claimed on the amount of compensation from the date of dispossession and till the date of payment of compensation. In a case where the assignees are dispossessed from their patta lands without resuming the lands in terms of the grant and/or initiation of proceedings under the Act, the Government may be directed to initiate proceedings under the Act and to pay compensation under the Act as indicated."

117. The very same issue as above once again was referred to and came up for consideration before another Full Bench of the Andhra Pradesh High Court in *State of Andhra Pradesh* v. *Bondapalli Sanyasi*, 2001 SCC OnLine AP 1037. The reference in the matter reads thus:

"Furthermore, we are prima facie of the opinion that that part of the law laid down by the judgment of the Full Bench that the plaintiffs would be entitled to the market value together with interest may not be correct, particularly, in view of the fact that the right of assignees of the Government land is subordinate to the State. The lands assigned under such patta are resumable. In that view of the matter, they may not be treated to be owners of the lands so as to claim entire compensation calculated at the market value for acquisition thereof under the Land Acquisition Act."

118. That is how the matter once again came up for consideration before a larger five Judge Bench in *Bondapalli Sanyasi* (supra). While answering the reference, the High Court observed and held that:

"34. (…) the Full Bench committed error insofar as it held that where patta lands are resumed by the Government, the assignee would be entitled to compensation which would be equal to the market value of their interest in the land subject to the clog. Quantum of damages has to be ascertained having regard to the fact situation of each case. The right of the State to resume land is conditional only to the extent referred to in D-Form patta. Once such

conditions are fulfilled, which have been done in the instant case, no grant of compensation would be payable towards resumption of land. Compensation may, however, be payable if lands have not been resumed by following due process of law. The act of the State in such cases would be tortuous in nature."

119. However, the correctness of the view taken in *Bondapalli Sanyasi* (supra) came to be challenged before a Division Bench, which once again referred the matter to another Bench consisting of five Judges. When the matter was taken up, objections were raised by the Government Pleader *inter alia* contending that the Division Bench is bound by the decision of the five Judge Bench in *Bondapalli Sanyasi* (supra) and, therefore, it was not correct to make a Reference to a Bench of five Judges.

120. As a consequence, the Bench of five Judges, having regard to the fact that the subject matter that arose for its consideration was of very great public importance, placed the matter before the Chief Justice for constitution of a larger Bench of seven Judges to resolve the issue in public interest. That is how the matter came to be heard by seven Judges in *Mekala Pandu* (supra).

121. The question that fell for the consideration in *Mekala Pandu* (supra) was whether the terms of grant or patta enabling the State to resume the assigned land for a public purpose without paying compensation equivalent to the market value of the land to the assignees, are valid in law. In other words, whether such restrictive conditions or covenants suffer from any constitutional infirmity? Answering the question, the Full Bench (seven Judges) held as under:

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

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

83. The assignees are constitutional claimants. The constitutional claim cannot be subjected to governmental restrictions or sanctions except pursuant to the constitutionally valid rule or law. There is no legislation enacted by the State compelling it to assign the lands to the weaker sections of the society. The State obviously assigned and granted pattas as a measure of providing public assistance to the weaker sections of the society. The proposition is that as a general rule the State may grant privilege upon such conditions as it sees fit to impose; but the power of the State in that regard is not unlimited, and one of the limitations that it may not impose conditions which require the relinquishment of constitutional rights. That whenever State is required to make laws, regulations or policies, it must do so consistently with the directive principles with a view to securing social and economic freedom so essential for establishment of an egalitarian society. The Directive Principles of State Policy reflect the hopes and aspirations of people of this great country. The fact that they are not enforceable by any Court in no manner reduces their importance. They are nevertheless fundamental in the governance of the country and the State is under obligation to apply them in making laws and framing its policies particularly concerning the weaker sections of the society.

84. Dr. Ambedkar characterised the Directive Principles of State Policy enshrined in Part IV of the Constitution of India as "Instruments of Instructions". He said "whoever captures power will not be free to do what he likes with it. In exercise of it, he will have to respect these "Instruments of instructions", which are called Directive Principles. He cannot ignore them."

85. The Directive Principles fix the socio-economic goals, which the State must strive to attain. By incorporating unconstitutional clause of 'no compensation' the State kept the democles sword suspended over the head of the assignee forever. The State cannot act as a private giver.

86. In Ahmedabad St. Xavier's College Society *v.* State of Gujarat, *(1974) 1 SCC 717, Mathew, J., expounded the doctrine of 'unconstitutional condition':*

"The doctrine of "unconstitutional condition" means any stipulation imposed upon the grant of a governmental privilege which in effect requires the recipient of the privilege to relinquish some constitutional right. This doctrine takes for granted that 'the petitioner has no right to be a policeman' but it emphasizes the right he is conceded to possess by reason of an explicit provision of the Constitution, namely, his right "to talk politics". The major requirement of

the doctrine is that the person complaining of the condition must demonstrate that it is unreasonable in the special sense that it takes away or abridges the exercise of a right protected by an explicit provision of the Constitution."

87. After referring to the decision in Frost and Frost Trucking Co. *v.* Railroad Comm., of the Supreme Court of United States *(271 US 583 (1926)), the learned Judge observed:*

"……..though the State may have privileges within its control which it may withhold, it cannot use a grant of those privileges to secure a valid consent to acts which, if imposed upon the grantee in invitum would be beyond its constitutional power."

88. In Jilubhai Nanbhai Khachar *v.* State of Gujarat, *1995 Supp (1) SCC 596, the Supreme Court observed:*

"Those without land suffer not only from an economic disadvantage, but also a concomitant social disadvantage. In the very nature of things, it is not possible to provide land to all landless persons but that cannot furnish an alibi for not undertaking at all a programme for the redistribution of agricultural land. Agrarian reforms therefore require, inter alia, the reduction of the larger holdings and distribution of the excess land according to social and economic considerations. We embarked upon a constitutional era holding forth the promise that we will secure to all citizens justice, social economic and political, equality of status and of opportunity; and, last but not the least, dignity of the individual …….. Indeed, if there is one place in an agriculture dominated society like ours where citizens can hope to have equal justice, it is on the strip of land which they till and love, the land which assures to them dignity of their person by providing to them a near decent means of livelihood."

It is further held:

"Property, therefore, accords status. Due to its lack man suffers from economic disadvantages and disabilities to gain social and economic inequality leading to his servitude. Providing facilities and opportunities to hold property furthers the basic structure of egalitarian social order guaranteeing economic and social equality. In other words, it removes disabilities and inequalities, accords status, social and economic and dignity of person ……. Property in a comprehensive term is an essential guarantee to lead full life with human dignity, for, in order that a man may be able to develop himself in a human fashion with full blossom, he needs a certain freedom and a certain security.

The economic and social justice, equality of status and dignity of person are assured to him only through property."

(Emphasis is supplied)

89. The purpose of assignment of land either under the Board Standing Orders or under the land reforms legislations to the weaker sections of the society by the State is obviously in pursuance of its policy to empower the weaker sections of the society. Having assigned the land, the State cannot deprive him of the welfare benefit or public assistance. Deprivation of assignee's right to enjoy the property assigned to him may affect his dignity and security. It may adversely affect the equality of status and dignity.

90. It is said that the institution called property guards the troubled boundary between individual man and the State. Even if the assignment granted is considered to be government largess it should not be able to impose any condition on largess that would be invalid if imposed on something other than a "gratuity". The most clearly defined problem posed by government largess is the way it can be used to apply pressure against the exercise of constitutional rights. A first principle should be that government must have no power to "buy up" rights guaranteed by the Constitution. The forms of largess, which are closely linked to status, must be deemed to be held as of right. These interests should be "vested". If revocation is necessary, not by reason of the fault of the individual holder, but by reason of overriding demands of public policy, perhaps payment of just compensation would be appropriate. The individual should not bear the entire loss for a remedy primarily intended to benefit the community. The benefits granted are based upon a recognition that misfortune and deprivation are often caused by forces far beyond the control of the individual, such as technological change, variations in demand for goods, depressions, or wars. The aim of these benefits is to preserve the self-sufficiency of the individual, to rehabilitate him where necessary, and to allow him to be a valuable member of a family and a community; in theory they represent part of the individual's rightful share in the commonwealth. Only by making such benefits into rights can the welfare State achieve its goal of providing a secured minimum basis for individual well-being and dignity in a society where each man cannot be wholly the master of his own destiny.

91. There is an interesting article in Harvard Law Review — Volume 73 — Page 1595:

"Conditioning the extension of a governmental benefit or "privilege" upon the surrender of constitutional rights has long appealed to Congress and the State Legislatures as a means of regulating private conduct. This appeal is principally attributable to the superficially compelling logic of the arguments upon which the validity of such conditions is supposed to rest. It is contended that if the government may withhold the benefit in the first instance, without giving a reason, it may withhold or revoke the benefit even though its reason for doing so may be the individual's refusal to surrender his constitutional rights. This argument is often phrased in syllogistic terms; if the Legislature may withhold a particular benefit, it may grant it in a limited form since the greater power of withholding absolutely must necessarily include the lesser power of granting with restrictions. As a corollary to this argument, the contention is made that the recipient of the benefit is not deprived of a right since he may retain it simply by rejecting the proffered benefit.

Were this logic accepted in all cases, dangerous consequences would follow. The rapid rise in the number of government regulatory and welfare programs, coupled with the multiplication of government contracts resulting from expanded budgets, has greatly increased the total benefits extended, thus affording the government countless new opportunities to bargain for the surrender of constitutional rights. The potential erosion of fundamental liberties through the use of this bargaining technique has prompted the development of the doctrine of "unconstitutional conditions".

Since the government is under no obligation to grant a benefit, failure to grant may appear to be a positive power to withhold. The arbitrary character of this apparent power seems to justify the withholding or revocation of benefits where the individual fails to comply with conditions requiring the surrender of constitutional rights. But withholding is really a non-exercise of power, and the absence of a requirement that there be constitutional justification for inaction offers no logical support for the positive assertion of an authority to extend benefits and impose conditions which limit the rights of the recipient. In the latter case, the State is asserting its spending power which is limited by the due process clause of the fourteenth amendment. The cases limiting State spending power draw a dichotomy between spending for public and for private uses; however, they seem to imply a broader limitation, namely that the fourteenth amendment limits spending to purposes related to the general

welfare. Despite the wide discretion this term suggests, it is at least arguable that State spending power cannot be exercised to "buy up" rights guaranteed by the Constitution. Since federal spending power is explicitly restricted to general welfare purposes, this limitation is even more likely to apply to the national government. Its application to either governmental entity would require the invalidation of conditions unrelated to the achievement of the benefit's objective since in such cases the spending power is being exercised to encourage, through subsidies the non-assertion of constitutional rights, as well as to finance a "welfare" program. Although the individual deprived of the benefit does not have standing to assert this misuse of the spending power in his capacity as taxpayer, he should have it as a beneficiary, since in that capacity he has suffered as immediate and measurable injury; it is evident that, but for the assertion of the right, he would have received the benefit."

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

(Emphasis supplied)

122. The Full Bench thereafter proceeded to examine the matter keeping in mind the right to life. It proceeded to observe as under:

"93. Section 2(d) of the Protection of Human Rights Act, 1993 (Act 10 of 1994) defines "human rights" that the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by Courts in India.

94. Article 21 of the Constitution of India guarantees right to life. The right to life includes the right to livelihood.

95. Time and again the Courts in India held that Article 21 is one of the great silences of the Constitution. The right to livelihood cannot be subjected to

individual fancies of the persons in authority. The sweep of the right to life conferred by Art. 21 is wide and far reaching. An important facet of that right is the right to livelihood because, no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation.

96. Chandrachud, C.J., in Olga Tellis *v.* Bombay Municipal Corporation, *(1985) 3 SCC 545, observed:*

"If there is an obligation upon the State to secure to the citizens an adequate means of livelihood and the right to work, it would be sheer pedantry to exclude the right to livelihood from the content of the right to life. The State may not, by affirmative action, be compellable to provide adequate means of livelihood or work to the citizens. But, any person, who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to life conferred by Article 21."

(Emphasis is supplied).

97. The right to live with human dignity, free from exploitation is enshrined in Art. 21 and derives its life breath from the Directive Principles of State Policy and particularly Clauses (e) and (f) of Article 39 and Articles 41 and 42 and at least, therefore, it must include the right to live with human dignity, the right to take any action which will deprive a person of enjoyment of basic right to live with dignity as an integral part of the constitutional right guaranteed under Article 21 of the Constitution of India.

98. In Delhi Transport Corporation *v.* D.T.C. Mazdoor Congress, *1991 Supp (1) SCC 600 : AIR 1991 SC 101, the Supreme Court while reiterating the principle observed that the right to life includes right to livelihood. The right to livelihood therefore cannot hang on to the fancies of individuals in authority ….. Income is the foundation of many fundamental rights …… Fundamental rights can ill-afford to be consigned to the limbo of undefined premises and uncertain applications. That will be a mockery of them.*

99. The function of human rights is to protect the individual from the leviathan of the State. A welfare State provides a wide range of benefits to the citizens as of right, but at the same time it enhances the power of

administration, since the benefits provided are inevitably administered by government departments or their agents. A welfare State will continue to grow leading to a more just distribution of the resources resulting in greater governmental regulation. These developments may add further dimension to the relationship between the individuals and the State. There will be more and more assertions claiming entitlements to basic social benefits from the State in addition to civil and political rights.

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

101. The contention is that if the Government may withhold the benefit in the first instance itself without giving a reason, it may withhold or revoke the benefit even though its reason for doing so may be the individual's refusal to surrender his constitutional rights. This argument is often phrased in syllogistic terms : if the State may withhold a particular benefit, it may grant it in a limited form since the greater power of withholding absolutely must necessarily include the lesser power of granting with restrictions. The contention often advanced is that the recipient of the benefit is not deprived of a right since he may retain all his rights simply by rejecting the proffered benefit. This contention is fraught with dangerous consequences. The number of 'social choices' programmes resulting from expanded social welfare activities, has greatly increased the total benefits extended, thus affording the government countless new opportunities to bargain for the surrender of constitutional rights. The potential erosion of fundamental liberties through the use of this bargaining technique has prompted the development of the doctrine of "unconstitutional conditions". Reasonable conditions may be imposed in order to see that the interest in ensuring that the benefit or facility extended to the individual is maintained for the purposes intended, in order to protect the effectiveness of the benefit itself.

102. The recipients of public assistance are not estopped from setting up their fundamental rights as a defence as against "no compensation clause". It is very well settled and needs no restatement at our hands that there can be no estoppel against the Constitution.

103. In Olga Tellis *(18 supra), the Supreme Court observed : .*

"The Constitution is not only the paramount law of the land but it is the source and sustenance of all laws. Its provisions are conceived in public interest and are intended to serve a public purpose. The doctrine of estoppel is based on the principle that consistency in word and action imparts certainty and honesty to human affairs. If a person makes a representation to another, on the faith of which the latter acts to his prejudice, the former cannot resile from the representation made by him. He must make it good. This principle can have no application to representations made regarding the assertion or enforcement of fundamental rights. For example, the concession made by a person that he does not possess and would not exercise his right to free speech and expression or the right to move freely throughout the territory of India cannot deprive him of those constitutional rights, any more than a concession that a person has no right of personal liberty can justify his detention contrary to the terms of Article 22 of the Constitution. Fundamental rights are undoubtedly conferred by the Constitution upon individuals which have to be asserted and enforced by them, if those rights are violated. But, the high purpose which the Constitution seeks to achieve by conferment of fundamental rights is not only to benefit individuals but to secure the larger interests of the community. The Preamble of the Constitution says that India is a democratic Republic. It is in order to fulfil the promise of the Preamble that fundamental rights are conferred by the Constitution, some on citizens like those guaranteed by Articles 15, 16, 19, 21 and 29 and, some on citizens and non-citizens alike, like those guaranteed by Articles, 14, 21, 22 and 25 of the Constitution. No individual can barter away the freedoms conferred upon him by the Constitution. A concession made by him in a proceeding, whether under a mistake of law or otherwise, that he does not possess or will not enforce any particular fundamental right, cannot create an estoppel against him in that or any subsequent proceeding. Such a concession, if enforced would defeat the purpose of the Constitution. Were the argument of estoppel valid, and all-powerful State could easily tempt an individual to forego his precious personal freedom on promise of transitory, immediate benefits."

104. Therefore, notwithstanding the fact that the recipients had accepted the assignment subject to 'no compensation clause' and that they will not object to the resumption of the assigned lands for a public purpose, they are

entitled to assert that any such action on the part of the authorities will be in violation of their guaranteed fundamental rights. How far the argument regarding the existence and scope of the right claimed by the recipients is well-founded is another matter. But, the argument has to be examined despite the concession.

105. In the matter of distribution of material resources of the community to the vulnerable sections of the society by the State in furtherance of its constitutional obligations no argument can be heard from the State contending that the recipient of the benefit may either accept with the restrictions or not to accept the benefit at all. The whole idea of distributive justice is to empower the weaker sections of the society and to provide them their share of cake in the material resources of the community of which they were deprived from times immemorial for no fault of theirs. Having resolved to extend the benefits as a welfare measure, no unconstitutional condition can be imposed depriving the recipients of the benefits of their legitimate right to get compensation in case of taking over of the benefit even for a valid public purpose. The recipients cannot be at the mercy of the State forever.

106. Justice K.K. Mathew, in his Democracy, Equality and Freedom has observed that property is a legal institution the essence of which is the creation and protection of certain private rights in wealth of any kind. The learned Judge stated:

"In a society with a mixed economy, who can be sure that freedom in relation to property might not be regarded as an aspect of individual freedom? People without property have a tendency to become slaves. They become the property of others as they have no property themselves. They will come to say:'Make us slaves, but feed us.' Liberty, independence, self-respect, have their roots in property. To denigrate the institution of property is to shut one's eyes to the stark reality evidenced by the innate instinct and the steady object of pursuit of the vast majority of people. Protection of property interest may quite fairly be deemed in appropriate circumstances an aspect of freedom. There is no surer way to give men the courage to be free than to insure them a competence upon which they can rely. This is why the Constitution-makers wanted that the ownership of the material resources of the community should be so distributed as to subserve the common good. People become a society based upon relationship and status."

107. In Murlidhar Dayandeo Keskar *v.* Vishwanath Pandu Barde, *1995 Supp (2) SCC 549, the Supreme Court observed:*

"Economic empowerment to the poor, Dalits and Tribes, is an integral constitutional scheme of socio-economic democracy and a way of life of political democracy. Economic empowerment is, therefore, a basic human right and a fundamental right as part of right to live, equality and of status and dignity to the poor, weaker sections, Dalits and Tribes. The State has evolved, by its legislative and executive action, the policy to allot lands to the Dalits and Tribes and other weaker sections for their economic empowerment. The Government evolved two-pronged economic policies to render economic justice to the poor. The Planning Commission evolved policies like DRDL for economic empowerment of the weaker sections of the society; the Dalits and Tribes in particular. There should be short-term policy for immediate sustenance and long-term policy for stable and permanent economic empowerment. All the State Governments also evolved assignment of its lands or the lands acquired under the ceiling laws to them. Appropriate legislative enactments are brought on statute books to prevent alienation of the assigned lands or the property had under the planned schemes, and imposed prohibition thereunder of alienation, declaring any conveyance in contravention thereof as void or illegal and inoperative not to bind the State or the assignee. In case the assignee was disqualified or not available, on resumption of such land, the authorities are enjoined to resume the property and assign to an heir or others eligible among the Dalits and Tribes or weaker sections in terms of the policy. The prohibition is to effectuate the constitutional policy of economic empowerment under Articles 14, 21, 38, 39 and 46 read with the Preamble to the Constitution. Even in respect of private sales of the lands belonging to tribes, statutes prohibit alienation without prior sanction of the Competent Authority."

108. Be it noted, the land by way of assignment is let for purposes of agriculture or for purposes ancillary thereto, for personal occupation and cultivation by the agricultural labourers and others belonging to weaker sections of the society. It may be lawful for the State to acquire any portion of such land as is within the ceiling limit but not without providing for compensation at a rate which shall not be less than the market value thereof.

The acquisition of such land even for a public purpose without payment of compensation shall be in the teeth of Article 31-A of the Constitution of India.

109. The masses have suffered socio-economic injustice too long and been separated by the poverty curtain too strong that if peaceful transformation of the nation into an egalitarian society were not achieved, chaos, upsurge may destroy the peaceful progress and orderly development of the society.

110. In the result, we hold that 'no compensation' clause, restricting the right of the assignees to claim full compensation in respect of the land resumed equivalent to the market value of the land, is unconstitutional. The 'no compensation clause' infringes the fundamental rights guaranteed by Articles 14 and 31-A of the Constitution. We are conscious that Article 21 essentially deals with personal liberty. But in cases where deprivation of property would lead to deprivation of life or liberty or livelihood, Article 21 springs into action and any such deprivation without just payment of compensation amounts to infringement of the right guaranteed thereunder. The doctrine of 'unconstitutional conditions' applies in all its force.

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

(Emphasis supplied)

123. The State has admitted that Pattadar Passbook was issued to the appellants years back. They have also not disputed that the appellants were paying revenue to the government and the revenue receipts have also been exhibited in the form of documentary evidence. Even if we were to ignore the sale deed executed in 1970 for the time being and treat the appellants as mere

occupants with the right to possession, cultivation and enjoyment, we still must remain cognizant of the rights specifically vested in the appellants by way of issuance of Pattadar Passbook. Thus, what was vested in the appellant with the issuance of a Pattadar Passbook was a "property" within the meaning of Article 300-A of the Constitution.

124. Article 300-A provides that no person shall be deprived of his property save by authority of law. This Article has been inserted by the Constitution (44th Amendment) Act, 1978. Prior to this amendment, the right to property was guaranteed by Article 31. While Clause (1) of that Article has been shifted from Part III to Article 300-A, Clause (2) of that Article, which dealt with compulsory acquisition of property, has been repealed. Sub-Clause (f) of Clause (1) of Article 19, which guaranteed the right to acquire and hold property, has also been omitted by the same 44th Amendment Act, 1978. **The result of these changes, in short, is that the right to hold property has ceased to be a fundamental right under the Constitution and it has been left to the Legislature to deprive a person by the authority of law**.

125. Article 300-A provides that the property of a person can be deprived by authority of law. The phrase "save by authority of law" came before the Court for interpretation. This Court in the case of *Wazir Chand* v. *State of H.P.*, (1954) 1 SCC 787 held that under the Constitution, the Executive cannot deprive a person of his property of any kind without specific legal authority which can be established in Court of law, however laudable the motive behind such deprivation may be. In the same decision, this Court also held that in case of dispossession of property except under the authority of law, the owner may obtain restoration of possession by a proceeding for *mandamus* against the governmental authorities. Further, this Court in *Bishambhar Dayal Chandra Mohan* v. *State of Uttar Pradesh*, (1982) 1 SCC 39 held that the phrase "*by authority of law*" means by or under a law made by the competent Legislature. The same position is reiterated by this Court in the case of *Jilubhai Nanbhai Khachar* v. *State of Gujarat*, 1995 Supp (1) SCC 596 wherein it has been observed that "*Article 300-A only limits the powers of the State that no person shall be deprived of his property save by authority of law. There has to be no deprivation without any sanction of law. Deprivation by any other mode is not acquisition or taking possession under Article 300-A. In other words, if there is no law, there is no deprivation.*"

> **126.** In *Delhi Airtech Services Pvt. Ltd.* v. *State of U.P.*, (2011) 9 SCC 354, this Court recognized the right to property as a basic human right in the following words:
>
> *"30. It is accepted in every jurisprudence and by different political thinkers that some amount of property right is an indispensable safeguard against tyranny and economic oppression of the Government. Jefferson was of the view that liberty cannot long subsist without the support of property." Property must be secured, else liberty cannot subsist" was the opinion of John Adams. Indeed the view that property itself is the seed bed which must be conserved if other constitutional values are to flourish is the consensus among political thinkers and jurists."*
>
> **F. CONCLUSION**
>
> **127.** Having regard to the nature of the land, the area of the suit land which is approximately three acres and the time spent pursuing this litigation for the past thirty years, we believe that the State should pay an amount of Rs. 70 lakhs towards compensation to the appellants.

77. So, in the case of ***Yerikala Sunkalamma*** (supra), in favour of the appellants there were sale deeds in respect of the subject land which were never questioned by the State at any point of time and in their favour the pattadar passbooks were also issued. They were also paying land revenue. We are of the view that in view of that position, the payment of compensation was allowed to the appellants therein by the Hon'ble Apex Court, as in that case issuance of pattadar passbook was held to be a property within the meaning of Article 300-A of the Constitution of India. The issuance of the pattadar passbooks was coupled with there being sale deeds in favour of the appellants which were never questioned. So, mere issuance of the pattadar passbook by itself will not be a proof of title and ownership nor the pattadar passbook

can prove any title, but it definitely records the rights of a person. It was also so held in para 45 of ***Yerikala Sunkalamma*** (supra) already reproduced (supra).

78. The entry in the revenue records, it is well settled, by itself is neither proof of title nor does it confer any title.

79. Recently, in ***Vadiyala Prabhakar Rao v. The Government of Andhra Pradesh***[16] the Hon'ble Apex Court summarized the precedents on revenue entries and their legal effect on the question of title. Para-16 reads as under:

> "**16.** Let us summarise the precedents on Revenue Entries and their legal effect on the question of title:
>
> **16.1** Entries in Revenue Records or *Jamabandi* serve only a "fiscal purpose". Their primary function is to enable the person whose name is mutated in the records to pay the land revenue in question.[4]
>
> **16.2** A Revenue Record is not a document of title and does not confer any ownership or title upon the person whose name appears in it.[5] Further, mutation does not create or extinguish title and has absolutely no presumptive value regarding title.[6]
>
> **16.3** The mere acceptance of municipal or agricultural taxes, or the granting of a bank loan based on these records, does not stop the State from challenging the ownership of the land.[7]
>
> **16.4** While they do not prove title, Revenue Records can raise a presumption regarding possession.[8] Maintenance and custody of Revenue Records is the exclusive domain of the Patwari, and it is not uncommon that Revenue Records are often tinkered with by him to suit the exigencies.[9]
>
> **16.5** Stray or solitary entries recorded for a single year do not raise a presumption of rights and cannot be relied upon against a long, consistent course of revenue entries in favour of another party.[10]

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16.6 The creation of fabricated records in collusion acts as a camouflage to defeat the legal rights of the actual tiller, and the Government is not bound by them."

80. In ***Matam Ashok Kumar v. State of A.P***[17] a Coordinate Bench of this Court on the point of entries in the revenue records held that they did not confer title nor were evidence of title, as in paragraphs 48, 49, 50, 51, 52, 53 which are as under:

"**49.** In *Nagar Palika* v. *Jagat Singh*[7] the Hon'ble Apex Court held in paragraph 7 with respect to the revenue entries, that those do not confer any title, as under:

"7. The claim of the respondent was that he had purchased the suit land through a sale deed in the year 1970. Thereafter he filed a suit on 17-4-1971 for permanent injunction against the appellant. That suit was ultimately withdrawn on 7-11-1977 with permission to file a fresh suit. Ultimately, the suit with which we are concerned was filed on 23-8-1979. In this background any reliance on entries in the revenue records after 1971 was of not much consequence and value, because the respondent had already instituted the earlier suit which was then pending. **In any case, an order of mutation in the name of the respondent in the revenue records cannot be a source of title**. In the case of *Nirman Singh* v. *Lal Rudra Partab Narain Singh* [AIR 1926 PC 100 : (1925-26) 53 IA 220], in respect of mutation of names in revenue records, it was said:

"They are nothing of the kind as has been pointed out times innumerable by the Judicial Committee. **They are much more in the nature of fiscal inquiries instituted in the interest of the State for the purpose of ascertaining which of the several claimants for the occupation of certain denominations of immovable property may be put into occupation of it with greater confidence that the revenue for it will be paid**.

It is little less than a travesty of judicial proceeding to regard the two orders of the Extra Commissioner of Bahraich and Mr. M.L. Ferrar, Deputy Commissioner, as judicial determinations expelling proprio vigore any

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individual from any proprietary right or interest he claims in immovable property."

50. In *Suraj Bhan* v. *Financial Commissioner*[8] with respect to the entries in the revenue records, the Hon'ble Apex Court held that those do not confer any ownership. Paragraph 9 of the said judgment reads as under:

"9. There is an additional reason as to why we need not interfere with that order under Article 136 of the Constitution. **It is well settled that an entry in revenue records does not confer title on a person whose name appears in record-of-rights. It is settled law that entries in the revenue records or *jamabandi* have only "fiscal purpose" i.e. payment of land revenue, and no ownership is conferred on the basis of such entries**. So far as title to the property is concerned, it can only be decided by a competent civil court (vide *Jattu Ram* v. *Hakam Singh* [(1993) 4 SCC 403 : AIR 1994 SC 1653]). As already noted earlier, civil proceedings in regard to genuineness of will are pending with the High Court of Delhi. In the circumstances, we see no reason to interfere with the order passed by the High Court in the writ petition."

51. The Hon'ble Apex Court in *Jagdish Prasad Patel (dead) through LRs.* (supra) held that the revenue entries for few khataunis were not proof of title, but were mere statements for revenue purpose. They could not confer any right or title on the party relying on them for proving their title.

52. In *Vasavi Cooperative Housing Society Limited* (supra), with respect to the revenue record entries, the Hon'ble Apex Court reiterated that revenue records are not documents of title and the question of interpretation of a document not being a document of title is not a question of law. The entries in the record of rights itself would not confer any title on the plaintiff to the suit land. An entry in the revenue papers by no stretch of imagination can form the basis for declaration of title in favour of the plaintiffs.

53. Para-21 of *Vasavi Cooperative Housing Society Limited* (supra) reads as undr:

"**21.** This Court in several judgments has held that the revenue records do not confer title. In *Corpn. of the City of Bangalore* v. *M. Papaiah* [(1989) 3 SCC 612] this Court held that: (SCC p. 615, para 5)

"5. … It is firmly established that the revenue records are not documents of title, and the question of interpretation of a document not being a document of title is not a question of law."

In *Guru Amarjit Singh* v. *Rattan Chand* [(1993) 4 SCC 349] this Court has held that: (SCC p. 352, para 2)

"2. … that entries in the Jamabandi are not proof of title."

In *State of H.P.* v. *Keshav Ram* [(1996) 11 SCC 257] this Court held that: (SCC p. 259, para 5)

"5. … an entry in the revenue papers by no stretch of imagination can form the basis for declaration of title in favour of the plaintiffs."

81. So, in our view in ***Yerikala Sunkalamma*** (supra) issuance of pattadar passbooks was held to be a property within the meaning of Article 300-A of the Constitution of India, as there was also the sale deeds in favour of the appellants therein pattadar passbook holders which remained unquestioned.

82. In the present case, though in favour of some of the respondents the pattadar passbooks have been issued, it is not the case of the respondents (writ petitioners) that they had any document of title in their favour except what is filed along with the memo as additional material to which we would address shortly.

83. Mere issuance of the pattadar passbooks in favour of some of the respondents (writ petitioners) by itself in our view could not be a proof that they had title in the subject land. Their case, is also that they were assigned the land under rehabilitation scheme vide G.O.Ms.No.1024, dated 02.11.1970, and afterwards by means of Government Memo dated 16.09.2000, they were conferred with the right of alienation and the pattadar passbooks were issued. So, the claim of issuance of pattadar passbooks and the right of alienation is in view of that memo dated

16.09.2000. So, it follows clearly that under the G.O.Ms.No.1024, dated 01.11.1970 they had no alienable rights. It also follows from the combined reading of G.O.Ms.No.1094, dated 02.11.1970 and G.O.Ms.No.1142, dated 18.06.1954. The Memo dated 16.09.2000 is the very basis of the writ petitioners, as also the judgment dated 04.11.2013 impugned in the writ appeals.

84. The Memo dated 16.09.2000 was issued by the Principal Secretary to the Government. The question therefore is whether by means of the memo the right of alienation could be conferred? Once the position is clear that under G.O.Ms.No.1024, dated 02.11.1970 land was allotted for specific purpose, cultivation, and under the normal assignment policy (vide para-5 of G.O.Ms.No.1024 dated 02.11.1970. It was after 1954 and the position existing at that time was that, the assignment of land, the assignee had no transferable rights, and even after 1954 when the Act of 1977 came into force the assigned land as defined in Section 2 provided "*subject to the condition of non-alienation*". We are of the view that for the assigned land there was no title in favour of assignees, "*they had no transferable right* ". That transferable right according to the own case was given vide the Memo dated 16.09.2000 by the Principal Secretary but in our view that Memo cannot override the conditions of the G.O.Ms.No.1024, dated 02.11.1970 read with G.O.Ms.No.1142, dated 18.06.1954. The Memo can also not change the definition of 'assigned land' under the statute. In other words, notwithstanding the Memo dated

16.09.2000 or based on such memo, it cannot be said that the assignees acquired title to the land assigned to them. Consequently, mere issuance of the pattadar passbook or along with the alleged title deeds, can not confer any title on the assignees to the subject land nor can be a proof of title. Their status would continue to be that of 'assignee of the Government land' without any title or being owner to that land.

85. In ***K. V. Ramana Rao*** (supra) upon which reliance was placed by the learned counsel for the appellants, it was held that the Government Order is issued in the name of the Governor of Andhra Pradesh whereas, the memo, impugned in that case, was issued by the Principal Secretary to the Government, Education Department, on the basis of the representation of the Association of Affiliated Colleges, Teachers Association and Junior College Teachers Associations, wherein they raised an issue for filling up of the post of Principals in Private Aided Junior Colleges. By the said memo, the Principal Secretary, Education Department, had restricted the zone of consideration to three senior most Lecturers/junior Lecturers. This Court held that if the Government wanted to restrict the zone of consideration as was done by the memo it should have incorporated the same in the GO by way of amendment to G.O.Ms. No. 127 as therein, instead of issuing a memo by a Subordinate Authority to the Governor in the name of clarification. It was further held by this Court in ***K. V. Ramana Rao*** (supra) that the memo cannot and does not have an overriding effect on the GO and when once the Government has

prescribed qualifications and eligibility under G.O.Ms. No. 127, the Principal Secretary to the Government had neither the power nor authority to prescribe additional qualifications, through the impugned memo without amending the GO issued by the Government. This Court further held that the memo impugned therein was illegal and issued without power of the Principal Secretary to Government and being contrary to the provisions of G.O.

86. Learned counsel for the appellants based on the said judgment in ***K. V. Ramana Rao*** (supra) submitted that in the present case also as per the G.O.Ms.No.1024, dated 02.11.1970, creating assignment of land in favour of the respondents which made it non-alienable, in terms of the condition No.5 (1) in G.O.Ms.No.1142, by the subsequent memo dated 16.09.2000 issued by the Principal Secretary, the right of alienation could not be conferred, and the assigned land would not cease to be the assigned land, by virtue of memo, which on the face of it is contrary to the Government Order and based thereon, it cannot be said that the respondents have a right in the land like owners of the land notwithstanding issuance of the pattadar passbooks. We are also of the view that the memo cannot override the Government Order and consequently based on the subsequent memo without making any amendment in the Government Order conferring right as owners, the status of the respondents shall remain of DKT pattaholders and they would be entitled only for the compensation in terms of the

G.O.Ms.No.1307, dated 23.12.1993 and as directed in the previous W.P.No.561 of 2007 by this Court vide judgment dated 17.07.2008 and W.P.No.26439 of 2008, but they would not become the owners of the land so as to contend that the acquisition proceedings should be initiated under the provisions of the Land Acquisition Act.

87. In ***P. Tejeswari*** (supra) this Court held that the circulars, memos, instructions issued merely represent the understanding of the statutory provisions by the authority which issued them. They cannot abridge or enhance what is provided in the Government Orders. A memo is communication of the authority that conveys some information and is not equivalent to a decision of the Government. Paragraphs 41 and 42 of ***P. Tejeswari*** (supra) are reproduced as under:

> "**41.** Circulars, Memos, Instructions issued merely represent the understanding of the statutory provisions by the authority which issued them. They cannot abridge or enhance what is provided in the Government orders. A memo is a communication of the authority that conveys some information and is not equivalent to a decision of the Government. In the hierarchy of executive legislation, a memo of the Government cannot supersede or depart from the provisions of any earlier order. Unless an order is expressed in the name of the Governor and is authenticated in the manner prescribed by the rules, the same cannot be treated as an order made on behalf of the Government. The memos have no binding effect on the courts. It is for the courts to declare what the particular provision of the statute says or how a Government order has to be construed. Even a clarificatory G.O. cannot by any means supersede or over-write the terms of the main order. These well settled principles have been laid down and followed continuously and reference in this regard can be made to:
>
> 1. *B. Rugmini Amma* v. *B.S. Nirmala Kumari*[6].

2. *Commissioner of Central Excise, Bolpur* v. *Ratan Melting & Wire Industries*[7].
3. *K.V. Ramana Rao* v. *Government of Andhra Pradesh*[8].
4. *Abilash* v. *State of Kerala* and *Siraj* v. *State of Kerala*[9].
5. *Kaluvoy Fishermen Cooperative Society* v. *State of Andhra Pradesh*[10].

42. In the light of such principles of law, the Memo dated 29.07.2021 issued by Principal Secretary to Government which is not in the name of the Governor or by the order of the Governor cannot be given effect to. This memo is not equivalent to modification of G.O.Ms. No. 40 or G.O.Ms. No. 5. The said memo merely represents the view point of the learned Principal Secretary to Government which issued the memo. Even subsequent to this memo, G.O.Ms. No. 5 dated 17.01.2022 came and therefore this memo dated 29.07.2021 ceases to hold any bearing whatsoever. Despite view point taken by Principal Secretary in the memo dated 29.07.2021, when the Government issued G.O.Ms. No. 5 dated 17.01.2022, reiterating its earlier position, the only reasonable inference one could draw is that Government intends and desires to grant Minimum of Time Scale in revised pay scales 2022 to the contract employees engaged in KGBV. This latest of the Government orders makes it very clear and is in tune with the view taken by us that the clause - appointment against sanctioned vacancies is applicable to only those institutions where such sanctioned posts are there and that clause was and is never meant to apply to KGBV where there are no sanctioned posts since inception. This is the only logical interpretation that can be made out. Thus, we find justification in the prayers of teaching staff of KGBV seeking extension of benefit of Minimum of Time Scale."

88. The petitioners did not have a right of alienation as is evident from G.O.Ms.No.1024 dated 02.11.1970, the right of alienation is being claimed only pursuant to the Government Memo dated 16.09.2000 and even if as per the contention of the learned counsel for the writ petitioners that the government memo not be taken as conferring the right of alienation for the first time but only as the clarification of the Government order, we are of the

view that such a clarification is contrary to the express terms of the Government Order. The Government Memo even explaining the government order cannot be contrary to the terms of Government Order. So, the Government Memo cannot be taken as explaining the Government Order but providing for something which is contrary to the Government Order. The Government Memo therefore in our view is not explanatory and even if the submission be accepted, it is contrary to the Government Order No. 1024 read with G.O.Ms.No.1142 dated 18.06.1954. Therefore such an explanation is unsustainable and cannot confer the right of alienation, neither of its own nor by way of such explanation of the Government Order which clearly provided the assignment of land subject to the condition of non alienation.

89. The documents annexed with the memo termed as title deeds in our view are not the title deeds but are only the pattadar passbooks which of their own would not confer any title to the land owner nor would make the assignment as alienable. Even the documents filed with the memo do not bear the dates, which appears us to have been issued only after the Government Memo dated 16.09.2000. Once the Government Memo dated 16.09.2000 cannot override the Government Order, we are of the view that no benefit can be derived based on issuance of pattadar passbook and the documents filed along with the memo/additional material papers.

90. On consideration of both the judgments in ***Yerikala Sunkalamma*** (supra) and ***Yadaiah*** (supra), of the Hon'ble Apex Court of equal strength we find that;

1) certain observations made in ***Mekala Pandu*** (supra) about the status of the claimants on 'constitutional claimants' were kept open to be considered in appropriate case, if necessary, as observed in ***Ramesh Singh*** (supra).
2) In ***Yerikala Sunkalamma*** (supra) because of the issuance of the pattadar passbooks and payment of revenue, it was considered that issuance of pattadar passbooks was a property within the meaning of Article 300-A of the Constitution of India. But,
3) In ***Yerikala Sunkalamma*** (supra) the appellants had the sale deeds in their favour, in addition to the pattadar passbooks, which sale deeds were never questioned.

91. In our view, the chart as mentioned in paragraph 45 (supra) is of no much relevance. The reason is that there is no dispute that pursuant to the acquisition at Sriharikota, the persons having land were displaced and the persons having no land were also displaced. The monetary compensation was granted and because of displacement, both category of persons (having the land or not at Sriharikota) were provided the land on rehabilitation, the assigned lands for cultivation as per G.O.Ms.No.1024, dated 02.11.1970. The G.O.Ms.NO.1024 is equally applicable to both the category under which land was assigned subject to the assignment policy. It is nobody's case of exchange of land by the Government for providing land at Sriharikota, so title being transferred for the land at Sriharikota to the assigned land. For

acquisition at Sriharikota compensation was paid. It is settled in law that compensation is monetary. It cannot be land for land. For rehabilitation of all the displaced persons land was assigned under G.O.Ms.No.1024 dated 02.11.1970 as per the normal assignment policy.

92. The order of the commissioner of appeals dated 20.06.2019 on which reliance has been placed is in the case of some other persons and it was mentioned therein that if the assigned lands were required for establishment of project the Government must initiate land acquisition proceedings referring to ***Mekala Pandu.*** In the said order of the Commissioner, the Government memo dated 16.09.2000 is mentioned and based thereon the order of the Commissioner was passed. The very Government memo dated 16.09.2000 was considered by the learned Single Judge in the judgment under appeal. So based on the order of the Commissioner of Appeal dated 20.06.2019 in the case of the others no benefit can be derived by the writ petitioners as it all depends upon the Government Memo dated 16.09.2000 and its effect and impact of the G.O.Ms.No.1024 dated 02.11.1970 which we have already considered (supra).

93. G.O.No.1142 dated 18.06.1954 on the subject of the assignment of lands in supersession of the previous G.Os, in para-5 provided that the assignment of lands shall be subject to the conditions (i) that the land assigned shall be heritable ‘but not alienable’. The notes appended thereto provides that for breach of any of the conditions (i) (iii) & (v) the government will be at liberty to resume the land. The said para-5 in G.O.No.1142 dated 18.06.1954 reads as under:

"5. The assignment of lands shall be subject to the following condition.

(i) **Lands assigned shall be heritable but not alienable.**

(ii) Preference shall be given to the people in the village where the lands are situated;

(iii) lands assigned shall be brought under cultivation within three years.

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

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

Note:- **(1) For breach of any of the conditions (i) (iii) & (v) the government will be at liberty to resume the land and assign it to whomsoever they like.**

Note:- (2) "The lands assigned to landless persons under the G.O. may be mortgaged to the Government or to a Co-operative Society, recognised by the Government including a Land Mortgage Bank or the Panchayat Samithi for obtaining loans for development of the land. The loan to be advanced will be in instalments not less than 3 depending upon the improvement effected on the land. No prior permission of the Government is necessary for such mortgage".

So no benefit can be derived on the basis of the order of the Commissioner dated 20.06.2019.

94. In ***Vidya Devi*** (supra) a plea was taken by the State that since the State was in continuous possession of the land for over 42 years, it would tantamount to "adverse" possession. The Hon'ble Apex Court observed that the State being a welfare State, cannot be permitted to take the plea of adverse possession. The State cannot be permitted to perfect its title over the land by invoking the doctrine of adverse possession to grab the

property of its own citizens. In the said case, the Hon'ble Apex Court also observed that the appellants therein with respect to whose lands the State had claimed adverse possession were illiterate persons from the rural area and they were deprived of their private property by the State without resorting to the procedure prescribed by law and consequently invoking its extraordinary jurisdiction under Articles 136 and 142 of the Constitution, the State was directed to pay compensation to the appellant therein. In the present case, the State is not setting any plea of adverse possession or claim title by way of adverse possession to the property of a citizen or individual. The respondents are the lessees/DKT patta holders of the land, which admittedly belong to the State. Consequently, on the resumption of the land in terms of the lease/DKT patta granted to the respondents or their predecessors, it cannot be said that the State is acting contrary to law and depriving the respondents of their rights to property or compensation inasmuch as the respondents have been or/are being granted compensation for resumption of the lands in terms of G.O.Ms.No.1307,. dated.23.12.1993 as also under the Orders of this Court passed in W.P.No.561 of 2007, dated 17.07.2008 and in W.P.No.26439 of 2008, dated 15.12.2008.

95. In ***Megh Singh*** (supra) no award was passed either under 1894 Act or under 2013 Act. The provisions of Section 24 of 2013 Act were interpreted. The facts of the present case are different and the reliance placed on the said judgment is misconceived. Obvious reason is that for

the applicability of the Act 1894 or 2013 for no award being passed and the proceedings being lapsed, the proceedings must have been taken under the Act 1894. Here, the respondents' case is that the acquisition should have been taken under that Act. They are claiming to be the owners where as they are not the owners but the DKT pattaholders and the land has been resumed by the State.

96. In ***A.P.State Electricity Board Employees Union*** (supra) the land which was purchased by the petitioner-Union in the year 1981 was assigned in favour of one late K. Obulappa in the year 1933, and the question was whether the prohibition under Section 3 of A.P. Assigned Lands (Prohibition of Transfers Act (for short 'Act 9 of 1977') was attracted to the land in question. The learned single Judge held that under section 2 (1) of the Act 9 of 1977 which defined 'assigned land', the land which was assigned by the Government subject to the condition of non-alienation can only be treated as an assigned land and as a natural corollary, the prohibition of transfer as contained under Section 3 of Act 9 of 1977 was attracted in cases where the land was assigned subject to the condition of non-alienation. In the said case, the assignment in favour of K. Obulappa in the year 1933 was not subject to the condition of non-alienation. The said assignment was made prior to issuance of G.O.Ms.No.1142, dated 18.06.1954, in which clause 5 made the assignment of the lands subject to the conditions therein one of which was; (1) Lands assigned shall be heritable but not alienable. Since the

assignment in favour of K. Obulappa was made in the year 1933, the G.O.Ms.No.1142 was not enforced. So, it was observed that the assignment was not subject to the conditions of non-alienation and consequently, it was further held that issuance of show cause notice to the petitioner for eviction on the allegation of violations of the terms and conditions of the assignment was mandatory under the provisions of the Act itself. In the present case, the assignment made is after the G.O.Ms.No.1142, dated 18.06.1954 and consequently, that condition that the land assigned shall be heritable but not alienable was already there. So, the assignment to the respondents were subject to the condition of non-alienable land, when the G.O.Ms.No.1024 of 1970, clause 5, is read with G.O.Ms.No.1142, dated 18.06.1954, Clause 5 (1) (i). Consequently, as a natural corollary when the assignment by the Government was subject to the condition of non-alienation it could be treated only as an assigned land. In view of that difference of fact, we are of the view that the respondents cannot derive any benefit from the judgment in ***A.P.State Electricity Board Employees Union*** (supra).

97. In ***Narendrajit Singh*** (supra) it was held that the process of acquisition must start with a notification under Section 4. Even in extremely urgent cases like those mentioned in sub-section (2) of Section 17, the notification under Section 4 is a *sine qua non*. In some cases the Government may not follow up the notification under sub-section (1) by further proceedings specifically where it finds that the land was unsuited

for the purpose for which it is required. But the issue of a notification under sub-section (1) of Section 4 is a condition precedent to the exercise of any further powers under the Act.

98. The submission on behalf of the learned counsel for the respondents based on the aforesaid judgment in ***Narendrajit Singh*** (supra) is that in the absence of any notification under Section 4 (1) no further proceedings could be taken. In other words, their submission is that for taking land of the respondents there should be acquisition by issuance of notification under Section 4 of the Land Acquisition Act. The said submission proceeds on the premise that the respondents in the writ appeal are the owners of the land.

99. In ***Sukh Dutt Ratra*** (supra) it was observed by the Hon'ble Apex Court that the State, in that case, had in a clandestine and arbitrary manner, actively tried to limit disbursal of compensation as required by law, only to those for which it was specifically provided by the Courts, rather than to all those who were entitled. Such action was termed as arbitrary action of the State and violative of the right of the appellants therein under the then prevailing Article 31 of the Constitution of India, which warranted consideration and intervention by the High Court under Article 226 of the Constitution of India.

100. Paragraphs 19 & 21 of ***Sukh Dutt Ratra*** (supra) are reproduced as under:

"**19.** The facts of the present case reveal that the State has, in a clandestine and arbitrary manner, actively tried to limit disbursal of compensation as required by law, only to those for which it was specifically prodded by the courts, rather than to all those who are entitled. This arbitrary action, which is also violative of the appellants' prevailing Article 31 right (at the time of cause of action), undoubtedly warranted consideration, and intervention by the High Court, under its Article 226 jurisdiction. This Court, in *Manohar* [*State of U.P.* v. *Manohar*, (2005) 2 SCC 126] —a similar case where the name of the aggrieved had been deleted from revenue records leading to his dispossession from the land without payment of compensation held : (SCC pp. 128-29, paras 6-8)

"*6.* Having heard the learned counsel for the appellants, we are satisfied that the case projected before the court by the appellants is utterly untenable and not worthy of emanating from any State which professes the least regard to being a welfare State. When we pointed out to the learned counsel that, at this stage at least, the State should be gracious enough to accept its mistake and promptly pay the compensation to the respondent, the State has taken an intractable attitude and persisted in opposing what appears to be a just and reasonable claim of the respondent.

7. Ours is a constitutional democracy and the rights available to the citizens are declared by the Constitution. Although Article 19(1)(*f*) was deleted by the Forty-fourth Amendment to the Constitution, Article 300-A has been placed in the Constitution, which reads as follows:

'**300-A. *Persons not to be deprived of property save by authority of law***.—No person shall be deprived of his property save by authority of law.'

8. This is a case where we find utter lack of legal authority for deprivation of the respondent's property by the appellants who are State authorities. In our view, this case was an eminently fit one for exercising the writ jurisdiction of the High Court under Article 226 of the Constitution."

21. Having considered the pleadings filed, this Court finds that the contentions raised by the State, do not inspire confidence and deserve to be rejected. The State has merely averred to the appellants' alleged verbal consent or the lack of objection, but has not placed any material on record to substantiate this plea. Further, the State was unable to produce any evidence indicating that the land of the appellants had been taken over or acquired in the manner known to law, or that they had ever paid any compensation. It is

> pertinent to note that this was the State's position, and subsequent findings of the High Court in 2007 as well, in the other writ proceedings."

101. The learned counsel for the respondents placed reliance in ***Sukh Dutt Ratra*** (supra) to contend that in the absence of any notification of the Land Acquisition under the provisions of the Land Acquisition Act to acquire the land, the action of taking the possession or resuming the land is violative of their right to property as they are being deprived of that property not in accordance with law and the compensation being paid is also not as per the provisions of the Land Acquisition Act 1894.

102. In the aforesaid case ***Sukh Dutt Ratra*** (supra), there was no dispute with respect to the persons, whose land was acquired being the owners, but the compensation was being paid only to those whose lands were acquired under the notification and in whose favour there was order of the Court, but the other persons whose lands were also acquired but they were deprived of the compensation because they had no orders in their favour from the Court and even in those cases, the State was unable to produce any evidence indicating that the land of the appellants therein had been taken over or acquired in the manner known to law or that they were ever paid compensation. So, it was held that they were deprived of their land and in not paying the compensation at par with the others was violative of the then prevailing Article 31 of the Constitution of India.

103. In the present case, the status of the respondents, is allottees of the DKT patta and not as owners. It is the case of resumption of land on

payment of compensation. It is not the case of the respondents that they are being treated in a discriminatory manner in the matter of resumption of the land or in the matter of payment of compensation to them at part with other DKT pattaholders, whose land has been resumed.

104. The question of acquisition of land arise only if the person is the owner of the land. In case of resumption of land, there will be no question of acquisition to be taken. The only thing is whether the allottees would or would not be entitled for compensation. The respondents cannot have any benefit from the judgment of the Hon'ble Apex Court in ***Sukh Dutt Ratra*** (supra) to contend for acquisition of land under the Act 1894.

105. In the present case, the land was actually resumed by Order dated 23.09.2008,which Order of resumption attained finality. The respondents have been paid/determined & deposited compensation in terms of the previous Orders passed in the previous Writ Petition Nos.561/2007 and 26439/2008, following the Full Bench judgment in the case of ***Mekala Pandu*** (supra).

106. We are of the view that applying the principle of law as laid down in ***Yadaiah*** (supra) to the facts of the present case, that there being difference between resumption of land and the acquisition of land and in the present case it being a case of resumption of land, which Order of resumption has not been set aside in any of the previous petitions and the same was also not under challenge in W.P.No.23208 of 2010, in which the impugned judgment dated 04.11.2013 has been passed, the

resumption order of the Government still holds the field as on today and has attained finality. The Court reiterate that in the case of ***Yadaiah*** (supra) the resumption order was held to be valid and the Hon'ble Apex Court held that those persons were not entitled for compensation. Even if we apply the law as laid down in ***Yerikala Sunkalamma*** (supra), the present case stands on different footing as stated above in ***Yerikala Sunkalamma*** (supra) there were sale deeds in favour of the appellants therein which remained unquestioned and the pattadar passbooks were also issued and they were paying land revenue. So, the pattadar passbook of its own was not the sole basis of granting compensation in ***Yerikala Sunkalamma*** (supra).

107. Even in the case of ***Yerikala Sunkalamma*** (supra), the Hon'ble Apex Court did not hold that for that reason, though there was document of title in the subject land, that the State should issue a notification and acquire land under the provisions of the Land Acquisition Act. However, the Hon'ble Apex Court itself granted the compensation.

108. The impugned judgment cannot be sustained also for the reasons the judgment in previous writ petitions allowed finality between the parties, so in the fourth writ petition by the same writ petitioners, a contrary decision could not be arrived at by the co-ordinate bench. The order of resumption could also not be set aside in the fourth writ petition, which was also not under challenge in W.P.No.23208 of 2010.

109. There is no dispute on the proposition of law as laid down in ***Shabna Abdulla*** (supra) by the Hon'ble Apex Court on the point of the judicial discipline upon which the learned counsel for the appellants placed reliance.

110. Learned counsel for the appellants Sri G.Ramachandra Rao, placed reliance in ***Rohan Vijay Nahar*** (supra). There is no dispute that the law declared by the Hon'ble Apex Court under Article 141 of the Constitution is binding and the Judicial discipline require faithful application of the law.

Compensation:

111. We are however of the view that (writ petitioners) the respondents in the writ appeals may be entitled for grant of compensation on resumption of the land. May be in view of the Full Bench judgment in the case of ***Mekala Pandu*** (supra), though in the case of ***Yadaiah*** (supra), the Hon'ble Apex Court clearly held that if the resumption is valid, the assignees would not be entitled to any compensation and also not the status of the claimants/assignees as constitutional claimants in view of ***Ramesh Singh*** (supra). We are of such a view that, at the best, pursuant to ***Mekala Pandu*** (supra) they would be entitled for the compensation, for the reason that previously in W.P.Nos.561/2007, 26439/2008 and 18226/2007 in the case of the same writ petitioners, the Order was passed for payment of compensation in terms of ***Mekala Pandu*** (supra) under the Land Acquisition Act, which judgment not having been challenged by the writ appellants attained finality. So, the writ appellants

cannot deny grant of compensation in terms of the judgments passed previously to all the writ petitioners.

112. However, the assignees writ petitioners cannot claim them as the owners of the land so as to pray that the title vests in them to the land as land owners and that for the State to deny them title the land should be acquired under the Land Acquisition Act, 1894 by issuance of notification under Section 4 and following further proceedings.

113. Even in the judgment under challenge in writ appeals, the learned single Judge held that the judgment dated 15.12.2008 in W.P.No.26439 of 2008 has attained finality.

114. We are of the view that the judgments dated 17.07.2008 in W.P.No.561 of 2007 and dated 15.12.2008 in W.P.No26439 of 2008 attained finality as a whole and not only to a part of judgment on the point only with respect to the compensation.

V. Result:

115. Consequently, we are of the view that the judgment under appeals cannot be sustained and deserve to be set aside.

116. We accordingly set aside the Judgment and Order dated 04.11.2013 passed in W.P.No.23208 of 2010. W.A.Nos.205 & 259 of 2014, 848 of 2022 are allowed. But, we clarify that the compensation amount as paid to the writ petitioners or if something remain to be paid, pursuant to the previous orders dated 17.07.2008 & 15.12.2008 passed in

W.P.Nos.561/2007 & 26439 of 2008, if unpaid, or if partly unpaid, that shall be paid to the writ petitioners.

117. In Writ Petition No.26568 of 2014 the challenge to the order of resumption is after seven years. The writ petition suffers from laches for which there is no sufficient explanation. The explanation that from the judgment in W.P.No.23208 of 2010 they came to know about their status, cannot be believed but is an afterthought. The resumption was way back in the year 2007 in their case. The judgment in W.P.No.23208 of 2010 has been set aside, so the petitioners of writ petition No.26568 of 2014 cannot be entitled to any benefit of the said judgment.

118. W.P.No.26568 of 2014 is accordingly dismissed.

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

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RAVI NATH TILHARI, J

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MAHESWARA RAO KUNCHEAM, J

Date: .05.2026
Dsr/AG

Note:
LR copy to be marked
B/o
Dsr

HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT APPEAL NOs: 205, 259 of 2014 & 848 of 2022 and

WRIT PETITION NO.26568 of 2014

Date: .05.2026
Dsr/AG

Note:
LR copy to be marked
B/o
Dsr