

**HON'BLE SRI JUSTICE K.C.BHANU
AND**

HON'BLE SMT JUSTICE ANIS

WRIT PETITION Nos.3342, 4422, 4424 & 4890 of 2008

COMMON - ORDER: *(per Hon'ble Smt Justice Anis)*

These Writ Petitions are filed by the petitioners, who are respondent Nos.6 & 7, respondent Nos.1 to 3, respondent No.4 and respondent No.5 respectively, in L.G.C.No.16 of 2006 on the file of the Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad, (for short 'the Special Court), for issuance of Writ of Certiorari, setting aside the Judgment, dated 18.01.2008, passed in the said Land Grabbing Case (for short 'the L.G.C').

2. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the L.G.C.

3. The brief facts of the case are that the applicant i.e., respondent No.2 in W.P.No.3342, 4424 & 4890 of 2008 and respondent No.6 in W.P.No.4422 of 2008, filed L.G.C.No.16 of 2006 against respondent Nos.1 to 7, seeking to declare him as the owner of the application schedule land i.e., Plot No.224 admeasuring 200 Sq. Yards in Sy.Nos.61, 62, 64, 65, 67, 68/1, 68/2, 69, 69/1, 70, 70/1, 71, 72, 72/1, 73, 76, 77, 85, 85/1, 86, 94, 120 to 126, situated at Sriramnagar Colony, Puppalguda Village, Rajendranagar Mandal, Ranga Reddy District; to declare the respondents as land grabbers; and also to direct the respondents to deliver the vacant and actual possession of the application schedule land to the applicant.

4. The case of the applicant is that he is an employee in the Andhra Pradesh Secretariat, joined as a member in the Andhra Pradesh Secretariat Staff Co-operative Credit Society Limited (hereinafter referred to as 'the Society') and the said Society

acquired open land admeasuring Ac.70.00cents at Puppalguda and Manikonda Khasla villages, Rajendranagar Mandal, Ranga Reddy District. The Society after acquiring the open land, converted the same into house site plots for the benefit of the members of the Society. The owner of the land executed a General Power of Attorney in favour of respondent Nos.1 & 2, with respect to the said property. The Society prepared the layout and allotted plot No.224 admeasuring 200 Sq. Yards in Sriramnagar Colony, Puppalguda village to the applicant, for which he paid Rs.10,000/- towards total sale consideration and development charges to the Society and also another sum of Rs.1,000/- towards registration charges. On 08.08.1990, a sale deed was executed in favour of the applicant and possession of the plot was delivered to him on the same day. Thus, the applicant has become the absolute owner in possession of the application schedule property.

The first respondent floated a Firm in the name and style of 'Sri Raghuram Housing Development Company' (for short 'the Company') and appointed his son as Managing Director and insisted the members of the Society to pay a sum of Rs.75/- per Sq. Yard to the Company for development activities in the Society. The applicant has refused to pay the amount demanded by the first respondent. To safeguard the interest of the members of the Society, a notice was sent on behalf of the Society to the Inspector General of Registration and Stamps, Andhra Pradesh, complaining that the first respondent has not returned the original sale deed and retained the same with him without any manner of right. A registered notice on 16.04.1992 was also issued to the first respondent calling upon him to give the original sale deed to the applicant, but the same was not given to him. The first respondent got issued a public notice in Deccan Chronicle on 01.07.1993 calling upon all the plot owners to pay the development charges as

demanding by him. A reply notice was published in the newspaper denying the claim made by the first respondent. This fact was brought to the notice of the Sub-Registrar, Rajendranagr Mandal, Ranga Reddy District, by the applicant with a request not to register the cancellation deeds or other deeds of the first respondent pertaining to the properties produced by the members of the Society. A complaint was also lodged with the Chief Secretary and the local Circular Inspector, against the first respondent and same was forwarded to Central Bureau of Criminal Investigation Department, but no action has been taken. Respondent Nos.1 & 2 started threatening the applicant and other members of the Society stating that the sale deeds executed in their favour will be cancelled, if the members of the Society do not pay the development charges as demanded. Respondent Nos.1 & 2 without notice to the applicant and other members of the Society, cancelled the registered sale deed of the applicant dated 08.08.1990 on 07.05.1994. Likewise, the respondent Nos.1 & 2 also cancelled some other sale deeds belonging to the members of the Society. The Sub-Registrar, Rajendranagar Mandal, also had not issued any notice to the applicant before registering the cancellation deed. Therefore, the cancellation deed is void and it is *non est* in law and that the Sub-Registrar had no power or authority to cancel the said sale deeds executed in favour of the applicant and other members of the Society. After executing the cancellation deed dated 07.05.1994, respondent Nos.1 and 2 fraudulently executed a sale deed on 11.05.1994 in favour of third respondent, who in turn executed another sale deed on 06.03.1998 in favour of the fourth respondent for the same property. The fourth respondent later on sold the property to respondent No.5 on 26.02.2004. Thereafter, the fifth respondent executed a sale deed on 03.03.2005 in favour of respondent Nos.6 & 7, who are constructing the house in the application schedule property without any manner of right. All the

sale deeds were brought into existence in collusion with all the respondents to defeat the rights of the applicant. Hence, the applicant filed W.P.No.1174 of 1994 before this Court seeking declaration that the cancellation deed is null and void. The said Writ Petition was dismissed on 25.01.1995 observing that the matter involves civil dispute. Thereafter, the applicant filed O.S.No.324 of 2000 on the file of the Principal Senior Civil Judge, Ranga Reddy District, against respondent Nos.1 to 4 for declaration of title and recovery of possession. The said suit was decreed in favour of the applicant with a direction to put the applicant in vacant possession of the suit property by 31.08.2004. A direction was also given not to alienate the other properties and not to make any construction on the schedule property. Applicant also filed E.P.No.179 of 2005 and the same was pending before the Principal Senior Civil Judge's Court, Ranga Reddy District. Thus, as respondent Nos.6 & 7, without any manner of right and title, are constructing the house in the application schedule property, the applicant filed the L.G.C

5. Before the special Court, respondent Nos.1, 2, 4 & 5 remained *ex parte*.

6. The third respondent filed a counter in the L.G.C and contended that right from 1998, neither herself nor her father were in possession of the schedule property and therefore, the question of treating this respondent as a land grabber does not arise. Her father was a bonafide purchaser of the schedule property under a registered sale deed dated 11.05.1994 and as on that date, she was aged only 9 years. The same was sold by her father on 06.03.1998 to the fourth respondent and the applicant was never in the possession of the application schedule property.

7. The sixth respondent filed a counter and denied the

allegations levelled by the applicant and contended that he has no knowledge about the formation of the Society and acquiring of the land by the said Society and allotting the same to the members of the Society after getting a layout approved. He also contended that he himself and his wife are the joint owners and possessors of the schedule land having purchased the same from the fifth respondent under registered Sale deed dated 03.03.2005. The fifth respondent, purchased the property from the fourth respondent under a registered sale deed dated 26.02.2004 and fourth respondent purchased the property from the third respondent under registered Sale deed dated 06.03.1998. The sixth respondent stated that he is a bonafide purchaser for value and they already constructed a house after obtaining necessary permission from the Sarpanch, Gram Panchayat, Puppalguda village on 11.06.2005. On 02.10.2005 and on 04.10.2005, when the applicant tried to interfere with the possession of this respondents, himself and his wife filed the suit O.S.No.2815 of 2005 on the file of the Principal Junior Civil Judge's Court, Ranga Reddy District, seeking perpetual injunction restraining the applicant from interfering with the peaceful possession and also obtained ad-interim injunction in I.A.No.5326 of 2005 on 07.10.2005. The sixth respondent stated that the order is still subsisting, he is the bonafide purchaser for value, and he cannot be declared as a land grabber and the special Court has no jurisdiction to entertain the application. The sixth respondent further stated that the applicant ought to have asked for cancellation of the sale deed of the respondents and instead of doing so he has filed the land grabbing case, which is not maintainable. Further, the original owner of the property was not made party and respondent Nos.1 & 2 are only the General Power of Attorney Holders. On that ground also, the application is not maintainable. The sixth respondent specifically stated that they are not the parties to O.S.No.324 of 2000 filed by the applicant and the

judgment and decree is not binding on the respondents and E.P.No.179 of 2005 is still pending consideration. Therefore, filing of the present application is not proper and prayed the Court to dismiss the L.G.C.

8. The seventh respondent filed a memo adopting the counter filed by the sixth respondent.

9. In reply to the counter filed by the sixth respondent, the applicant filed a rejoinder stating that he filed the Land Grabbing Case on 25.10.2005 and when the matter was posted for orders on 28.10.2005, without passing any orders, notice was ordered to the respondents before taking cognizance. Aggrieved by the same, the applicant filed W.P.No.24048 of 2005. Except respondent Nos.3 & 6, other respondents engaged advocates to appear before the Court. Notice in L.G.C was served on respondent Nos.3 to 6.

Respondent Nos.1 & 2 avoided to take notice and delayed the admission of the L.G.C and after setting aside the *ex parte* order against respondent Nos.1, 2, 4 & 5, cognizance was taken. It is also stated that in the General Power of Attorney dated 05.03.1990, power to cancel is not conferred on respondent Nos.1 & 2.

10. Basing on the pleadings, the Special Court framed four issues and to substantiate the applicant's case, he himself was examined as PW.1 and also got examined PW.2. Exs.A1 to 24 were marked on his behalf. On behalf of the contesting respondents, sixth respondent was examined as RW.1, but no documentary evidence was produced.

11. After considering the pleadings, after hearing the arguments and considering the oral and documentary evidence produced, the special Court held that the applicant has established valid right and title in respect of the application schedule property, the cancellation

deed is invalid in law and created by the first respondent and declared the applicant as the owner of the schedule property and the respondents as land grabbers. Further, the special Court has also directed respondent Nos.6 & 7 to vacate the schedule land within a period of two months from the date of the order, failing which the Revenue Divisional Officer concerned shall evict the respondents from the land and handover the vacant possession of the same to the applicant, within a period of two months thereafter and file compliance report in the special Court as required under Rule 15(2) of the Rules framed under the Act.

12. Being aggrieved by the order passed by the Special Court, the respondents preferred the present appeals. This Court upon hearing the learned counsel and on perusing the entire material available on record, passed the judgment in all the Writ Petitions on 11.03.2008, 17.03.2008 and 21.04.2008 as follows:

“When the civil disputes are pending among the parties and when the petitioners are not the parties to the suit in O.S.No.324 of 2000, in which an application seeking to set aside the decree is pending, it is not known as to how the special Court has failed to consider all these aspects. Therefore, during the pendency of the civil cases among the parties, that too with regard to the title of the property, the findings of the Special Court, on the documents in question without finalization of the civil suits, which are even now pending, among the parties, are hit by the principle of sub judice. Therefore, we have no hesitation to hold that directions issued against the petitioners, are liable to be set aside.”

13. Aggrieved by the orders of this Court, the applicant preferred Civil Appeal Nos.10793, 10794-10795 and 10796 of 2013 before the Hon'ble Supreme Court, wherein the Hon'ble Supreme court held as follows:

“Having heard learned counsel for the parties and taking into consideration the question raised in the appeals, we are of the opinion that the High Court ought to have decided the question whether one or other appellant is land grabber or not. Such issue should have been

decided without awaiting the decision of suit, if any, pending or petition, if any, filed against the decree.

We, accordingly, set aside the impugned order passed by the High Court and remit all the writ petitions as aforesaid, back to the High Court for decision on merit expeditiously. The appeals are allowed with aforesaid observation.”

14. On being remanded by the Hon'ble Supreme Court, this Court again heard the arguments of the learned counsel afresh.

15. The learned Senior Counsel for the petitioner in W.P.No.3342 of 2008 i.e., respondent Nos.6 & 7 in L.G.C argued that respondent No.6 and his wife jointly purchased the schedule plot from the fifth respondent, by way of registered sale deed, dated 03.03.2005; that thereafter, respondent Nos.6 & 7 obtained permission from the Sarpanch, Gram Panchayat, Puppalguda village on 11.06.2005, and constructed a house in the schedule plot; that they are the bonafide purchasers for valid consideration and from the date of purchase, they are in possession and enjoyment of the schedule plot and residing in the said house. It is also argued that as the applicant along with his people tried to interfere with the possession of these respondents over the schedule property on 02.10.2005 and 04.10.2005, they filed O.S.No.2815 of 2005, and obtained ad-interim injunction in I.A.No.5326 of 2005 on 07.10.2005; that the L.G.C filed by the applicant was allowed in favour of the applicant holding that these respondents are the land grabbers and the Court directed them to deliver the vacant possession of the application schedule property; that the sale deed dated 08.08.1990 executed in favour of the applicant is without any sale consideration, and therefore, the subsequent registered sale deeds are executed after cancelling the sale deed executed in favour of the applicant on 07.05.1994 and the said cancellation is proper and it was lawfully cancelled and respondent Nos.6 & 7 are not the land grabbers and they are in lawful possession of the schedule property. It is also argued that

an *ex parte* decree, which was passed in O.S.No.324 of 2000, was set aside on 01.10.2009 and the said suit is still pending for adjudication and relied on the case law reported in ***Kaliaperumal v. Rajagopal and another***^[1], wherein it is held in paras 17 & 18 as follows:

“17. It is now well settled that payment of entire price is not a condition precedent for completion of the sale by passing of title, as Section 54 of the Transfer of Property Act, 1882 ('the Act' for short) defines 'sale' as "a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised". If the intention of parties was that title should pass on execution and registration, title would pass to the purchaser even if the sale price or part thereof is not paid. In the event of non-payment of price (or balance price as the case may be) thereafter, the remedy of the vendor is only to sue for the balance price. He cannot avoid the sale. He is, however, entitled to a charge upon the property for the unpaid part of the sale price where the ownership of the property has passed to the buyer before payment of the entire price, under Section 55(4)(b) of the Act.

18. Normally, ownership and title to the property will pass to the purchaser on registration of the sale deed with effect from the date of execution of the sale deed. But this is not an invariable rule, as the true test of passing of property is the intention of parties. Though registration is *prima facie* proof of an intention to transfer the property, it is not proof of operative transfer if payment of consideration (price) is a condition precedent for passing of the property.

The learned Senior Counsel also relied on the case law reported in ***Janak Dulari Devi and another v. Kapildeo Rai and another***^[2], wherein the principle laid down in ***Kaliaperumal's case*** (first cited *supra*) was followed. The learned Senior Counsel also argued that the land owners need not be a party to the proceeding as General Power of Attorney Holders are already parties to the document. Further, it is also argued that no issue has been framed about the point raised by the learned counsel for the applicant before the special Court, and now, it cannot be raised in these writ petitions. It is also not pleaded before the special Court that non-joinder of owners is fatal to the case and same is not stated in the

evidence also. The learned Senior Counsel also argued that respondent Nos.6 & 7 are the bonafide purchasers and they are not the land grabbers and relied upon the decision reported in **Konda Lakshmana Bapuji v. Government of Andhra Pradesh and another**^[3], wherein it is held in paras 37, 38, 39, 40 & 45 as follows:

"37. The various meanings, noted above, disclose that the term "grab" has a broad meaning - to take unauthorisedly, greedily or unfairly - and a narrow meaning of snatching forcibly or violently or by unscrupulous means. Having regard to the object of the Act and the various provisions employing that term we are of the view that the term "grab" is used in the Act in both its narrow as well as broad meanings. Thus understood the ingredients of the expression "land grabbing" would comprise of (i) the factum of an activity of taking possession of any land forcibly, violently, unscrupulously, unfairly or greedily without any lawful entitlement and (ii) the mens rea/intention -- "with the intention of/with a view to" (a) illegally taking possession of such lands or (b) enter into or create illegal tenancies, lease and licences agreements or any other illegal agreements in respect of such lands; or (c) to construct unauthorised structures thereon for sale or hire; or (d) to give such lands to any person on (i) rental or (ii) lease and licence basis for construction, or (iii) use and occupation of unauthorised structures.

38. A combined reading of Clauses (d) and (e) would suggest that to bring a person within the meaning of the expression "land grabber" it must be shown that : (i) (a) he has taken unauthorisedly, unfairly, greedily, snatched forcibly, violently or unscrupulously and land belonging to government or a local authority, a religious or charitable institution or endowment, including a wakf, or any other private person; (b) without any lawful entitlement; and (c) with a view to illegally taking possession of such lands, or enter or create illegal tenancies or lease and licences agreements; or any other illegal agreements in respect of such lands or to construct unauthorised structures thereon for sale or hire, or give such lands to any person on rental or lease and licence basis for construction, or use and occupation of unauthorised structures; or (ii) he has given financial aid to any person for taking illegal possession of lands or for construction of unauthorised structures thereon; or (iii) he is collecting or attempting to collect from any occupiers of such lands rent, compensation and other charges by criminal intimidation; or (iv) he is abetting the doing of any of the above-mentioned acts; or (v) that he is the successor-in-interest of any such persons.

39. It must be borne in mind that for purposes of taking cognizance of a case under the Act existence of an allegation of any act of land grabbing is the sine qua non and not the truth or otherwise of such an allegation. But to hold that a person is a land grabber it is necessary to find that the allegations satisfying the requirements of land

grabbing are proved.

40. To make out a case in a civil case that the appellant is a land grabber the first respondent must aver and prove both the ingredients -- the factum as well as the intention -- that the appellant falls in the categories of the persons, mentioned above (Clause (d) of Section 2 of the Act), has occupied the land in dispute, which belonged to the first respondent, without any lawful entitlement and with a view to or with the intention of illegally taking possession of such land or entering into the land for any of the purposes mentioned in clause (e) of Section 2 of the Act, summarised above.

45. In regard to the ingredients of the expression 'land grabber' it is necessary to point out that it is only when a person has lawful entitlement to the land alleged to be grabbed that he cannot be brought within the mischief of the said expression. A mere prima facie bona fide claim to the land alleged to be grabbed by such a person, cannot avert being roped in within the ambit of the expression "land grabber". What is germane is lawful entitlement to and not a mere prima facie bona fide claim to the land alleged to be grabbed. Therefore, the observation of the Division Bench of the High Court in the said Writ Appeal No. 61 of 1978 that the appellant can be taken to have prima facie bona fide claim to the land in dispute which was relevant for the said Land Encroachment Act cannot be called in aid as a substitute for lawful entitlement to the land alleged to be grabbed, which alone is relevant under the Act."

and prayed the Court to allow the writ petition.

16. The learned counsel for the Writ petitioners in W.P.No.4422 of 2008, who are respondent Nos.1 to 3 in L.G.C argued that respondent Nos.1 & 2 are the General Power of Attorney Holders of one Sri Rajaram Chowdary and 49 others, who are the owners of the land measuring Ac.70-00cents situated in different survey numbers of Puppalguda and Manikonda Khasla villages; that the said land was demarcated into plots and sold to various purchasers; that the applicant purchased the schedule plot on 08.08.1990 and the sale deed is a conditional one and one of the condition is that "the sale is subject to the condition that the purchaser shall take steps in the construction of house as per the general plan and development and also the Rules and Regulations of the Hyderabad Urban Development Authority (for short 'the HUDA') and contribute for other amenities like drainage, roads, sewerage connections, water connections and electricity

connections”; that the applicant has not paid the sale consideration, as such they kept the original sale deed with them and not delivered the possession of the schedule property, and further, they cancelled the sale deed on 07.05.1994 under a registered document; that the applicant has knowledge of the said cancellation of the sale deed and prior to the cancellation, ample opportunity was given to him to pay the balance sale consideration and development charges; that the applicant is not the owner of the schedule property; that subsequently, the said plot was sold in favour of third respondent and third respondent, in turn sold the same in favour of the fourth respondent and fourth respondent, in turn sold the same plot in favour of fifth respondent, and thereafter, fifth respondent also sold the schedule plot in favour of respondent Nos.6 & 7 under a registered document.

The learned counsel also argued that the sale deed executed in favour of the applicant is a conditional one, and as such the same was cancelled and the special Court committed a grave error in holding that the respondents are the land grabbers on the ground that cancellation of the deed is invalid; that Sec.68 of the Registration Act, 1908, conferred powers to the Rule making Authority to amend the Rules; that by adding an independent clause (k) to Rule 26 of Andhra Pradesh Rules under the Registration Act, 1908, (for short ‘the Rules’) by virtue of which, now it is mandatory that a deed executed between the parties can be cancelled only if both the parties to the said deed are parties to the cancellation deed; that at the time of cancellation of the sale deed in the year 1994, the said Rule is not in vogue, therefore, the cancellation deed dated 07.05.1994 is legal and valid; that the schedule land was sold long back and as such, the L.G.C is barred by limitation; and finally argued to allow the writ petition and to set aside the judgment and decree dated 18.01.2008 passed in L.G.C.No.16 of 2006, passed by

the special Court.

17. The learned counsel for the petitioner in W.P.No.4424 of 2008 i.e., respondent No.4 in L.G.C argued that the respondent No.4 purchased the schedule land from respondent No.3 under a registered sale deed document No.675 of 1998 and ever since he purchased, he is in the possession and enjoyment of the property; that thereafter, he sold the property to the fifth respondent and said fifth respondent, in turn alienated the same plot in favour of respondent Nos.6 & 7, who are in possession of the property and constructed a residential house; that the applicant filed O.S.No.324 of 2000 for declaration of title and recovery of possession, and in the said suit, respondent No.4 remained *ex parte* and an *ex parte* decree was passed; that thereafter, respondent No.1 filed the petition to set aside the *ex parte* judgment and decree and the petition is pending; that no suit O.S.No.324 of 2000 is still pending before the Senior Civil Judge's Court, Ranga Reddy District and if at all, if the applicant has any grievance, he has to contest the said suit and the special Court basing on surmises and conjectures, passed the judgment and decree without giving any cogent reasons, and finally prayed the Court to allow the Writ Petition.

18. The learned counsel for the petitioner in W.P.No.4890 of 2008 i.e., respondent No.5 in L.G.C argued that he purchased the schedule property from Respondent No.4 on 26.02.2004 by paying valid consideration and his vendor delivered the possession of the property to him and he was the bonafide purchaser and he never grabbed the land; that respondent No.5 sold away the said plot on 03.03.2005 to respondent Nos.6 & 7; that in the suit as well as in the L.G.C, they were remained *ex parte* and after the sale, he has no interest over the said schedule land, as such he has not contested the case before both the Courts and finally prayed the Court to allow the Writ Petition.

19. On the other hand, the learned Senior Counsel for respondent No.2 in W.P.Nos.3342, 4424 & 4890 of 2008 and respondent No.6 in W.P.No.4422 of 2008 i.e., applicant in the L.G.C argued that the General Power of Attorney Holders are not authorised to cancel the registered sale deed; that they are only authorised to receive the sale consideration and to execute the sale deed; that after registering the sale deed in favour of the applicant for the schedule plot, possession was delivered to the applicant, but they kept the original sale deed Ex.A5 with them to extract more money on the reason of development charges; that on 07.05.1994, the General Power of Attorney Holders unilaterally cancelled the sale deed executed in favour of the applicant and before cancellation, no notice was issued to him and therefore, the cancellation made by the General Power of Attorney Holders is not valid and it is a unilateral cancellation. It is also argued that the sale deed executed in favour of the third respondent, does not contain the recitals of cancellation of the sale deed dated 07.05.1994, and therefore, the third respondent is not a bonafide purchaser and the cancellation of the sale deed is null and void.

The learned Senior Counsel also argued that the subsequent sale deeds also, does not contain about the earlier transactions; that though the applicant filed O.S.No.324 of 2000 against respondent Nos.1 to 4 only, he came to know about the subsequent sale deeds in favour of respondent Nos.5, 6 & 7 afterwards, as such the applicant filed the L.G.C. and the special Court after considering the oral and documentary evidence, rightly held that the respondents failed to prove their lawful title to the schedule plot and held that respondent Nos.6 & 7, who are in possession of the property are the land grabbers and directed them to deliver the possession of the schedule property. The learned Senior Counsel

for the applicant also argued that a person, who innocently purchased the property bonafidely for valid sale consideration, also become a land grabber since his vendor was a land grabber and the writ petitioners blindly purchased the schedule property without verifying the encumbrance certificates and writ petitioners in their cross examination, clearly admitted about this fact. It is also argued that once the property is registered, it cannot be cancelled under Section 26(k) of the Rules; that the writ petitioners in W.P.No.3342 of 2008 also filed O.S.No.1257 of 2007, before the I Additional Senior Civil Judge, Ranga Reddy District, for declaration of title over the schedule property; that once, the Special Court takes cognizance of the Land Grabbing Case, automatically, the jurisdiction of the civil Court will be outstayed and relied on a case reported in ***Mahalaxmi Motors Ltd., v. Mandal Revenue Officer and others***^[4], wherein it is held in paras 35, 40, 44 & 45 as follows:

“35.In other words, the Civil Court is barred from trying the matters which fall within the exclusive jurisdiction of the Special Court constituted under the Act.

40. The Tribunal being possessed of extensive jurisdiction, subject of course to fulfillment of the conditions precedent, for initiation of the proceeding, was entitled to go into all issues. We have furthermore to bear in mind that the definition of 'land grabber' is not only restricted to the party to the proceeding, but also includes his predecessor in interest.

44.Only because a person has entered into possession of a land on the basis of a purported registered sale deed, the same by itself, in our considered opinion, would not be sufficient to come to the conclusion that he had not entered over the land unauthorisedly, unfairly, or greedily.

45. For determination of such an issue, the Special Court will be entitled to take into consideration not only the rival claims of the parties, but also the earlier round of litigation, if any, and subsequent conduct of the proceeded himself”.

The learned Senior Counsel also argued that the sale deed executed in favour of the applicant under Ex.A5 clearly discloses

that the vendor received the sale consideration and delivered the possession of the schedule plot to the applicant. The learned Senior Counsel further argued that a perusal of the contents of the sale deed Ex.A5 clearly goes to show that it is a complete sale after receiving the full sale consideration and delivery of possession, and therefore it is not a conditional sale. The learned counsel relied upon the case law reported in ***Thota Ganga Laxmi and another v. Government of Andhra Pradesh***^[5], wherein it is held that “when a sale deed is cancelled by a competent Court, that cancellation deed can be registered, that too after notice to the parties concerned”. But, in the present case, neither there is any declaration by a competent Court nor was there any notice to the party/applicant, and therefore, cancellation of the sale deed of the applicant is void in the eye of law. It is also argued that rule of *lis pendens* applies and the transferees are bound by the decree of the Court having competent jurisdiction and finally argued that the applicant purchased the schedule property under Ex.A5 and the General Power of Attorney holders are not competent to cancel the sale deed in favour of the applicant without giving any prior notice, and therefore, the cancellation deed is void in the eye of law and applicant established valid right and title in respect of the application schedule property. Therefore, the Special Court rightly held that respondent Nos.6 & 7 are not the owners of the application schedule property and rightly directed respondent Nos.6 & 7 to vacate the application schedule property; that the special Court also rightly held that apart from respondent Nos.6 & 7, other respondents are also the land grabbers, who claimed the title from respondent Nos.1 & 2.

To support his contention, the learned counsel also relied on the following case laws:

In ***Venkateswara Housing Pvt. Ltd., rep. by its Chairman***

& Managing Director v. Commissioner and Inspector General of Registration and Stamps, A.P., Hyderabad and others^[6], it is

held by this Court in para 8 as follows:

“8. Therefore, it becomes mandatory that before a deed of whatever category, executed between or among various parties; is cancelled, the parties to such deed must consent for cancellation thereof, and must join as parties to the deed of cancellation. In other words, it would not be permissible for a vendor alone, under a sale deed, to cancel that document, without participation of the purchasers also. Therefore, the uncertainty, that prevailed in the matter is virtually put at rest with the introduction of Clause (k) in Rule 26 of the Rules”.

In **Property Association of Baptist Churches, Kavali, Nellore, Regional Office, Preston Institute, Jangaon, Warangal District v. Sub-Registrar, Jangaon, Warangal District and others**^[7], it is held in para 4 as follows:

“4.....The limited power of the registering officer to enquire into objections that the executing party had no right to execute document get extinguished the moment the document is registered. No such power inheres in the registering officer or the District Registrar to cancel the sale deed, unless another document for cancellation is presented with proper stamp duty and registration charges. A party aggrieved by a registered document on conveyance has to file civil suit seeking appropriate declaration under Section 34 of the Specific Relief Act, read with Article 59 of the Schedule under the Limitation Act, 1963 (Act 36 of 1963). The writ petition is not a proper remedy.”

In **Prem Singh and others v. Blrbal and others**^[8], it is held in paras 15 & 16 by the Apex court as follows:

“15. Section 31 of the Specific Relief Act, 1963 thus, refers to both void and voidable document. It provides for a discretionary relief.

16. When a document is valid, no question arises of its cancellation. When a document is void ab initio, a decree for setting aside the same would not be necessary as the same is non-est in the eye of law, as it would be a nullity”.

In **State of Andhra Pradesh, rep. by Mandal Revenue Officer, Secunderabad v. Sri Prakash**^[9], it is held in para 45 by this Court as follows:

“45. In Konda Lakshmana Bapuji's case [2007 (1) ALT 383 (D.B)], the possession of the appellant was obviously unauthorized and without any entitlement thereto and with a view to construct a house thereon. The person, who said to have executed a registered permanent lease deed in favour of the appellant, himself had no title, since the property stood registered as Government land. The purchaser from a grabber who innocently purchased the property bona fide for a valid consideration becomes also a grabber since his vendor was a grabber. Initial entry upon the land must be seen and the subsequent alienations are of no consequence and such alienees cannot set-forth a plea of bona fides having regard to the initial act of land-grabbing.”

In **State of Andhra Pradesh v. Abdul Khuddus (dead) by LRs and others**^[10], it is held in para 9 by the Apex Court as follows:

“9. It is this order of the Special Court, which was challenged by the respondents by way of a Writ Petition. At this juncture, we may now consider as to when the High Court could interfere, with a finding of fact arrived at by the Special Court, in the exercise of its jurisdiction under Article 226 of the Constitution. It is now well settled that the High Court, in its writ jurisdiction under Article 226 of the Constitution, may interfere with the findings of fact arrived at by the Special Court only if the findings are based on no evidence or based on conjectures or surmises and if no reasonable man would on given facts and circumstances come to the conclusion reached by the Special Court. Therefore, it is pellucid that it is only in these special circumstances that it would be open to the High Court to interfere with the findings of fact arrived at by the Special Court.

In **Raj Kumar Sardari Lal and Others**^[11], it is held in paras 5 & 9 as follows:

“5. The doctrine of lis pendens expressed in the maxim 'ut lite pendente nihil innovetur' (during a litigation nothing new should be introduced) has been statutorily incorporated in Section 52 of the Transfer of Property Act 1882.

..... Bringing of a lis pendens transferee on record is not as of right but in the discretion of the Court. Though not brought on record the lis pendens transferee remains bound by the decree.

9. A decree passed against the defendant is available for execution against the transferee or assignee of the defendant-judgment-debtor and it does not make any difference whether such transfer or assignment has taken place after the passing of the decree or before the passing of the decree without notice or leave of the Court.”

In **Mandal Revenue Officer v. Goundla Venkaiah and another**^[12], it is held in paras 19 & 20 by the Apex Court as follows:

“19. Since the basic objective of the Land Grabbing Act is to free the public as well as private land from the clutches of encroachers and unauthorized occupants, the provisions contained therein are required to be interpreted by applying the rule of purposive construction or mischief rule which was enunciated in Heydon's case [(1584) 3 Co. Rep. 7a] and which has been invoked by this Court for construing different legislations.

20. The definition also includes the one who abets the doing of the actual land grabbing or financing the activity of land grabbing, etc. as also successor-in-interest of land grabber”.

In **Mohd. Ibrahim and others v. Smt. Munni @ Zainab Bee**^[13], it is held in para 9 as follows:

“9.It is well known that when a fact stated in the chief-examination is not disputed in the cross-examination, it should be deemed to be admitted”.

The learned Senior Counsel Sri V. Venkata Ramana argued that O.S.No.324 of 2000 is still pending, and both the parties should go to the civil Court; that Sec.26(k)(i) of the Rules was not in force in 2006. Prior to that, there is no Rule. The Supreme Court considered the amended rule and held that unilateral cancellation is bad. In the present case, there is no sale consideration passed. So, it is not a concluded contract and relied on the case law reported in **Om Prakash Singh v. M. Lingamaiah and others**^[14], wherein it is held in paras 14 & 15 as follows:

“14. The Act indisputably confers a wide jurisdiction upon the Special Tribunal and Special Court. All attributes of a civil litigation can be gone into by the Special Court and the Tribunal. The Tribunal is not only a court but by reason of a legal fiction created is deemed to be a civil court. It contains a non-obstante clause, by reason whereof the provisions of the Act would prevail over the Code of Civil Procedure, 1908 as also the Andhra Pradesh Civil Courts Act, 1972. The Tribunal, however, derives jurisdiction only when jurisdictional facts are disclosed in the petition. For invoking the jurisdiction of the said court, it is necessary not only to allege the act of land

grabbing within the meaning of the provisions of the Act but also a prima facie case must be found out to the Special Court and/or the Tribunal in order to enable it to issue notices upon satisfying itself as regards existence of an act of land grabbing. When it takes a suo motu action, it has to hear the alleged land grabbers also. The statute, therefore, provides for sufficient safeguards.

15. *Ordinary disputes with regard to a title of property are not within the exclusive jurisdiction of the Special Court or the Tribunal. They have to be determined in ordinary civil courts. The Special Courts and the Tribunals are not substitutes for the civil courts in the litigations involving a civil dispute relating to immovable property within the meaning of Section 9 of the Code of Civil Procedure. It has the exclusive jurisdiction where land grabbing is alleged or appeared from the application filed before it.*

30. *It is not a case where the respondents claimed their title by reason of a registered deed of sale, which was executed long time back. They have been exercising their right of possession over the lands in suit for 22 years. Appellant did not disclose that he had either been in possession of the land or he has been dispossessed. He had not been able to show any act of possession on his part or on the part of the predecessor-in-interest after 1978. An application at his instance was maintainable provided he proved himself to be lawfully entitled to be restored back possession by establishing the fact that the land has been grabbed.]”*

and prayed the Court to dismiss the Writ Petitions.

20. Having regard to the submissions made by the learned counsel appearing for both parties, the point which is to be decided in these Writ Petitions is as follows:

Whether the writ petitioners are entitled to set aside the Judgment, dated 18.01.2008 passed in L.G.C.No.16 of 2006, by the Special Court or not?

21. Before going into the merits of the case, it is to be seen that the applicant filed the application under Section 8(1) of the Land Grabbing Act (for short ‘the Act’) to declare him as owner of the application schedule property, to declare the respondents as land grabbers, and also to direct the respondents to deliver the vacant and actual possession of the application schedule property i.e., Plot No.224 admeasuring 200 Sq. Yards in Sy.Nos.61, 62, 64, 65, 67, 68/1, 68/2, 69, 69/1, 70, 70/1, 71, 72, 72/1, 73, 76, 77, 85, 85/1, 86, 94, 120 to 126, situated at Sriramnagar Colony, Puppalguda Village,

Rajendranagar Mandal, Ranga Reddy District.

22. In order to establish the case, the initial burden is on the applicant to prove that he is the owner of the property and he was dispossessed by the respondents. The applicant has to prove his ownership and possession of the property. Once, the applicant proved his title to the property, the burden shifts on the respondents to prove that they had better title than the applicant over the application schedule property.

23. Applicant himself was examined as PW.1 and got examined PW.2. Respondent No.6 was examined as RW.1. Exs.A1 to A24 were marked on behalf of the applicant and no documentary evidence was produced by the respondents.

24. Sec.2(e) of the Land Grabbing Prohibition Act, 1982 defines land grabbing, and it is as follows:

"land grabbing" means every activity of grabbing of any land (whether belonging to the Government, a local authority, a religious or charitable institution or endowment, including a wakf, or any other private person) by a person or group of persons, without any lawful entitlement and with a view to illegally taking possession of such lands, or enter into or create illegal tenancies or lease and licence agreements or any other illegal agreements in respect of such lands, or to construct unauthorised structures thereon for sale or hire, or give such lands to any person on rental or lease and licence basis for construction, or use and occupation, of

Sec.8(1) of the Land Grabbing Act reads as follows:

8. Procedure and powers of the Special Courts:—

(1) The Special Court may, either suo motu or on application made by any person, officer or authority take cognizance of and try every case arising out of any alleged act of land grabbing or with respect to the ownership and title to, or lawful possession of, the land grabbed, whether before or after the commencement of this Act, and pass such orders (including orders by way of interim directions) as it deems fit;

25. To prove the applicant's case, he examined himself as PW.1, and in his evidence, he supported the pleadings and also filed the documentary evidence Exs.A1 to A24. According to PW.1, respondent No.1 who was the then Secretary of the Society and the then President identified Ac.70.00 of land at Puppalguda and Manikonda Khasla villages, Rajendranagar Mandal, Ranga Reddy District, in different survey numbers and respondent Nos.1 & 2 were the General Power of Attorney Holders to the original owners Rajaram Chowdary and 49 others, and they divided the land into plots and applicant himself purchased Plot No.224, admeasuring 200 Sq. Yard and paid Rs.10,000/- towards sale consideration and development charges and Rs.1,000/- towards registration charges. Respondent Nos.1 & 2 executed the sale deed in his favour on 08.08.1990. The original sale deed was not given to him. Ex.A5 is the copy of the said sale deed. Applicant clearly stated in his evidence that after the execution of the sale deed, peaceful vacant possession was delivered to him and since then, he was enjoying the schedule property without any hindrance from 08.08.1990. PW.1 also stated that in the sale deed, it is clearly mentioned that purchaser already made demands of entire sale consideration and vendors acknowledged the receipt of the same. It is also mentioned in the sale deed that respondent Nos.1 & 2 delivered the vacant and physical possession of the property to the applicant. PW.1 also stated that the first respondent floated one Company under the name and style of "Sri Raghuram Housing Development Company" and appointed his son as Managing Director and insisted the members to pay Rs.75/- per Sq. Yard. PW.1 stated that he never approached the said Company for any purpose and the said Company started to extract money illegally from the members of the Society and to purchase the plots of the members including the applicant. The respondent Nos.1 & 2, without any manner of right

cancelled his sale deed on 07.05.1994 on the ground that he has not paid the sale consideration amount. PW.1 stated that he paid Rs.10,000/- towards total sale consideration in the schedule plot, for the value of the plot is only Rs.4,000/- and respondent Nos.1 & 2 in collusion with the Sub-Registrar Rajendra Nagar Mandal, brought into existence fictitious cancellation deeds and got executed the sale deeds in favour of third respondent. Thereafter, the sale deeds were executed by the third respondent in favour of the 4th respondent. PW.1 also stated about his filing of suit O.S.No.324 of 2000, before the Principal Senior Civil Judge, Ranga Reddy District, and that the said suit was decreed and he filed E.P.No.179 of 2005. According to PW.1, in the year 2005, when he visited the suit schedule land, he found some constructions are carrying on by respondent Nos.6 & 7 as such he lodged a police complaint on 30.09.2005. After obtaining the encumbrance certificate, he came to know about the subsequent alienations. He further stated that during the pendency of O.S.No.324 of 2000, respondent No.4 in collusion with respondent Nos.1 to 3 executed the sale deed in favour of respondent No.5 and thereafter, Respondent No.5 in turn executed another sale deed in favour of respondent Nos.6 & 7. In the cross-examination, PW.1 admitted that he was not present at the time of registration of the sale deed and he was given copy of the sale deed Ex.A5. He was shown a tentative layout plan by respondent Nos.1 & 2 and he paid the sale consideration of Rs.10,000/- to respondent Nos.1 & 2 and denied that no sale consideration was paid by him and that before cancellation of sale deed, he was consulted. He further denied he is not the owner and possessor of the schedule property and he is a stranger.

26. PW.1 admits in the cross-examination that respondent Nos.6 & 7 are not the parties to O.S.No.324 of 2000 and he came to know

about the execution of the sale deed in favour of respondent No.5 by respondent No.4 in the year 2005; that after filing the L.G.C, he came to know about the execution of the sale deed by respondent No.5 in favour of respondent Nos.6 & 7 and respondent Nos.6 & 7 are not the parties of OS.No.324 of 1990. PW.1 also filed W.P.No.1174 of 1994, in which respondent Nos.6 & 7 are not the parties and in the writ petition, a direction was given by the Court to approach the appropriate Forum. PW.1 denied that respondent Nos.6 & 7 are the bonafide purchasers and that they never grabbed the schedule property. PW.1 stated that he is not aware of respondent Nos.6 & 7 filing O.S.1257 of 2007 for declaration of title and denied that he did not give any complaint to the police and denied that Vasudeva Singh, who is the Secretary of the Society, is his best friend.

27. To prove his case, the applicant also examined PW.2, who is working as Secretary of Sriramnagar Development and Welfare Association, Puppalaguda and Manikonda villages, Rajendra Nagar Mandal. PW.2 in his evidence stated that he issued a notice to the Inspector General of Registration and Stamps, not to cancel the sale deeds and Ex.A24 is the copy of the complaint given by him. In the cross-examination, PW.2 denied that Sriramnagar Development and Welfare Association is a fake Association and it is not in existence and Ex.A24 is a fake letter created for the purpose of the present case and he has not produced any evidence to show that he is the Secretary of the said Association and denied that sale deeds were cancelled as the applicant failed to pay the sale consideration.

28. To disprove the evidence of PWs.1 & 2, sixth respondent was examined as RW.1 and stated that himself and his wife are the owners of the schedule plot No.224, having purchased it from respondent No.5 on 03.03.2005, under a Registered Sale Deed.

RW.1 stated that his vendor purchased the same from respondent No.4 on 26.02.2004 and vendor's vendor purchased the property from respondent No.3 on 06.03.1998 under the registered sale deed. RW.1 further stated that after purchase, he constructed a house after obtaining the necessary permission from the Sarpanch, Gram Panchayat, Puppalguda village on 11.06.2005 and residing in the said premises. The applicant without any manner of right and title came to the schedule property on 02.10.2005 and 04.10.2005 and tried to interfere with the peaceful possession of the schedule property. He filed O.S.No.2815 of 2005 and obtained ad-interim injunction in I.A.No.5326 of 2005 on 07.10.2005. RW.1 categorically stated that he is the bonafide purchaser of the schedule plot, having purchased after verifying the link documents from the vendor, who purchased the property under registered sale deed.

29. In the cross-examination, RW.1 admitted that before purchase, he did not take the encumbrance certificate to the property, purchased by him and he had not given any paper publication regarding his purchase. RW.1 is not aware that a police complaint is lodged in the year 2005 against the respondents in respect of the schedule property and applicant never told him that he purchased the property and he is the owner. RW.1 admits that he is not aware of filing of O.S.324 of 2000 by the applicant. He came to know about pending of O.S.No.2815 of 2005 after he constructed the house in the schedule plot. RW.1 denied a suggestion that his vendor has no title and he cannot pass any valid title in his favour through a sale deed and respondent Nos.1 and 2 created the documents and denied that he purchased the property after having knowledge about the litigation pending and denied that he is not the owner of the property.

30. A perusal of the oral and documentary evidence produced by both sides shows that, it is an admitted fact that originally, respondent Nos.1 & 2 are the General Power of Attorney Holders of the land admeasuring Ac.70.00 situated at Puppalguda and Manikonda Khasla villages, Rajendranagar Mandal, Ranga Reddy District and the first respondent is an employee of the Society, and the Society made plots after obtaining the layout and one such plot bearing No.224 admeasuring 200 Sq. yards was sold to the applicant on 08.08.1990 under a Registered Sale deed i.e., original of Ex.A5, and as per the said document, the applicant paid Rs.10,000/- towards sale consideration and possession was delivered to him under the said document. It is also an admitted fact that respondent No.1 failed to give the original sale deed to the applicant. On 07.05.1994, respondent Nos.1 & 2 cancelled the registered sale deed dated 08.08.1990 executed in favour of the applicant, without any intimation or prior notice to him. It is also an admitted fact that after cancelling the sale deed on 07.05.1994, respondent Nos.1 & 2 executed the sale deed in favour of the third respondent on 11.05.1994. The third respondent, in turn sold the same plot to respondent No.4 on 06.03.1998 under a registered sale deed. Likewise, fourth respondent sold the same plot to respondent No.5 on 26.02.2004 and respondent No.5 also sold the said plot in favour of respondent Nos.6 & 7 on 03.03.2005. After obtaining permission from the Sarpanch, Gram Panchayat, Puppalguda village, respondent Nos.6 & 7 constructed a house in the said plot.

31. It is an admitted fact that the applicant filed O.S.No.324 of 2000, before the Principal Senior Civil Judge, Ranga Reddy District, against respondent Nos.1 to 4 for declaration of title and recovery of possession. The said suit was decreed on 30.07.2004 and therefore, the applicant filed E.P.No.179 of 2005. When the suit was pending, the fourth respondent executed the sale deed in

favour of the fifth respondent and fifth respondent executed the sale deed in favour of respondent Nos.6 & 7. It is also an admitted fact that sixth respondent also filed O.S.No.2815 of 2005 before the Principal Junior Civil Judge, Ranga Reddy District, seeking perpetual injunction restraining the applicant, from interfering with peaceful possession and obtained ad-injunction in I.A.No.5326 of 2005 on 07.10.2005.

32. It is also an admitted fact that on 11.03.2008, 17.03.2008 and 21.04.2008, this Court allowed these writ petitions by setting aside the judgment and decree dated 18.01.2008 passed in L.G.C.No.16 of 2006. Aggrieved by the orders of this Court, the applicant preferred Civil Appeal Nos.10793, 10794-10795 and 10796 of 2013, before the Hon'ble Supreme Court and on 29th November, 2013, the Hon'ble Supreme Court set aside the impugned order passed by this Court in the writ petitions and held this Court ought to have decided the question "whether one or other appellant is land grabber or not. Such issue should have been decided without awaiting the decision of suit, if any, pending of petition, if any, filed against the decree".

33. Respondent Nos.1, 2, 4 & 5 set *ex parte* and third respondent contended that her father was a bonafide purchaser of the application schedule property and at that time, she was a minor and her father sold away the plot in favour of the fourth respondent on 06.03.1998 and applicant was never in possession of the application schedule property. Respondent Nos.6 & 7 also contended that they are the bonafide purchasers for valid consideration and they are in possession of the property as lawful owners and constructed the house after obtaining the permission from the Sarpanch, Gram Panchayat, Puppalguda village, and residing in the said property.

34. Admittedly, as per the evidence on record, applicant

purchased the property on 08.08.1990. Ex.A5 is the registration extract of the sale deed. In Ex.A5, boundaries of the plot No.224 admeasuring 200 Sq. Yards is clearly stated and a plan is also attached under sale deed Ex.A5. E.A6 is the cancellation deed dated 07.05.1994 executed by the General Power of Attorney Holders i.e., respondent Nos.1 and 2. In the cancellation deed, it is mentioned that an amount of Rs.4,000/- was agreed to be paid by the applicant as sale consideration and the said amount has not been paid and therefore, the sale deed executed in favour of the applicant was cancelled. In the said cancellation deed, it is also mentioned that possession of the schedule property was not given to the applicant, as he failed to pay the consideration. Therefore, respondent Nos.1 & 2 cancelled the sale deed of the applicant on the ground that he failed to pay the sale consideration. Admittedly, prior to the cancellation of the sale deed dated 08.08.1990 executed in favour of the applicant, the respondent Nos.1 & 2 had not issued any notice. Likewise, all the subsequent sale deeds executed in favour of the respondents are silent about the sale deed Ex.A5 executed in favour of the applicant and also about the cancellation deed Ex.A6. The learned Senior Counsel for the respondents vehemently contended that as the applicant failed to pay the sale consideration, the respondents 1 & 2 cancelled the sale deed of the applicant with respect to the schedule property.

35. A perusal of Ex.A5 i.e., copy of the sale deed executed in favour of the applicant clearly discloses that the application schedule property is consisting of 200 Sq. Yards bearing Plot No.224 registered in the name of the applicant and it is also clearly mentioned that the applicant was put in possession of the said property. One of the clause in Ex.A5 clearly shows that “purchaser already made payment of the entire sum of consideration stipulated and the vendors hereby acknowledged the receipt of the same” and

it is also mentioned that “possession of the property was delivered to the purchaser i.e., applicant herein”. Therefore, the contention of the senior counsel that sale consideration was not paid cannot be accepted in view of the recitals in Ex.A5. It is no doubt, in Ex.A5, there is a recital that purchaser shall take steps in the construction of the house as per the general plan and development and also the rules and regulations of the HUDA and contribute for other amenities like drainage, roads, sewerage connections, water connections, electricity connections etc. By this condition, it cannot be held that the sale deed executed in favour of the applicant is a conditional sale. This clause applies only when applicant wants to construct a house. Naturally, he has to pay fee to the HUDA for providing amenities to the schedule plot. It is also clearly mentioned that vendors declared that schedule property is free from all encumbrance charges and they have not alienated the said property in favour of anyone till that day. Therefore, the sale of the schedule property in favour of the applicant is not a conditional sale. Therefore, cancellation of the sale deed EX.A6 executed by respondent Nos.1 & 2 cancelling the sale deed of the applicant on the ground that sale consideration was not paid by the applicant and possession of the property was not delivered to him cannot be accepted. Therefore, we are of the view that the cancellation deed Ex.A6 is not valid in the eye of law.

36. There is no dispute about the proposition of law enunciated in the case laws relied upon by both sides. Now, it is to be seen how far those rulings are applicable to the present case. The learned Senior Counsel for respondent Nos.6 & 7 relied upon two Judgments of the Hon’ble Supreme Court i.e., ***Kaliaperumal’s case*** (first cited supra), wherein the appellant in the said case was ready and willing to make payment of only Rs.15,000/-, but not Rs.40,000/- and he has never shown his readiness and willingness

to make payment of Rs.40,000/- of the balance of sale consideration, which ought to be paid only in the presence of the Sub-Registrar as mentioned in the deed. Therefore the first respondent, who was present before the Sub-Registrar on behalf of the respondent on 26.10.1983, was justified in signing or affixing the thumb mark in the endorsement of the registration to be made on the deed, by the Sub-Registrar. The Hon'ble Supreme Court held that "parties really intended that title of ownership to the suit properties would pass to the purchaser, only after payment of full consideration by the purchaser to the vendor as condition precedent. Parties did not intend that there should be transfer of ownership merely on execution and registration of the deed".

37. In the present case, it is contended that the original of Ex.A5 sale deed was registered on 08.08.1990 and the General Power of Attorney Holders i.e., respondent Nos.1 and 2 failed to give the original sale deed to the applicant on the ground that he failed to pay the part of sale consideration and it is a conditional sale. But, a perusal of the clauses mentioned in the sale deed ExA5 clearly disclosed that the applicant paid the entire sale consideration stipulated and vendors acknowledged the receipt of the same and delivered the vacant and physical possession of the schedule plot to the applicant. Therefore, the purchase of schedule property made by the applicant is absolute one, and not a conditional sale and basing on the said document, the applicant became the absolute owner and possessor of the plot No.224 admeasuring 200 Sq. Yards. Therefore, the said case law does not apply to the facts of the present case.

38. Coming to the case law reported in ***Janak Dulari Devi's case*** (second cited supra), wherein the case of the ***Kaliaperumal*** (first cited supra) was referred, the Hon'ble Supreme Court observed that normally, the recitals in the sale deed about transfer of title, receipt

of consideration and delivery of possession will be evidence of such acts and events and on the execution of the registration of the sale deed, the sale would be complete even if the sale price was not paid and it will not be possible to cancel the sale deed unilaterally.

39. In the present case, on 07.05.1994, under Ex.A6, respondents 1 & 2 without giving any notice to the applicant, cancelled the sale deed dated 08.08.1990 and in Ex.A6, applicant has not signed nor there is no evidence put-forth by the respondents that the applicant had noticed about the cancellation of his sale deed Ex.A5. Therefore, the cancellation deed under Ex.A6 is not valid under law. Therefore, the applicant is continued to be the owner of the application schedule property and subsequent transactions i.e., sale deeds in favour of the respondents 3 to 7 have to be treated as void documents as the title document to their sale deeds executed is itself null and void. Further, it is a strange thing to mention that in the subsequent sale deeds, executed in favour of the respondents, there is no mention about the cancellation deed dated 07.05.1994 Ex.A6, executed by respondent Nos.1 & 2.

40. Rule 26(k)(i) of the Andhra Pradesh Rules under the Registration Act, 1908, reads as follows:

The registering officer shall ensure at the time of presentation for Registration of cancellation deeds of previously registered deed of conveyances on sale before him that such cancellation deeds are executed by all executant and claimant parties to the previously registered conveyance on sale and that such cancellation deed is accompanied Civil or High Court or State or Central Government annulling the transaction contained in the previously registered deed of conveyance on sale.

Provided that the registering officer shall dispense with the execution of cancellation deeds by executant and claimant parties to the previously registered deeds of conveyances on sale before him if the cancellation deed is executed by a Civil Judge or a Government Officer competent to execute

Government orders declaring the properties contained in the previously registered conveyance on sale to be Government or Assigned or Endowment lands or properties not registerable by any provision of law.

41. The contention of the learned counsel for the applicant is that as per the amended Rule 26(k)(i), it became mandatory that before a deed of whatever category, executed between or among various parties; is cancelled, the parties to such deed must consent for cancellation thereof, and must join as parties to the deed of cancellation and relied upon ***Venkateswara Housing Pvt. Ltd., 's case*** (fifth cited supra). Further, the learned counsel also relied upon the ***Property Association of Baptist Churches 's case*** (sixth cited supra), wherein their Lordships clearly held that District Registrar had no power to cancel the sale deed and a party aggrieved by a registered document of conveyance has to file a civil suit seeking appropriate declaration under Section 34 of the Specific Relied Act. The power of the Registrar is limited to enquire into the validity of the document brought to him for registration or to enquire into any written or verbal protest against the registration of a document based on the ground that the executing party has no right to execute the document. As stated supra, the recitals in Ex.A5 clearly established that full sale consideration has been paid and received by the vendors and it is not a conditional sale. Further, the other conditions resulting the payment of development charges and other charges to the concerned Department is a regular feature in the sale deed and the persons, who want to construct building or house have to approach the local authorities. Mere mentioning the said clause will not amount to a conditional sale and it is left to the purchaser whether to obtain such permissions by paying the development charges to the concerned Departments.

42. Original of Ex.A5 was executed by respondent Nos.1 & 2 on 08.08.1990. It is a regular sale deed and it is not a conditional sale deed and respondent Nos.1 & 2 without any right cancelled the said sale deed without any prior intimation or notice to the applicant. A perusal of Ex.A6 cancellation deed also shows that though name of the applicant is written, there is no signature of the applicant on it. Therefore, Ex.A6 is not a valid document under law and the applicant is the owner of the application schedule property and the subsequent sale deeds executed in favour of respondent Nos.3 to 7 are also void documents.

43. The findings of the Special Court that Ex.A6 is not a valid document is based on oral and documentary evidence and the said finding needs no interference by this Court. The vendors of respondent Nos.3 to 7 have no right to deal with the property in any manner. In these circumstances, respondent Nos.6 & 7 who alleged to have constructed a house cannot get a better title than their vendor had and the vendors have no subsisting right, title or interest in the said property. The sale deed executed in favour of respondent Nos.6 & 7 is also null and void and the findings of the special Court in this regard needs no interference and the finding of the Tribunal that the applicant is the owner of the schedule property and respondent Nos.6 & 7, who are in possession without any manner of right, title are land grabbers within the meaning of Sec.8(1) of the Land Grabbing Act also needs no interference.

44. In view of the above discussion, the Writ Petitions are dismissed. No order as to costs. The miscellaneous petitions, if any, pending in these Writ Petitions, shall stand closed.

JUSTICE K.C.BHANU

Date: .01.2015

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- [\[1\]](#) (2009) 4 SCC 193
 - [\[2\]](#) (2011) 6 SCC 555
 - [\[3\]](#) (2002) 3 SCC 258
 - [\[4\]](#) (2007) 11 SCC 714
 - [\[5\]](#) (2010) 15 SCC 207
 - [\[6\]](#) 2008 (1) ALT 28
 - [\[7\]](#) 2003 (4) ALD 671
 - [\[8\]](#) (2006) 5 SCC 353
 - [\[9\]](#) 2007 (1) ALT 383 (D.B.)
 - [\[10\]](#) (2007) 15 SCC 261
 - [\[11\]](#) (2004) 2 SCC 601
 - [\[12\]](#) (2010) 2 SCC 461
 - [\[13\]](#) 2007 (1) ALT 511
 - [\[14\]](#) (2009) 12 SCC 613