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***THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

+WRIT PETITION NOs.21361, 21993 and 21994 of 2009

% 01-05-2015

W.P.No.21361 of 2009

Smt. D.Umarani W/o. Mallikarjuna Rao,
Aged 47 years, Occu: Housewife, presently
Residing at H.No.2-10-48, Jyothinagar,
Karimnagar.

... Petitioner

Vs.

\$ The District Collector, Karimnagar and
others.

.... Respondents

!Counsel for the petitioners : Sri S.Ravi Kiran Rao

Counsel for the Respondents: Government Pleader for Revenue
(AP) for Respondents.

<Gist :

>Head Note:

? Cases referred:

1. AIR 1976 SC 105
2. 1997 AI HC 2266
3. 1997 AIHC 2270
4. AIR 2014 SC 3403
5. (2011) 15 SCC 30
6. (2009) 5 SCC 791
7. 2006 (5) ALT 829
8. AIR 1982 SC 119
9. AIR 1995 SC 2272(1)
10. 2015 (1) ALD 508 (DB)
11. AIR 1964 SC 752
12. 2005 (2) ALT 469 (F.B.)
13. (1998) 2 SCC 242
14. 2002 (5) ALD 121 (DB)
15. (1974) 2 SCC 133
16. (2004) 4 SCC 252
17. (2004) 11 SCC 472

HONOURABLE SRI JUSTICE P. NAVEEN RAO

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W.P.No.21361 of 2009

Between :

Smt. D.Umarani W/o. Mallikarjuna Rao,

Aged 47 years, Occu: Housewife, presently
Residing at H.No.2-10-48, Jyothinagar,
Karimnagar.

... Petitioner

and

The District Collector, Karimnagar and
others.

... Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NOS. 21361, 21993 and 21994 of 2009

COMMON ORDER:

In all these three writ petitions the issue for consideration is whether the Revisional Authority erred in dismissing the revision petition filed by the petitioners under Section 4-B of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'the Act, 1977') on the ground that the said revision was not filed within the period of 90 days from the date of the order of appellate authority and erred in not condoning the delay in filing the revision. In view of the same, all the three writ petitions are disposed of by common order.

2. For convenience the facts in W.P.No.21361 of 2009 are considered. Petitioner claims to be the owner and in possession of land in Sy.No.128 to an extent of Ac.1.00 gts. of Rekurthi Village, Karimnagar Mandal and District. Petitioner claims to have purchased the same from Smt. Thakur Rama Devi by means of registered sale deed vide document No.2743/99 dated 16.06.1999. Petitioner claims to have verified the revenue records before purchasing the said land and as per the revenue records, vendor of the petitioner purchased the land from Gadapa Dharmapuri in the year 1996 by means of registered sale deed bearing document No.3336/1996 dated 04.06.1996. The Mandal Revenue Officer, Karimnagar, issued certificate dated 02.11.1992 showing the land as patta land standing in the name of Astapuram Mallaiah and others and it is not an assigned land. On verification of the records of Joint Sub-Registrar-I, Karimnagar, Survey No.128 is not shown in the list of assigned. Thus, all the precautions required under law are taken before purchasing the land. The Mandal Revenue Officer, mutated the lands in favour of the petitioner, issued pattadar pass book vide patta No.442 and title deeds. While so, 4th respondent issued notice in Form-I holding that the purchase made is in contravention of Section 3(2) of the Act, 1977. The said notice was issued to Astapuram Ashaiah. By proceedings dated 20.01.2007, he cancelled the assignment granted in favour of assignee.

3. Aggrieved thereby, petitioner filed W.P.No.20405 of 2007. This Court initially granted interim direction not to dispossess the petitioner. The said writ petition was disposed of along with batch of writ petitions by order dated 06.10.2007 granting permission to the petitioners to file appeals. Accordingly, petitioner filed appeal before the Revenue Divisional Officer, Karimnagar. Without appreciating the true and correct facts and without appreciating the contentions, the appeal was dismissed by order dated 02.02.2008. The copy of the appeal was received by the counsel on record on 28.07.2008. In the mean time, petitioner shifted the residence and, therefore her counsel could not contact the petitioner and there was no information from her counsel with regard to the order passed by the Revenue Divisional Officer. Soon after petitioner came to know about passing of orders by the Revenue Divisional Officer rejecting her appeal, petitioner filed revision before the District Collector (2nd respondent) on 03.06.2009. Petitioner also filed a petition to condone the delay in filing the revision. The Revisional authority refused to condone delay in filing the revision by order dated 26.06.2009, impugned in the writ petition.

4. Heard Sri V.Ravi Kiran Rao, learned counsel for petitioners and learned Government Pleader for Revenue (T).

5. Learned counsel for petitioners contended that rule of limitation is a procedural requirement and should serve to further the ends of justice. There can be valid reasons for not invoking the statutory remedy, be it original, appellate, or review/revision, within the time stipulated in the relevant statute. Not to entertain such application/ appeal/ revision even if sufficient cause is shown defeats substantive rights vested in a person. It is further contended that if there is no express bar against filing revision after the specified time, as a necessary corollary to power to entertain and consider revision, a quasi-judicial authority is competent to entertain an application/appeal/revision even if filed beyond the period of limitation prescribed, if the party has shown sufficient cause for not filing in time. It is contended that as there is no express exclusion of application of limitation Act in the Act, 1977 in view of provision contained in Section 29 (2) of the Limitation Act, the Limitation Act would automatically apply. Thus, rejection of application to condone

the delay in filing revision is ex-facie illegal, amounts to non application of mind and erroneous. Revision Authority erred in holding that it has no power to condone the delay.

6. Learned counsel for petitioners relied on following decisions:

i) **Mangu Ram v. Municipal Corporation of Delhi**

ii) **Mahendra Kumar Goyal v. The Ex-Officio Joint Secretary and Addl. Commissioner of Civil Supplies, Hyderabad and another**

iii) **Smt. Sheela Devi and others v. State of Uttar Pradesh and others**

iv) **State of M.P. and Anr. V. Anshuman Shukla**

v) **Ketan V.Parekh v. Special Director, Directorate of Enforcement and another**

vi) **Commissioner of Customs and Central Excise v. Hongo India Private Limited and another**

vii) **Ravi Venkatravamma v. Sri Venugopala Swamy Temple, Thotlavalluru**

viii) **The Sahkari Ganna Vikas Samiti Ltd., v. Mahabir Sugar Mills (P) Ltd.,**

ix) **Mukri Gopalan v. Cheppilat Puttanpurayil Aboobacker**

x) **Santhammatalli Mahialsakthi Sangham (DWCRA), Vetlapalem, Samalkot Mandal, East Godavari District v. Government of Andhra Pradesh and others**

xi) **Common order of this Court in W.P.No.10860 and 16346 of 2010**

7. Learned Government Pleader for Revenue contended that there is no illegality or irregularity in the decision of the Revisional Authority in rejecting the revision petition on the ground of delay. No power is vested by the Act in the Revisional Authority to condone delay beyond the period prescribed in Section 4 (B) and when there is no power vested by the Act, the Revisional Authority cannot consider application to condone delay, even if the reasons mentioned in not approaching the

Revisional Authority within 90 days as prescribed in Section 4-B are genuine. When the statute has not empowered Revisional Authority to condone delay or to apply the provisions of Limitation Act, the Revisional Authority cannot exercise such discretion to condone the delay.

8. Learned Government Pleader further submitted that Act, 1977 was enacted to protect the landless poor in whose favour lands were assigned so that the well to do persons cannot knock-away those lands and deprive the land less poor from cultivating the lands assigned to them and once again make them land less poor and dependant on the well to do land lords. The land belong to the State was assigned to land less poor in order to ensure that the families of the land less poor do not suffer on account of lack of financial means to possess agricultural lands and the family would eke-out living by cultivating the lands assigned to them. The assignment order clearly prohibits alienation of the lands. In order to prohibit alienation of assigned lands, the Act, 1977 envisages penal consequences on the assignee and the purchaser.

9. Referring to provisions contained in Sections 3,4, 4A and 4B of the Act,1977 learned Government Pleader submitted that against the decision of the appellate authority (Revenue Divisional Officer), revision lies to the District Collector and such revision should be preferred within 90 days from the date of receipt of the orders. Learned Government Pleader submits that the statute prescribes specific time limit within which an appeal or revision should be filed and it is in mandatory terms. Act has not envisaged power to condone the delay. This is a special enactment and provisions of no other enactment would apply to it. Since provisions of the Limitation Act are not adopted expressly and exclusion of application of any other enactment is incorporated in Section 10, the provisions of Limitation Act do not apply. Furthermore, the scheme of the Act would show that there is express exclusion of the application of Limitation Act. Learned Government Pleader further contended that the Legislative intendment of not applying provisions of Limitation Act to the provisions of Act, 1977 is clear from the reading of the Act and wherever Legislature intended to apply the provisions of the Limitation Act, provision to that effect is made. In this context, learned Government Pleader refers to Section 93 of A.P. (T A) Tenancy and Agricultural Lands Act, 1950. Section 93 specifically incorporates application of the provisions of the Limitation Act. Learned Government Pleader,

therefore justified the order of rejection of revision on the ground of delay.

10. Learned Government Pleader placed reliance on following decisions in support of his contentions:

i) **The Bombay Gas Co.Ltd, v. Gopal Bhiva and others**

ii) **G.Narasimha Rao v. Regional Joint Director of School Education, Warangal and others**

iii. **Hindustan Times Ltd., v. Union of India and others**

iv. **Veerappa v. Revenue Divisional Officer, Chittoor and another**

11. In all these Writ Petitions revision was not filed within 90 days as mandated by Section 4B(1) of the Act,1977 and the revisions were dismissed as not maintainable on that ground.

12. The point for consideration is whether Revisional authority erred in dismissing revision petition filed by petitioners as not maintainable on the ground of delay?

13. Determination of this point requires analysis of scope of power of statutory authorities to entertain applications/appeals/revisions and if the statute does not expressly provide for power to entertain such applications/appeals/ revisions whether such authorities can rely on provisions of Section 5 of Limitation Act to condone the delay.

14. The relevant provisions of Act, 1977 are Sections 3, 4, 4A, 4B and 10. They read as under:

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 to 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 sub-section (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.

Section 4 - Consequences of breach of provisions of Section 3:

(1) If in any case, the District Collector or any other officer not below the rank of Mandal Revenue Officer, authorised by him in this behalf, is satisfied that the provisions of sub-section (1) of Section 3, have been contravened in respect of any assigned land, he may, by order--

(a) take possession of the assigned land, after evicting the person in possession in such manner as may be prescribed; and

(b) restore the assigned land to the original assignee or his legal heir, or where it is not reasonably practicable to restore the land to such assignee or legal heir, resume the assigned land to Government for assignment of landless poor persons in accordance with the rules for the time being in force :

Provided that the assigned land shall not be so restored to the original assignee or his legal heir more than once, and in case the original assignee or his legal heir transfers the assigned land again after such restoration, it shall be resumed to the Government for assignment to any other landless poor person.

(2) "Any order passed in revision under Section 4-B and subject to such order, the decision in appeal under Section 4-A and subject to the said orders in revision and appeal, any order passed under sub-section(1)" shall be final and shall not be questioned in any court of law and no injunction shall be granted by any court in respect of any proceeding taken or about to be taken by any officer or authority or Government in pursuance of any power conferred by or under this Act.

(3) For the purposes of this section, where any assigned land is in possession of a person, other than the original assignee or his legal heir, it shall be presumed, until the contrary is proved, that there is a contravention of the provisions of sub-section (1) of Section 3.

Section 4A – Appeal:

(1) Any person aggrieved by an order passed by the Mandal Revenue Officer under sub-section (1) of Section 4, may within ninety days from the date of receipt by him of such order appeal to the Revenue Divisional Officer.

(2) Any person aggrieved by an order passed by the Revenue Divisional Officer under sub-section (1) of Section 4 may, within ninety days from the date of receipt by him of such order appeal to the District Collector.

Section 4B – Revision:

¹[(1) The District Collector may in respect of any proceedings not being a proceeding covered by sub-section(2) of Section 4-A on an application made to him and the Government may in respect of any proceedings either suo motu or on an application made to them, call for and examine the record of any officer subordinate to him or them to satisfy himself or themselves as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order taken or passed therein, and if in any case, it appears to the District Collector or as the case may be to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly.

Provided that every application for the exercise of the powers under this section shall be preferred within ninety days from the date on which the proceeding decision or order to which the application relates was communicated to the applicant.

(2) No order adversely affecting any person shall be passed under sub-section (1), unless such person has been given an opportunity of making his representation.

(3) The District Collector or the Government as the case may be, may also suspended the execution of the decision or order pending exercise of their power under sub-section (1).

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Section 10: Act to override other laws:

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force of any custom, usage or contract or decree or order of a court, tribunal or other authority.

15. The relevant provisions of Limitation Act are Sections 5 and 29 (2). They read as under:

Section 5 - Extension of prescribed period in certain cases

Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.--The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.

Section 29 - Savings

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions

of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.

16. It is clear from the reading of Sections 4A and 4B of Act, 1977 that provisions do not envisage power to condone delay if appeal/revision filed after the time stipulated. The provisions are silent on application of Limitation Act. As per Section 29(2) of Limitation Act, the Limitation Act applies to special statutes on fulfilment of two conditions, viz.,

- i. Special Act should provide for period of limitation different from period of limitation prescribed in Limitation Act; and
- ii. Special Act/Local Act has not expressly excluded application of Limitation Act.

17. The statement of objects and reasons for enacting Act, 1977 clearly brings out that the Government was alarmed by alienation of lands assigned to the landless poor defeating the very objective of assignment of lands. The objective was to make the landless poor self sufficient, enable them to cultivate their own lands and earn a living for the family. If right to alienate lands so assigned is conferred on Such persons, they would be induced to part with the land for small consideration, making them once again landless poor and dependent on the well to do land lords. Government also noticed that these lands are knocked away by well to do persons by inducing the landless poor on paltry considerations. In order to prevent such transfers and to protect the interests of the land less poor in whose favour the lands are assigned, the enactment is brought in. Enactment seeks to prohibit alienation of land assigned to a landless poor and also imposes penal consequences on persons who acquire such assigned lands. The lands in issue in these writ petitions are close to Karimnagar town and surrounded by urbanisation. The real estate developers with an objective to make quick money by converting the lands into residential colonies induce the landless poor to part with the lands.

18. Section 3 of the Act prohibits such transfers. It prohibits against acquiring assigned land either by way of purchase, lease, gift, mortgage, exchange or by any other means. As per Sub-section 3 of Section 3, those transactions are deemed to

be null and void. When it comes to the notice of the District Collector or any officer designated by him not below the rank of Mandal Revenue Officer, the concerned officer is competent to take immediate steps to take possession of the land; evict the person in possession. It empowers the competent authority to forfeit any crop or produce grown or any building or other constructions erected. On such taking possession, consequential steps can be taken by the competent authority. Before taking such decision, the person concerned is required to be put on notice and given an opportunity of hearing. In the context of the provisions contained in the Act, it is a summary inquiry only to ascertain whether the land assigned to a landless poor is in possession by any other person. The burden lies on the person in possession to establish that it is not an assigned land/ though assigned but not burdened with condition of non-alienation and therefore provisions of Act, 1977 are not attracted. Sub Section 5 of Section 3 also enables such person to satisfy the competent authority that the person who purchased such land is also a land less poor and such purchase was made in good faith and for valuable consideration and such purchase was made prior to commencement of the Act, 1977 and he continues to be in possession for the purposes of cultivation. In such a case penal consequences of Section 3 do not attract.

19. Section 4-A provides right of appeal to an aggrieved person. Such appeal can be preferred within 90 days from the date of receipt of order passed by the original authority. Against order of Appellate Authority, revision lies under Section 4-B before the District Collector, if such appeal was considered by the lower authority, if such order was passed by the District Collector, to the Government. Section 4-B also vests suo-moto power in the Government. In case of suo-moto exercise of revisional jurisdiction, no time limit is prescribed.

20. On the application of Limitation Act to special statutes, there are precedents in abundance. A brief survey of precedents to the extent relevant is necessary to appreciate rival contentions.

21. **HUKUMDEV NARAIN YADAV Vs. LALIT NARAIN MISHR** is an appeal arising out of order of Patna High Court dismissing Election Petition as time barred as it was not presented within 45 days. One of the issues considered was whether

Section 5 of the Limitation Act is applicable to Election Petitions. Supreme Court held:

It is contended before us that the words “expressly excluded” would mean that there must be an express reference made in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. As usual the meaning given in the Dictionary has been relied upon, but what we have to see is whether the scheme of the special law, that is in this case the Act, and the nature of the remedy provided therein are such that the Legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If on an examination of the relevant provisions it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our view, ***even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the Court to examine whether and to what extent the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation (emphasis supplied).***

22. In **MANGU RAM** appellants were convicted under Section 19 (2) of Food Adulteration Act, 1954. Section 417 (3) of Criminal Procedure Code enables the Municipal Corporation to prefer appeal by seeking leave of the High Court within 60 days. Against acquittal of appellants, Municipal Corporation of Delhi preferred Special Leave to Appeal. As there was a delay of 2 days to file Special leave to Appeal, application to condone the delay was filed. The High Court condoned the delay and considered the appeal on merits and convicted the appellants. Before the Supreme Court it was contended that High Court has no power to condone the delay in filing appeal. Construing the provisions of Section 29 (2) of the Limitation Act vis a vis Section 417 (3) of Criminal Procedure Code, Supreme Court held as under:

“7.Since under the Limitation Act, 1963, Section 5 is specifically made applicable by Section 29, sub-section (2), it can be availed of for the purpose of extending the period of limitation prescribed by a special or local law, if the applicant can show that he had sufficient cause for not presenting the application within the period of limitation. It is only if the special or local law expressly excludes the applicability of Section 5, that it would stand displaced.It is because a bar against entertainment of an application beyond the period of limitation is created by a special or local law that it becomes necessary to invoke the aid of Section 5 in order that the application may be entertained despite such bar. Mere provision of a period of limitation in howsoever peremptory or imperative language is not sufficient to displace the applicability of Section 5. The conclusion is, therefore, irresistible that in a case where an application for special leave to appeal from an order of acquittal is filed after the coming into force of the

Limitation Act, 1963, Section 5 would be available to the applicant and if he can show that he had sufficient cause for not preferring the application within the time limit of sixty days prescribed in sub-section (4) of Section 417, the application would not be barred and despite the expiration of the time limit of sixty days, the High Court would have the power to entertain it.”

23. In **GOPAL SARDAR Vs KARUNA SARDAR**, the issue for consideration was whether Limitation Act applies to matters arising out of the West Bengal Land Reforms Act, 1955. Supreme Court held:

“14.....The decision of that case turned upon the facts of that case in criminal appeals by comparison of the provision of the old Limitation Act to the provision of the new Limitation Act.Further, the decision in *Hukumdev Narain Yadav (cited supra)* was not brought to the notice of this Court when *Mangu Ram case (cited supra)* was decided. In the light of the three-Judge Bench decision of this Court in *Hukumdev Narain Yadav* we do not find any good reason to take a different view.”

24. In **FAIRGROWTH INVESTMENTS LIMITED Vs CUSTODIAN**, the question for consideration was whether the Special Court constituted under the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 has power to condone the delay in filing a petition under Section 4 (2) of the Act. On review of precedents on the subject, Supreme Court held:

12. If the power to condone delay were implicit in every statutory provision providing for a period of limitation in respect of proceedings before courts, Section 29(2) of the Limitation Act, 1963 would be rendered redundant.....(emphasis supplied)

.....

.....

19. But in this case apart from the mandatory and compulsive provisions of sub-section (2) of Section 4 of the Act, there are in addition two provisions of the Act which show that the provisions of Section 5 of the Limitation Act, 1963 cannot be invoked. These are: an express provision for condonation of delay under Section 10(3) and the non obstante provision in Section 13 of the Act.....” (emphasis supplied).

25. In **COMMISSIONER OF CUSTOMS AND CENTRAL EXCISE**, Supreme Court held:

“35.....In our considered view, that even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the court to examine whether and to what extent, the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation.....

36.....It is well-settled law that it is the duty of the court to respect the legislative intent and by giving liberal interpretation, limitation cannot be extended by invoking the provisions of Section 5 of the Limitation Act.”

26. In **VEERAPPA**, Division Bench of this Court considered similar provisions obtaining in A.P. (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 wherein District Collector, Chittor filed appeal on 24.5.1994 under Section 7 (2) of the Act assailing the orders granting Ryotwari Pattas on 6.1.1985 and 7.3.1986. By order dated 7.6.1994 appeal was entertained and stay was granted. On a challenge in W.P. No. 11598 of 1994, writ was disposed of by order dated 14.12.2000 directing the Revenue Divisional Officer to dispose of appeal after affording reasonable opportunity. The same was challenged in writ appeal. The Division Bench held:

“8.....The Revenue Divisional Officer is a creature of statute and whatever power he exercises under the statute should be strictly within the parameters of power granted to him. Since the statute does not confer any power on him to condone the delay, the Revenue Divisional Officer condoning delay of 2555 days would not arise. Secondly, it is quite startling to notice that the Revenue Divisional Officer straight away, without notice to the writ petitioner and completely ignoring natural justice and fair-play in action, ex parte condoned the enormous delay of 2555 days. ”

27. In **G.NARASIMHA RAO**, Full bench of this Court considered whether Andhra Pradesh Administrative Tribunal has power to condone the delay in filing review. Administrative Tribunals Act, 1985 and rules made there under have not made provision condone the delay. Full Bench held:

“13.....In the absence of any provisions prescribed for condoning the delay either in the Act or in the Rules, the Tribunal will not have jurisdiction to condone the delay in taking aid and assistance of Section [5](#) of the Limitation Act on the premise that Limitation Act is made applicable in view of Sub-section (2) of Section [29](#) of the Limitation Act.”

28. In **ANSHUMAN SHUKLA**, the issue for consideration was whether the provisions of Limitation Act would apply to M.P.Madhyastham Adhikaran Adhiniyam Act, 1983. Section 19 of the Act 1983, provides for exercise of power of suo motu by High Court at any time or on an application made to it within three months of the award by an aggrieved person. Considering the said provision of the said Act and the provisions in Section 29 of Limitation Act and on review of the earlier precedents on the subject, Supreme Court held that Section 19 of the Act 1983, does not contain any express rider on the power of the High Court to entertain an application for revision after the expiry of the prescribed period of three months and High Court is also conferred with suo motu power at any time. It is clear that the legislative intent was not to exclude the applicability of Section 5 of the Limitation Act.

29. **RAVI VENKATRAVAMMA** is concerning the application of Limitation Act to execution proceedings taken out under A.P. (Andhra Area) Tenancy Act, 1956 and the Rules made there under. This Court held that in view of Section 29 of the Limitation Act, provisions of the Limitation Act apply to special acts also.

30. In **THE SAHKARI GANNA VIKAS SAMITI LTD**, Supreme Court held that Divisional Commissioner in exercise of power vested in him to adjudicate a matter under the special Act, acts as Revenue Court. In such a case, the provisions of Section 5 of the Limitation Act would apply before him as an appellate authority.

31. In **SANTHAMMATALLI MAHIALSAKTHI SANGHAM**. Division Bench of this Court while construing the provisions of ***A.P. State Public Distribution System Control Order 2001***, held that when in the relevant provision there is no express

power to condone delay nor excluded applicability of Sections 4 to 24 of the Limitation Act, 1963, the Limitation Act would apply in exercising power of a revision to consider an application for condoning the delay. Clause 21 of the control order provides for revision against order passed under Clause 20(1)(i) of the control order. The said clause prescribed 30 days to file such a revision. The Division Bench of this Court held that Section 5 of Limitation Act is applicable and revisional authority has power to condone the delay. It is further held that when the revising authority has entertained the application and passed order on merit, it should be deemed that he has condoned the delay.

32. The principles deducible from precedents are: (1) that Special Act/Local Act should provide a period of limitation different from period of limitation prescribed in Limitation Act; (2) Special Act / Local Act has not expressly excluded application of Limitation Act; (3) Such exclusion can be by necessary implication, such as incorporating power to condone delay in some Sections and not providing in other Sections of the Special Act; (4) Even if Special Act is silent on exclusion of application of Limitation Act, it is not automatic that Limitation Act would apply to Special Act; the Court ought to examine the nature of the subject and scheme of special law to ascertain whether legislature intend to exclude the operation of Limitation Act; (5) Power to condone delay cannot be implicit; (6) If the statute does not confer power to condone delay, statutory authority cannot condone the delay; (7) If Special Act incorporates non-abstante clause no other law including Limitation Act would apply; and (8) If the Act is a self-contained code, provisions of Limitation Act cannot be imported, more particularly when express provision of adoption is not made.

33. Guided by the above principles, the provisions of the Act, 1977 are analyzed. Act, 1977 is self contained enactment dealing with the issue of alienation of Government lands assigned to landless poor and action thereof. Power is vested in the competent authority to dispossess third parties in occupation of the assigned lands, resume the assigned land sold to third parties and to restore possession to assignee or to resume the land to the State. The Act creates three layers of grievance redress mechanism, before the Original Authority, Appeal and Revision. To avail remedy of appeal or revision, time limit of 90 days is prescribed. Act does

not confer power in the Revisional Authority, including the Government, to condone the delay in filing revision. In Section 4-B, word 'shall' is employed, implying the legislative intent to fix outer limit to file revision. The fact that to exercise sue-moto power of revision by Government, no time limit is prescribed clearly brings out legislative intent in adhering to time fixed in Section 4B on a revision filed by aggrieved person. Legislative intent can be gathered by looking into provisions of other statutes of similar nature. In A.P. (T.A.) Tenancy and Agriculture Lands Act, 1950, specific provision is incorporated applying the Limitation Act (Section 93 of the Act, 1950). Thus, wherever, legislature deemed to extend Limitation Act to Special statutes, it has incorporated specific provision.

34. Section 10 of the Act mandates that the provisions of the Act shall have the effect notwithstanding anything contained in any other law for the time being in force. Thus, concerning the subject matters of the Act, 1977, no other law including Limitation Act would apply.

35. The reading of various provisions of the Act, 1977 makes it clear that legislature did not intend to expand time to file appeal/revision even if it is for genuine cause. Thus, the provisions of the Limitation Act are not applicable in exercise of power by the statutory authority dealing with appeals/revisions under the Act, 1977. The provisions of the Act are not under challenge.

36. In view of the principles culled out from the long line of precedents referred to above and in view of the statutory scheme of Act, 1977 it can not be said that the Revisional Authority erred in his decision to reject the revision filed by the petitioners as not maintainable, as such revisions were filed beyond 90 days prescribed in Section 4B of the Act, 1977 warranting interference by this court. Thus, I see no merit in these writ petitions and they are accordingly dismissed.

Miscellaneous petitions if any pending in these writ petitions shall stand closed. There shall be no order as to costs.

Date: 01.05.2015

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Note: L.R. copy to be marked : yes

HONOURABLE SRI JUSTICE P. NAVEEN RAO

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WRIT PETITION NOs. 21361, 21993 & 21994 of 2009

Date : 01.05.2015

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