**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**WRIT PETITION NO.10327 OF 2004**

**ORDER**:

This writ petition, under Article 226 of the Constitution of India, is filed seeking a direction against the respondents not to dispossess the petitioner from patta lands covered by Sy.No.85/A5 measuring 21 guntas, Sy.No.85/A3
measuring 20 guntas, Sy.No.85/A4 an extent of 22 guntas, Sy.No. 85/A1 an extent of 22 guntas, Sy.No.85/A2 an extent of 22 guntas, situated at Toopran Village and Mandal, Medak District, while declaring the action taken or proposed to be taken by the respondents 1 to 3 herein in allotting the above lands to some other persons as illegal, by way of Mandamus.

The petitioner is a poor person and belongs to shepherd caste, did not possess either movable or immovable property anywhere including in Toopran Village. As the petitioner wanted to settle down as agriculturist, purchased the assigned land of an extent of 21 guntas (dry land) covered by Sy.No.85/A5 from the $4^{th}$ respondent under registered sale deed bearing document No.897/98. Similarly, an extent of 20 guntas in Sy.No.85/A3 from the $5^{th}$ respondent under registered sale deed bearing document No.898/98, an extent of 22 guntas in Sy.No.85/A4 from the $6^{th}$ respondent under registered sale deed bearing document No.899/98, an extent of 22 guntas in Sy.No.85/A1 from the $7^{th}$ respondent under registered sale deed bearing document No.900/98, an extent of 22 guntas in Sy.No.85/A2 from the $8^{th}$ respondent under registered sale deed bearing document No.901/98. After purchase, the name of the petitioner was mutated in the concerned revenue records by respondents 1 to 3 and he has been in possession and enjoyment of the property, cultivating the said land to eke-out his livelihood. The petitioner invested huge amount by sale of sheep and goats and dug bore wells for cultivating the land.

While the petitioner enjoying the property, some antisocial elements pointed out that the above land is assigned by the Government to the respondents 4 to 8 and they sold the land under different sale deeds in contravention of the provisions of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, hereinafter, referred to as "A.P. Act 9 of 1977"). At the time of obtaining registered sale deed, the respondents 4 to 8 represented that it is a private land, not assigned land. On enquiry, subsequently, the petitioner came to know that the said lands were assigned to the father of the respondent Nos.4 to 8 by the respondent Nos.1 to 3.

While the matter stood thus, the 1st respondent-Mandal Revenue Officer, issued a letter No.B/1070/98
dated 16.09.1998 to the respondent Nos.4 to 8, without serving any notice on the petitioner, proposing to cancel the patta. On coming to know about the said letter, the petitioner made enquiries about the notice, in the meanwhile,
the 1st respondent- Mandal Revenue Officer, passed an order cancelling the patta, as the sale is in violation of Section 3 of the Act 9 of 1977. The order passed by the 1st respondent is neither under ROR Act nor under the Act. In pursuance of the order passed by the Mandal Revenue Officer, respondent
Nos.2 and 3 are trying to dispossess the petitioner from the land. Since the order passed by the 1st respondent-Mandal Revenue Officer is without notice to the petitioner and in violation of

principles of natural justice and illegal, the same is liable to be set aside.

It is specifically contended that the petitioner purchased the land under registered sale deed referred above, got mutated his name in the revenue records, obtained pattadar passbook and title deed. The petitioner obtained the pattadar pass book from the first respondent, therefore, the first respondent-Mandal Revenue Officer has no power to review his own order and there is no provision under ROR Act enabling the 1st respondent cancelling the pattas granted and title deeds issued under Section 6 of the A.P. Act 9 of 1977. *suo-moto* power is only conferred on the Collector as a revisional authority and the order passed by the 1st respondent is totally illegal. It is also contended that aggrieved by the order passed by

the 1st respondent-Mandal Revenue Officer, an appeal under Section 4 of the Act was preferred and it was subsequently withdrawn. In case the transfer of assigned land is in violation of Section 3 of the Act, if the purchaser is a landless poor, the 2nd respondent would have exercised its power under Section 4 of the Act. Finally, the petitioner contended that the order passed by the 1st respondent-Mandal Revenue Officer, is illegal and prayed to set aside the same.

Respondent Nos.1 to 3 filed counter denying the allegations contending that the 1st respondent personally verified the records and submitted a report to the concerned. According to the report, as per Khasra Pahani 1954-55 and Seasala Pahani for the year 1955-56, 1956-57 and 1957-58 of Toopran Village, the land in Sy.No.85 to an extent of Ac.2.31 guntas was recorded as Kharij Khatha (Government land) and in the name of Sri Harijan

Kallakanti Lingaiah, S/o. Balaiah as occupant. Subsequently, pahani for the year 1959 has been verified and found that name of Sri Harijan Kallakanti Lingaiah, S/o.Balaiah, etc., was shown as pattadar and occupant and in the remarks column as it was recorded as Jamabandi Faisal Patty for the year 1958. From this, it is evident that assignment was made to Sri Harijan Kallakanti Lingaiah, S/o. Balaiah, etc., was implemented in Naze-m-Jamabandi of faisal patty for the year 1957-58, the same entries were carried up to ROR 1989-90. In ROR 1989-90, the name of original assignee i.e. Harijan Kallakanti Lingaiah s/o. Balaiah was deleted while incorporating the names of Gajwel Durgaiah, Kallakanti Mallesha, Kicugari Mallesha, Gajwel Chandraiah and Sargala Pentaiah. As per the proceedings No.A/359/1997, dated 11.03.1997 of the 1st respondent, it is evident that the vendors in this case filed an application before the 1st respondent while enclosing partition deed executed by Harijan Kallakanti Lingaiah s/o. Balaiah, original assignee for its implementation in ROR and on perusal of the partition deed dated 15.02.1989, it is evident that the original assignee Harijan Kallakanti Lingaiah, who was in possession of the property during his life time, partitioned among his legal heirs, who sold the property under different sale deeds to the petitioner dated 06.03.1998, bearing document Nos. 897/98 to 901/98, and these registered sale deeds were implemented in ROR vide Mandal Revenue Officer, Toopran proceedings No.A/962/98 dated 05.06.1998, which is in contravention of Section 3 of the Act.

As the petitioner purchased the assigned land under various sale deeds referred in the petition as well as in the earlier paragraphs, the sale is not valid though the name of the petitioner was mutated as owner of the property in the revenue records, since the assigned lands are heritable, not alienable. The 1st respondent was not permitted to implement the sale deeds or carried out the changes in the revenue records. Therefore, mere mutation of the name of the petitioner would not confer any title on the petitioner with absolute rights. It is specifically contended by respondent Nos.1 to 3 that the 1st respondent alone is competent to resume the land to the Government custody under Section 3 of Act 9 of 1977. According to Section 3 of the Act 9 of 1977, the 1st respondent after following procedure by issuing notice in Form-I, resumed the land to the Government, by mentioning as “cancelled the assignment” is due to lack of knowledge, but it is only resumption order.

As the petitioner aggrieved by the order of the 1st respondent preferred the appeal, which is pending, but the land is in the custody of the Government. Since the petitioner was already dispossessed from the schedule property by following the necessary procedure proposing to construct a School for the above Village Community.

The respondent again submits that the land in question is an assigned land and as per the Kharij Khatha, it was assigned to Harijan Kallakanti Lingaiah, S/o. Balaiah and sold by his legal heirs to the petitioner after partition of the same, contravening Section 3 of the Act and prayed to dismiss the writ petition.

Respondents 4 to 8 also filed separate counter admitting that the assigned lands of Harijan Kallakanti Lingaiah was devolved upon them. In the partition, the property was divided, they have cultivated the same for the last more than 30 years raising dry crops. As the land could not be cultivated due to lack of financial assistance for those small fields, respondents offered to sell the property, and the petitioner purchased the same under different sale deeds and mutated his name in the revenue records.

It is further contended that in case the pattas were cancelled by the respondent Nos.1 to 3, the same should be reassigned under Section 4 of the Act to the vendors of the petitioner i.e. respondents 4 to 8 and it cannot be resumed to the Government and prayed to set aside the order.

During hearing, Sri K. Goverdhan Reddy, learned counsel for the writ petitioner, contended that the patta cannot be cancelled after long lapse of time for contravention of Section 3 of the Act, and placed reliance on the Judgment of the Division Bench of this Court in "***S.Santhanam and Others V. State of Andhra Pradesh, Revenue Department and Others***[1]**.**" He further contended that the petitioner is a bonafide purchaser and he is a landless poor. He bonafidely purchased the property for a valuable consideration, and therefore the petitioner is entitled to claim benefit under sub-Section (5) of Section 3 of the Act, but contrary to the Rules, respondent Nos.1 to 3 without following necessary procedure, attempted to dispossess the petitioner, resuming the land, by cancelling pattas, and such act is illegal and violation of principles of natural justice, therefore prayed to set aside the resumption or cancellation order.

Learned Government pleader for Revenue appearing for respondent Nos.1 to 3, argued totally in support of the order under challenge, while contending that the principle laid down in ***S.Santhanam and Others V. State of Andhra Pradesh, Revenue Department and Others*** (referred supra) has no application in view of the later Judgment of the Apex Court in "***Collector and***

***others v. P.Mangamma and others***[2]" and prayed for dismissal of the writ petition, since the 1st respondent passed order strictly adhering to the procedure prescribed under the provisions of the Act and Rules framed therein.

A bare look at the allegations made in the affidavit filed in support of the petition, it is evident that the petitioner purchased the assigned land from respondent Nos.4 to 8 under different sale deeds bearing Nos.897/98, 898/98, 899/98, 900/98 and 901/98, and it is not his case that he is a landless poor, bonafidely purchased the property for a valuable consideration. Since there is no pleading in the entire affidavit, except contended that initially the respondent Nos.4 to 8 informed him that it is a private patta land, but latter he came to know that it is assigned land. Nowhere, he mentioned about the passing of consideration under the sale deeds, by which he purchased the property, but filed copies of sale deeds before this court, during hearing. At page 7 of the document, a proforma was annexed duly signed by the vendor and attestors, where it was clearly mentioned that the land covered by sale deed is not assigned land under the Act and the provisions contained therein have no application.

Thus, it is clear from the documents, that by the date of purchase, it is not known to the petitioner that it is assigned land. However, it is for him to enquire as to title of the property, but without making any enquiry as to the source of title, he purchased the property.

In any view of the matter, when the petitioner wanted to claim that he is a bonafide purchaser for valuable consideration, he must plead and prove the same. In the instant case, the petitioner did not raise such plea in the entire writ petition, but for the first time such contention was urged before this Court during hearing. Hence, in the absence of any specific plea in the writ petition, it is not open to the petitioner to raise such plea for the first time during argument.

The main contention of the learned counsel for the petitioner is that the petitioner is a bonafide purchaser for valuable consideration without knowing that the same is assigned land under B.S.O.No.15 of the A.P.Act 9 of 1977. Therefore, he is entitled to benefits under Section 3 (5) of A.P. Act 9 of 1977.

In **Gadde Suryakumari vs. Mandal Revenue Officer and Anr.**[3]**,** this Court held that in order to claim benefit under Section 3(5) of A.P.Act 9 of 1977 the petitioner is requested to prove the following four conditions:

1. ***That the petitioner who purchased the property is a landless poor person.***
2. ***That the alleged sale took place for valuable consideration***
3. ***The petitioner is a bonafide purchaser of assigned land in good faith and for valuable consideration.***
4. ***That the transaction must be prior to commencement of Act No.9 of 1977***

In the present facts of the case, the sale took place on 06.03.1998. Even if the petitioner is able to satisfy the requirement Nos.1 to 3 under Section 3 (5) of A.P.Act 9 of 1977 as mentioned above, since the transaction took place subsequent to commencement of A.P. Act 9 of 1977, the petitioner is not entitled to claim benefit under Section 3 (5) of A.P.Act 9 of 1977.

One of the contentions of the petitioner is that the patta granted in favour of the original assignee and alienation of the property done by the legal heirs in favour of the petitioner, who is a landless poor person, cannot be cancelled by exercising power conferred on the respondent by Act 9 of 1977, after long lapse of time. He placed reliance on a judgment of this Court in "***S.Santhanam and others v. State of Andhra Pradesh, Revenue Department and Others***" (referred supra). Wherein this Court held that exercise of *suo motu* power 'at any time' is not unguided and arbitrary and 'at any time' be understood as within a reasonable time depending on facts and circumstances of a case in the absence of prescribed period of limitation.

No doubt, the pattta was granted in favour of Sri Harijan Kallakanti Lingaiah in the year 1955 and after his death the property was succeeded by Gajwel Durgaiah, Kallakanti Mallesha, Kicugari Mallesha, Gajwel Chandraiah and Sargala Pentaiah and their names were mutated in the revenue records, but they sold the property under different sale deeds to the petitioner dated 06.03.1998 bearing document Nos.897/98 to 901/98 in contravention of Section 3 of A.P.Act 9 of 1977. The assignment was cancelled by the respondent No.1 by issuing notice in Form I and resumed the land on 16.09.1998 under the A.P.Act 9 of 1977. Thus, there is long gap of more than 40 years between the assignment and cancellation by the revenue authorities. The only reason for cancellation of patta was contravention of Section 3 of the Act i.e. alienation of assigned land. Even according to the principle laid down in "***S.Santhanam and others v. State of Andhra Pradesh, Revenue Department and Others***" (referred supra) the Revenue authorities can *suo motu* initiate proceedings and cancel the assignment within a reasonable time and the Court held that 12 years is the reasonable time. The contention of the learned counsel for the petitioner is that the law laid down by this Court in the aforesaid judgment is binding on the Revenue authorities and they are bound to take note of the same. The law declared by this Court and circulars issued by the Revenue authorities stating that limitation of 12 years is applicable only to certain cases without classifying to which cases 12 years period of limitation can be applied, is not binding since they have no statutory force.

In "***P.Anasuyamma and another Vs. The Commissioner of Land Revenue, Government of A.P., Hyderabad and another***[4]" this Court held that the cancellation of assignment is illegal and against the settled principles of law and the same is unsustainable.

The main challenge of the order is based on limitation. According to learned counsel for the petitioners, such revision either *suo motu* or on an application of anybody can be taken up within 12 years and, if it is 12 years from the date of assignment, such revision of assignment for cancellation or resumption is illegal since it is barred by limitation. Learned counsel for the petitioners placed reliance on ***P.Anasuyamma and another Vs. The Commissioner of Land Revenue, Government of A.P., Hyderabad and another*** (referred supra). In the above judgment, learned single judge of this Court, while distinguishing with the judgment of the Apex Court in "***State of Maharastra Vs. Rattanlal***[5]", held as follows:

> *"Para 18 of the Board Standing Order – 15 providing revisional jurisdiction of the authorities, prescribes a period of three years limitation for the Collector, in case the decision of a subordinate officer was grossly inequitable and in case the subordinate officers exceeded their respective powers or where an order has been passed under a mistake of fact or owing to fraud or misrepresentation. Clause (2) of the said para provides that the State Government may*

*exercise suo motu powers, at any time and revise the said orders of the officers subordinate on the grounds mentioned in para 18 (1). Though in sub-para (1) of para 18 it is not stated how the Collector should exercise the powers whether on an application or revision presented to him or suo motu, from the reading of the provision it appears that that is also a suo motu power. But whatever it may be the power conferred in para 18 (1) shall be exercised only within three years from the date of the order passed, if he finds there has been any misrepresentation or fraud."*

In the above judgment, this Court relied on "***Sekhari Aruna Kumari Vs. District Collector, Visakhapatnam*[6]*"***; and "***Madamaneni Chinnaswamy (died) per L.Rs. Vs. Joint Collector, Chittoor*[7]*"***, to conclude that issue of show-cause notice after lapse of 30 years is illegal. No doubt the consistent principle laid down in both the above judgments is that, if revenue authorities want to exercise power of revision under para 18 of B.S.O.No.15, a show-cause notice is required to be issued within three months from the date of such assignment. If the principle laid down in the two judgments referred above is applied, certainly the power of revenue authorities to revise the order is hopelessly barred by limitation.

Learned Government Pleader contended that the Government authorities cannot be interfered when the finding is based on material on record since power of judicial review is limited under Article 226 of the Constitution of India. In addition to the said contention, learned counsel further submitted that the revenue authorities can exercise power of revision within reasonable time and reasonable time depends upon facts and circumstances of each case. For instance, limitation starts from the date of detecting fraud in obtaining assignment. In the present case, Gajwel Durgaiah and others alienated the property in the year 1998 in contravention of terms and conditions of assignment and immediately proceedings were initiated for cancellation of assignment by issuing notice in Form I prescribed under the Rules framed under the Act. Therefore, limitation starts only from the date of detecting alienation and thereby question of limitation in the matter does not arise.

In view of amendment to para 18 of B.S.O.No. 15 by G.O.Ms.No.912 dated 02-08-1985, such power can be exercised within a reasonable time and shall not be more than 12 years and initiation of proceedings for cancellation of assignment after 3 years and beyond 12 years is barred by limitation and placed reliance on "***Soni Reddy Vs. Joint Collector, Medak and others***[8]", wherein this Court held that even though no period of limitation was prescribed for exercise of revisional jurisdiction under statute, power must be exercised within a reasonable time. If it was a case that the assignment is sought to be cancelled either on contravention of conditions of grant or to the public purpose *etc.*, normally *suo motu* power is to be exercised within a reasonable period *i.e.* within a period of 12 years.

Before adverting to the law declared by the Apex Court, I feel it is appropriate to extract para 18 of B.S.O.No.15 as amended by G.O.Ms.No.912 dated 02.08.1985 and the same is extracted hereunder:

> *"18. Revision –*
> *(1) The order of the authority making the assignment, if no appeal is presented, or of the appellate authority, if an appeal is disposed of, is final and no second appeal shall be admitted. But if, at any time after the passing of the original or appellate decision, the Collector is satisfied that there has been a material irregularity in the procedure or that the decision was grossly inequitable or that it exceeded the powers of the officer who passed it or that it was passed under a mistake of fact or owing to fraud or misrepresentation he may set aside, cancel or in any way modify the decision passed by an officer subordinate to him. No order should be reversed or modified adversely to the respondent without giving the respondent a notice to show cause against the action proposed to be taken adversely to*

*him.*

*(2) The Chief Commissioner of Land Administration may at any time either suo motu or on an application made to him call for and examine the record relating to any decision or order passed or proceeding taken by the Collector under the proceedings sub-paragraph for the purpose of satisfying himself as to the legality or propriety of such decision or order or as to the regularity of such proceeding and pass such order in reference thereto as he thinks fit. No order should be reversed or modified adversely to the respondent without or modified adversely to the respondent without giving the respondent a notice to show cause against the action proposed to be taken adversely to him. The Chief Commissioner of Land Administration may stay the execution of any such decision, order of proceedings pending the exercise of his powers under this sub-paragraph in respect thereof.*

*(3) The State Government may at any time, either suo-motu or on an application made to them, call for and examine the record relating to any decision or order passed or proceeding taken by any authority or Officer subordinate to them under the preceding sub-paragraphs for the purpose of satisfying themselves as to the legality or propriety of such decision or order or as to the regularity of such proceeding and pass such order in reference thereto as they think fit. No order should be reversed or modified adversely to the respondent without giving the respondent a notice to show cause against the action proposed to be taken adversely to him. The Government may stay the execution of any such decision, order or proceeding pending the exercise of their powers under this sub-paragraph in respect thereof.*

*(4) All revision petitions in darkhast cases should be stamped with a court fee label to the value of the rupees two."*

On close scrutiny of the amended para 18 (2) of B.S.O.No.15, the Chief Commissioner of Land Administration may at any time, either *suo motu* or on an application made to him, call for and examine the records relating to any decision or order and pass appropriate order after issuing show cause notice intimating the proposed action to be taken adversely against him. So, Clause (2) of para 18 deals with powers of Chief Commissioner of Land Administration but here

the 2nd respondent exercised power of revision conferred on him by virtue of Clause (3) of para 18. Even according to para 18 (3), the State Government may at any time, either

*suo motu* or on an application made to them, call for and examine the records relating to any decision or order passed or proceeding taken by any authority or Officer subordinate to them and pass appropriate orders following the procedure prescribed thereunder. Therefore, the word at any time indicates that no limitation is prescribed to exercise power of revision as per para 18 of B.S.O.No.15 but judicial interpretation is otherwise. According to judicial interpretation, such power can be exercised within reasonable time in view of the principle laid down by the Apex Court in "***Collector and others Vs. P.Mangamma and others***" (referred supra), wherein the Supreme Court held that

> *"A reasonable period would depend upon the factual circumstances of the case concerned. There cannot be any empirical formula to determine that question. The Court/authority considering the question whether the period is reasonable or not has to take into account the surrounding circumstances and relevant factors to decide that question. It would be hard to give an exact definition of the word "reasonable". Reason varies in its conclusions according to the idiosyncrasy of the individual and the times and circumstances in which he thinks. The reasoning which built up the old scholastic logic stands now like the jingling of a child's toy. But mankind must be satisfied with the reasonableness within reach; and in cases not covered by authority, the decision of the Judge usually determines what is 'reasonable' in each particular case; but frequently reasonableness 'belongs to the knowledge of the law, and therefore to be decided by the Courts.' It was illuminatingly stated by a learned author that an attempt to give a specific meaning to the word 'reasonable' is trying to count what is not a number and measure what is not space. It means prima facie in law reasonable in regard to those circumstances of which the actor, called upon to act reasonably, knows or ought to know. It is impossible a priori to state what is reasonable as such in all cases. You must have the particular facts of each case established before you can ascertain what is reasonable under the circumstances."*

In the facts of the above judgment, cancellation of assignment order or resumption order passed by Collector was challenged before the Court. A single judge of this Court, while disposing of the Writ Petition, had directed the issues to be considered by the original authority since jurisdictional questions can be considered by an authority deciding the question whether a proceeding was validly initiated or not. However, the matter was carried in an appeal and a Division Bench of this Court, though concluded that no time limit is fixed for initiation of action, held that it has to be within a reasonable period and, therefore, action after about 30 years cannot be maintained. Aggrieved by the same, the matter reached the Apex Court and the Apex Court analyzed what is reasonable period. As such, it is difficult to give an exact definition of the word reasonable. Reason varies in its conclusions according to the idiosyncrasy of the individual and the times and circumstances in which he thinks. It means *prima facie* in law reasonable in regard to those circumstances of which the actor, called upon to act reasonably, knows or ought to know as held by the Apex Court in "***Municipal Corporation of Delhi Vs. Jagan Nath Ashok Kumar***[9]". In "***Gujarat Water Supply & Sewerage Board Vs. Unique Erectors (Gujarat) (P) Ltd***[10]", the Apex Court reiterated the same principle laid down in ***Municipal Corporation of Delhi Vs. Jagan Nath Ashok Kumar*** (referred supra). Therefore, reasonable time depends upon factual circumstances of each case and there cannot be any straightjacket formula to decide what is reasonable time and what is not, to exercise power of revision in para 18 of B.S.O.No.15.

Under sub-para (2) of para 18 of B.S.O.No.15, Government in Revenue Department is Revisional Authority, while exercising these powers, as quasi judicial authority, the Government will examine the records by summoning the connected record of the order passed by either in appeal or revision, in order to satisfy themselves as to whether the order passed was in confirmity with its legality or propriety as per the proceedings recorded under sub-para (1) of para 18 of B.S.O.No.15. The revisional powers can be exercised either *suo motu* or on an application. In the event of the said order passed under revision is contrary to the provisions or conditions or under mistake of fact and also in excess of jurisdiction, action can be initiated by Government. Any order in the revision by Government shall be passed only after affording an opportunity of being heard all the parties concerned. If the Court finds that the quasi judicial authorities *i.e.* respondent Nos. 1 to 3 herein acted judicially while exercising power of revision in para 18 of B.S.O.No.15, such order needs no interference of this Court. The controversy regarding reasonable period for entertaining a revision by the authority competent has been resolved now. A reasonable period would depend upon the facts and surrounding circumstances of the case concerned. Therefore, all irregular cases of land assignment including the cases of violation of rules, terms and conditions of the grant and also fraudulently managed pattas could be dealt with under revision, taking into consideration surrounding circumstances of the case concerned, regardless of time limit for filing a revision with an abnormal delay. Even a period of 30 years and above is of no criteria, where larger interest of public policy or public interest is involved for the welfare of weaker sections of the society as per the protection guaranteed to them under relevant provisions of the Constitution of India.

In the present facts of the case, Sri Harijan Kallakanti Lingaiah was the original beneficiary and after his death his sons Sri Gajwel Durgaiah, Kallakanti Mallesha, Kicugari Mallesha, Gajwel Chandraiah and Sargala Pentaiah succeeded the property and obtained order mutation of their names in the revenue records, but sold the property to the petitioner. Therefore, they contravened the terms and conditions of the assignment. In such case, when the factum of alienation came to the notice of revenue authorities, the revenue authorities can initiate the proceedings under Section 4 of A.P. Act 9 of 1977. Accordingly, they issued notice in Form I as prescribed under the Act. On close analysis of B.S.O.No.15, no specific period of limitation is given to revise the assignment order. Moreover, after amendment of B.S.O. in 1985, the Government may, at any time, revise the order. Such power of revision by Government is delegated to the 3rd respondent. In such case, respondents can exercise power of revision on the alienation. Even otherwise, a separate period of limitation is prescribed to exercise power of revision under para 18 of B.S.O.No.15 and such limitation starts from the date of noticing alienation. The period of limitation shall begin to run only on violation of terms and conditions of assignment i.e. from the date of registration in favour of the petitioner by the legal heirs of original assignee in the year 1998. Therefore, the perceptive pronouncement of the Apex Court in ***Collector and others Vs. P.Mangamma and others*** (referred supra) exercise of power of revision is within time. Hence, the action taken by respondents in resuming the assigned land is within reasonable time from the date of alienation of assigned land by the legal heirs of the original beneficiary in favour of the petitioner.

Assignment of land under B.S.O.No.15 is only for the benefit of landless poor for their uplift in view of the Constitutional mandate. If it is misused by a person, who is not a landless poor, purchased in contravention of A.P.Act 9 of 1977, limitation starts from the date of such contravention. Therefore, by exercising power conferred on respondent Nos.1 to 3 in para 18 of B.S.O.No.15 land can be resumed and limitation starts from the date of such alienation only not from the date of original assignment. Therefore, the law declared by this Court in the judgments relied upon by learned counsel for the petitioners has no application in view of the law declared in the later judgment of the Apex Court in ***Collector and others Vs. P.Mangamma and others*** (referred supra).

The 1st respondent, after applying the amended B.S.O. by virtue of G.O.Ms.No. 912 dated 02-08-1985 and the judgment in ***Soni Reddy Vs. Joint Collector, Medak and others*** (referred supra), rightly passed the impugned order and the conclusions of the 1st respondent are totally inconsonance with the principle laid down in ***Collector and others Vs. P.Mangamma and others*** (referred supra). Hence, I find no substance in the contention of learned counsel for the petitioner that the exercise of power of revision is barred by limitation while holding that revenue authorities can exercise their power of revision within reasonable time *vide* ***Collector and others Vs. P.Mangamma and others*** (referred supra). In view of the law declared by the Apex Court in ***Collector and others Vs. P.Mangamma and others*** (referred supra), the law laid down by this Court in ***P.Anasuyamma and another vs. The Commissioner of Land Revenue, Government of A.P., Hyderabad and another*** (referred supra) have no application to the present facts of the case.

Learned counsel for the petitioner contended that the 1st respondent is not competent to cancel the patta and resume land by exercising power under the Act. It is the not case of the respondents that the 1st respondent exercised power of revision to cancel the patta, but Section 4 of Act 9 of 1977 power is conferred on the Mandal Revenue Officer to initiate proceedings for cancellation of patta for contravention of any of the terms and conditions of the patta. Therefore, the proceedings initiated by the 1st respondent are not in exercise of power of revision, but by exercising power conferred on him under Section 4 of the A.P.Act 9 of 1977 and after making necessary enquiries the patta issued in favour of the original beneficiary, which was devolved upon his legal heirs, has been cancelled and resumed the possession of assigned land. Therefore, the order passed by the 1st respondent suffers from no legal infirmity to set aside the same by exercising power of judicial review under Article 226 of Constitution of India.

Moreover, the 1st respondent passed the order by exercising power under Section 4 (1) of A.P.Act 9 of 1977, which permits the District Collector or any other officer not below the rank of a Mandal Revenue Officer authorised by him in this behalf, if satisfied that the provisions of sub-section (1) of Section 3, have been contravened in respect of any assigned land, he may, by order, take possession of the assigned land, after evicting the person in possession in such manner as may be prescribed. Thus, the order under challenge dated 16.09.1998 is an order passed under Section 4 (1) of the A.P.Act 9 of 1977 but not a revision. Though the order under challenge is not a revision, the counsel for the petitioner pointed out about the delay in revising the order. Therefore, it necessitated to discuss about the powers of revision, otherwise not necessary.

The main endeavour of the learned counsel for the petitioner is that the Collector alone is competent to cancel the pattadar pass books under ROR Act, but the relief claimed in the present petition is to issue a direction against the respondent Nos.1 to 3 not to dispossess the petitioner from his patta lands covered by

Sy.Nos.85/A5 measuring 21 guntas, Sy.No.85/A3 measuring 20 guntas, Sy.No.85/A4 extent 22 guntas, Sy.No.85/A1 extent 22 guntas, Sy.No.85/A2 extent 22 guntas, situated at Toopran Village and Mandal, Medak District, consequently declaring the action taken or to be taken by the respondent Nos.1 to 3 herein in allotting the above lands to some other persons as illegal.

From the reading of the relief claimed in the writ petition, it is clear that the petitioner is challenging the action taken by the respondent Nos.1 to 3 resuming the land by cancelling the patta by exercising the power available under Section 4 of A.P.Act 9 of 1977. In the order dated 05.06.1998 issued by the 1st respondent, he specifically stated in the order that the petitioner made a representation to change the patta in his name, but on verification, it is found that as per Rule 9 (1) of ROR Act, the transfer was in contravention of the provisions of A.P.Act 9 of 1977. Therefore, the respondent Nos.1 to 3 did not initiate any proceedings under the provisions of ROR Act, but initiated proceedings under A.P. Act 9 of 1977 to resume the possession of the land as the sale transaction took place in contravention of the provisions of A.P. Act 9 of 1977. If for any reason, any entries in the revenue records are found not correct and the revenue records are required to be revised, the District Collector is the competent person to do so, but here it is not the case of the petitioner that the proceedings were initiated by the Mandal Revenue Officer under ROR Act, but the action was taken under the provisions of A.P.Act 9 of 1977 since the legal heirs of the original beneficiary alienated the property in contravention of terms and conditions of the assignment. Therefore, the action of the respondent No.1 in cancelling the patta is in accordance with law and he is acted within his authority and within the limitations prescribed under

A.P.Act 9 of 1977 and B.S.O.No.15 and no other violation is brought to be notice of this Court by the learned counsel for the petitioner during argument or in the writ petition in passing the impugned order by the 1st respondent. Therefore, I find no ground to interfere with the order dated 16.09.1998 passed by the 1st respondent.

In view of the aforesaid discussion, I find that the writ petition is devoid of merits and is liable to be dismissed.

In the result, the writ petition is dismissed. No order as to costs.

The miscellaneous petitions pending, if any, shall also stand closed.

**JUSTICE M. SATYANARAYANA MURTHY**

Date:26.08.2016
Ksp

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[1] 2006 (2) ALT 341 (DB)

[2] (2003) 4 SCC 488

[3] 1992 (3) ALT 691

[4] 1994 (2) ALT 329

[5] AIR 1993 SC 1733

[6] 2002 (3) ALT 571

[7] 2009 (1) ALT 424

[8] 1986 (1) ALT 33 (NRC)

[9] (1989) 1 SCC 532

[10] AIR 1987 SC 2316