

HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE S.V.BHATT
WRIT PETITION Nos.14066 & 14067 OF 2006

COMMON JUDGMENT: (Per Hon'ble Sri Justice S.V.Bhatt)

1. The State of Telangana, represented by the District Collector, Ranga Reddy District at Hyderabad, is the petitioner in these two writ petitions. Both writ petitions seek similar relief. The gist of the prayer in the first writ petition is as follows:

“.....issue a Writ of Certiorari or any other appropriate Writ, Order or direction to call for the records leading up to and inclusive of proceedings No.SEP3/19/2001 dated 26.02.2003 of the Chief Commissioner of Land Administration, State of Telangana, Hyderabad/2nd respondent and proceedings No.35847/JA.1/2003-4 dated 28.06.2006 of the Secretary to Government, Revenue Department, State of Telangana, Hyderabad and quash the impugned proceedings, as illegal, arbitrary without jurisdiction, vitiated by malice and contrary to the provisions of the Administration of Evacuee Property Act,1950 and the Displaced Persons (Compensation & Rehabilitation) Act,1954.”

1.1 In W.P.No.14067 of 2006, the proceedings SEP3/104/1999 dated 26.02.2003 of the Chief Commissioner of Land Administration, State of Telangana, Hyderabad/2nd respondent, and 35848/J.A.1/2003-1 dated 28.06.2006 of the Secretary to Government, Revenue Department, State of Telangana, Hyderabad, are challenged.

2. The questions raised and controversies involved in these writ petitions center around the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (for short ‘the DPCR Act’), the Displaced Persons (Compensation & Rehabilitation) Rules, 1955 (for short ‘the DPCR Rules’), the Administration of Evacuee Property Act, 1950 and Displaced persons claims and Other Laws Repeal Act, 2005 (for short ‘the Repeal Act, 2005).

3. In W.P.No.14066 of 2006, the 2nd respondent, through allotment order No.SEP3/19/2001 dated 26.02.2003, in purported exercise of his jurisdiction under the DPCR Act and the DPCR Rules, issued the following allotment orders in favour of respondent Nos.3 to 10 (for short ‘the claimants’).

“Government of Andhra Pradesh,
Revenue Department
Office of the Settlement Commissioner &
Chief Commissioner of Land Administration,
Hyderabad.

ALLOTMENT ORDER

Nampally Station Road,
Hyderabad, Dated:26.02.2003

File No.SEP3/19/2001

Name and address of the Allottee Index No. Particulars of the
Allottee's Properties
verified under the
Claims Act.

RAMESH PARASRAM MALANI & (7) **S/HB-2/343** **43.7**
LEGAL REPRESENTATIVES
OF PARASRAM RAMCHAND,
303, DISHA APARTMENTS,
SHYAM KARAN ROAD,
AMEEERPET,
HYDERABAD-16.

1. You are hereby allotted following agricultural land in the Hyderabad State on Quasi-permanent basis from the date of this order.

District	Taluka	Village	Sy.No. allotted	Local acres allotted	Std.Acres allotted
Ranga Reddy	Rajendra- Nagar	Poppalguda	301 to 308, 325 to 328 & 331 (Part)	148.30	19.26

2. You will be liable to pay Land Revenue/Rent/Cess and any other dues which may be payable to the Government or to Local Bodies under any law for the time being in force in Andhra Pradesh State.

3. The allotment will be liable to be cancelled if:-

(i)You are found to have made a false statement or declaration in the application or in the course of scrutiny thereof or have **committee** fraud in obtaining allotment of the said land.

(ii)You fail to discharge any obligations as mentioned above or that may be prescribed hereafter;

(iii)You fail to pay the land revenue/rent/cess or any other dues which may be payable by you to the Government or to the local bodies.

4. Please return the under-noted acknowledgement duly signed by you by Return post. Please contact the Collector concerned for possession.

OFFICE SEAL

// BY ORDER//
Sd/-
SECRETARY
For Settlement Commissioner &
Chief Commissioner of Land Administration,
Hyderabad.

Two copies to the Collector, Ranga Reddy district with a request that the above allottee may be put in possession of the said land and the fact intimated to this office.

One copy to the Custodian & Collector, Evacuee Property, Ranga Reddy district.

Copy to Managing Officer & Mandal Revenue Officer, Rajendra Nagar (M) Ranga Reddy district.

ACKNOWLEDGMENT

Allotment Order No.SEP3/19/2001, DATED: 26.02.2003

I acknowledge receipt of the above allotment order in respect of the application made by me for the quasi-permanent allotment of land in Ranga Reddy district of Andhra Pradesh State.

Signature or Thumb impression"

"Government of Andhra Pradesh,
Revenue Department
Office of the Settlement Commissioner &
Chief Commissioner of Land Administration,
Hyderabad.

ALLOTMENT ORDER

Nampally Station Road,
Hyderabad, Dated:26.02.2003

File No.SEP3/19/2001

- Name and address of the Allottee Claim Index No.

Particulars of the
Allottee's Properties
verified under the
Claims Act.

**RAMESH PARASRAM MALANI & (7)
OTHERS, LEGAL REPRESENTATIVES
OF PARASRAM RAMCHAND,
303, DISHA APARTMENTS,
SHYAM KARAN ROAD,
AMEEERPET,
HYDERABAD-16.**

S/HB-2/343 43.7

1. You are hereby allotted following agricultural land in the Hyderabad State on Quasi-permanent basis from the date of this order.

District	Taluka	Village	Sy.No.allotted	Local acres allotted	Std.Acres allotted
Hyderabad	Shaikpet	Shaikpet	403 (Plot No.24	04.08	01.00

2. xxx
3. xxx

(i) xxx
(ii) xxx
(iii) xxx

4. xxx
5. xxx

OFFICE SEAL

// BY ORDER//
Sd/-
SECRETARY
For Settlement Commissioner &
Chief Commissioner of Land Administration,
Hyderabad.

xxx

ACKNOWLEDGMENT

xxx
xxx

Signature or Thumb impression"

3.1 In **W.P.No.14067 of 2006**, the 2nd respondent issued the following allotment order in favour of respondent No.3 (for short 'the claimant').

Government of Andhra Pradesh,
Revenue Department

Office of the Settlement Commissioner &
Chief Commissioner of Land Administration,
Hyderabad.

ALLOTMENT ORDER

Nampally Station Road,
Hyderabad, Dated: -02.2003

File No.SEP3/104/99.

Name and address of the Allottee Claim Index No. Particulars of the Allottee's Properties verified under the Claims Act.

B/P/PIM/449/IV/NT Std. Acres –AS 11-3 801 1280 SRI BHAGWAN DAS H.MAKHIJA,

REP. BY GPA SRI C.R.LAXMINARAYANA
R/o.H.No.8-1, TEMPLE ALWAL,
SECUNDERABAD-500 010 (A.P.)

1. You are hereby allotted following agricultural land in the Hyderabad State on Quasi-permanent basis from the date of this order.

District	Taluka	Village	Sy.No. allotted	Local acres allotted	Std.Acres allotted
Ranga Reddy	Rajendra Nagar	Poppalguda	325, 326, 327, 328, 331	- - - 50.00	11-3 801 280

2. You will be liable to pay Land Revenue/Rent/Cess and any other dues which may be payable to the Government or to Local Bodies under any law for the time being in force in Andhra Pradesh State.
3. The allotment will be liable to be cancelled if:-
- (i)You are found to have made a false statement or declaration in the application or in the course of scrutiny thereof or have committee fraud in obtaining allotment of the said land.
- (ii)You fail to discharge any obligations as mentioned above or that may be prescribed hereafter;
- (iii)You fail to pay the land revenue/rent/cess or any other dues which may be payable by you to the Government or to the local bodies.
4. Please return the under-noted acknowledgement duly signed by you by Return post. Please contact the Collector concerned for possession..

OFFICE SEAL

Chief Commissioner of Land Administration &
Settlement Commissioner, Hyderabad.

Two copies to the Collector, Ranga Reddy district with a request that the above allottee may be put in possession of the said land and the fact intimated to this office.

One copy to the Custodian & Collector, Evacuee Property, Ranga Reddy district.

ACKNOWLEDGMENT

Allotment Order No.SEP3/104/99, DATED: .02.2003

I acknowledge receipt of the above allotment order in respect of the application made by me for the quasi-permanent allotment of land in Ranga Reddy district of Andhra Pradesh State.

Signature or Thumb impression"

"No.SEP3/104/99

"Government of Andhra Pradesh,
Revenue Department
Office of the Settlement Commissioner &
Chief Commissioner of Land Administration,
Hyderabad.

Index No. of Claim Particulars of verified claim Dated: 02.2003.

B/P/PIM/449/IV/NT. Std. Acres-AS 11-3 801 1280

4. The 1st respondent in purported exercise of the revisional jurisdiction under Section 24 of the DPCR Act entertained suo motu revisions in File Nos.35847/JA/1/2003-4 and 35848/JA.1/2003-19

against allotment orders dated 26.02.2003 passed by 2nd respondent. The 1st respondent, through order dated 28.06.2006, dismissed the revisions. Hence, the writ petitions by the State of Telangana/petitioner with the prayers noted above.

The extent of land, as already noticed, covered by the allotment orders dated 26.02.2003 is substantial. According to petitioner, at the time of allotment, the subject matter of writ petitions is worth several hundreds of crores and for extraneous reasons and circumstances, the allotment orders were passed.

4.1 The case of petitioner is that by operation of circular letter dated 24.05.1980 bearing No.25(1/75-SS.II, Government of India, Ministry of Supply and Rehabilitation, Department of Rehabilitation, Jaisalmer House, Mansingh Road, New Delhi, the un-disposed evacuee lands/properties stood vested in petitioner for administration, management and disposal, including the subject matter of writ petitions. It is further averred that the 2nd respondent issued orders of allotment for valuable lands vested in Government, without jurisdiction and following the procedure of the DPCR Act/Rules or in violation of principles of natural justice.

5. The allotment orders were issued in yesteryears. But to appreciate the controversy of fact and law presented for decision in these two writ petitions, we feel it convenient to refer to a few circumstances borne out from the original record. The learned Advocate General has placed for our perusal the available record from the office of 2nd respondent. We have, with the assistance of learned counsel appearing for both parties, perused the records in File Nos.RSC/HL/SR294/B-174, Index No.S/HB-2/343 (old), SEP3/19/2001(new), CAF No.8/P/PIN/449/OV/NT-PC-4815 (old), Index No.S/KS-7/1 and S/SR-9/60, SEP3/104/99(new).

The circumstances and the chronology of events which culminated in filing the writ petitions are referred to from the record of 2nd respondent.

6. **W.P.No.14066 of 2006:**

Respondents 3 to 10 herein referred as claimants trace the alleged right of compensation for unsatisfied claim of a verified claim through one Parasram Ramchand, an evacuee (for short 'displaced person') from West Pakistan. But on 29.12.1953, one Parasram Ramchand **Mangir Malani** (*emphasis added*), but not Parasram Ramchand Malani applied for allotment of evacuee lands situated in the erstwhile State of Hyderabad. The displaced person requested for allotment of Ac.200-00 in the District of Hyderabad Deccan. The application filed by displaced person is registered as RSE/H-L/SR294/B-174. The Deputy Custodian for Hyderabad through allotment order dated 24.03.1956 allotted the following lands to displaced person:

District	Taluk	Village	Survey Number Allotted
Hyderabad	Hyderabad East	Batasingaram	347,350,351,373,374,382,352,371,346,344,356,355,360,345,384,370,367,366,363,364,368, 372, 342, 341,339.
	Hyderabad West	Boinapally	1,94,87,84,41,86,50/1, 50/2,, 62, 44/1, 45, 55/1, 46, 64, 57/5, 89,88, 90,92, 93,83,85, 76

Executed this day of the 24th March, 1956 at Bombay, Regional Settlement Commissioner, Bombay, on behalf of the President.

Sd/-

Regional Settlement Commissioner,
BOMBAY"

6.1 The Regional Commissioner allotted to displaced person an extent of Ac.323-10 gts. in Batasingaram

and Boinapally Villages of Hyderabad District as against the request for allotment of Ac.200-00 in the District of Hyderabad Deccan. From the original record, it appears that on 08.08.1956, the displaced person wrote to the Regional Settlement Commissioner acknowledging letter dated 24.07.1956 and drew the attention of the Regional Settlement Commissioner to the letter vide RSC No.HL/Hyderabad/243/1431055 dated 13.06.1955 and further informed the authority that the displaced person disposed of allotted lands as he was permitted by the Regional Settlement Commissioner. Further, on 11.09.1961, the Regional Settlement Commissioner requested the displaced person to inform the registration number of compensation application filed by him in respect of his verified claim by return post. The file bearing No.SPL EP1/470/82 refers to the correspondence referred to in the immediate preceding paragraph and the file was moved for recording 'closure of the file'. The relevant file noting reads as follows:

“The subject is more than 15 years old. The allottee has already sold his allotted lands with permission. Sanad was issued in his favour on 24.3.56. Hence no action is pending in the matter. The file may be recorded as C.P. (not clear).”

Thus, the file dealing with the allotment of land for displaced person in the District of Hyderabad Deccan was closed.

6.2 On 15.03.2001, the 3rd respondent/claimant requested 2nd respondent for adjustment of pending claim or allotment of land under Sections 19 and 20 of the DPCR Act. As the instant letter resulted in allotment of subject land, it is appropriate to reproduce the succinct communication of 3rd respondent addressed to 2nd respondent.

“I Ramesh P Malani, the undersigned, and son of Sri Parsram Ramchand, displaced person, vide claim Index No.S/HB-2/343 was allotted 83.11 standard acres, out of which 40.4 standard acres have been adjusted by allotting lands at Batasingaram, Hyderabad East and Boinapally, Hyderabad West. The balance claim of 43.7 standard acres have not been adjusted so far.

I therefore request you to kindly look into the matter and adjust the balance claim of 43.7 standard acres by allotting the evacuee property land available in Hyderabad and Ranga Reddy District.”

6.3 The request of claimants is registered as file No. SEP3/19/2001. The 2nd respondent, with a view to ascertaining the status of payment of compensation to displaced person, addressed letter No.SEP3/19/2001 dated 05.05.2001 to the Settlement Officer, Ministry of Home Affairs, Rehabilitation Division, New Delhi, which reads as follows:

“From: C.K.Swaminathan, IAS Special Chief Secretary to Government & Chief Commissioner of Land Administration, A.P. Hyderabad.	To: The Settlement Officer, Ministry of Home Affairs, Rehabilitation Division, Jaisalmar House, Mansingh Road, New Delhi
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Sir,

Sub: Evacuee property-A/o Sri Ramesh Parsaram Malani
S/o/ Parsaram Ramchand (Displaced Person)
Adjustment of balance claim of 43.7 Std. Acs.
by allotment of E.P. lands in Hyderabad and R.R.Dist.
-Regarding.

Ref: Representation of Sri Ramesh Parsaram Malani, Dated
15.03.2001

@@@

I am to invite your attention to the reference cited (copy enclosed) and request you to confirm whether the balance claim of 43.7 Standard acres of land is still available in the name of Displaced Person Sri Parasram Ramchand or any lands have been allotted to him any where in India.

Yours faithfully,
Sd/-
for Chief Commissioner”

6.4 On 21.02.2003, the 3rd respondent/claimant filed another representation before the 2nd respondent

with the following details/prayers:

"In this regard I have made a representation on 15.3.01. I submit that my **verified claim application** for allotment of Agricultural land is pending in your office for long time in spite of pursuing with the authorities personally in this matter frequently to obtain allotment order, but due to protracted consultation and discussions between the officials of your office and kept my case pending for long time without taking any proper decision in my case though my case is fully supported by law. But on my representation at least your authority was pleased to address a letter referred to the District Collector, R.R. District on 11.2.2003. I have personally met officials in this regard several times in vain.

Under the above circumstances, I once again approach your authority with a request to consider my case since the powers of the Central Government under Displaced Persons (Compensation & Rehabilitation Act) 1954 have been delegated to your kind authority. I have come to know that an extent of 4 acres in plot No.24 of Survey No.403 of Shaikpet Village situated at Banjara Hills, Golconda Mandal, Hyderabad District and the agricultural lands in Survey No.301, 302, 303, 304, 305, 306, 307 and 308 to 325 to 328 and 33 of Popalguda Village, Rajendranagar Mandal, R.R.District admeasuring about 149 acres are evacuee properties and under the control of the custodian.

I therefore request your kindself to pass appropriate orders allotting the lands to the extent of my **verified claim** pending i.e. standard acrs 43.7 AS in plot no.24 of survey no.403, Shaikpet, situated at Banajra Hills, Gonconda Mandal, Hyderabad and agricultural land in Survey nos.301,302,303,304,305,306,307 and 308 of Popalguda Village, Rajendranagar Mandal, R.,R. District which are now available for allotment by considering my application sympathetically and also taking into consideration my long pending claim for allotment of balance land which is due for more than 40 years. I therefore finally request your kind authority to kindly consider my case sympathetically and allot the land in the above referred survey nos. according to the claim and eligibility and orders may be passed for allotment of the land.

Thanking you,

Yours faithfully,
Sd/-
RAMESH P.MALANI"

6.5 Precisely noted, it is alleged that displaced person died on 10.08.1988. The 3rd respondent/claimant claims as the successor-in-interest of displaced person; rests the alleged right on a verified claim standing in the name of displaced person; and requests allotment of lands towards an alleged unsatisfied claim of displaced person. The legal effect of a request of this nature will be examined at the relevant stage of our order. As already noted, the 2nd respondent, without waiting for reply to letter dated 05.05.2001 from the Settlement Officer, Ministry of Home Affairs, Rehabilitation Division, within a few days from the receipt of representation dated 21.02.2003, allotted subject matter of the writ petition in favour of respondents 3 to 10.

6.6 It is a matter of record that the Deputy Secretary-cum-Joint Chief Settlement Commissioner vide letter dated 26.10.2004 replied to letter dated 05.05.2001 of 2nd respondent, as follows:

"I am directed to refer to your letter No.CCLA's No.SEP3/19/2001 dated 05.05.2001 and copy of the representation of Shri Ramesh Paras Ram Malani on the subject cited above and to state that as the Claim Index file bearing No.S/HB-2/343 is not traceable, the exact/detail of claim/compensation cannot be supplied. However, as per the scale of compensation for allotment of land as compensation prescribed under the appendix -XIV to Rule 51 of D.P.(C&R) Rules,1955, the compensation against verified claim of 83 Standard Acres and 11 Units comes to approximately 45 Standard Acres and 12 Units. After adjustment of the land already allotted to the extent of 40 Std.Acs. and 4 Units there may be a balance of about 5 Standard Acres and 8 Units if not already paid/allotted land against it."

6.7 The 1st respondent under Section 24 of the DPCR Act had taken *suo motu* revision in file No. 35847/JA/1/2003-4 against the allotment order and Sanad dated 26.02.2003 in file No.SEP3/19/2001 of 2nd respondent.

7. **W.P.No.14067 of 2006:**

One Bhagwandas H. Makhija/3rd respondent (for short 'the claimant') through his G.P.A holder C.R.Lakshminarayan, applied for allotment of Survey No.403, Plot No.24 at Jubilee Hills, Golconda Mandal, Hyderabad District. The claimant alleges that he is son of Hemandas Makhija, a displaced person whose claim was registered as CAP No.B/P/PI/449/IV/PC-4815 read with index No.S/SR-9/60 and S/KS7/1. On 04.10.1975, his father/displaced person died and the claimant through order dated 31.05.1976 was recognised as successor-in-interest along with other heirs of displaced person. The G.P.A/C.R.Lakshminarayan traces his authority, to represent the claimant, to the Power

of Attorney executed and registered at Pune on 30.11.1998. On 23.04.1997, the GPA requested for expeditious consideration and disposal of the request of claimant for allotment of plot at Jubilee Hills, as compensation towards unsatisfied claim. The 2nd respondent issued notices for enquiry and called upon the claimant to furnish additional information as set out in the notices. Before proceeding to consider another representation filed by the GPA, we observe that the request of claimant dated 11.09.1996 for allotment of plot is an urban property which is in the heart of city. From the note file, it appears the office of 2nd respondent doubted the genuineness of belated request for allotment of land towards unsatisfied claims and the note file reads as follows:

"Instead of making unnecessary correspondence with GOI and Hyderabad Collector, let us ask Sri C.R.Lakshmi Narayana to be present in this office during this week along with all relevant documents and papers he must be having with him as it appears to be a bogus case.

Sd/- "

7.1 On 30.07.2001, the claimant made another representation for allotment of agricultural land at Athevelli Village, Medchal Mandal. The representation reads thus:

"I submit that through reliable sources I came to know there are acres of land situated at Athvelly Village, which has been declared as Evacuee Property and are vacant land free from litigation is available to allot the said land to displaced persons and the same is in possession of Mandal Revenue Officer, Medchal Mandal.

I, therefore, request you to kindly consider my long standing pending claim in the interest of justice and kindly allot me alternative land available in Athvelly Village of Medchal Tq., in Survey Numbers:346, 347, 348, 349, 350, 351, 353, 354, 355, 357, 358, 373, 374,332,317,319 in lieu of Plot No.24 in Survey number 403 of Jubilee Hills to the satisfaction of my claim. I also came to know that the above said lands are not allotted to any claimant till date and are available for allotment. I once again request your goodself to kindly consider my request and allot the land in the above said survey numbers at Athvelly Village, Medchal Mandal, R.R. District."

The representation dated 30.07.2001 did not find favour with the office of 2nd respondent and the claimant through GPA filed representations dated 24.10.2002; 31.10.2002 and 01.02.2003. The operative portion of representation dated 01.02.2003 reads thus:

On the representation dated 01.02.2003, the 2nd respondent issued allotment order and Sanad dated 21.02.2003 for an extent of Ac.50.00 in Survey Nos.325 to 328 and 331 of Puppalguda Village.

7.2 From the close proximity of dates of representation and orders of allotment, one is compelled to wonder whether enquiry was conducted or there is application of mind to these belated claims. However, on 21.02.2003, the 2nd respondent in file No.SEP3/104/99 directed the Secretary to Chief Commissioner of Land Administration & Settlement Commissioner, Hyderabad, to sign the allotment order and Sanad. The Secretary to CCLA

signed the allotment order and Sanad, issued to claimants. The

1st respondent against the instant allotment order and issuance of Sanad to claimants entertained a *suo motu* revision under Section 24 of the DPCR Act as Case No.35848/J.A.1/2003-19. The

1st respondent through proceedings No.35847/JA.1/2003-4 and No.35848/J.A.1/2003-19 dated 28.06.2006 dismissed the revision petitions, entertained against the impugned allotment orders/ Sanads. Hence, the writ petitions at the instance of State Government.

8. The petitioner invoked the jurisdiction of this Court under Article 226 of the Constitution of India and prays for a writ of Certiorari to quash the impugned allotment orders/Sanad and the order of 1st respondent dated 28.06.2006, as illegal, arbitrary, without jurisdiction, vitiated by malice and contrary to the provisions of the Administration of Evacuee Property Act, 1950 and the Displaced Persons (Compensation & Rehabilitation) Act, 1954.

8.1 The parties to the writ petitions have filed detailed pleadings in support of their case. Having regard to the scope and ambit of judicial review of this Court under writ of Certiorari jurisdiction, we advert to these averments in the affidavit and the counter affidavit to the extent necessary for consideration of fact and legal issues in these writ petitions.

9. **PLEADINGS IN W.P.No.14066 of 2006:**

On behalf of the petitioner/State Government, the Joint Collector, Ranga Reddy District, filed the

affidavit and reply affidavit. It is averred that one Parasram Ramchand Malani, a resident of West Pakistan was declared as displaced person.

The Claims Officer, Bombay in Index No.S/HB-2/343 dated 29.11.1952 verified the claim of displaced person as 83.11 standard acres. On 21.11.1953, the displaced person applied for allotment of Ac.200 of agricultural land In Hyderabad District. On this request, the Regional Settlement Commissioner through order in File No.S/HB-2/343 dated 29.04.1954 read with Sanad dated 24.03.1956 allotted to displaced person an extent of Ac.323-10 gts at Batasingaram and Boinapally Villages of Hyderabad District. The 3rd respondent gave representations dated 15.03.2001 and 21.02.2003 for allotment of subject land towards compensation of unsatisfied verified claim of displaced person. The 2nd respondent through proceedings No.SEP3/19/2001 dated 26.02.2003 allotted land worth 700 crores (Rupees Seven Hundred Crores) to claimants. It is further alleged that the orders of the 2nd respondent allotting large extents of land treating the land as evacuee properties available in compensation pool under the DPCR Act, is untenable, for according to the petitioner, the subject matter of the allotment orders ceased to be the evacuee properties or available for allotment in compensation pool in view of Circular letter No.25(1)/75/SS-11 dated 24.05.1980 of the Government of India, Ministry of Supply and Rehabilitation, Department of Rehabilitation, New Delhi. The petitioner asserts that the value fixed by the Union of India as part of package deal was paid by the petitioner to the Central Government. It is asserted that the title of properties covered by the circular letter dated 24.05.1980, including the subject matter stood transferred to the State of Telangana (then State of Andhra Pradesh). The petitioner in assertion of its exclusive title to transferred properties refers to a few allotments made by the State Government to various departments, including the subject matter of writ petition. It is alleged that the impugned allotment orders violate Rules 34 (E) and 72 of the DPCR Rules.

9.1 It is further alleged that the 1st respondent issued Memo No.34847/JA.1/2003-1 dated 23.03.2003 to respondent No.3 to show cause why the allotment should not be cancelled for the grounds stated therein and on the strength of such show cause notice, revisions were dismissed. We have noticed the grounds set out in the show cause notice dated 23.03.2003 and at appropriate stage in this order, we propose to examine the legality of such notice in a revision under Section 24 of the DPCR Act and record our findings.

9.2 Briefly stated, the challenge to these allotment orders of 2nd respondent is that through Circular No.25 (1)75-SS.II dated 24.05.1980, the title to the evacuee properties situated in the erstwhile State of Andhra Pradesh stood transferred in favour of State of Telangana (then State of Andhra Pradesh). Under a package deal between the State Government and Union of India, the terms and conditions have been finalised for transfer of undisposed of evacuee properties to State Government and in terms of the said package pool, the undisposed of evacuee properties stood transferred to the Government with effect from 01.06.1980. According to petitioner, the amount payable under package pool is spread over to six equal half yearly instalments without interest and the failure to pay the amount as per instalments attracts interest on the amount payable to the Union of India. However, with effect from 01.06.1980, the properties stood transferred to the State Government.

9.3 Petitioner further alleges that the State Government with effect from 01.06.1980 has subsisting interest in the transferred undisposed of evacuee properties, including the subject matter of writ petitions. Therefore, the 2nd respondent cannot treat the subject matter as property available under compensation pool for allotment towards satisfaction of an unsatisfied verified claim pool. The 2nd respondent cannot and could not take decision in respect of the subject matter of the property, much less without following the principles of natural justice and fair play. It is the case of the petitioner that unsatisfied claims, if any, of displaced persons are dealt with by the Union of India and the petitioner places reliance upon following paragraph from circular letter dated 24.05.1980.

“ The arrangement detailed above shall not in any affect the payment of compensation to the displaced persons having unsatisfied claims for properties left in West Pakistan in according with the provisions of the Displaced Persons (Compensation & Prohibition) Act, 1954, their claims shall, as usual, be dealt with the Officers of the Government of India. The liability to satisfy the claims of the displaced persons shall continue to rest with the Government of India.”

9.4 It is further averred that 1st and 2nd respondents while issuing the impugned allotment

orders/proceedings exercised jurisdiction that did not vest in them. It is specifically averred that the orders impugned suffer from colourable exercise of power and are vitiated by malice in law. The petitioner contends that the impugned allotment orders contravene Rule 34(E) of the DPCR Rules. Rule 34(E) prohibits transfer of land in a Khasra of value of Rs.10,000/- and that the maximum area of land allotted to any one person shall not exceed the value of Rs.10,000/-. In the backdrop of said prohibition, the value of various allotments made by

2nd respondent are referred and read thus:

"1)The allotment order vide SEP 3/654/82, dated 15.1.2003, Ac.3.20 guntas in Uppal village and Mandal, R.R.district and its value is Rs.93,17,000/-.

2)The allotment order vide SEP 3/19/2002, dated 26.2.2003, Ac.148.30 guntas in Poppulaguda village, Rajenderanagar Mandal, R.R. district and its value is Rs.45.00 crores.

3)The allotment order vide SEP 3/104/99, dated 12.2.2003, Ac.50-00 guntas in Poppulaguda village, Rajendranagar Mandal, R.R.district and its value is Rs.15.00 crores.

4) The allotment order vide SEP 3/1249/94 dated 26.6.2003, Ac.80.00 guntas in Athvelli vilge, Medchal Mandal, R.R. district and its value is Rs.16.00 crores.

5) The allotment order vide SEP3/19/2001, dated 26.2.2003, Ac.3.00 guntas in Bowenpalli village, Tirumalgiri Mandal, Hyderabad district and its value is Rs.4.00 crore.

"The above statement clearly shows that the lands are of immense value and the 2nd respondent ought not to have allotted any of these lands to the Claimants-allottees in contravention of Rules above mentioned. The present value of the lands runs into few hundreds of crores. The very purpose and object of 1954 Act and the rules framed thereunder was ignored."

9.5 It is further averred that the 2nd respondent did not verify the value of subject matter and the subject ceased to be agricultural lands. The exercise of jurisdiction in the impugned allotment orders is illegal. The petitioner alleges that the 1st and

2nd respondents exercised the jurisdiction under the DPCR Act for collateral purposes and assumed that they have authority to deal with the subject matter of these writ petitions. The averments on very senior officers are made on oath by the State Government, through District Collector and if the averments are true, then there cannot be any doubt that the case presents a serious issue.

The learned Advocate General during the course of hearing to show that the averments against the senior officers are *prima facie* correct, has drawn our attention to the original files/notices and the stand of State Government/petitioner in earlier W.P.Nos.13128; 13871; 4205 of 2003 etc., filed challenging the *suo motu* revisions pending before the 1st respondent. Having regard to the seriousness of these averments and denial by 3rd respondent/ claimant, we propose to examine each one of these circumstances from the record and record our findings. The alternative case of petitioner is that without prejudice to the contention relating to non-availability of land in the compensation pool, the impugned order is arbitrary, bad, capricious and made with an ulterior motive,

in allotting the property of the State Government worth hundreds of crores to private citizens, ignoring the public interest, and liable to be set aside. The petitioner challenges the impugned allotment order as violative of Rule 2(g) read with Rules 50 to 56 of the DPCR Rules.

9.6 The petitioner alleges that 2nd respondent acted in haste and haste is evident from disposal of application dated 21.02.2003, through allotment order on 26.02.2003 without enquiry or examination of the alleged verified claim from original record. It is further averred that against the impugned allotment orders, sanction for prosecution of 2nd respondent was sought for by the Anti-Corruption Bureau. The acceptance of a stale verified claim after 50 years from enactment or from required date to apply, is unsustainable in law. The application for allotment filed after

50 years ought to have been rejected by the 2nd respondent

in limini. The claim of legal representatives of displaced person is without equity. The 1st respondent failed to firstly exercise his jurisdiction under Section 24 of the DPCR Act and secondly while exercising revisional jurisdiction the 1st respondent acted as if it is the primary authority and that allotment can be independently considered and confirmed. The petitioner assails the allotment order as violative of Rule 86 of the DPCR Rules.

10. One Ramesh Parasram Molani/3rd respondent filed counter affidavit on behalf of claimants. A few of

the objections are taken by 3rd respondent prior to amendment of cause title by petitioner. We are of the view that these averments need not be considered, firstly having regard to the fact that the cause title in the writ petition is amended and secondly the Principal Secretary to Government, Revenue Department, State of A.P., vide affidavit dated 13.09.2007 has confirmed the authorization issued in favour of the District Collector, Ranga Reddy to file the instant writ petitions challenging the orders of the 1st and 2nd respondents. At the outset, we make it clear that extensive reliance on the findings recorded by the 1st respondent need not be restated in detail, for these findings as well as original allotment orders are under challenge in these writ petitions. We are examining the prayer for writ of Certiorari against the order of 2nd respondent and the record of 2nd respondent for this purpose. The averments in the counter affidavit, to the extent necessary for examining controversies on hand, are adverted to.

10.1. The 3rd respondent denies the allegation of petitioner that by operation of letter No.25(1)/73-SS.II dated 24.05.1980 the subject matter stood transferred in the name of the Government. According to 3rd respondent, the Central Government has not transferred title of the acquired evacuee properties forming part of compensation pool to State Government/petitioner. Such action is illegal, null, void and contrary to the DPCR Act. Therefore, the

3rd respondent challenges the locus of petitioner and resists writ prayer on all fours, for no right is accrued to petitioner under letter dated 24.05.1980. The maintainability of writ petition under Article 226 of the Constitution of India is urged on the ground that the petitioner has not suffered legal injury. A writ challenging an allotment order made under the DPCR Act at the instance of State Government is not maintainable. The frame of writ petition without arraying the Union of India is not maintainable. The 3rd respondent refers to the history of enactment of the Administration of Evacuee Property Act, 1950 and the DPCR Act and submits that the right of 3rd respondent to claim compensation for an unsatisfied verified claim is traceable to these enactments and compensation according to claimant was rightly paid/allotted.

10.2. Third respondent further avers that Parasram Ramchand as a displaced person was entitled for allotment of lands in view of the lands left behind by the displaced person in Pakistan. The value of agricultural land as given by the petitioner at Rs.5 crores per acre, is disputed by referring to the rate fixed by petitioner at Rs.450/- per acre for regularization of evacuee property. According to 3rd respondent, the letter dated 24.05.1980 deals with transfer of residuary work relating to administration, management and disposal of un-disposed of acquired evacuee property to the State Government for carrying out the purposes of the DPCR Act and the DPCR Rules. The interpretation of various provisions of the DPCR Act need not be adverted to while referring to the objections raised by the petitioner and will be considered while setting out the scope of the DPCR Act. The 3rd respondent states that the State Government/petitioner treated the subject matter of the writ petition as evacuee property and never treated the property as belonging to State Government. The 3rd respondent contends that the petitioner is estopped by conduct to raise objections against impugned orders without taking objection on the title to the property the petitioner participated in the *suo motu* revision.

The 3rd respondent places strong reliance upon the notification dated 23.06.1980 bearing S.O. Nos. 2008 and 2009 to contend that the purpose of letter dated 24.05.1980 is to transfer work relating to administration, management and disposal of undisposed of acquired evacuee properties. The following paragraph in circular letter dated 24.05.1980 is relied upon:

“It has been decided in public interest to transfer the aforesaid items of work to the Government of Andhra Pradesh **for disposal of the residuary work in a satisfactory manner and for carrying out the purposes of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 and the Rules made thereunder**”. (emphasis added)

10.3. Third respondent further states that according to sub-section (2) of Section 14 of the DPCR Act, the compensation pool shall vest in Central Government free from all encumbrances and shall be utilized in accordance with the provisions of this Act and Rules made thereunder. The 3rd respondent incidentally challenges circular letter No. 25(1)/75/ SS-11 dated 24.05.1980 of the Government

of India as illegal, null and void and contrary to the Administration of Evacuee Property Act, 1950 and the DPCR Act. The 3rd respondent avers that the 2nd respondent has jurisdiction under the Act and in exercise of such jurisdiction, the orders impugned in the writ petition are passed and no exception can be taken to the impugned orders. According to 3rd respondent, the notification dated 23.06.1980 issued by Central Government contradicts the claims of the petitioner under letter dated 24.05.1980. According to the 3rd respondent, the allotment of subject matter by 2nd respondent conforms to the scheme under Section 8 of the DPCR Act.

10.4. It is further contended that the allotment of land by 2nd respondent is according to the entitlement verified by the competent authority under the DPCR Act and that Chapter V A of the DPCR Rules has no application, because Chapter V A is operational to agricultural land situated in urban area. According to 3rd respondent, the subject matter is not situated in urban area. The 3rd respondent contends that more than 50 years back, the Government of India has verified the claim of displaced person as 83.11 standard acres and compensation shall have to be paid for the verified claim. According to 3rd respondent, the allotment of Ac.323.10 gts is equivalent to 40.4 standard acres and the displaced person is entitled to compensation/allotment of land towards unsatisfied claim of balance of 43.7 standard acres.

The allotment of Ac.148-30 gts is equivalent to 19.26 standard acres. The displaced person, according to 3rd respondent, is still entitled to allotment of land for the unsatisfied claim of 24 standard acres.

10.5. Third respondent further contends that the Joint Collector made uncharitable allegations against the senior Indian Administrative Service officers and that according to 3rd respondent, the allegations of *mala fides* against 2nd respondent and 1st respondent are incorrect and such allegations ought not to have been made without impleading these officers in their individual capacity in the writ petitions. According to 3rd respondent, Rule 52 empowers the competent authority under the DPCR Act to allot land in installments and, therefore, the allotment of land through the order impugned in the writ petition is one in the manner contemplated by Rule 52. The 3rd respondent contends that the 2nd respondent conducted enquiry, verified original record and on being satisfied with the legitimacy of verified claim, passed the allotment order impugned in the writ petition.

10.6. Third respondent further contends that Rule 86 of the DPCR Rules has no application to the case on hand. According to 3rd respondent, Rule 86 applies to making a claim by displaced person or his successor-in-interest and not after claim has been verified and accepted by the competent Authority. According to 3rd respondent, displaced person (Parasram Ramchand) filed application for compensation under Rule 4 of the DPCR Rules.

On this request, the competent authority verified the claim of displaced person and passed orders that displaced person (Parasram Ramchand) is entitled to 83.11 standard acres. Admittedly, through allotment order dated 29.04.1954 read with Sanad dated 24.03.1956, 40.4 standard acres was allotted to displaced person and the balance of land was allotted towards this unsatisfied claim. The legal heir certificate issued by the Mandal Revenue Officer puts an end to any controversy on the details of successors of displaced person and the allotment order cannot be assailed on the ground that all the successors are not applicants before 2nd respondent. The 3rd respondent further contends that Section 9 of the DPCR Act is not attracted. The 3rd respondent relies on Section 6 of the General Clauses Act, 1897 to contend that even after repeal of the DPCR Act, the revision pending before

1st respondent was rightly continued and concluded by passing order dated 28.06.2006. The 3rd respondent lastly contends that the Joint Collector/State of Telangana does not have *locus standi* and prays for dismissal of the writ petition.

11. The Joint Collector, Ranga Reddy District, filed reply affidavit dated 25.06.2007. By way of reply, the petitioner states that there is no challenge to the circular letter of Central Government dated 24.05.1980 in these writ

petitions and the 3rd respondent cannot contend on the legality or otherwise of the circular letter dated 24.05.1980 in the writ petitions filed by the State Government. According to petitioner, once the Central Government issued circular letter dated 24.05.1980, the residuary works, including the undisposed of evacuee properties, stood transferred to the State Government. Therefore, it is specifically pleaded that the 1st and 2nd respondents have no power to consider subject matter of the writ petitions in purported exercise of the powers conferred on them by the DPCR Act for payment of compensation to a displaced person or his successors.

11.1 The petitioner further states that the Central Government while transferring the undisposed of evacuee properties still retained the responsibility to satisfy the unsettled claims of displaced persons in para 6 of proceedings dated 24.05.1980. The delegation of powers vide notification dated 01.06.1980 does not authorize respondents 1 and 2, in any manner, to allot subject matter of the writ petitions to 3rd parties. Therefore, it is asserted that to protect the interest of State, the petitioner is entitled to challenge the allotment orders in the writ petitions and the petitioner has *locus standi*. The petitioner is aggrieved by the orders of respondents passed in exercise of their purported delegated powers under the DPCR Act. Therefore, it is asserted that the petitioner being Government in whom the title to subject matter stood transferred, can maintain the writ petition.

11.2. According to petitioner, the Union of India is neither a proper nor necessary party as there is no title dispute between the Union and the State. The petitioner asserts that the instalment amount stipulated through circular letter dated 24.05.1980 has already been paid to Central Government. Alternatively, it is contended that if the consideration as stipulated is not paid by the State Government, the claimant is not concerned with the default in payment of instalments. The petitioner denies the sweeping allegation of suppression of facts made by the 3rd respondent.

The petitioner claims to have acquired title to subject matter of the writ petitions under a package deal. With the operation of package deal, the Central Government ceases to have ownership to the undisposed of evacuee properties in the State of Andhra Pradesh, now State of Telangana. The statement of object of Repeal Act 2005 are relied upon for asserting that Parliament as an existing fact accepted the transfer of properties to State Government.

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11.3. It is further replied that the meaning assigned by 3rd respondent to the word 'transferred' by the President, in counter affidavit is untenable and ignores the language used in the circular letter dated 24.05.1980. In support of the meaning for the word 'transferred' as vesting fully with the State Government, the petitioner refers to the Repeal Act 2005. According to petitioner, the notifications dated 23.06.1980 do not in any way permit respondents 1 and 2 to allot subject matter of writ petitions, for the title to the subject matter stood vested with the State Government. It is specifically averred that the unscrupulous and baseless claims of a few individuals should have been rejected *in limini*. Adverting to the circumstances in W.P.No.14066 of 2006 it is stated that a bald representation dated 15.03.2001 was made to 2nd respondent for satisfying balance claim of 43.7 standard acres by allotting evacuee property available in Hyderabad and Ranga Reddy Districts and this representation is entertained by 2nd respondent.

In fitness of things and to know from the original file, the

2nd respondent through letter dated 05.05.2001 requested the Central Government to furnish details of the claim of displaced person Parasram Ramchand. No reply was received till 2004. According to petitioner, the 2nd respondent having addressed letter to the department concerned, without waiting for a reply, much less receipt of entire record of displaced person Parasram Ramchand, but basing on the reminder/representation dated 21.02.2003, ordered allotment of vast extent of land on 26.02.2003 and issued Sanad on the same day. It is alleged that the claim was ordered within a period of four days from 21.02.2003 without any enquiry into the representation of 3rd respondent. The complaint of petitioner is that the 2nd respondent did not consult the State Government before passing impugned allotment orders. Further, the 2nd respondent did not even verify whether there was any response from the Central Government to the letter dated 05.05.2001. It is further averred that on 26.10.2004, a reply from the Central Government was received and it was placed before the

1st respondent. The 1st respondent misconstrued the reply of Central Government dated 26.10.2004 and

erroneously dismissed the revision. It is replied that the petitioner had no notice to participate in the proceedings before the respondents and, therefore, the objection now raised could not be taken before respondents 1 and 2. Likewise, the 1st respondent has taken *suo motu* revision against the order dated 26.02.2003. On 20.03.2003, *suo motu* revision was taken on file by the 1st respondent. There cannot and could not be an occasion to file objections before the 1st respondent in a *suo motu* revision taken against orders of allotment by 2nd respondent.

The alternative plea of petitioner is that the reply of Central Government dated 26.10.2004 is self-explanatory of substantial satisfaction of verified claim of 83 standard acres and 11 units of displaced person which comes to 45 standard acres and 12 units. The displaced person was already allotted 40 standard acres and 4 units and there may be a balance of 5 standard acres and 8 units, if not already paid by way of **other compensation** and allotted land. Therefore, the allotment of 148 acres of land at Puppalguda Village is illegal, without jurisdiction and contrary to the DPCR Act.

11.4. The petitioner through W.P.M.P.No.28569 of 2014 prays for receiving additional affidavit. By way of additional grounds,

it is contended that the displaced person, on 21.11.1953, applied for allotment of 200 acres in Hyderabad Deccan-Hyderabad District towards compensation against his verified claim of 83 standard acres and 11 units. The Government of India, Ministry of Rehabilitation allotted 323 acres of land at Batasingaram and Boinapally Villages of Hyderabad District vide proceedings dated 24.09.1954, which is equivalent to 40.4 standard acres. The displaced person accepted the allotment without protest and further during his life time did not claim compensation towards unsatisfied verified claim, if any. The compensation allotted to displaced person has attained finality. On 10.08.1988, the displaced person Parsram Ramchand died. The representation made on 15.03.2001 by the successors-in-interest on a verified claim already registered under the DPCR Act is not maintainable and also barred by limitation, for the claim is not filed within the time prescribed under Section 4 of the DPCR Act read with Rules 86 of the DPCR Rules. Therefore, the proceedings before 2nd respondent were without jurisdiction and are illegal. The petitioner relies upon letter dated 28.10.2004 received from the Central Government to contend that the balance 5 standard acres and 8 units can be considered, if not other compensation is not paid. According to petitioner, at best, there may be balance of 5 standard acres and

8 units, if not already paid. The 2nd respondent without conducting enquiry on the unsatisfied claim of determined compensation, much less waiting for the reply of Central Government, issued *pro forma* allotment orders. The allotment order is bereft of reasons, without enquiry and thus contrary to the provisions of the DPCR Act and the Rules.

11.5. According to petitioner, the representation dated 15.03.2001, more particularly by one of the legal heirs of displaced person is contrary to Rule 86 and the claim is barred by limitation.

The 2nd respondent did not conduct enquiry on the eligibility of respondents 3 to 10 for payment of compensation or allotment of land under Rule 86. Respondents 3 to 6 are not successors-in-interest in law and not entitled for allotment of any land for the alleged unsatisfied verified claim of displaced person.

11.6. The petitioner relies upon the affidavits filed in W.P.No.13128 of 2003 by D.C.Rosaiah, I.A.S. who disposed of the *suo motu* revision and challenges the contradictions in the affidavits and the order dated 28.06.2006. It is reiterated that the subject matter of the petitions is valuable and not available for allotment in terms of Rule 34-E of the DPCR Rules. While adverting to the stand taken in W.P.No.13128 of 2003 and the reasons assigned in the order dated 28.06.2006, it is contended that the same officer on the principle of fairness in action and judicial propriety ought not to have decided the revision and must have recused himself from deciding the revision petition. It is further averred that though the 2nd respondent did not order implementation or execution of allotment order dated 26.02.2003, the 1st respondent by order dated 28.06.2006 travels an extra mile and directs implementation of allotment order.

The petitioner alleges that the subject matter of the writ petition is located in the core area of Hyderabad City which is worth Rs.700 crores in 2003, about Rs.1500 crores in 2006 and the subject matter is not available under Rule 34 E.

12. The pleadings in W.P.No.14067 of 2006 are by and large similar to pleadings in W.P.No.14066 of 2006 and for brevity firstly we are not referring to the pleadings in W.P.No.14067 of 2006. Secondly, the chronology of dates and events in W.P.No.14067 of 2006 are stated by reference to record of 2nd respondent.

SUBMISSIONS:

13. Mr.K.Ramakrishna Reddy, learned Advocate General, assails the impugned allotment orders dated 26.02.2003 on several factual and legal grounds. It is contended by him that the 2nd respondent acted in utter disregard to the provisions of the DPCR Act and exercised the jurisdiction not available to him. The exercise of jurisdiction, even assuming without admitting that the 2nd respondent has, bristles with patent improprieties, illegalities

and irregularities. The orders of allotment are without jurisdiction. The 2nd respondent cannot and could not entertain application for payment of compensation on a partly verified claim, particularly beyond the period of limitation. There is sufficient material to show that the 2nd respondent while dealing with the alleged claim for payment of balance compensation under the DPCR Act without conducting any enquiry, within 5 days from the date of application, accepted the case of claimants and issued allotment orders arbitrarily.

13.1. The 2nd respondent, it is contended, on receipt of representation dated 15.03.2001 from the alleged successors-in-interest of Parasram Ramchand Malani/displaced person on 05.05.2001 referred the representation dated 15.03.2001 of claimants for clarification from the Ministry of Home affairs, Government of India. Without waiting for the reply sought in this behalf from Central Government, by reference to representation dated 21.02.2003, the 2nd respondent on 26.02.2003 allotted Ac.152.38 gts of urban prime property which is worth thousands of crores. Learned Advocate General has drawn our attention to the original files to contend that the non-application of mind is

writ large in the file and the file notings are sufficient to set aside the impugned order of allotment dated 26.02.2003.

13.2. It is further contended that the representation dated 15.03.2001 read with representation dated 21.02.2003 for payment of balance compensation in W.P.No.14066 of 2006 is not maintainable, for Parasram Ramchand Malani/displaced person through application dated 21.11.1953 requested for allotment of 200 acres of land in Hyderabad District against his verified claim of 83 standard acres 11 units. Through proceedings dated 29.04.1954, the Government of India allotted Ac.323-10 gts at Batasingaram and Boinapally Villages of Hyderabad East and West Taluks, Hyderabad District. According to him, Section 7 read with Rule 51 and Appendix XIV to Rules, a verified claim for 83 standard acres 11 units, the net compensation in terms of land is 45 standard acres 12 units. Under Section 7 of the DPCR Act, enquiry was conducted for determining public dues, if any public dues are deducted. Thereafter, under Rule 15 of the DPCR Rules, the net compensation was determined as 40 standard acres. As against 40 standard acres, the displaced person was allotted 40 standard acres 4 units (Ac.323-10 gts). Therefore, according to him, the entire compensation payable against the verified claim of Parasram Ramchand Malani in verified Claim No. 294/P-174/140 was satisfied. Therefore, there is no balance compensation payable against the verified claim of Parasram Ramchand Malani. On 10.08.1988, Parasram Ramchand Malani/displaced person died. Displaced person lived for 34 years from the date of allotment and issuance of Sanad dated 23.04.1956 and no attempt was made by displaced person for payment of balance of compensation against the verified claim of Parasram Ramchand Malani. Learned Advocate General draws our attention to letter No.HC/Hyd.3/35121 dated 11.09.1961 available in the file to contend that the Regional Settlement Commissioner through the instant letter called upon Parasram Ramchand Malani/displaced person to let the Regional Settlement Commissioner know the registration number of compensation application filed by Parasram Ramchand Malani, if any, at an early date in respect of his verified claim. Learned Advocate General contends

that had it been a case where the verified claim firstly is registered and secondly compensation against verified claim remained still payable, Parasram Ramchand Malani/displaced person would not have kept quiet for 34 years. On the contrary, by placing reliance upon file noting of Special EPI/470/82 in the same file, he contends that in 1982, the file was closed as no action was pending in the office of Chief Commissioner of Land Administration. Therefore, the very application for allotment of any land on the verified claim of displaced person is illegal and suffers from delay, laches and not maintainable in law.

13.3. It is further contended that the DPCR Act has come into force with its publication in Gazette India, 1954, Extra ordinary,

Part-II, Section 2. The Chief Settlement Commissioner, Regional Settlement Commissioner, Settlement Commissioner and Managing Officers were appointed and notified under the DPCR Act. These authorities have administered the DPCR Act for about two and half decades from the date of enactment. The Government of India, Ministry of Supply and Rehabilitation, Department of Rehabilitation, New Delhi, under a package deal issued circular letter No.25(1)/75-SS II dated 24.05.1980 where under by the sanction of President of India the work relating to administration, management and disposal of remaining undisposed of acquired lands/evacuee properties and recovery of arrears of rent etc., was conveyed to the State Government. By operation of circular letter dated 24.05.1980 and with effect from 01.06.1980, according to Advocate General, the subject matter ceased to be part of compensation pool and not available for allotment under the DPCR Act. The 2nd respondent, therefore, has no jurisdiction to allot towards unsatisfied claim the property held by the State Government in its own right and title, particularly without issuing any notice to the State Government.

The impugned allotment orders *ex facie* are illegal, arbitrary and contrary to the principles of natural justice.

13.4 According to him, respondent Nos.3 to 10 in W.P.No.14066 of 2006 or respondent No.3 in W.P.No.14067 of 2006 cannot and could not object the maintainability of writ petitions on the ground that the Union of India is not a party.

13.5 It is vehemently contended that in the construction and/or understanding the scope and purport of circular letter dated 24.05.1980, any ambiguity arises or that according to Union of India the State Government is asserting more than what is conveyed to the State Government through circular letter dated 24.05.1980, it is for the Union of India to take objection, but not for the successors-in-interest of a displaced person to raise these objections. In support of his contention that the circular letter dated 24.05.1980 in complete terms conveys title of subject matter in favour of Government, he draws our attention to Circular No.5 issued by Commissioner, Survey Settlement and Land Records dated 27.08.1982 providing guidelines of evacuee properties transferred to State Government, disposal of properties and Circular No.4 dated 31.03.1982. In support of his contention that by virtue of circular letter dated 24.05.1980 and with effect from 01.06.1980 the undisposed of evacuee property in the erstwhile State of Andhra Pradesh stood transferred to State Government, he strongly relies upon the statement of objects of Repeal Act, 2005 that Parliament while repealing the DPCR Act recognised transfer of undisposed of evacuee property to State Governments. We propose to refer to the statement of objects and reasons of Repeal Act 2005, while considering the respective contentions of the learned counsel appearing for the parties. Therefore, he contends that the 2nd respondent even if assumed can exercise his jurisdiction under the DPCR Act, the 2nd respondent cannot and could not exercise the jurisdiction in respect of immovable property, because the right and title of such property since stood transferred in favour of State Government. According to him, the understanding between the Union of India and the State Government resulted in a package deal and that undisposed of evacuee property went out of the compensation pool. Further, the circular letter dated 24.05.1980 provides payment of

consideration in instatements starting from 01.06.1980 and the default of instalments, if any, by the State Government, interest simplicitor is attracted, but does not affect the title already transferred to the State Government.

The construction he commends to the Court is each one of the items dealt with in circular letter dated 24.05.1980 show that the State Government pays percentage of compensation to the Union of India and percentage varies from place to place and from one type of property to another type of property. If the circular letter dated 24.05.1980 is simply intended as transfer of administration, management and disposal of acquired property simplicitor, as contended by the unofficial respondents, the wording of circular letter would have been in a different way. In support of his submission on effect and legality of package deal between Central and State Governments, he places strong reliance on **Ram Chander v. The State of Punjab**^[1] approved in **Pala Singh (Deceased) by Lrs v. Union of India**^[2].

13.6. It is further contended for petitioner that Section 3 of the DPCR Act provides for appointment by notification in official gazette i.e., the Chief Settlement Commissioner, Joint Chief Settlement Commissioner and as many Deputy Settlement Commissioners etc., as may be necessary for the purpose of performing the functions assigned to them by or under the DPCR Act. The Union of India in exercise of powers conferred by Section 3 vide S.O. No.2008 appointed the Commissioner of Survey and Settlement, Government of Andhra Pradesh, Revenue Department, Hyderabad, as Settlement Commissioner for performing duties and functions assigned to Settlement Commissioner under the DPCR Act. The then Government of Andhra Pradesh through G.O.Ms.No.59 dated 21.01.1999 abolished the post of Commissioner of Survey and Settlement. Therefore, with the abolition of post of Commissioner of Survey and Settlement and without a fresh notification under Section 3 of the DPCR Act, appointing the Chief Commissioner of Land Administration as Settlement Commissioner, the 2nd respondent/Chief Commissioner of Land Administration cannot discharge the functions and duties under the DPCR Act. It is further contended that the Secretary to Chief Commissioner of Land Administration or the Commissioner of Appeals has no authority or jurisdiction under the DPCR Act either to pass orders or communicate allotment orders under his signature to claimants. Therefore, he contends that if the statute directs that certain acts shall be done in specified manner or by specified person; such acts if performed in any other manner, or to be performed by any other person than those named, then the decision lacks semblance of legality and shall be set aside. He relies upon **Barium Chemicals vs. Company Law Board**^[3], **Indira Nehru vs. Raj Narain**^[4], **Taylor vs. Taylor**^[5] and **Nazar Ahmed vs. King Emperor**^[6].

13.7. It is further contended that the representation dated 15.03.2001 read with 21.02.2003 of 3rd respondent in W.P.No.14066 of 2006 and representation dated 11.09.1996 or subsequent representation of 3rd respondent in W.P.No.14067 of 2006 are liable to be rejected on the ground of delay and laches. He elaborates this contention by relying on sub-section (1) of Section 4. An application under Section 4 of the DPCR Act within the time stipulated for payment of compensation can be made by a displaced person having a verified claim for payment of compensation under Sections 7 and 8. Under sub-section (2) of Section 4 of the DPCR Act, claim for payment of compensation under Section 4(1) should be made within three months from the date of notification issued by the Central Government. The proviso to Section 4(2) confers discretion on the Settlement Officer to entertain a claim after the expiry of three months from the date of notification. Therefore, the representations made in the instant writ petitions or for that matter, cannot be straightaway entertained as applications made for payment of compensation for a verified claim, but at best on the submissions made by the unofficial respondents, shall have to be treated as an application filed for payment of balance of compensation on the verified claim of Parasram Ramchand Malani. Therefore, according to him, unless the earlier determination is available or the original record could be traced, it cannot be presumed that there exists an unsatisfied claim of

displaced person and compensation is paid as matter of course.

13.8. Mr.K.Ramakrishna Reddy relies on Rule 86 of the DPCR Rules to contend that no claim of successor-in-interest of displaced person (deceased) shall be entertained unless application for such claim is made on or before 30th April, 1959 or within 120 days of the death of displaced person. From this statutory requirement, he contends that the claim for payment of balance compensation, if any, under Sections 4, 7 and 8 does not arise in the case on hand. According to him, from the circumstances available on record it shall have to be presumed that Parasram Ramchand Malani/ displaced person had filed an application under Rules 3 and 4 of the DPCR Rules. The Settlement Officer/Settlement Commissioner, after determination under Rule 15 of the DPCR Rules, would have passed for payment of compensation order under Rule 17 and without such record being available, the 2nd respondent cannot and could not have entertained the applications made by claimants after lapse of several decades and granted fresh allotment order/Sanad. Therefore, the procedure followed by 2nd respondent is alien to the scheme of the DPCR Act and the Rules. He raises a contention that either by reference to Section 4 of the DPCR Act or Rule 86 of the DPCR Rules, the claim for grant of compensation suffers from delay laches and beyond the time stipulated for making an application for grant of compensation under the DPCR Act and relies upon **Union of India vs. Har Dayal** [\[7\]](#).

13.9. It is further contended that the 2nd respondent cannot presume in the absence of record or the order determining net compensation under Rule 15 of the DPCR Rules read with Appendix VII that there exists an unsatisfied claim of displaced person for consideration and allotment. According to Advocate General, payment of compensation under the DPCR Act envisages payment in cash, in Government bonds, by sale of any property from compensation pool to displaced person and set off compensation payable to him, transfer property from compensation pool to displaced person, by transfer of share or debenture of any company or corporation, payment of compensation in any such other form as may be prescribed. From the above manner of payment of compensation, by reference to Section 8 of the DPCR Act and Rule 15 of the DPCR Rules, he contends that payment of compensation by allotment of valuable land is illegal and without jurisdiction.

13.10. It is further contended that under Rule 3, persons entitled to make application for compensation is provided, for Rule 4 prescribes mode and manner of applying for compensation. Once an application for compensation was made and claim determined by the Settlement Commissioner, the 2nd respondent on a representation filed after several decades beyond the limitation stipulated under Section 4 of the DPCR Act, cannot and could not entertain the application, much less issue allotment orders covering vast extent of land without semblance of enquiry.

13.11 It is further contended that Chapter V A of the DPCR Rules deals with allotment of evacuee agricultural land situated in urban areas. Rule 34-A provides for application of Chapter V A to evacuee agricultural land situated in urban areas and acquired under Section 12 of the DPCR Act. Under Rule 34-E, maximum area of land allottable under this Chapter is stipulated. By providing that notwithstanding anything contained in these Rules, no Khasra, the value of which exceeds Rs.10,000/-, shall be allotted and the maximum area of land allotted to any person shall not exceed Rs.10,000/- in value. Under Rule 56, conversion of standard acres into cash is provided for and on the day of passing the orders of allotment, the subject matter of writ petitions is in urban agglomeration and the value of the subject matter runs into several hundred crores of rupees. The 2nd respondent would not have granted land worth several hundred crores to claimants in the guise of satisfying an alleged unsatisfied verified claim of displaced person. The Advocate General draws the attention of Court to Appendices VI and VII of the DPCR Rules to contend that the net compensation is reflected in the determination of net payable to a displaced person (vide Rule 15). The displaced person

or claimants cannot present periodical representations as and when it suits them. He further contends that admittedly in both the cases for compensation, the claims were registered under Rules 4, 5 and 6 of the DPCR Rules, competent authority had determined and on the admission of claimants, compensation was paid. According to him, an application for grant of compensation shall be in prescribed form and not by way of representation. The claims, if otherwise authorised, can be comprehensively considered in the application filed in prescribed format and not on representations. He draws our attention to various details available in File Nos.SEP3/19/2001 and SEP 3/104/99 and points out alleged improprieties in the decision making process.

13.12 He contends that the impugned allotment orders under the DPCR Act are vitiated by extraneous considerations. The District Collector being the custodian of Government Land in a District is authorised to file writ petitions. The affidavit of the Principal Secretary is relied on to show that there is proper authorisation.

At any rate, it is alternatively contended that it is not for the unofficial respondent or beneficiaries of Government land to contend that the District Collector does not have authority to file instant writ petitions.

13.13. It is further contended that the 1st respondent is not the primary authority under the DPCR Act. The 1st respondent by issuing Memo No.34847/JA.1/2003-1 dated 23.03.2003 exceeded his jurisdiction and the findings recorded by the 1st respondent are not binding on this Court. This Court in exercise of its jurisdiction under writ of Certiorari is concerned with the record of the 2nd respondent, who exercised the jurisdiction under the DPCR Act, the pleadings of parties and the ultimate determination of 2nd respondent.

The 1st respondent under Section 24 of the DPCR Act exercises the jurisdiction of a revisional authority. The serious objection raised against the order of 1st respondent is that the 1st respondent instead of acting as a revisional authority has undertaken enquiry as if it is the primary authority under obligation to exercise the jurisdiction for allotment of land under the DPCR Act. In the process, he determined various questions of fact and law in a lopsided manner. The findings or conclusions recorded by the 1st respondent, it is contended, are not binding on this Court having regard to serious lapses as already pointed out and which are recorded by 1st and 2nd respondents on assumed jurisdiction. The officer (Mr.Rosaiah), who disposed of the revision, has filed a counter affidavit in W.P.No.13128 of 2003 wherein he has clearly gone on record stating that the 2nd respondent has no jurisdiction to pass the impugned orders of allotment. Notwithstanding the stated stand, still by exercising jurisdiction not conferred on the revisional authority, various findings have been recorded. The Advocate General having regard to technical and procedural objections raised by Mr.M.S.Prasad, contends that the Government was not a party before the primary authority and no occasion was legally provided by the respondents to raise these objections. Therefore, all the facts and circumstances which go to the root of jurisdiction of respondents 1 and 2 could not be brought to their notice, much less tested. The 2nd respondent did not issue notice to Government before any allotment order is made in favour of respondents 3 to 10 in W.P.No.14066 of 2006 and respondent No.3 in W.P.No.14067 of 2006. He relies upon **Shauqin Singh And Ors. vs Desa Singh And Ors** ^[8].

13.14. He lastly contends that the impugned allotment orders are not signed by Chief Commissioner of Land Administration, but by the Secretary on the authorisation or delegation said to have been given by Chief Commissioner of Land Administration signed the allotment orders. Therefore, there is no allotment in the eye of law. The authority or jurisdiction of 2nd respondent to act under the DPCR Act is under challenge and the 2nd respondent could not have authorised his Secretary to pass and issue allotment orders. Under the DPCR Act, a Settlement Commissioner cannot delegate his functions to his Secretary. As a matter of fact, it is contended that the delegation is available in respect of one file and by reference to that authority, the Secretary, CCLA passed allotment orders and issued Sanad in both the files. These allotment orders/Sanad are non-existing in the eye of law and shall have to be quashed by this Court. He prays for setting aside the allotment orders impugned in these

writ petitions, as grave injustice has occasioned to public interest and probity.

14. Mr. M.S.Prasad, learned senior counsel appearing for respondent No.3, has led the arguments on behalf of the claimants/unofficial respondents. He contends that the remedy under Article 226 of the Constitution of India is available for citizens to seek relief against the Union of India, the State Government and other instrumentalities of the State, but the State cannot invoke the jurisdiction of this Court under Article 226 of the Constitution of India. Article 226 is unavailable to the petitioner/State Government to challenge the orders of the allotment of acquired evacuee property under the DPCR Act to displaced persons. According to him, the subject matter in these writ petitions is acquired evacuee property and under Section 12 of the DPCR Act, the evacuee property stood vested in Government of India and forms part of compensation pool. The property in compensation pool should be utilized for payment of compensation and rehabilitation to displaced persons and cannot be used for any other purpose. The allotment of the property from compensation pool cannot be challenged by the State Government/petitioner or the District Collector and the writ of Certiorari at the instance of the petitioner is misconceived and liable to be dismissed.

14.1. It is further contended that the prayers in W.P.Nos.14066 of 2006 and 14067 of 2006 are misconceived, unavailable and liable to be rejected. According to learned senior counsel, the petitioner did not challenge the order of allotment dated 26.02.2003 by filing appeal under Section 23 of the DPCR Act. The State Government has exercised the option of *suo motu* revision under Section 24 of the DPCR Act and the State Government having entertained revisional jurisdiction cannot and could not invoke the residuary power under Section 33 of the DPCR Act conferred through S.O. No.2009.

14.2. The senior counsel contends that the State Government cannot claim title to the subject matter of the writ petitions or any other acquired evacuee property available in compensation pool. The previous orders of respondents in the erstwhile State of Andhra Pradesh would go to show that the State Government treated the evacuee properties as part of compensation pool, but not the properties to which title stood transferred in favour of State Government. The State Government, according to him, misunderstood the circular letter dated 24.05.1980 and wrongly relied upon to claim transfer of title in favour of the State Government. According to him, circular letter dated 24.05.1980 refers to transfer of administration, management and disposal of acquired properties, but not transfer of title of undisposed of evacuee properties. He contends that the circular letter dated 24.05.1980, particularly paragraphs 3 and 6 ought to be construed to mean that through circular letter dated 24.05.1980, the administration, management and disposal of evacuee properties by the officers of the Government of India was transferred, but not title to undisposed of evacuee properties. Paras 3 & 6 read thus:

"With a view to effecting economy in expenditure and ensuring proper arrangement for administration, management and disposal of acquired evacuee lands/properties and recovery of arrears of rent of rural and urban evacuee properties it has been decided in public interest to transfer the aforesaid items of work to the Govt. of Andhra Pradesh for disposal of the residuary work in a satisfactory manner and for carrying out the purposes of the Displaced persons (Compensation & Rehabilitation) Act, 1954 and the Rules framed there under.

"The arrangement detailed above shall not in any way affect the payment of compensation to the displaced persons having unsatisfied claims for properties left in west Pakistan in accordance with the provisions of the displaced person (Comp & Rehb) Act 1954, their claims shall, as usual, be dealt with the officers of the Govt. of India. The liability to satisfy the claims of the displaced persons shall continue to rest with the govt. of India."

Through Standing Order 2008 (No.1-10/SPL/Cell/80-SS II (vi)) and Standing Order No. 2009 (No.1(10) Spl.Cell/80-SS.II (viii)), the 2nd and 1st respondents were appointed as Settlement Commissioner and Chief Commissioner respectively. The power of allotment of acquired evacuee property from compensation pool to a claimant, therefore, was rightly exercised by the

2nd respondent. The 1st respondent being satisfied with the legality of allotment orders had rightly dismissed the *suo motu* revision and no illegality whatsoever is pointed out by petitioner to interfere with these orders. The

circular letter dated 24.05.1980, according to him, shall have to be read with Circular No.2 dated 06.11.1981 and Circular No.5 dated 24.08.1982 to mean that there is no transfer of title from compensation pool to State Government.

14.3. He further contends that the Union of India is a proper and necessary party, as petitioner/State Government claims title to subject matter of writ petitions contrary to the statutory scheme and presumption under the DPCR Act. In the absence of proper and necessary party viz., the Union of India, the writ petitions are liable to be dismissed, much less the crucial issues can be considered.

14.4. According to him, in the exercise of jurisdiction of writ of Certiorari, this Court examines whether the inferior Tribunal exceeded its jurisdiction or acted without jurisdiction or the orders suffer from errors of law or fact apparent on the face of record and acted contrary to principles of natural justice. The jurisdiction of this Court is supervisory and this Court in exercising the scope of judicial review ought not to act like a Court of Appeal and examine legality of each and every circumstance in the matter of allotment. If the decision making process does not suffer from any illegality, irregularity, much less perversity, the well considered order of 1st respondent shall have to be read along with order of allotment dated 26.02.2003 of 2nd respondent and the writ petitions shall have to be dismissed.

14.5. The learned senior counsel in support of his contention on the scope of judicial review of this Court under Certiorari jurisdiction relies upon a catena of decisions of the Apex Court.

We are of the view that axiomatic principles need not be restated, much less decisions referred to. The 3rd respondent raises a fundamental contention that for invoking jurisdiction under Article 226, the *sine qua non* viz., existence of right and infringement of such right are absent in the case on hand and the writ petitions fail. It is contended that the State Government invoked revisional jurisdiction under Section 24 of the DPCR Act and cannot challenge the order of 1st respondent when the order in revision is adverse to State Government. Mr.M.S.Prasad relies upon decision in

the Hindustan Corporation Co. Ltd vs Governor Of Orissa & Ors ^[9].

14.6. The competence of District Collector to challenge the order of a superior officer without written authority of Chief Secretary or Principal Secretary to Government is raised. He further contends that the Government of India cannot and could not through Circular letter dated 24.05.1980 transfer title of lands from the compensation pool to the State Government. Section 16 of the DPCR Act does not permit transfer of title of acquired evacuee lands available in compensation pool to State Government.

The properties in the compensation pool are exclusively available for settlement of pending verified claims and none else. It is further contended that by a mere circular letter, transfer of title from Union of India to State Government cannot be accepted. Such transfer defeats the object of the DPCR Act.

14.7. The questions of title, it is urged, cannot be gone into in exercise of jurisdiction under Article 226 of the Constitution of India. He further contends that the unofficial respondents are successors-in-interest of original displaced persons and are covered by the definition of Section 2 (b) of the DPCR Act read with Rule 3 of the DPCR Rules. According to him, respondents 3 to 10 in W.P.No.14066 of 2006 and respondent No.3 in W.P.No.14067 of 2006 basing upon the verified claims of displaced persons applied for payment of compensation by allotment of land towards unsatisfied claim under the DPCR Act. The 2nd respondent is factually and legally justified in allotting the property available from the compensation pool. He further contends that if the successors-in-interest of displaced persons do not have a verified claim in their hands, allotment of any land by the 2nd respondent is *per se* illegal. Once the existence of verified claim is not disputed, there is corresponding obligation on the authorities to fully satisfy the verified claim. Learned Senior Counsel in support of his submission contends that the displaced person in W.P.No.14066 of 2006 has a verified claim for 83.11 standard acres in two villages in West Pakistan. The successors-in-interest of displaced persons in law are entitled to allotment of land towards unsatisfied verified claims. He fairly concedes that though the displaced person requested for allotment of 200 acres, the Settlement Commissioner through allotment order 29.04.1954 and Sanad dated 24.03.1956, allotted 323 acres to displaced person. The allotment, however, does not mean that the verified claim of displaced person is completely satisfied

and successors-in-interest of Parasram Ramchand Malani are not entitled for allotment of any land. While advertng to similar factual contention in W.P.No.14067 of 2006, he contends that displaced person died on 04.10.1975 and his successor-in-interest has applied for recognition as successor-in-interest and the same was ordered. The verified claim is not fully satisfied to the extent of 11.3 standard acres and 3rd respondent applied for allotment through General Power of Attorney and no exception can be taken.

14.8. Mr.M.S.Prasad contends that the mode and manner of compensation can be in one or the other forms as stated in Section 8 of the DPCR Act. Therefore, unless and until the verified claim is fully compensated, the successors-in-interest are entitled to apply for payment of compensation for the unsatisfied verified claim. He replies to the contention of learned Advocate General regarding reliance upon Rule 86 of the DPCR Rules to contend that the applications/representations for allotment on 15.03.2001 read with 21.02.2003 in W.P.No.14066 of 2006 and on 11.09.1996 read with representation dated 01.02.2003 in W.P.No.14067 of 2006 are not attracting the limitation contained in Rule 86 of the DPCR Rules. According to him, the prohibition under sub-rule 1(A) of Rule 86 is attracted to a claim, but not to a verified claim and consequently there is no period of limitation for making application for allotment of compensation based on a verified claim. He, therefore, contends that for the same reasons, Section 4 of the DPCR Act is not applicable and that the efforts of successors-in-interest of displaced persons through applications referred to above are not barred by limitation. As to the delay and laches, he contends that the successors-in-interest of displaced persons have no choice except to make representation to the authorities which they have been doing and these representations were not considered and disposed of by 2nd respondent. Further, no objection on limitation was taken before 1st respondent. Consequently, this objection of limitation ought not to be considered by this Court in exercise of the jurisdiction under Article 226.

14.9. In reply to the contentions raised by the learned Advocate General under Chapter V A of the DPCR Rules, Mr.M.S.Prasad contends that the heading of Chapter V A reads as "allotment of evacuee agricultural land situated in urban areas". The limitation provided in this chapter is attracted to allotment of agricultural land in urban area, but not agricultural land in rural area. According to him, Rule 34E of the DPCR Rules cannot be read in isolation and this Rule shall have to be read and interpreted to mean that the limitation on valuation or extent is attracted if the agricultural land is located in an urban area and not in a rural area. He draws our attention to sub-rule (f) of Rule 2 of the DPCR Rules to contend that the rural area means any area which is not urban area. He alternatively contends that the location of land viz., whether the land is in rural or urban area is determined on the date when the land was acquired as part of compensation pool and not when the order of allotment is made. Learned counsel relies upon Rule 56 to contend that the statutory rate per acre is Rs.450/-. The present value of subject matter cannot be taken note for entitlement to compensation as a right and is paid to the successors-in-interest of displaced persons.

14.10. Mr.M.S.Prasad further contends that the objection on the jurisdiction of Chief Commissioner of Land Administration, as designated authority, taken for the first time in the writ petition, this Court ought not to consider the objection taken for the first time in the writ petition. He does not dispute the fact that through G.O.Ms.No.59 Revenue (DA) Department dated 21.01.1999 posts of Commissioner of Survey, Settlement and land Records and Commissioner of Land Reforms and Urban Land Ceiling are abolished and the post of Commissioner of Land Revenue was re-designated by issuing a notification of even date. But his submission is that the Chief Commissioner of Land Administration, being the officer re-designated with the amalgamation of all the three posts, the Chief Commissioner of Land Administration is empowered to discharge the powers and functions under the DPCR Act. He draws the attention of the Court to Section 3 of the DPCR Act and S.O.No.2008 and contends that the Chief Commissioner of Land Administration and Appeals shall be the authority to discharge the powers and functions under the DPCR Act. Learned senior counsel in reply to the contention of petitioner that allotment orders are not made by the Chief Commissioner of Land Administration, but by the Secretary to CCLA, contends that the allotment orders and Sanad though are signed by the Secretary to CCLA, the same are under authorisation of CCLA and would suffice for allotment purpose. We note that the original orders are signed by the Secretary to CCLA. The original allotment orders allegedly signed by CCLA ought to be in original record and on perusal, we find that there was no such order

in the original file. He submits that his clients are served with the copies signed by Secretary to CCLA and such served copy is valid and legal.

15. We have perused the material available on record and taken note of the submissions made by learned counsel appearing for the parties. The following points arise for consideration:

- (i) Whether the orders of allotment in File Nos. SEP3/19/2001 and SEP3/19/2001 and SEP3/104/99, are valid, legal, and in accordance with the DPCR Act and Rules or suffer from jurisdictional errors of law and fact; and
- (ii) to what relief?

The answer to the points framed for consideration is arrived at by examining the following legal, jurisdictional and factual aspects:

- a) Scope of judicial review in writ of Certiorari vis-à-vis the DPCR Act.
- b) Title to property and whether available in compensation pool for allotment/payment of compensation.
- c) competent authority under Section 4 of the Act
- d) limitation, delay and laches
- e) principles of natural justice
- f) decision making process

SCOPE OF JUDICIAL REVIEW IN WRIT OF CERTIORARI
VIS-À-VIS THE DPCR ACT

16. Learned Advocate General and Mr.M.S.Prasad senior counsel have submitted their arguments *in extenso* in support of their respective cases on the scope of judicial review under writ of Certiorari and the confines within which this Court has to exercise such jurisdiction. In support of their submissions, they have relied upon a catena of decisions of the Apex Court. We are conscious of the scope and confines of judicial review of writ of certiorari under Article 226 of the Constitution of India. We are not referring to the catena of decisions relied upon by the learned counsel appearing for parties, but to set the tone for examining the merits of writ petitions, we summarise the legal position as follows:

16.1. *Corpus Juris Secundum* defines a writ of certiorari as follows:
“Certiorari is a writ from superior Court to an inferior Court or tribunal commanding the latter to send upon the record of a particular case.”

Therefore, this Court summons record of a subordinate Court/ inferior Tribunal or an officer exercising judicial or quasi judicial functions, so that the validity of the proceedings may be determined, excesses of jurisdiction restrained and errors, if any, are corrected.

The writ of certiorari is entertained in the following circumstances and against the following authorities:

- a) Judicial or quasi judicial authorities
- b) judicial or quasi judicial authority must have legal authority to decide
- c) the judicial or quasi judicial authority must have power or determine questions affecting the rights of subjects.
- d) the authority must have duty to act judicially, and
- e) the authority must have acted in excess of such authority.

16.2 The legal authority has three facets namely determination of questions affecting rights of subjects, duty to act judicially and act within its defined authority. In the case of

Ebrahim Aboobakar v. Custodian General of Evacuee Property, New Delhi^[10]**Abu Bakar**, a Five Judge Bench of Hon’ble Supreme Court has culled out the principles on the scope and the jurisdiction of writ of certiorari of this Court under Article 226 of the Constitution of India.

16.3. In the case of **Hari Vishnu Kamath v. Ahmad Ishaque**^[11], a seven Judge Bench judgment considered the case law on writ of Certiorari and laid down the following principles:

“(I) Constitution of India, Art.226-Conditions under which certiorari can lie.
With regard to the character and scope of the writ of certiorari and the conditions under which it can be issued, the following purpositions may be taken as established:(1) Certiorari will be issued for correcting errors of jurisdiction, as when an inferior Court or Tribunal acts without jurisdiction or in excess of it, or fails to exercise it. (2) Certiorari will also be issued when the Court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, us when it decides without giving an opportunity to the parties to be

heard, or violates the principles of natural justice. (3) The Court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the Court will not review finding of fact reached by the inferior Court or Tribunal, even if they be erroneous. This is on the principle that a Court which has jurisdiction over a subject mater has jurisdiction to decide wrong as well as right, and when the Legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy, if a superior Court were to rehear the case on the evidence and substitute its own findings in certiorari AIR 1952 SC 179, AIR 1952 SC 192, AIR 1952 SC 319 and AIR 1954 SC 440,Rel. on.

(J) Constitution of India, Art.226-Certiorari to correct error of law:

A writ of certiorari can be issued to correct an error of law. But it is essential that it should be something more than a mere error; it must be one which must be manifest on the face of the record. (1952) 1 K.B.338 AIR 1952 SC 192, AIR 1954 SC 440, Rel. on (Para 23)

(K) Constitution of India, Art.226- When does error become apparent on face of record.

When does an error cease to be mere error, and become an error apparent on the face of the record? The test that no error can be said to be apparent on the face of the record if it is not self evident, and if it requires an examination or arguments to establish it, may afford a satisfactory basis for decision in the majority of cases. But there must be cases in which even this test might break down because judicial opinions also differ, and an error that might be considered by one Judge as self-evident may not be so considered by another. The fact is that what is an error apparent on, the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case. AIR 1953 Bom 133, Ref. (Para 23).

16.4. In **Surya Dev Rai v. Ram Chander Rai** ^[121], the Apex Court held thus:

“Supervisory jurisdiction under Article 227

22. [Article 227](#) of the Constitution confers on every High Court the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction excepting any court or tribunal constituted by or under any law relating to the armed forces. Without prejudice to the generality of such power the High Court has been conferred with certain specific powers by clauses (2) and (3) of [Article 227](#) with which we are not concerned hereat. It is well-settled that the power of superintendence so conferred on the High Court is administrative as well as judicial, and is capable of being invoked at the instance of any person aggrieved or may even be exercised suo motu. The paramount consideration behind vesting such wide power of superintendence in the High Court is paving the path of justice and removing any obstacles therein. The power under [Article 227](#) is wider than the one conferred on the High Court by [Article 226](#) in the sense that the power of superintendence is not subject to those technicalities of procedure or traditional fetters which are to be found in certiorari jurisdiction. Else the parameters invoking the exercise of power are almost similar.

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25. Upon a review of decided cases and a survey of the occasions wherein the High Courts have exercised jurisdiction to command a writ of certiorari or to exercise supervisory jurisdiction under [Article 227](#) in the given facts and circumstances in a variety of cases, it seems that the distinction between the two jurisdictions stands almost obliterated in practice. Probably, this is the reason why it has become customary with the lawyers labeling their petitions as one common under Articles 226 and 227 of the Constitution, though such practice has been deprecated in some judicial pronouncement. Without entering into niceties and technicality of the subject, we venture to state the broad general difference between the two jurisdictions. Firstly, the writ of certiorari is an exercise of its original jurisdiction by the High Court; exercise of supervisory jurisdiction is not an original jurisdiction and in this sense it is akin to appellate revisional or corrective jurisdiction. Secondly, in a writ of certiorari, the record of the proceedings having been certified and sent up by the inferior court or tribunal to the High Court, the High Court if inclined to exercise its jurisdiction, may simply annul or quash the proceedings and then do no more. In exercise of supervisory jurisdiction the High Court may not only quash or set aside the impugned proceedings, judgment or order but it may also make such directions as the facts and circumstances of the case may warrant, may be by way of guiding the inferior court or tribunal as to the manner in which it would now proceed further or afresh as commended to or guided by the High Court. In appropriate cases the High Court, while exercising supervisory jurisdiction, may substitute such a decision of its own in place of the impugned decision, as the inferior court or tribunal should have made. Lastly, the jurisdiction under [Article 226](#) of the Constitution is capable of being exercised on a prayer made by or on behalf of the party aggrieved; the supervisory jurisdiction is capable of being exercised suo motu as well.

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28.Later, a two-judge Bench of this Court in Baby Vs. Travancore Devaswom Board & Ors., (1998) 8 SCC 310, clarified that in spite of the revisional jurisdiction being not available to the High Court, it still had powers under [Article 227](#) of the Constitution of India to quash the orders passed by the Tribunals if the findings of fact had been arrived at by non-consideration of the relevant and material documents, the consideration of which could have led to an opposite conclusion. This power of the High Court under the Constitution of India is always in addition to the revisional jurisdiction conferred on it.

29. The Constitution Bench in L. Chandra Kumar Vs. Union of India & Ors., (1997) 3 SCC 261, dealt

with the nature of power of judicial review conferred by [Article 226](#) of the Constitution and the power of superintendence conferred by [Article 227](#). It was held that the jurisdiction conferred on the Supreme Court under [Article 32](#) of the Constitution and on the High Courts under Articles 226 and 227 of the Constitution is part of the basic structure of the Constitution, forming its integral and essential feature, which cannot be tampered with much less taken away even by constitutional amendment, not to speak of a parliamentary legislation. A recent Division Bench decision by Delhi High Court (Dalveer Bhandari and H.R. Malhotra, JJ) in Criminal Writ Petition NO.s.758, 917 and 1295 of 2002 – Govind Vs. State (Govt. of NCT of Delhi) decided on April 7, 2003 (reported as [2003] 6 ILD 468 makes an indepth survey of decided cases including almost all the leading decisions by this Court and holds –

"The power of the High Court under [Article 226](#) cannot be whittled down, nullified, curtailed, abrogated, diluted or taken either by judicial pronouncement or by the legislative enactment or even by the amendment of the Constitution. The power of judicial review is an inherent part of the basic structure and it cannot be abrogated without affecting the basic structure of the Constitution." The essence of constitutional and legal principles, relevant to the issue at hand, has been correctly summed up by the Division Bench of the High Court and we record our approval of the same.

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34. We are of the opinion that the curtailment of revisional jurisdiction of the High Court does not take away – and could not have taken away - the constitutional jurisdiction of the High Court to issue a writ of certiorari to a civil court nor the power of superintendence conferred on the High Court under [Article 227](#) of the Constitution is taken away or whittled down. The power exists, untrammelled by the amendment in Section 115 of the CPC, and is available to be exercised subject to rules of self discipline and practice which are well settled.

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38. Such like matters frequently arise before the High Courts. We sum up our conclusions in a nutshell, even at the risk of repetition and state the same as hereunder:-

- (1) Amendment by Act No.46 of 1999 with effect from 01.07.2002 in Section 115 of Code of Civil Procedure cannot and does not affect in any manner the jurisdiction of the High Court under Articles 226 and 227 of the Constitution.
- (2) Interlocutory orders, passed by the courts subordinate to the High Court, against which remedy of revision has been excluded by the CPC Amendment Act No. 46 of 1999 are nevertheless open to challenge in, and continue to be subject to, certiorari and supervisory jurisdiction of the High Court.
- (3) Certiorari, under [Article 226](#) of the Constitution, is issued for correcting gross errors of jurisdiction, i.e., when a subordinate court is found to have acted (i) without jurisdiction - by assuming jurisdiction where there exists none, or (ii) in excess of its jurisdiction – by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.
- (4) Supervisory jurisdiction under [Article 227](#) of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When the subordinate Court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the Court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.
- (5) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby.
- (6) A patent error is an error which is self-evident, i.e., which can be perceived or demonstrated without involving into any lengthy or complicated argument or a long-drawn process of reasoning. Where two inferences are reasonably possible and the subordinate court has chosen to take one view the error cannot be called gross or patent.
- (7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the above said two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred there against and entertaining a petition invoking certiorari or supervisory jurisdiction of High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of

the lis.

(8) The High Court in exercise of certiorari or supervisory jurisdiction will not covert itself into a Court of Appeal and indulge in re-appreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character.

(9) In practice, the parameters for exercising jurisdiction to issue a writ of certiorari and those calling for exercise of supervisory jurisdiction are almost similar and the width of jurisdiction exercised by the High Courts in India unlike English courts has almost obliterated the distinction between the two jurisdictions. While exercising jurisdiction to issue a writ of certiorari the High Court may annul or set aside the act, order or proceedings of the subordinate courts but cannot substitute its own decision in place thereof. In exercise of supervisory jurisdiction the High Court may not only give suitable directions so as to guide the subordinate court as to the manner in which it would act or proceed thereafter or afresh, the High Court may in appropriate cases itself make an order in supersession or substitution of the order of the subordinate court as the court should have made in the facts and circumstances of the case.

39. Though we have tried to lay down broad principles and working rules, the fact remains that the parameters for exercise of jurisdiction under Articles 226 or 227 of the Constitution cannot be tied down in a straitjacket formula or rigid rules. Not less than often the High Court would be faced with dilemma. If it intervenes in pending proceedings there is bound to be delay in termination of proceedings. If it does not intervene, the error of the moment may earn immunity from correction. The facts and circumstances of a given case may make it more appropriate for the High Court to exercise self-restraint and not to intervene because the error of jurisdiction though committed is yet capable of being taken care of and corrected at a later stage and the wrong done, if any, would be set right and rights and equities adjusted in appeal or revision preferred at the conclusion of the proceedings. But there may be cases where 'a stitch in time would save nine'. At the end, we may sum up by saying that the power is there but the exercise is discretionary which will be governed solely by the dictates of judicial conscience enriched by judicial experience and practical wisdom of the Judge".

16.5. There cannot be any argument with the contentions of Mr.M.S.Prasad that the scope of judicial review of this Court against an order of a judicial or quasi judicial authority, is limited. The jurisdiction of this Court is invoked by a party having a right and being affected by an order made beyond the authority and that the authority failed to act judicially. For a well settled proposition of law, we are not referring to the citations relied upon by him. At the same time, the exercise of jurisdiction is determinative on the enactment under which the authority is exercised. We have difficulty in accepting the contention of Mr.M.S.Prasad that the legality of impugned allotment orders ought to be examined from the findings recorded by the 1st respondent. But the test viz., whether the 2nd respondent has jurisdiction in fact and law; and acted within the confines of the DPCR Act or not, needs to be examined. For that purpose, we propose to examine the scheme and scope of the DPCR Act/Rules.

Displaced Persons (Compensation & Rehabilitation) Act,1954:

17. The DPCR Act was enacted by the Parliament in peculiar circumstances to provide compensation and rehabilitation grant to the migrants from then West Pakistan. The legislative measures were taken up under the Administration of Evacuee Property Act, 1950, Displaced Persons (Claims) Act 1951, Displaced Persons (Claims) Supplementary Act 1954 and East Punjab Refugees (Registration of Land) (Claims Closes) Act, 1948. As the efforts of Government of India with the Government of Pakistan to arrive at an equitable solution to the problem of evacuee property failed, the Parliament enacted the DPCR Act to put in place a statutory scheme for payment of compensation and rehabilitation grant to displaced persons and for matters connected therewith.

The preamble and statement of objects and reasons of the DPCR Act are as follows:

Preamble:- An Act for the payment of compensation and Rehabilitation grant to displaced persons and for matters connected therewith.

Be it enacted by the Parliament in the fifth year of the republic of India as follows:

S.O.R:-Negotiations have been in progress with the Government of Pakistan for more than six years with a view to arrive at an equitable solution of the problem of immovable evacuee property. The Government of India have all through been of the view that the immovable evacuee properties including agricultural land in India and Pakistan should be exchanged in lump on Government to Government basis, the debtor country paying to the creditor for the difference between the values of such properties in the two countries. The proposals made by the Government of India from time to time have, however, been turned down by Pakistan. There has been a persistent demand from displaced persons that these properties should be transferred to them in permanent ownership, the properties have been fast deteriorating and many of them have already been declared unfit for habitation or have crumbled down. To halt further deterioration and to facilitate the rehabilitation of displaced persons from West Pakistan this Bill provides that the right title and interest of evacuees in evacuee properties in

India should be acquired by Government. The compensation to be paid to displaced persons will be confined to the utilization of the acquired evacuee property in India as well as any amount realized from Pakistan on account of the difference between the values of evacuee properties in the two countries. The loans so far advanced to displaced persons from West Pakistan, the properties built by the Government for their rehabilitation and the provision made till May, 1953 for their rehabilitation for the future under the Five Year Plan or otherwise will be utilized for rehabilitation by giving grants. The Bill provides for the payment of rehabilitation grants."

17.1. From the statement of objects and reasons read with preamble, it is evident that the DPCR Act, 1954 was enacted by the Parliament to ameliorate the living conditions of displaced persons who have come in exodus from West Pakistan, by paying compensation from the compensation pool in the mode and manner provided for under the Act. We propose to examine important definitions and sections which have bearing in appreciating the scheme under the DPCR Act, right from persons who can make application for compensation; verified claim; mode and manner of payment of compensation to a displaced person.

17.2. Under Section 2 (e) verified claim means – (i) a claim registered under the Displaced Persons (Claims) Act 1950 in respect of which a claim has been passed under that Act or under the Displaced Persons (Claims) Supplementary Act 1954. (ii) includes any claim registered on or before 31.05.1953 under

- (a) East Punjab Refugees (Registration of Land) (Claims) Act, 1948
 - (b) or Patiala Refugees (Registration of Land (Claims) 2004 and verified by authority appointed for this purpose by Government of Punjab etc., as the case may be
- and the claim has not been satisfied wholly or partly by the allotment of any evacuee land under Section 10 of the Act.

Therefore, the verified claim means a claim which is registered under enactments referred to above and the claim is verified by the authority for the purpose of payment of compensation under those enactments and the registered claim has not been wholly or partly satisfied by paying compensation to displaced person.

17.3. Section 3 enables the Central Government by notification in the official gazette to appoint a Chief Settlement Commissioner, Joint Chief Settlement Commissioner, Settlement Commissioners etc., for performing the functions assigned to those authorities by or under the DPCR Act. Therefore, the source of power to discharge a function is derived by an authority from the notification issued by the Central Government appointing such officer. Therefore, the authorities appointed and named by the Central Government alone can discharge the functions assigned to them under the Act.

17.4. Section 4 provides for issue of notification on or before 30 days from 30.06.1955 requiring displaced person having a verified claim to apply for payment of compensation. Under sub-section (2) of Section 4, every displaced person as required by a notification issued under sub section (1), shall make an application in the prescribed form within ninety (90) days from notification for payment of compensation. The application shall be made to the Settlement Officer. Proviso to sub-section (2) of Section 4 enables the Settlement Officer to entertain an application after expiry of said three months subject to the applicant showing that the applicant was prevented by sufficient cause for filing the application in time. Therefore, under sub-section (1) of Section 4, a displaced person having a verified claim at the first instance is required to make an application in prescribed form for payment of compensation within 90 days from the date of notification issued in official gazette by the Central Government. For our purpose, the other requirements of Section 4 need not be adverted.

Under Section 5, the Settlement Officers are required to determine the public due recoverable from the applicant i.e., displaced person; forward to the Settlement Commissioner the record of Settlement Officer with the details of application received under Section 4, and the determination of public dues recoverable from the applicant.

In the entire scheme of payment of compensation, Sections 7 and 8 of the DPCR Act read with corresponding Rules under the DPCR Rules have lot of bearing on the questions decided in the instant writ petitions. Therefore, we will spell out various stages of consideration of application for payment of compensation under Sections 7 and 8 of the DPCR Act.

17.5. Under Section 7, the Settlement Commissioner, on receipt of the application made under Section 4 for payment of compensation together with the record and details forwarded under Section 5 from the Settlement

Officer, conducts enquiry in such manner as may be prescribed by Rules. The Settlement Commissioner, having due regard to the prescribed scales of compensation, the nature of the verified claim of displaced person and other circumstances of the case, shall thereupon ascertain the amount of compensation to which the applicant is entitled. The first step under Section 7(1) is ascertainment of amount of compensation to which the applicant is entitled. Under sub-section (2) of Section 7, the Settlement Commissioner is empowered to deduct dues recoverable namely the public dues determined under Section 5 of the DPCR Act from the applicant in the order of priority i.e., the dues recoverable or the amount payable to a banking company under the Displaced Persons (Debt Adjustment) Act, 1951 or any communication received from the Tribunal on the liability of applicant under the Displaced Persons (Debt Adjustment) Act, 1951. Thereafter, the Settlement Commissioner shall make an order determining the net **amount of compensation**, if any, payable to the applicant. Therefore, from a bare reading of Section 7 it is clear that the enabling instrument viz. a verified claim is enquired into and examined and after deducting public dues, the Settlement Commissioner shall make an order determining the net amount of compensation payable to an applicant. The verified claim of displaced person is transformed into an order for payment of compensation to displaced person. The amount of compensation, so determined is paid in the mode and manner provided by

Section 8 of the DPCR Act. In other words, once a displaced person having a verified claim applies in prescribed form for payment of compensation and the amount of compensation is determined, the verified claim cannot and shall not be an instrument which can be enforced again and again.

17.6. Section 8 provides for form and manner of payment of compensation determined by an order under Section 7 sub-section 3 of the Act. The Settlement Commissioner or any officer authorised by the Chief Settlement Commissioner subject to Rules make payment in one or other following forms:

- a) Cash
- b) Government Bonds
- c) By sale to the displaced person of any property from the compensation pool setting off the purchase money against the compensation payable to him
- d) by transfer to the displaced person any property from compensation pool, and setting off the valuation of the property against the compensation payable to him.
- e) by transfer of share or debentures of any company or corporation.

Therefore, Section 8 authorises payment of compensation in more than one form and/or payment of compensation in one or the other form; such payment is ultimately adjusted against the net amount of compensation determined under Section 7 sub-section (3) of the Act.

17.7. According to Section 14, the Compensation pool consists of evacuee property acquired under Section 12, including the sale proceeds of any such property and all profits and income accruing from evacuee property acquired under Section 12;

the cash balance available with the custodian, the contribution received from the Central Government etc; or such other asset as may be prescribed by Rules. Sub-section (2) of Section 14 refers to vesting of compensation pool in the Central Government free from all encumbrances and commends that the compensation shall be utilised in accordance with the DPCR Act and the Rules.

17.8. Section 23 provides for Appeals to Chief Settlement Commissioner against the orders of Settlement Commissioner, Additional Settlement Commissioner etc., passed under the Act.

Section 24 provides for *suo motu* revision to Chief Settlement Commissioner against the orders of Officers appointed under the DPCR Act. Sub-section (2) of Section 24 provides for further revision to the Central Government.

18. The Central Government through notification SRO 1362 dated 21.05.1955 made the Displaced Persons (Compensation & Rehabilitation) Rules 1955. Under Rule 2 sub-clause (c) compensation includes rehabilitation grant where such rehabilitation grant is payable to displaced person along with the compensation. Under section 2 (f) rural area means an area which is not an urban area. Rule 3 provides for filing application for payment of compensation by a displaced person or successors-in-interest having a verified claim. Rule 4 directs that an application for compensation shall be made in form specified in Appendix I to the Settlement Officer within whose jurisdiction the displaced person voluntarily resides. Appendix I mandates the displaced person to furnish all

the relevant details including rehabilitation benefit received by the applicant or a member of the family and particulars of claims under the DPCR Act. The applicant is required to give particulars of urban property and rural property. We have perused Appendix I and are of the view that having regard to scheme of the DPCR Act, the words 'shall apply' for compensation in prescribed form are used consciously and the authorities have no discretion to entertain informal representations or requests for payment of compensation or balance compensation. Sub-rule (3) of Rule 4 deals with the procedure to be followed by successors-in-interest of a deceased displaced person. The details required for recognising a person as successor are set out and before recognising any person as successor-in-interest, enquiry is mandated. A combined reading of Sections 3 and 4 Rule (4) read with Appendix I concludes that the Parliament consciously used the words apply in the prescribed form for compensation. Therefore, whether representations dated 15.03.2001 and 21.02.2003 etc., filed by unofficial respondents in these writ petitions can be treated as valid presentation of application for grant of compensation will be considered separately and decided. Determination of net compensation is provided for under Rule 15. The Regional Settlement Commissioner shall pass an order determining net amount of compensation payable to the applicant in respect of his verified claim and shall prepare a summary in the forms specified in Appendix VII. It should be noted that Rule 15 not only mandates passing an order determining the amount of compensation payable but directs preparation of summary in Appendix VII. The Appendix VII reads thus:

APPENDIX VII
Abstract of particulars, calculations and pay order
(RULE 15)

Office of the Regional Commissioner

Claim Compensation Bill No. _____ dated _____ 1996

Registration No. Regional in Central Office I-R.S.C. No.

- | 1. Name of Application. | Parentage, etc |
|-------------------------|----------------|
| 1. Name of Application. | Parentage, etc |

Permanent address.

2. Particulars of all claims, for which cash compensation is admissible

(a)	Index No.	Nature of property residential	Assessed
	Of the claims	properties, Urban plots,	value of
		Industrial undertaking etc.	claim
	Total value		Applicant's share in

Joint family	Remarks
--------------	---------

Total value

(b) For agriculture	(i) Assessed value	Std. Acres
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Land and gardens	(ii) Area after applying Pb. Cut	Std. Acres.
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iii) Less Allotment held Std. Acres.

(iv) Not admissible	Std. Acres.
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(c) Remarks regarding application of Rule 19.

Calculations of compensation including Rehabilitation Grant.

Compen- Sation	Reh. Grant	Total	If joint family, applicant's share	
		Compen- Sation	Reh. Grant	Total

Compensation at final scale

(a) For total assessed value of

Property claim(s)

(b) Cash Where admissible against

Agri. Claim item 2(b) (iv) rate

Rs 150 or 350 per Std. Acre.

Total

Deduct, already paid or adjusted

Vide R.S.C. No. Bill No. &

Included in the covering state-

ment No. dated

Add

_____fractional difference_____

Deduct

Gross amounts now due

4. Recoveries to be made.

Amount	Authority to	Head of account
Rs.	which recovery	to which
	is to be	adjustable
	credited	

(a) Amount outstanding in respect of Loan Account No.

(b) Unpaid instalments for houses and plots purchased on instalment basis

(c) Arrears of rent up to 195- for Government-built property.

Evacuee

(d) For Debt Adjustment Tribunal decree or mortgage charge, on Rs....

In favour of

(e) Any other dues payable to Govt.

(f) Value of Govt. built _____including

Evacuee (Mud hut)

Property transferred.

Total Deductions

Detail of property or deduction vide items 4(d) to (f).

5. Amount of Compensation and Rehabilitation grant/or Com. for Agril land to be paid to the applicant (item 3)

Rs.....

6. Recoveries to be made (item 4) Rs.....

7a. Net amount admissible (item 50 less item (6) Rs.....

(A) in cash Rs.....

(B) for property Rs.....

7B. Net amount recovered item (6)less (50)

7c. Adjustment from associated's Claims with their particulars.

8. Net amount to be paid in cash as marginal adjustment-

with date. Rs.....

Signature (Processing officer)

-with reasons:

Signature checked 2—(Dealing clerk)

-with date (Accountant) counter checked.

9. For Balance value of allottable property to be covered in instalments.

10. Total amount to be recovered PASSED FOR payment of

after adjustment of compensation Rs.....

Rs..... (Rupees.....)

1st instalment due on 1956 Rs..... (Signature of R.S.C. or autho-

2nd instalment due on 1957 Rs..... rised officer with date O.R.

3rd instalment due on 1958 Rs..... Finalised for allotment as

4th instalment due on 1959 Rs..... above)

(Signature of R.S.C or

Authorised officer with date)”

Reiterated Sections 4, 5, 7 and 8 of the DPCR Act read with Rules 3, 4 and 15 of the Rules and Appendices I and VII would go to show that a displaced person with a verified claim is required to make an application in the prescribed format within 90 days from the date of notification under Section 4 of the Act. The application submitted in prescribed format shall disclose all the details of property for which compensation is claimed. The dues and public dues payable by the applicant are determined by Settlement Officer and thereafter the net amount of compensation payable to applicant is determined. The payment of compensation can be in cash, Government bonds, sale of evacuee property, transfer of evacuee property etc. Therefore, the verified claim in the hands of displaced person is transformed into an order for payment of compensation under Section 7 of the

DPCR Act read with Rule 15. Once a verified claim is pressed into action, which resulted in an order of payment of compensation, the verified claim ceases to

be an enforceable instrument and the grievance of a displaced person on unsatisfied claim shall be examined with reference

to order under Section 7, but not by reference to a mere verified claim. Now, what has to be examined in fact situations of this case is whether the verified claims are relied upon for payment of unsatisfied claim of compensation or not? Chapter V A of the DPCR Rules provides for allotment of evacuee agricultural land situated in urban areas. Rule 34-C provides for allotment of agricultural land of one Khasra valued at Rs.10,000/- or less can be allotted to the lessee of the land. Rule 34-E begins with a

non obstante clause and imposes restriction of value of land which can be allotted to a displaced person. The rigor of Rule 34-E is that (a) notwithstanding anything contained in foregoing provisions of these Rules, no Khasra, the value of which exceeds Rs.10,000/-, shall be allowed, (b) maximum area of land allotted to any person shall not exceed Rs.10,000/-. Chapter VIII deals with compensation in respect of verified claim for agricultural land situated in rural area. Rule 50 mandates the Settlement Commissioner to fix the value of agricultural land available for allotment in terms of standard acres. Under Rule 56, the conversion of standard acre into cash is prescribed. The maximum conversion rate per standard acre is Rs.450/- and minimum is Rs.350/- per standard acre. The statutory fixation of value for agricultural land apparently, is provided for expeditious determination of net amount payable under Section 7 without delay in rehabilitating the displaced person. Rule 86 deals with receipt of application for compensation from any person claiming to be successor-in-interest of any deceased claimant.

The Regional Settlement Commissioner may take steps for determination of his claim as provided under Rule 4. Sub-rule 1 (A) of Rule 86 prescribes limitation to entertain applications from the successors-in-interest of deceased claimant. The application shall be filed on or before 30.04.1959 or within 120 days of the death of the deceased claimant which ever is later. No doubt, proviso empowers the Chief Settlement Commissioner to condone the delay if sufficient cause is shown.

18.2 The scheme under the DPCR Act and Rules defines with complete clarity the area of jurisdiction, the clarifications, conditions and mode and manner of exercise of such jurisdiction by the authorities. Likewise, limitation for applying compensation is set out. There cannot be any doubt that the authorities exercising the powers and functions under the DPCR Act must conform to the requisites of the Act and follow each one of the requirements in letter and spirit. In other words, the scheme of the DPCR Act commends the authority to act judicially in deciding the rights of parties. Now, the test is whether the 2nd respondent acted judicially and within the confines of its jurisdiction. Another limb of the very same test is whether the 2nd respondent has jurisdiction to allot the subject matter of writ petitions to claimants. In deciding the above test, this Court will have to examine the jurisdictional fact canvassed by the parties and the applicability of the DPCR Act to subject matter of writ petitions.

**Title to the property and whether subject matter is available in compensation pool
for payment of compensation:**

19. At the outset, we make it clear that while examining the title to property, we are not deciding a dispute of title between contesting parties to a *lis*, but we are examining the availability of property in compensation pool for allotment under the DPCR Act. For this limited purpose, circular letter No. 25(1)/75-SS II dated 24.05.1980 of Central Government in favour of State Government is examined and decided.

19.1. W.P.No.14066 of 2006 deals with property covered by Survey No. 403, Plot No.24, 4 acres 8 guntas in Shaikpet Village and Mandal, Hyderabad District and Survey Nos.301 to 308; 325 to 328 and 331 part in an extent of 148 acres 30 guntas at Puppalguda, Rajendra Nagar Mandal, Hyderabad District. W.P.No.14067 of 2006 deals with Survey Nos.325, 326, 327, 328, 331 in an extent of 50 acres. The total extent of land covered by these two writ petitions is Ac.202.38 gts. The allotment orders are dated 26.02.2006. On the date of allotment of subject matter of writ petitions, it is not in dispute that the subject matter of the writ petitions is in a developed and further developing area of Hyderabad City. It was admittedly treated as evacuee property by the petitioner and was forming part of compensation pool under Section 12 of the DPCR Act. But the case of State Government, briefly stated, is that the Ministry of Supply and Rehabilitation, Department of Rehabilitation, Government of India issued communication No.25 (1) 75-SS.II transferring administration, management and disposal of undisposed evacuee

lands/properties in the State of Andhra Pradesh to the State Government with effect from 01.06.1980. Since then, the undisposed of evacuee property was transferred in favour of State Government. The transfer of undisposed of evacuee properties in favour of State Government is under a package deal for consideration. These authorities appointed under S.O.2008 and 2009 do not have authority and jurisdiction to allot subject matter of the writ petitions to unofficial respondents to claim title to undisposed of evacuee properties, as the subject matter is taken out from compensation pool. The petitioner placed strong reliance on communication dated 24.05.1980. Learned Advocate General contends that with effect from 01.06.1980, the subject matter of writ petitions ceased to be part of compensation pool and not available for allotment under the DPCR Act. He further contends that under a package deal with terms and conditions stated therein, undisposed of acquired evacuee lands/properties in the State of Andhra Pradesh are transferred in favour of the State Government and such transfer is evident from a bare reading of circular letter dated 24.05.1980 read with Repeal Act 2005. He relies upon **Ramchander** and **Pala Singh** (1 and 2 supra) cases to contend that package deal transfer is not against the DPCR Act and transfer after discharge of obligations under the Act is not prohibited.

19.2. On the other hand, Mr.M.S.Prasad contends that the circular/letter dated 24.05.1980 cannot be treated as transfer of title from the compensation pool administered by Central Government under the DPCR Act in favour of State Government. According to him, from the conditions imposed and the purpose stated in letter dated 24.05.1980, it shall have to be interpreted that the properties are transferred to State Government for administration, management and for payment of unsatisfied claims of displaced persons under the DPCR Act and nothing more. According to him, under Section 14 of the DPCR Act, the properties available in compensation pool vest in Central Government free from all encumbrances and shall be utilised in accordance with the provisions of the DPCR Act and Rules made thereunder. In other words, the contention of learned counsel for unofficial respondents is that the Central Government does not have jurisdiction to transfer undisposed of acquired evacuee properties in favour of State Government. He further relies upon Circular No.5 of CSS and LR No.EP3/391/82 dated 27.08.1982 and Circular No.2 in CSS and LR EP No.1/161/80 dated 06.11.1981 read with S.O.Nos.2008 and 2009 to contend that the transfer of undisposed of acquired evacuee lands/properties in favour of State Government is for administration and management of these properties for disposal of the residuary work in a satisfactory manner. Therefore, he contends that there is no transfer of title in favour of State Government and the subject matter of the writ petitions continues to be in compensation pool and 2nd respondent has jurisdiction to allot the same in favour of unofficial respondents.

19.3. The DPCR Act 1954 has come into force with the issue of Gazette India 1954 Extra Pt 11 Section 2. The DPCR Rules have come into force with the issuance of notification SRO 1362 dated 21.05.1955. Under Section 4 of the DPCR Act read with Rule 4 of the DPCR Rules, a displaced person is required to make application within 90 days from the date of notification in the official gazette. The object and purpose of the DPCR Act is to provide compensation and rehabilitation grant to displaced persons in the mode and manner provided under Section 8 of the DPCR Act and enable the displaced persons to start life without the disadvantage of displacement from Pakistan. Circular letter dated 24.05.1980 refers to the decision taken in public interest to transfer the administration, management and disposal of residuary work in favour of State Government for discharge of the work in a satisfactory manner and for carrying out the purposes of the DPCR Act and the Rules framed thereunder. In paragraph 4 of letter dated 24.05.1980, the sanction of the President of India to transfer the work relating to administration, management and disposal of remaining undisposed of acquired lands/evacuee properties and recovery of arrears of rent etc., to State Government on the terms and conditions specified against each property, is stated. Much depends firstly upon construction of circular letter dated 24.05.1980 and secondly appreciation of Statement of Objects and Reasons of Repeal Act, 2005.

Important paragraphs of circular letter dated 24.05.1980 read thus.

5. I Urban Evacuee Properties and Urban Evacuee Lands.

Description of assets (As per the State Government)	Payment to be made by the State Govt. to the Govt. of India
(a) 39 properties in the Districts of Khammam, Medak and Mehboobnagar.The reserve price of which is Rs.1,62,000/- (Rupees one lakh and Sixty two thousands)	15% of the reserve price

b) 270 properties in the districts of Khammam, Nizamabad, 15% of the
Karimnagar, Prakasam, Adilabad, Medak, Mahboobnagar, market value
Nalgonda and Warangal the market price of which is as assessed in
Assessed in 1953 was Rs. 14,18,600/- 1953
(Rs. Fourteen lakhs eighteen thousand and six hundred only)

xxxxxx

xxxxxx

II. Rural Agricultural land.

There are approx 361 Std. Acres. of land undisposed of rural agricultural land with reserve price of Rs. 1,20,450/- (Rupees one lakh twenty six thousand four hundred and fifty). Also, there are 350 Acres of Agricultural land situate in Medonol Tehsil in Hyderabad, belonging to Modh. Fiazuddin Khan, with assessed price of Rs. 9,09,972/- (Rupees nine lakh nine thousand eight hundred and seventy two only). These lands would hereafter be managed and disposed of by the State Govt who would pay to the Govt. of India 5% of the reserve price. The balance amount would be retained by the state Government.

IX. The remaining undisposed of Urban Evacuee properties Urban Evacuee lands and rural agricultural lands.

6. The arrangement detailed above shall not in any way affect the payment of compensation to the displaced persons having unsatisfied claims for properties left in west Pakistan in accordance with the provisions of the displaced person (Comp & Rehb) Act 1954 their claims shall, as usual, be dealt with the officers of the Govt of India. The liability to satisfy the claims of the displaced persons shall continue to rest with the govt. of India.

8. The properties mentioned above should be deemed to have been completely transferred to the Govt. of Andhra Pradesh with effect from 1-6-1980. The entire sale price thereof payable on this account by the State Government in respect of various categories of properties will accordingly become due on 1-6-1980 shall be paid by the State Govt. on 21-3-1981 and subsequent half yearly instalments will be computed from that date. However if the instalments are not paid on due dates as mentioned above, interest will be payable on any unpaid amount for the period of late payment the rate of interest being fixed by the Central Government from time to time. The total amount payable by the State Govt. in this respect to the State Govt. would be interest Rehabilitation New Delhi.

The further heads under which the properties are transferred are as under:

III Recovery of arrears of rent in respect of urban and rural evacuee properties

xxxx

IV disposal of judicial cases relating to evacuee properties I the State of Andhra Pradesh

xxxx

VI residuary work in the settlement wing

xxxx

VII Records

xxxx

IX the remaining undisposed of urban evacuee properties urban evacuee lands and rural agricultural lands.

6. The arrangement detailed above shall not in any way affect the payment of compensation to the displaced persons having unsatisfied claims for properties left in west Pakistan in accordance with the provisions of the displaced person (Comp & Rehb) Act, 1954, their claims shall, as usual, be dealt with the officers of the Govt of India. The liability to satisfy the claims of the displaced persons shall continue to rest with the Govt. of India.

xxxx

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According to circular letter, the Central Government with the sanction of the President of India transferred the work of management including disposal of undisposed of evacuee properties in the State of Telangana for consideration under a package deal. Thereafter, from the effective date i.e., 01.06.1980 the obligations between the Central and State Governments are different and are set out in the letter itself.

We refer to the decisions of **Pala Singh** case (2 supra) approving **Ram Chander's** case (1 supra).
The relevant portion reads thus:

Ram Chander v. the State of Punjab (1 supra)

“ Pandit J. dismissed this writ petition for two reasons, firstly, on the ground that the evacuee properties in the compensation pool having been transferred to the Punjab Government, the officials of the *Central Government ceased to exercise any powers under the Displaced Persons (Compensation and Rehabilitation) Act(hereinafter called the Act) and the orders passed by the Settlement Commissioner on 4th of November,1963, had consequently become ineffective and inoperative, the powers of this authority, as a delegate of the Central Government having ceased to exist.”

“What is true of contracts between Government and individuals also holds good in the case of the present contract which was between the Central Government and the State of Punjab. The details of the transaction of transfer had been settled between the two Governments and these conditions set out in detail in the letter of 1961 have been fulfilled and the transaction completed. It has not been disputed that the entire amount due to the Central Government has been paid and it would be pointless in such a situation to contend that the transfer, not having been executed in the form envisaged in Article 299 (1) becomes void and in operative altogether. As Mr. Justice Bose observed, the provisions of Article 299(1) are meant to safeguard the interests of the Government and there can be contracts which though not executed in the form contemplated in Article 299 (1) are all the same binding on the parties concerned. In our view, therefore, the package deal put an end to the ownership of the Central Government of the properties comprised in the compensation pool and the State Government thereafter had full authority to dispose them.”

Pala Singh (Deceased) by Lrs v. Union of India

(2 supra)

“So these lands are package deal properties vested in Letters Patent Appeal confirming the order of the learned Single Judge in the writ petition that that since the excess land allotted to the appellant was package deal property the same cannot be sold nor can it be allowed to be sold to the petitioner-appellant by the Managing Officer under the provisions of Displaced Persons (Compensation and Rehabilitation) Act, 1954. So the order of the Managing Officer made in February,1962 is wholly without jurisdiction inasmuch as the said property was no longer in the compensation pool of the Central Government but it was a package deal property vested in the State of Punjab. It has also been rightly held that the Chief Settlement Commissioner is competent under Section 24 of the Displaced Persons (Compensation and Rehabilitation) Act 44 of 1954 to cancel the allotment of land in excess of the area the petitioner is entitled to get under the provisions of the said Act. This legal position has been settled by a decision of the Punjab and Haryana High Court in the case of Ram Chander v. State of Punjab, 1968 Cur LJ 668 at p.673: (AIR 1969 Punjab 4 at p.7) (supra) wherein it has been held:

“In our opinion, the package deal has the effect of transferring the property from the Central Government to the Punjab State and the logical result which flows from it is that the Settlement Authorities as delegates of the Central Government could not pass any orders under the Act.”

19.4. In appreciation, we will consider the purport of circular letter dated 24.05.1980 viz., whether it intends transfer of mere administration or actually transferred title to undisposed of properties in favour of State Government. A bare reading of entire text of circular letter dated 24.05.1980 discloses that the Central Government felt in public interest to transfer administration, management and disposal of undisposed of acquired evacuee lands/properties in favour of State Government and secondly, the decision to transfer of administration, management and the disposal of undisposed of acquired evacuee lands has the sanction of the President of India. The circular letter as part of package deal stipulates certain terms and conditions for performance by the State Government specified against each one of the items referred in the circular letter dated 24.05.1980.

19.5. The Central Government under package deal has stipulated payment of percentage of sale price by the State Government to the Government of India, for example, paragraph 5 (I) (C) deals with 175 properties in Hyderabad District for which the reserve price, market value is not yet assessed. Therefore, the State Government is put to the condition to pay 5% of the reserve price for rural agricultural land covered by paragraph 5 II. Paragraph 5 IX deals with remaining undisposed of urban evacuee properties/lands and rural agricultural lands. The circular letter with effect from 01.06.1980 transfers all the lands/properties held and dealt with by the custodian of evacuee properties under the Administration of Evacuee Property Act, 1950 which have not yet been finally disposed of under the provisions of 1950 Act or the DPCR Act 1954 to the State Government.

19.6. Paragraph 6 of this letter, while transferring the undisposed of evacuee properties to the State Government, has categorically stated that the arrangement made under the package deal shall not in any way affect the payment of compensation to the displaced persons having unsatisfied claims for the properties left in Pakistan. These unsatisfied claims shall as usual be dealt with by the officers of the Government of India. Therefore, the liability to satisfy the unsatisfied claims of the displaced persons shall continue to rest with the Government of India

and the right

to receive compensation remains unaffected. From the above condition, it is evident that the Central Government having retained its obligation to satisfy the unsatisfied claims of displaced persons for the properties left in Pakistan, could compensate in any one of the modes provided under Section 8 of the Act.

19.7 Paragraph 8 of circular letter dated 24.05.1980 categorically declares complete transfer of properties mentioned, in favour of State Government with effect from 01.06.1980 subject to the condition of payment of entire sale price on account of transfer to the State Government. The consequences of non-payment of instalments are stipulated in the circular letter by imposing interest on any unpaid amount for the period of late payment and the rate of interest is fixed by the Central Government from time to time. Had it been a case of mere transfer of management of properties as contended by the claimants, the circular would not have provided for apportionment of sale consideration. From the above, it is clear that with effect from 01.06.1980, the Central Government transferred the undisposed of urban/rural properties in favour of State Government.

19.8 The reliance upon S.O.Nos.2008 and 2009 by the learned counsel for claimants in our considered view does not support the contentions urged in this behalf for two reasons. Firstly, the circular letter dated 24.05.1980 refers to recovery of arrears of rent from urban and rural evacuee properties, disposal of judicial cases pending against evacuee properties in the State of Andhra Pradesh, transfer of litigation work pending in High Court, civil Courts etc. Therefore, for the said purposes, the Central Government would have thought it fit to appoint the 2nd respondent as Settlement Commissioner and not to allot the properties transferred by the Central Government in favour of State Government.

19.9 The purport of purpose of circular letter dated 24.05.1980 can be understood from the way how the Central Government and the Parliament have noticed the legal effect of the circular letter dated 24.05.1980. The DPCR Act was repealed by Repeal Act 2005. The Statement of objects and reasons of Repeal 2005 reads thus:

“Displaced Persons Claims and Other Laws Repeal Act, 2005

(Act 38 of 2005)

(5th September,2005)

An Act to repeal the Displaced Persons (Claims) Act,1950 and certain other enactments.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

I. Received the assent of the President on 5-9-2005 and published in the Gazette of India, Extra, Part II, Section 1, dated 6-9-2005, pp.1-2, No.44.”

“Displaced Persons Claims and Other Laws Repeal Act, 2005

Prefatory Note - Statement of Objects and Reasons:- The Displaced Persons Claims Act, 1950, the Administration of Evacuee Property Act, 1950, the Evacuee Interest (Separation) Act, 1951, the Displaced Persons (Claims) Supplementary Act, 1954 and the Displaced Persons (Compensation and Rehabilitation) Act,1954 were enacted, inter alia, to make provisions for the registration and verification of claims of displaced persons in respect of immovable property in Pakistan, the administration of evacuee property, providing for the separate of the interests of evacuees from those of other persons in property in which such other persons are also interested, the payment of compensation and rehabilitation grant to displaced persons and the disposal of certain proceedings pending under the Displaced Persons (Claims) Act, 1950.

II.The major works of claims compensation and rehabilitation more or less had been completed by the year end of 1970. Subsequently, the erstwhile Ministry of Labour and Rehabilitation (Department of Rehabilitation) which was responsible for the aforesaid rehabilitation work also concluded that only a limited number of acquired evacuee urban and agricultural lands or properties had remained to be disposed of and the expenditure which was being economy in expenditure in the management of the evacuee properties, the Central Government made administrative and financial arrangements with the concerned State Government for the disposal of the residuary assets in the manner consistent with the purposes of the aforesaid Acts and transferred the surplus evacuee properties to the State Governments in various package deals. This arrangement virtually put an end to the ownership of the Central a Government on the undisposed evacuee properties.

III. Subsequent to the transfer of the ownership of the Central Government on the undisposed evacuee properties to the State Government concerned, it was reported by the State Governments that a large number of claims under the aforesaid Acts are being continued to be filed in the various courts under the aforesaid Acts. It has further been brought to the notice of the Central Government that a number of persons unconnected with the claimants posing as their legal heirs are presenting repeated demands for lands. Examinations have revealed that in most of such cases the claimants under the temptation to grab more lands, have managed to obtain bogus and excess allotments. It therefore, had become difficult for the State Governments to retrieve the Government lands and properties worth crores of rupees from the hands of unscrupulous persons.

IV. In view of the above, the concerned State Governments, therefore, recommended to repeal the above Acts. Consequently, after consulting the State Governments, the Central Government constituted a Core Group on the 7th February,2003 to examine the proposal to repeal of the aforesaid Acts. The said Core

Group in March,2003 recommended repeal of the aforesaid Acts and rules made thereunder. The Central Government decided to accept the recommendations of the concerned State Governments and the Core Group to repeal the above Acts.

5 .The Bill seeks to achieve the above objectives.”

“ Displaced Persons Claims and Other Laws Repeal Act, 2005.

Section 1. Short title.

1.Short title:- This Act may be called the Displaced Persons Claims and Other Laws Repeal Act,2005.

For Disclaimer, See under Help.”

“Displaced Persons Claims and Other Laws Repeal Act,2005

Schedule

(See Section 2)

REPEAL OF ENACTMENTS

Sl.No.	Name of the Act	Year	Act No.
1. The Administration of Evacuee Property Act		1950	31
2. The Displaced Persons (Claims) Act,		1950	44
3. The Evacuee Interest (Separation) Act		1951	64
4. The Displaced Persons (Claims) Supplementary Act,		1954	12
5. The Displaced Persons (Compensation and Rehabilitation) Act		1954	44”

19.10. The statement of objects and reasons of Repeal Act 2005 recognises firstly transfer of properties from compensation pool under a package deal to State Government. Through package deal financial implication on State is provided and it further declares that the arrangement with State Governments has virtually ended the ownership of the Central Government on the undisposed of evacuee properties. Further, subsequent to the transfer of ownership of undisposed of evacuee properties by the Central Government to the State Government concerned, large number of claims are filed and are continued and number of persons unconnected with the claims posing as the legal heirs of displaced person are presenting repeated demands for allotment of lands. Examination of these claims reveals that in most of such cases the claimants under the temptation to grab more lands have managed to obtain bogus and excess allotments. The statement of objects and reasons has been accepted and finally Repeal Act, 2005 was enacted by the Parliament. The Repealing Act in unequivocal terms recognises or declares transfer of undisposed of properties to State Government. The communication dated 24.05.1980 and the declaration contained in Repeal Act, 2005 are sufficient to hold that there was, in fact, a transfer of property to State Government and with such transfer, it is difficult to accept that in spite of such transfer, the property continued to remain in compensation pool.

19.11. The contentions urged in this behalf by Mr.M.S.Prasad militate against the resolution of Parliament and we cannot but reject this contention as untenable and without merit. There is yet another perspective from which this contention could be examined. Briefly stated, under Section 12 of the DPCR Act, the evacuee properties stood vested in Central Government for payment of compensation. Had these properties still remained with the Central Government, and the DPCR Act is repealed by Repeal Act, 2005, the Parliament would have made suitable provision for dealing with these undisposed properties. The very fact that no arrangement or provision is made in Repeal Act 2005 would go to show that the Central Government had already transferred undisposed of properties to State Government. For the above reasons, we hold that with effect from 01.06.1980 the undisposed of evacuee properties by operation of circular letter dated 24.05.1980 stood transferred to State Government and not available in compensation pool for allotment to claimants. The point is answered in favour of petitioner and against the claimants.

Competent Authority under Section 3 of the Act:

20. The learned counsel appearing for parties made submissions for and against the competence of Chief Commissioner of Land Administration/2nd respondent to act as Settlement Commissioner. Whether the allotment orders admittedly signed by Secretary to CCLA conform to the requirements of Section 7 of the DPCR Act or not?

20.1 The Advocate General basing on originals in File Nos. SEP 3/19/2001 and SEP 3/104/99 contends that the Chief Commissioner of Land Administration is not the authority appointed by notification under Section 3 of the DPCR Act and allotment orders signed by Secretary to CCLA are no allotment orders within the meaning of Section 7 of the DPCR Act. Though the said contention was not canvassed to before the revisional authority/

1st respondent, much less any averment is made in the writ affidavit, he has submitted that this is a legal objection and entirely based

on the records maintained by the 2nd respondent. It is contended that such contention can be canvassed by petitioner from the documents filed by claimants as well and he sought leave of the Court to canvass the legal contention.

20.2 On the other hand, Mr.M.S.Prasad contends that the submissions of State Government in this behalf are raised for the first time and according to him, though the allotment orders are signed by the Secretary to CCLA, he contends that the original file or the file noting may contain the actual passing of order by the Chief Commissioner of Land Administration. He, however, submits that the claimants have been supplied with the order signed by the Secretary for CCLA and is valid in the eye of law.

20.3 The contention of petitioner is that Section 3 of the DPCR Act provides for appointment of the Chief Settlement Commissioner, a Joint Chief Settlement Commissioner, Settlement Commissioner, Assistant Settlement Officers and Managing Officers, by the Central Government by notification in the official gazette, for the purpose of performing the functions assigned to them by or under the DPCR Act. At the first instance, several officers were appointed by notification to discharge the functions under the DPCR Act. The officers appointed by way of notification in the official gazette have discharged the powers and functions assigned to those officers under the DPCR Act. The Central Government in the year 1980 after realising that the administration of evacuee properties under compensation pool was substantially complied with and in larger public interest as is evident from circular letter No.25.(1)/75-SS.II dated 24.05.1980 transferred residuary work and title to property in favour of the State Government. The Central Government in exercise of power under Section 3 of the DPCR

Act appointed the Commissioner of Survey and Settlement, Government of Andhra Pradesh, Revenue Department, Hyderabad, as Settlement Commissioner, for the purpose of performing in addition to his duties as Commissioner of Survey

and Settlement vide S.O.2008 No.1(1)/Spl. Cell/80-SS-II (VI).

The Commissioner of Survey and Settlement, Government of Andhra Pradesh, therefore, discharges functions assigned to Settlement Commissioner by or under the DPCR Act. Therefore, with effect from July, 26, 1980, **the Commissioner of Survey and Settlements Government of Andhra Pradesh is the Settlement Commissioner appointed for the purpose of the Act.**

20.3. The petitioner relies upon G.O.Ms.No.59 Revenue (DA) Department dated 21.01.1999 to contend that the State Government in exercise of powers conferred by Sections 4 and 5 of the A.P. Board of Revenue (Replacement of Commissioners) Act, 1977 abolished the posts of Commissioner of Survey, Settlements and Land Records and the Commissioner of Land Reforms Urban Land Ceiling and Land Protection. Through the same notification, the Commissioner of Land Revenue was re-designated as Chief Commissioner of Land Administration and the Special Commissioner of Land Revenue as the Commissioner Appeals. The powers exercised by Commissioner of Survey, Settlements and Land Record are authorised to be exercised by Chief Commissioner of Land Administration. Therefore, the legal contention urged for the petitioner is that as on the date of representation for allotment of land by the claimants, the post of Commissioner of Survey, Settlements and Land Records was abolished. The Chief Commissioner of Land Administration cannot and could not have exercised the powers and functions of the Settlement Commissioner which were specifically assigned to Commissioner of Survey, Settlements and Land Records. According to the petitioner, unless and until there is a notification under Section 3 appointing the Chief Commissioner of Land Administration as Settlement Commissioner, the CCLA/2nd respondent cannot discharge the functions of Settlement Commissioner under the DPCR Act. The Chief

Commissioner of Land Administration though may be entitled to exercise the jurisdiction of the Commissioner of Survey, Settlements and Land Records under the A.P. Board of Revenue (Replacement of Commissioners) Act, 1977, since the appointment of Commissioner of Survey and Settlement as Settlement Commissioner was under Section 3 of the DPCR, Act, there should be a notification appointing the Chief Commissioner of Land Administration as Settlement Commissioner. Therefore, the exercise of any power by the Chief Commissioner of Land Administration/2nd respondent is illegal, without authority and it is settled law that if the statute directs that certain acts shall be done in specified manner or by certain person, the performance in any other manner than specified or by any other person than one of those named is impliedly prohibited. The Advocate General relies upon **Barium Chemicals v. Company Law Board** (3 supra), **Indira Nehru Gandhi v. Raj Narain** (4 supra), **Taylor v. Taylor** (5 supra), **Nazar Ahmed v. King Emperor** (6 supra).

21. Mr. M.S.Prasad on the other hand contends that by virtue of Gazette of India dated 26.07.1980 S.O.No.2008, the Commissioner of Survey and Settlement was appointed as Settlement Commissioner in addition to discharging the functions as Settlement Commissioner. Though the post of Commissioner of Survey and Settlements is abolished through G.O.Ms.No.59 Revenue (DA) Department dated 21.01.1999, according to him, the Chief Commissioner of Land Administration/2nd respondent by virtue of notification issued along with G.O.Ms.No.59 dated 21.01.1999 is authorised and the 2nd respondent is entitled to exercise the powers vested with the Commissioner of Survey Settlements and Land Records under the DPCR Act.

Section 3 of the DPCR Act reads [\[13\]](#)*:

22. The DPCR Act being a comprehensive piece of legislation administers and provides for compensation to displaced persons. The Central Government having regard to the nature of duties and functions performed by various officers, appointed the Chief Settlement Commissioner at the helm of hierarchy and Managing Officer as the last officer in hierarchy to exercise the duties and functions. The officer appointed by a notification in the official gazette can legally discharge the powers and functions under the DPCR Act. In the second phase of administration of

DPCR Act viz. after 1980, the Central Government by notification appointed Commissioner of Survey and Settlements, Board of Revenue, Government of Andhra Pradesh as Settlement Commissioner on the purpose of DPCR Act. S.O. 2008 (No.1(10)/Spl. Cell/80-SS.II.(vi) reads thus:

“In exercise of the powers conferred by Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints the Commissioner of Survey & Settlement, Government of Andhra Pradesh, Revenue Department, Hyderabad, as Settlement Commissioner for the purpose of performing, in addition to his own duties as Commissioner of Survey & Settlement, the functions assigned to a Settlement Commissioner by or under the said Act, in respect of the land and properties forming part of the Compensation pool within the State of Andhra Pradesh.”

Therefore, the Commissioner, Survey and Settlements by virtue of explicit authority granted through S.O.No.2008 is alone authorised to discharge functions of Settlement Commissioner under the DPCR Act. The Commissioner of Survey and Settlements can be said to have legally discharged these functions as long as the post is in existence. G.O.Ms.No.59 dated 21.01.1999 admittedly abolished the post of Commissioner of Survey and Settlements. With the abolition of post, no other officer in Board of Revenue can assume and exercise the functions of Settlement Commissioner under

the DPCR Act by reference to S.O. No.2008. The submissions of

Mr.M.S.Prasad that the Chief Commissioner of Land Administration is authorised to exercise the powers vested with Commissioner of Survey and Settlements by virtue of authorisation given by the

State Government through G.O.Ms.No.59 fail for two reasons viz. the State Government has no authority under the DPCR Act to appoint competent authorities for the purpose of the DPCR Act and secondly, the notification abolishing the post of Commissioner of Survey and Settlements was issued under Act 8 of 1977. The authorisation in favour of Chief Commissioner of Land Administration to exercise the powers of Commissioner of Survey and Settlements will have to be read for the purpose of Andhra Pradesh Board

of Revenue (Replacement by Commissioners) Act, 1977. The language of Section 3 of the DPCR Act is very clear

that for discharging functions under the DPCR Act, the appointment by notification in official gazette is a *sine qua non*. The scheme of the DPCR Act is already considered and for the present purpose it is sufficient to restate the DPCR Act which mandates appointment by notification of Chief Settlement Commissioner etc. Therefore, the fundamental legal requirement for asserting source of power in favour of 2nd respondent is absent. In other words, the source of power conferred on Commissioner of Survey and Settlements vide S.O.2008, with the abolition of Commissioner of Survey and Settlements post, cannot automatically be presumed in favour of CCLA. Admittedly, in the case on hand, the Chief Commissioner of Land Administration is not the appointed authority to discharge the functions under the DPCR Act. Once the very post of Commissioner of Survey and Settlements is abolished, the 2nd respondent/CCLA cannot, in purported exercise under the A.P. Board of Revenue (Replacement of Commissioners) Act, 1977, exercise the jurisdiction under the DPCR Act. Thus, we hold that CCLA/2nd respondent is not the officer appointed by notification to perform the functions under the DPCR Act and the orders of allotment are *ex facie* illegal and unsustainable.

22.1 The other limb of this contention is that there is arbitrary and illegal exercise of jurisdiction by the Secretary to Chief Commissioner of Land Administration. According to Advocate General, the Secretary for Settlement Commissioner and Chief Commissioner of Land Administration, Hyderabad does not have any authority under the DPCR Act and the Rules, even assumed for arguments sake that the Chief Commissioner of Land Administration is the authority to pass allotment order under the DPCR Act, the order of allotment shall be passed only by the Settlement Commissioner as per sub-section (2) of Section 7 of the Act.

In support of such contention, he relies upon sub-section (3) of Section 7 of the DPCR Act, which reads thus:

“(3) After deducting the dues referred to in sub-section (2) the Settlement Commissioner **shall make an order** determining the net amount of compensation, if any, payable to the applicant.” (emphasis added)

22.2. It is further contended that there is no order of allotment by the Commissioner in terms of Section 7 of the Act and the note file from the office of 2nd respondent discloses that the Secretary assumed jurisdiction and issued allotment orders under the DPCR Act. Therefore, on this legal objection the impugned allotment orders are liable to be set aside.

22.3 Mr.M.S.Prasad vehemently contends that the allotment orders filed in the writ petitions could at best be treated as communication of allotment orders by the Secretary and the original allotment order could be available in file or file note order would suffice for the purpose of valid allotment. According to him, allotment orders communicated to the displaced persons need not be signed by the Settlement Commissioner.

22.4 We have taken note of the submissions of learned counsel on both sides. The conclusion to these contentions is arrived at by examining the record made available to this Court. For appreciating the rival submissions, we propose to briefly state the dates and events and the movement of file in these two writ petitions.

W.P.No.14066 of 2006:

On 15.03.2001 and 21.02.2003, respondent No.3 represented for allotment of balance of land towards unsatisfied claim in verified Claim No.294/P-174/140.

22.5 On 26.02.2003, the following allotment orders were issued by the Secretary and they read thus:

Government of Andhra Pradesh,
Revenue Department
Office of the Settlement Commissioner &
Chief Commissioner of Land Administration,
Hyderabad.

ALLOTMENT ORDER

Nampally Station Road,
Hyderabad, Dated:26.02.2003

File No.SEP3/19/2001

RAMESH PARASRAM MALANI & (7) OTHERS, LEGAL REPRESENTATIVES OF PARASRAM RAMCHAND, 303, DISHA APARTMENTS, SHYAM KARAN ROAD, AMEEERPET, HYDERABAD-16.	S/HB-2/343	43.7
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District	Taluka	Village	Sy.No.allotted	Local acres allotted	Std.Acres allotted
Hyderabad	Shaikpet	Shaikpet	403 (Plot No.24	<u>04.08</u>	01.00

RAMESH PARASRAM MALANI & (7) OTHERS, LEGAL REPRESENTATIVES OF PARASRAM RAMCHAND, 303, DISHA APARTMENTS, SHYAM KARAN ROAD, AMEERPET, HYDERABAD-16.	S/HB-2/343	43.7
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District	Taluka	Village	Sy.No. allotted	Local acres allotted	Std.Acres allotted
Hyderabad	Rajendranagar	Poppal- guda	301 to 308, 325 to 328 & 331 (Part)	<u>148.30</u>	19.26

Signature or Thumb impression”

22.6. To avoid repetition of allotment orders and from the admitted position, we record that in W.P.No.14067 of 2006, the allotment order was issued by the Secretary.

22.7. What stands out from the above extraction is that the order of allotment is not made by the Chief Commissioner of Land Administration assuming the authority to allot compensation under Section 7 of the DPCR Act. The requirement of law as expressed in Section 7(3) viz. the Settlement Commissioner shall make an order determining the net amount of compensation if any payable to applicant. There is no authorisation for the Secretary to pass allotment orders in File No.SEP 3/19/2001. The Secretary presumably acts upon the authorisation granted to him in File No.SEP 3/104 1999 to issue allotment orders and issued allotment orders in both the writ petitions.

22.8. From the above discussion, we are satisfied that the Chief Commissioner of Land Administration/2nd respondent is not the authority appointed under Section 3 of the DPCR Act to discharge the functions. We are also satisfied that the Chief Commissioner of Land Administration cannot and could not have delegated to Secretary the power of passing allotment orders determining the compensation payable towards alleged unsatisfied claim of Displaced Person and pay compensation by allotting land. The mode of exercise of power of Chief Commissioner of Land Administration is *ex facie* illegal, arbitrary and without jurisdiction. Incidentally, we are constrained to hold after examination of the record of 2nd respondent that the office of 2nd respondent acted in utmost casualness.

Limitation; Delay and Laches:

23. Sri K.Ramakrishna Reddy contends that the representations dated 15.03.2001, 21.02.2003 in W.P.No.14066 of 2006 and representations dated 11.09.1996 and 01.02.2003 in W.P.No.14067 of 2006 are not maintainable for allotment of land towards unsatisfied claim or verified claim of a Displaced Person.

He strongly relies upon Section 4(2) of the DPCR Act read with Rule 86 of the DPCR Rules to contend that limitation and time schedules are provided under the DPCR Act for applying for payment of compensation. Otherwise the very purpose of timely amelioration of payment of compensation and rehabilitation to displaced persons is lost. According to him, the representations filed by claimants in these writ petitions are barred by limitation and suffer from delay and laches. If the applications filed beyond the period of limitation after several decades or if fresh or further allotment orders are made or compensation is paid under the DPCR Act, without examining the delay and laches, according to him, the allotment orders amount to fraudulent and arbitrary exercise of jurisdiction and are liable to be set aside. On the effect of delay and laches arising under the DPCR Act, he relies upon **UNION OF INDIA v. HARDAYAL** (7 supra).

23.1. On the other hand, learned senior counsel appearing for claimants contends that Section 4 of the DPCR Act is not applicable because the verified claim of unofficial respondents is already admitted and accepted. According to him, Rule 86 of the DPCR Rules deals with a claim, but does not apply to a request for payment of compensation towards unsatisfied claim of displaced persons. Therefore, the contention of petitioner that representations are barred by limitation is liable to be rejected. On the submission of delay and laches, it is contended that the successors-in-interest of displaced persons/claimants have been making representations and the delay occasioned in disposal of such representations ought not to be put against the successors-in-interest of displaced persons and he prays for rejection of the submissions on limitation; delay and laches.

23.2 We have taken note of the rival contentions urged by the counsel appearing for the parties. There is no dispute that the impugned allotment orders and Sanad are issued on the representations dated 15.03.2001 and 21.02.2003 in W.P.No.14066 of 2006 and representations dated 11.09.1996 and 01.02.2003 in W.P.No.14067 of 2006. The details of representations have been noted and to avoid repetition, we are not reiterating these details. But we examine rival submissions of the parties by reference to the admitted circumstances stated in the representations and truncated dates and events available from original files.

W.P.No.14066 of 2006:

23.3 On 21.11.1953, Parsuram Ramchand Mangiram Malani/ displaced person applied for allotment of 200 acres of evacuee land situated in Hyderabad against his verified claim.

On 29.04.1954, the Government of India allotted Ac.323-10 gts in two villages in erstwhile Hyderabad District to Parsuram Ramchand Malani. The DPCR Act came into operation with the publication of Gazette No.Pt II in 1954. On 24.03.1956, the Regional Settlement Commissioner, Bombay, issued Sanad for the land covered by allotment order dated 29.04.1954. From the available material in original file, it can be stated that the displaced person by

reference to the permission granted to him through order dated 29.04.1954 sold the allotted lands vide letter No.HL/Hyd/243/14310/55 dated 13.06.1955. On 11.09.1961, the office of Regional Settlement Commissioner, Bombay, requested Parsuram Ramchand Mangiram Malani, R/o 66, Mangubai Building, Kalyan District, Thane to let the office of Regional Settlement Commissioner know the registration number of compensation application filed by him, if any, at an early date in respect of his verified claim. Therefore, it is evident that the Regional Settlement Commissioner was sending reminders to displaced persons on the pending applications and trying to disburse compensations to them. In the case on hand, admittedly the original record is missing in the office of Settlement Commissioner, Bombay and incomplete record is available in the office of 2nd respondent. We refer to the statement of the learned Advocate General that it is not clear as to what happened after letter dated 11.09.1961. According to him, the displaced person would not have kept quiet, if the claim for compensation is pending or part compensation is disbursed. Be that as it may, respondents 3 to 10/claimants produced family member certificate issued by the Mandal Revenue Officer, Asif Nagar Mandal, as if Parsuram Ramchand Mangiram Malani resided at H.No.11-2-251, Habeebnagar, Mallepally, Hyderabad and died on 10.08.1988 leaving behind respondents 3 to 10 as successors-in-interest. It is interesting to note that 3rd respondent in his representation dated 15.03.2001 does not even state the demise of displaced person, much less enclose any certificate evidencing the details of family members of displaced person. Representations dated 15.03.2001 and 21.02.2003 are made requesting to adjust the balance claim of 43.7 standard acres against verified claim of 83.11 standard acres. Representation dated 21.02.2003 specifically referred to verified claim and allotment of 43 standard acres 7 units. Therefore, the representations are for allotment of land basing on the verified claim of Parsuram Ramchand Mangiram Malani. On 05.05.2001, the 2nd respondent forwarded representations to the Settlement Officer, Ministry of Home Affairs, Rehabilitation Division, Mansingh Road, New Delhi with a request to send the payment details of compensation of displaced person, which reads as under:

“From:	To:
C.K.Swaminathan, IAS Special Chief Secretary to Government Chief Commissioner of Land Administration, A.P. Hyderabad.	The Settlement Officer, Ministry of Home Affairs, Rehabilitation Division, Jaisalmar House, Mansingh Road, New Delhi

Sir,

Sub: Evacuee property-A/o Sri Ramesh Parsaram Malani S/o/ Parsaram Ramchand (Displaced Person) balance claim of 43.7 Std. Acs. R.R.Dist. -Regarding.	Adjustment of by allotment of E.P. lands in Hyderabad and
Ref: Representation of Sri Ramesh Parsaram Malani,	Dated 15.03.2001.

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I am to invite your attention to the reference cited (copy enclosed) and request you to confirm whether the balance claim of 43.7 Standard acres of land is still available in the name of Displaced Person Sri Parasram Ramchand or any lands have been allotted to him any where in India.

Yours faithfully,
Sd/-
for Chief Commissioner”

23.4 On 26.10.2004, reply was received from Ministry of Home Affairs, Settlement Wing, Government of India which reads as follows:

“No.RD/SW/Misc./Record/2004
Government of India
Ministry of Home Affairs,
Settlement Wing
Jaisalmer House, New Delhi
Date 26th October,2004.

To:

The Spl. Chief Secretary,
Government of Andhra Pradesh and
Chief Commissioner of Land Administration,
Andhra Pradesh.

Sub: Evacuee Property- Sri Ramesh Parasram Malani s/o. Parasram Ramchand (Displaced Person).

Sir,

I am directed to refer to your letter No.CCLA's No.SEP3/19/2001 dated 05.05.2001 and copy of the representation of Shri Ramesh Paras Ram Malani on the subject cited above and to state that as the claim Index file bearing No.S/HB-2/343 is not traceable, the exact/details of claim/compensation cannot be supplied. However, as per the scale of compensation for allotment of land as compensation rescribed under Appendix-XIV to Rule 51 of D.P.(C&R) Rules,1955, the compensation against verified claim of 83 Standard Acres and 11 Units comes to approximately 45 Standard Acres and 12 Units. After adjustment of the land already allotted to the extent of 40 Std. Acs. And 4 Units there may be a balance of about 5 Standard Acres and 8 Units if not already paid/allotted land against it.

Yours faithfully
Sd/-
(Pravir Pandey)
Dy.Secretary cum-Jt. Chief Settlement
Commissioner"

23.5. In the interregnum, on 21.02.2003, the file was moved for approval of orders of 2nd respondent for allotment of land in favour of respondents 3 to 10. On 26.02.2003, the file noting was accepted and impugned allotment orders were issued.

W.P.No.14067 of 2006:

24. On 11.09.1996, one C.R.Lakshminarayan claiming to be General Power of Attorney of one Bhagwandas Makhija son of Hemandas Makhija (displaced person) requested for allotment of Plot No.24 in Survey No.403 at Jubilee Hills, Golconda Mandal. It is alleged that on 04.10.1975 Hemandas Makhija died. From the file, the further details available are that the said Bhagwandas Makhija and his brothers and sisters vide order dated 31.05.1976 were recognised as successors- in-interest of displaced person. The office of 2nd respondent did not favourably consider the representation dated 11.09.1996. The 3rd respondent through representation dated 30.07.2001 requested for allotment of agricultural land available in Athevelly Village, Medchal Taluk. This representation was not favourably considered by the office of 2nd respondent.

On 01.02.2003, the last representation was made seeking allotment of subject matter available in Puppalguda Village, Rajendranagar Mandal. Accepting the representation, against the alleged unsatisfied verified claim of standard acres 11.7 units, an extent of 50 acres in Survey No.325 to 328 and 331 at Puppalguda village was allotted.

25. Now, the point is whether the DPCR Act provides for limitation to apply for payment of compensation viz., allotment of land etc., and if so, what is the period of limitation and/or whether the request for allotment of land towards unsatisfied claim suffers from delay and laches and liable to be rejected.

26. Section 4 of the DPCR Act and Rule 86 of the DPCR Rules read thus:

" Section 4 of the DPCR Act –

Application for payment of compensation

(1) The Central Government shall, from time to time, but not later than the thirtieth day of June, 1955, by notification in the Official Gazette require all displaced persons having a verified claim to make applications for the payment of compensation and any such notification may be issued with reference to displaced persons residing in any State or in any one of a group of States.

(2) Every displaced person who, by a notification issued under sub-section (1) is required to make an application for the payment of compensation shall make such application in the prescribed form to the Settlement Officer having jurisdiction, within three months of the date of the notification.

Provided that the Settlement Officer may entertain any such application after the expiry of the said period of three months, if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

(3) An application for the payment of compensation under this section shall contain the following particulars, namely :-

- (a) the name and address of the applicant;
- (b) the amount of the verified claim;
- (c) the encumbrances, if any, on the property to which the verified claim relates;

- (d) the form in which the applicant desires to receive compensation;
- (e) the amount, if any, of the public dues recoverable from the applicant;
- (f) the property, if any, allotted or leased to the applicant by the Central Government or a State Government or by the Custodian;
- (g) such other particulars as may be prescribed.

(4) Any notification issued by the Central Government before the commencement of this Act inquiring displaced persons of any class or description to make applications for the payment of compensation, shall be deemed to have been issued under this Section and all applications for the compensation made in pursuance of any such notification shall be deemed to have been made under this Section and any proceeding in relation to any such application pending at the commencement of this Act shall be disposed of in accordance with the provisions of this Act;

Provided that a displaced person who made an application for payment of compensation before the commencement of this Act may, within one month of such commencement, intimate in writing to the Officer or authority to whom the application was made or the successor-in-office of any such officer or authority, the form in which he desires to receive the compensation.

Rule 86 of the DPCR Rules:

Proof by successor-in-interest—(1) On receipt of an application for compensation from any person claiming to be a successor-in-interest of any deceased claimant as provided in rule 4, the Regional Settlement Commissioner or the Settlement Officer, as the case may be take steps for the determination of his claim.

(IA) No claim as successor-in-interest of any deceased claimant shall be entertained unless an application for such claim is made on or before the 30th April, 1959, or within 120 days of the death of the deceased claimant whichever is later:

Provided that such claim may be entertained after the expiry of the time limit prescribed above if the Chief Settlement Commissioner is satisfied that the applicant was prevented by sufficient cause from filing the application within the said time-limit.

(2) The Regional Settlement Commissioner or the Settlement Officer, as the case may be, shall cause a proclamation to be made in the form specified in Appendix XXI and shall hear and dispose of the application on or after the date mentioned in the proclamation, a copy of which shall—

- (a) be served on or near relatives of the deceased claimant and on any other person on whom the Regional Settlement Commissioner or the Settlement Officer as the case may be, is of opinion that such proclamation should be served;
- (b) be affixed on some conspicuous place in the office of the Regional Settlement Commissioner or the Settlement Officer, as the case may be,

Provided that every such proclamation may, also in the discretion of the Regional Settlement Commissioner or the Settlement Officer, as the case may be, be published in such other manner as he may deem fit.

(3) After a copy of the proclamation has been served on the person referred to in sub-rule (3) the Regional Settlement Commissioner or the Settlement Officer as the case may be shall hear the applicant and after taking into consideration the compensation application and the documents referred to in sub-rule (3) of rule 4 and making such further inquiry as may be necessary, shall make such order on the application as he deems fit.

27. Section 4 of the DPCR Act envisages that the Central Government by notification issued not later than 30th day from June, 1955 in the official gazette, shall require all displaced persons having a verified claim to make application for payment of compensation under the DPCR Act. Sub-section (2) of Section 4 directs every displaced person, who by notification issued under sub-section (1) is required to make an application for payment of compensation, to apply for compensation. The relevant words in the section are **“shall make such application in the prescribed form to the Settlement Officer having jurisdiction within 3 months from the date of notification.”** Therefore, from the plain meaning of sub-sections (1) and (2) of Section 4, it is clear that duty to issue a notification is cast on the Central Government and corresponding obligation on displaced person to apply in the form prescribed under the

Rules, within 90 days from notification for payment of compensation. To ameliorate hardship to any displaced person, who could not make application within the time stipulated under Section 4(2) of the Act, proviso confers discretion on the Settlement officer to entertain such application filed beyond 90 days of notification. Rule 86 deals with receipt of application from a person claiming to be a successor-in-interest of displaced person. The Settlement Commissioner under sub-rule (3) of Rule 4 is required to determine the claim of a successor-in-interest. Sub-rule 1(a) of Rule 86 prohibits that no claim as successor-in-interest of any deceased claimant shall be entertained unless application for such claim is made on or before 30th April, 1959 or within 120 days of the death of deceased claimant, which ever is later. The Chief Settlement Commissioner can condone the delay in filing application within the said time limit. It is useful to refer to the dicta of Hon'ble Supreme Court in

Har Dayal's case (7 supra) for considering delay and laches. The relevant portion reads thus:

"The learned Single Judge and the Division bench have totally ignored the enormous delay of more than 30 years on the part of the respondent in approaching the Court. This Court has repeatedly held that merely giving representation will neither extend the limitation nor wipe out the delay and laches. (See S.S.Rathore v. State of MP, AIR 1990 SC 101). Further the respondent and his brothers were categorically informed in September, 1989 that due to non-availability of agricultural land, they were entitled only to cash equivalent of compensation as per the rules and therefore Rs.383/50 each being their share of compensation was to their credit and they could draw the same. Respondent could have challenged that order on the ground that he was entitled to land and not cash. But he did not do so. The refusal to allot the balance land whether right or wrong, attained finality. Obviously, it could not be reopened by filing a writ petition in 1996, more than 45 years after the verification of the claim, and 7 years after categorical refusal to allot land. The writ petitions ought to have been rejected on the ground of delay and laches. There was no question of rewarding the delay on the part of respondent, by directing payment of current market value of 1996 for the undelivered land, contrary to the Rules."

28. A combined reading of Section 4 and Rule 86 of the DPCR Act/Rules and the observations made by the Apex Court in **Har Dayal's** case (7 supra), we are of the view that the period of limitation for applying for payment of compensation for a verified claim is prescribed. The application filed beyond the period of limitation could be condoned for sufficient cause shown to Settlement Officer. The scheme of the DPCR Act provided envisaging timely performance of duties and obligations by Central Government and the displaced persons, stipulated period of limitation and also provided for condonation of delay in filing application. Therefore, the claimants cannot and could not, after nearly four and half decades from 1955, apply for payment of compensation by allotment of land. Therefore, as regards the representations based either on verified claim or unsatisfactory payment of compensation, we are of the view that after several decades of enactment and issue of notification, the representations are clearly barred by limitation. The 2nd respondent even assuming has jurisdiction cannot and could not have entertained these applications after several decades from original cause of action. The effort of claimants as successors-in-interest suffers from delay and laches as explained supra. In other words, if the request is treated as payment of compensation under Section 4, the request made after four and half decades is hopelessly barred by Section 4(2) of Act. Alternatively, if the request of successors-in-interest is treated as one for payment of compensation towards unsatisfied claim, then by operation of Rule 86 (1) (A), the application cannot be entertained as the displaced persons died in 1988 and 1975. The scheme of payment of compensation operates by maintaining balance between claims for compensation and properties available in compensation pool. The obligation of Central Government is restricted to the resources generated in terms of Section 12 of the DPCR Act. The object of the DPCR Act was to provide for compensation to displaced person as expeditiously as possible. The request for allotment of land or payment of compensation cannot be at the discretion and pleasure of successors-in-interest of a displaced person, or for that matter displaced person. We hasten to add that there is yet another infirmity in allotment of further land by reference to a verified claim and this infirmity will be taken up separately while answering due process adopted by the 2nd respondent.

W.P.No.14066 of 2006:

28.1. On 10.08.1988, displaced person died. There is no whisper in the representation filed by 3rd respondent that during the life time of displaced person any request was made for allotment of further land and that compensation in no other form was received from the Settlement Commissioner. On 15.03.2001 i.e., nearly after 14 years from the date of death of Parasram Ramchand Malani, the first representation was made and reminder was sent on 21.02.2003. The allotment of land was made on 26.02.2003. For nearly 45 years from the date of original allotment, it is impossible to believe that the unsatisfied claim is kept unattended by the Settlement Commissioner and the 2nd respondent can entertain the claims as a subsisting grievance of claimants.

W.P.No.14067 of 2006:

28.2. On 04.10.1975, Hemandas Makhija died and his LRs were brought on record vide order dated 31.05.1976. On 30.09.1996, representation for allotment of land on the verified claim of Hemandas Makhija was made and thereafter three reminders were sent. We are of the view that the representations made to

2nd respondent even if treated as applications under the DPCR Act, we hold that these representations are made beyond limitation or alternatively treated as request for payment of compensation towards unsatisfied claim, these

representations suffer from delay and laches. The 2nd respondent committed serious illegality by entertaining these applications for allotment of land.

Validity of allotment orders:

29. In matters of judicial review, the simple test is to verify whether the decision making process suffers from recognised infirmities and reviewing the very decision. The test implies that the decision maker must understand correctly the law that regulates his decision making power and he must give effect to the law under which the authority exercises its powers and functions. As already noted, the challenge in the writ petitions is to the orders of

1st respondent dated 28.06.2006 and 2nd respondent dated 26.02.2003. In exercise of the power of judicial review, we would like to examine whether the decision making process of 2nd respondent satisfies the simple and litmus test referred to above. The scheme of the DPCR Act is already discussed and we are not reiterating the same.

Section 2(e) defines a verified claim and reads thus:

“verified claim” means any claim registered under the Displaced Persons (Claims) Act, 1950 , (44 of 1950) in respect of which a final order has been passed under that Act or under the Displaced Persons (Claims) Supplementary Act, 1954 , (12 of 1954) and includes any claim registered on or before the 31st day of May, 1953 , under the East Punjab Refugees (Registration of Land Claims) Act, 1948 (East Punjab Act 12 of 1948)], or under the Patiala Refugees (Registration of Land (Claims) Ordinance, 2004 (Order 10 of 2004 BK.), and verified by any authority appointed for the purpose by the Government of Punjab, the Government of Patiala or the Government of Patiala and East Punjab States Union, as the case may be, which has not been satisfied wholly or partially by the allotment of any evacuee land under the relevant notification specified in section 10 of this Act, but does not include--]

(i) any such claim registered in respect of property held in trust for a public purpose of a religious or charitable nature;

(ii) except in the case of a banking company for the purpose of sub- clause (i) of clause (b) of sub-section (3) of section 6, only-- (a) any such claim made by or on behalf of any company or association, whether incorporated or not; (b) any such claim made by a mortgagee or other person holding a charge or lien on immovable property belonging to a displaced person in West Pakistan;”

29.1 Section 4 provides for making application in prescribed form for payment of compensation by a displaced person having a verified claim. Sub-section (1) of Section 4 mandated the Central Government to issue notification in the official gazette. All the displaced persons who satisfy the definition as defined under Section 2 (e) shall apply for payment of compensation to Settlement Officer. The displaced person is required to make application within 90 days from the date of notification.

An officer sitting in the armed chair of Settlement Commissioner is mandated to first determine under Section 7(3) the net amount of compensable payable to the applicant. Under Section 8, the form and manner of payment of net amount of compensation is provided for. Sections 7 and 8 are to be read along with the DPCR Rules. The DPCR Rules contain as many as 20 Chapters. Once the net amount of compensation is determined and form and manner of payment of compensation is ordered, the Settlement Commissioner depending upon form and manner of compensation should follow the procedure stipulated in the following Chapters.

Chapter IV:	Determination of compensation
Chapter V:	Payment of compensation by transfer of acquired Evacuee Properties
Chapter V-A:	Allotment of evacuee agricultural land situated in urban areas
Chapter VI:	Payment of compensation by transfer of Government built property
Chapter VII:	Payment of compensation for rural houses and shops left in West Pakistan
Chapter VIII:	Compensation in respect of verified claim for agricultural lands situated in rural area

Each one of these Chapters provides for the procedure to be followed after the net amount of compensation payable to a displaced person is arrived.

Now, we examine from the record whether the procedure referred to above is followed by the 2nd respondent or not while passing the allotment orders dated 26.02.2003.

29.2. The above scheme of payment of compensation is juxtaposed with the fact situation of the instant writ petitions.

On 21.11.1953, in W.P.No.14066 of 2006, displaced person filed application for payment of compensation. The Deputy Custodian, Settlement of Claims, Hyderabad allotted Ac.323-10 gts in Bata Singaram and Boinapally Villages to Parasram Ramchand.

On 24.03.1956, the Regional Settlement Commissioner issued Sanad under the provisions of the DPCR Act by reference to the allotment order dated 29.04.1954. Section 8 read with Rule 15 clearly stipulates that the net amount of compensation payable to a displaced person is determined and paid in instalments. The displaced person or his successors-in-interest to press for payment of any unsatisfied claim must produce the determination of compensation

under Sections 7 to 15 of the Act. Without such disclosure, the

2nd respondent cannot proceed to examine the request for payment of compensation towards unsatisfied claim of displaced person. Therefore, once a verified claim is taken on file and orders are passed by Regional Settlement Commissioner, insofar as that verified claim is concerned, the law is set in motion and the displaced person or his successor-in-interest cannot press the same verified claim for grant of compensation. Therefore, as question of law we consider and conclude that the verified claims basing upon which representations are made, are not enforceable documents on the admitted fact situation. The satisfaction or part satisfaction is with reference to the decree, but not with reference to the suit document. The verified claims, therefore, do not provide basis for any claim as the verified claims are already utilised by filing application for compensation. In W.P.No.14067 of 2006, the verified claim of Hemandas Lakumal Makhija, displaced person was entered in Claim Index No.S-KS-7/1 and S-SR-3/6. From the communication addressed by Bhagwandas Makhija, it is evident that the verified claim of Hemandas Lakumal Makhija was verified for payment of net compensation at Rs.1,75,414/-. The displaced person died and his son wanted the Secretary, Government of India to advise further course of action. The available record in the file discloses that the successors-in-interest of Hemandas Makhija were recognised as representatives in the pending claim. It is not clear whether the successors-in-interest received compensation or not. On 30.09.1996, request for allotment of land was made. Basing upon such a request, without the assistance of original files of the Claim Index cases referred to above, the representation was received and further steps were taken for allotment of land at Puppalguda Village. The patent illegality committed by the 2nd respondent in this behalf is that the requirement of Act is to make an application in the form prescribed by the Rules. The reason being, the prescribed form contains all the details and there is no scope for repetition of claim and suppression of details etc., of compensation received by a displaced person. The requirement of law is that the application shall be in the prescribed form, but the 2nd respondent on the basis of photostat copies of verified claims without reference to period of limitation within which such an application for compensation is to be made, entertained and issued the orders of allotment. In our considered view, the respective representations basing on which the allotment orders are issued by reference to verified claims is illegal, arbitrary and contrary to the scheme of the Act and on this ground the allotments orders are liable to be set aside.

29.3. There is yet another infirmity or illegality in the decision making process of 2nd respondent. Chapter V A deals with allotment of evacuee agricultural land situated in urban areas. The Chapter does not deal with allotment of evacuee agricultural land acquired in urban areas. Therefore, the procedure provided under Chapter V A cannot and could not be ignored by the 1st and 2nd respondents in allotting land to a displaced person. Rule 34 E in unequivocal terms restricts discretion on the Settlement Commissioner in allotting land to a displaced person. Learned Advocate General by reference to affidavit filed in the writ petition and additional affidavit filed by the Chief Secretary contends that as on the date of allotment the subject matter of the writ petition is worth more than Rs.700 crores. Though the unofficial respondents dispute the value, they have failed to give a fair or market value of the subject matter of the writ petition. Be that as it may, the Rule has to be read in such a way that the Settlement Commissioner or any officer who is authorised to exercise the power of allotment under the DPCR Act bears in mind the value of the property as on the date of allotment. There is no dispute that the subject matter of the writ

petition is in urban area or at least urban periphery on the date of allotment either on the day when a representation is made for allotment of this land or at least on the date of allotment by the 2nd respondent. Further, in our considered view, heading to Rule 34 E refers to maximum area of land allottable under this Chapter. The text of Rule 34 E reads that notwithstanding anything contained in the foregoing provisions of these Rules, no khasra, the value of which exceeds Rs.10,000/- shall be allotted and that maximum area of land allotted to any one person shall not exceed Rs.10,000/- in value. Therefore, Rule 34 E has to be read literally and purpose for which the restriction is imposed on the value of allottable agriculture land under these Rules.

Now, let us examine from the original file the decision making process of 2nd respondent and the note file reads thus:

“In this connection, it is submitted that in respect of Plot No.24 of Shaikpet (v) the Govt., in their Memo No.34748/Asn.III (2)/93-1, Dt.10.05.1993 while directing the Collector to hand over possession of certain Govt. Lands in Plot No.11,12 & 13 of Shaikpet (v) requested the Collector to obtain written consent of the Competent Authority (CCLA) for utilization of E.P. lands at Plot No.24 also. The consent was given in Lr.No.SEP2/410/82, Dt.02.04.1994. This plot was given for construction of officers quarters (Rd.No.10) and is still vacant, though in the other 2 plots, the quarters were completed.

It is also further submitted that the case was taken upon in appeal case No.SEP3/420/94, Dt.18.04.2002 held that the subject property is Evacuee Property.

There were (3) W.Ps filed by the different persons out of which W.P.No.7366/93 filed by Jafer Javeed & W.P.No.7476/93 filed by Mohd.Yousuf were dismissed, remaining W.P.No.16942/94 is still pending for final hearing as obtained a copy of the status report of the High Court cases, which may kindly be seen at Flat “A”. In view of this orders may be issued for further action in the matter regarding plot 24 which was already handed over C.C. P.W.D.

If the Chief Commissioner of Land Administration pleases orders may be issued to (Sri Ramesh P.Malani) the Displaced Person allotting the land admeasuring Ac.148.30 gts. at Poppalguda (v) in Sy.No.301 to 308, 325 to 328 & 331 (Part), since he is eligible for allotment of 338 Acres of land in local area at his credit and sanad may be issued to the individual (U/s 68 of Displaced Persons (Compensation & Rehabilitation) Act, 1954.

Submitted for kind orders on A & B.

- A. Evacuee property has to be given only Evacuees & cannot be given to Govt. or anybody.
- B. Agreed.

To

A.S.(E.P)

Please see the above orders of C.C.L.A. above at (A) & (B). Accordingly draft letter to Govt. and draft A.O. and Sanad in r/o. Poppalguda (v) and A.O. in r/o. Shaikpet (v) is placed below for approval.

To

A.S. (E.P)

Please see the observations of Secy. To CCLA ante. Accordingly draft letter to Govt. will be prepared and put up tomorrow. Draft covering letter to Collector, Hyderabad & R.R. is put up below for approval.”

It is matter of record that in W.P.No.14066 of 2006 through letter dated 05.05.2001, the office of 2nd respondent sought information viz., the details of payment of verified claim of displaced person from the Settlement Officer, Ministry of Home Affairs, Union of India. The 2nd respondent without waiting for reply of Ministry of Home Affairs, Settlement Wing, a decision to allot subject matter of the writ petition was taken. The enquiry is envisaged under Sections 4 to 7 of the DPCR Act read with Rules 4 to 15 of the DPCR Rules. The patent illegality or arbitrariness in the decision making process of 2nd respondent is further fortified by the reply dated 26.10.2004 received from the Settlement Wing, Ministry of Home affairs, Government of India, which reads thus.

“To

The Spl. Chief Secretary.
Government of Andhra Pradesh and
Chief Commissioner of Land Administration,
Andhra Pradesh.

Sub: Evacuee Property-Sri Ramesh Parasram Malani s/o.

Parasram Ramchand (displaced person).

Sir,

I am directed to refer to your letter No.CCLA's No.SEP3/19/2001 dated 05.05.2001 and copy of the representation of Shri Ramesh Paras Ram Malani on the subject cited above and to state that as the claim Index file bearing No.S/HB-2/343 is not traceable, the exact/details of claim/compensation cannot be supplied. However, as per the scale of compensation for allotment of land as compensation prescribed under Appendix-XIV to Rule 51 of D.P.(C&R) Rules 1955, the compensation against verified claim of 83 Standard Acres and 11 Units comes to approximately 45 Standard Acres and 123 Units. After adjustment of the land already allotted to the extent of 40 Std. Acs.and 4 Units there may be a balance of about 5 Standard Acres and 8 Units if not already paid/allotted land against it.

Yours faithfully
Sd/-
(Pravir Pandey)
Dy. Secretary cum- Jt.

Commissioner."

Chief Settlement

What is evident from the instant reply is that the record in the registered claim of displaced person is not traceable and the amount of unsatisfied claim is not clear. The 2nd respondent by applying the scales provided for under the Rules, made wild guess work and decides to allot the land.

29.4 In W.P.No.14067 of 2006, the amount payable to Hemandas Lakumal Makhjia was verified for Rs.1,75,414/- and the verified claim is converted into amount payable to a displaced person. The instant file in C.P.No.446/99/9-2-99 hardly contains record of determination of compensation and payment of compensation, the mode and manner of such payment of such compensation. Unless there is material or record, it is not within the power of 2nd respondent to assume everything in favour of claimants and allot valuable land to claimants. Notwithstanding insufficiency of material or original records in which the verified claim of displaced person is traceable, basing on the representation dated 01.02.2003, the subject matter of W.P.No.14067 of 2006 was allotted.

To appreciate the apparent illegalities and arbitrariness in the decision making process, we reproduce the file noting dated 15.02.2003.

"The E.P. lands mentioned by the applicant for allotment under the D.P.Act have not been allotted to any one, but certain illegal encroachers are being appeared in the cultivation column of Pahani Patrike for the year 2000-2001 as reported by the Collector, Ranga Reddy in his letter Dt.24.09.2002. These lands are meant for allotment to the Displaced Persons it may not be appropriate to encourage the illegal encroachers over the E.p.Agril. Lands.

With regard to the claim of the displaced persons, the matter was taken up with the GOI in this office Ref.No.SEP 19/97, Dt.3.3.97. the GOI in their Letter Car/B/P/PIM/449./IVNT, Dt.01.08.1985 informed to this office confirming that the claim of the displaced person to the extent of Ac.11.3 STD. Acres is still intact in favour of the displaced person.

It is submitted that the Chief Commissioner of Land Administration iws vested with the powers of Custodian General U/s 20-A of the Displaced Persons (Compensation & Rehabilitation) Act 1954 and as per the confirmation letter of the GOI Dt.1.8.1985. Sri C.R.Laxminarayana, GPA holder of K.Bhagwandass H.Makhija S/o. Late Hemandass Makhija may be considered for allotment of Agril. Lands in Sy.No.325,326,327,328,329 & 331 situated at Poppalguda (v) of Rajendranagar Mandal of Ranga Reddy district to the extent of 11.3 Std. Acres, instead of encouraging the illegal encroachers over the said lands.

In the circumstances, set out above, if the Chief Commissioner of Land Administration agreed to orders may be issued to the Collector, Ranga Reddy, Dy. Custodian/Mandal Revenue officer, Rajendranagar/ Managaing Officer for allotment of Agril. Lands to an extent of Ac.11.3 Std. Acres as mentioned in GOI Lr.No.CAR B/P/PIM/449/IVNT, Dt.1.8.1985 by following the procedure of Standardization given by the GOI out of the Sy.No.325,326,327,328,329 & 331 at Poppalguda (v) of Rajendra Nagar Mandal of Ranga Reddy district. The Dy. Custodian/Collector, Ranga Reddy/Managing Officer/ Mandal Revenue Officer, Rajendra Nagar may further directed to give possession of the lands allotted to the Displaced Persons by following due procedure and report compliance to this office so as to enable this office for issue sand under rule 68 of the D.P.(C&R) Act,1954.

Sd/-
15/2/2003
Spl.C.S.&CCLA

To

A.S.CE.P):

Please see the above orders of the Spl.C.S.& C.C.L.A. Accordingly draft Allotment Order and Sanad is

prepared and put up below for kind approval of the C.C.L.A. (Settlement Commissioner).

Sd/-
Secy/ Spl.C.S. & C.C.L.A.

The CCLA directed that the fair copies to be signed by the Secy to CCLA for CCLA

Sd/-
21/2

To

A.S.CE.P)

Please see the observations of Secy. To CCLA. Accordingly draft covering letter to Collec. C copy marked to MRO & Individual) is put up below for approval.

Sd/-
24/2"

We are fully satisfied that entertaining a representation treating the representation as an application filed under the DPCR Act/Rules; or treating the representation to pay compensation towards unsatisfied claim, particularly without the orders under Sections 7 and 8 of the DPCR Act with Rules 10 to 15 of the DPCR Rules and allotting land without slightest verification of the value of land, is illegal and arbitrary and liable to be set aside.

29.5. It is further contended that the orders of allotment are contrary to the principles of natural justice. We are of the view that having discussed in detail on the mode and manner of exercise of power by 2nd respondent and a laconic confirmation by the 1st respondent, we are of the view that the contention of violation of principles of natural justice ought not to detain us for long and we hold that the orders of allotment in these writ petitions are in violation of the principles of natural justice.

Lastly, we must advert to the argument of Mr.M.S.Prasad that the writ petitions at the instance of State Government against the orders passed under the DPCR Act is not maintainable, is merely referred to be rejected, in view of findings already recorded by us on the questions framed for decision. The 2nd respondent, we are compelled to observe, has literally dolled out valuable Government property worth hundreds or thousands of crores of rupees in favour of claimants without semblance of authority and/or contrary to the scheme of the DPCR Act/Rules. The scheme of the DPCR Act is not to entertain belated claims and provide exemplary or extra ordinary payment of compensation to displaced persons. Summarised in the instant writ petitions belated representations based on already registered verified claim allotment of land was ordered towards unsatisfied verified claim and this procedure is strange. Therefore, we are of the view that the 2nd respondent in purported exercise of its jurisdiction under the DPCR Act has allotted the land to claimants, and the State Government/petitioner, in our view, has rightly invoked the remedy of writ jurisdiction and the writ petitions are maintainable. The objections of the claimants in both the writ petitions are mere convenient pleas to resist the writ petitions and we are satisfied that these objections are without merit and are rejected.

Having carefully examined the original records and the orders of 1st and 2nd respondents, we are constrained to observe that the shadows of invisible interested characters in securing land allotment, it appears to us, played a vital role in the decision making process of 2nd respondent. There is more than what meets the eye. Though we are confining our decision to the legality of the orders impugned in these writ petitions, we hope and trust that the State Government/petitioner being the custodian of public property would undertake enquiry into the subject allotment orders and appropriate action is taken against all the persons responsible and involved in the land scam.

Having regard to the detailed discussion on all the points referred to above, we are of the view that the impugned allotment orders are without jurisdiction, illegal, contrary to the DPCR Act/Rules, arbitrary and not based on material available. The impugned orders particularly the orders of allotment dated 26.02.2003 are result of non-application of mind to the facts of the case and relevant provisions of law. For all the above reasons, the impugned allotment orders in File Nos. SEP3/19/2001 and SEP3/104/1999 dated 26.02.2003 are quashed.

The Writ Petitions are allowed. No order as to costs.

Consequently, pending miscellaneous petitions, if any, stand disposed of.

DILIP B.BHOSALE, ACJ

S.V.BHATT,J

Date: 12.02.2016
Note:
L.R.copy to be marked.
B/o.
Stp/lrkm

[1] AIR 1969 Punjab & Haryana Page 4
[2] AIR 1988 SC page 873
[3] AIR 1967 SC 295
[4] AIR 1975 SC 2299
[5] 1985 (1) Ch.D 426
[6] AIR 1936 PC 253
[7] AIR 2010 SC 1155
[8] AIR 1970 SC 672
[9] (1995) (3) SCC page 8
[10] AIR 1952 SC 319
[11] AIR 1955 SC 233
[12] (2003) (6) SCC 675

[13] ***Appointment of Chief Settlement Commissioner, etc** (1) The Central Government may, by notification in the Official Gazette, appoint a Chief Settlement Commissioner, a Joint Chief Settlement Commissioner, and as many Deputy Chief Settlement Commissioners, Settlement Commissioners, Additional Settlement Commissioners, Assistant Settlement Commissioners, Settlement Officers, Assistant Settlement Officers and Managing Officers as may be necessary for the purpose of performing the functions assigned to them by or under this Act and may by general or special order provide for the distribution or allocation of work to be performed by them under this Act.

(2) Subject to the provisions of this Act, the Joint Chief Settlement Commissioner, all Deputy Chief Settlement Commissioners, Settlement Commissioners, Additional Settlement Commissioners, Assistant Settlement Commissioners, Settlement Officer, Assistant Settlement Officers and Managing Officers shall perform the functions assigned to them by or under this Act under general superintendence and control of the Settlement Commissioner.”