THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition no.27378 of 2006

ORDER:

This writ petition is filed seeking the following relief/s:

> **"……to pass an order, direction or writ, more so in the nature of writ of mandamus, declaring the action of the first respondent in passing the impugned order G.O.Ms.no.1875 dated 14.12.2006, is against Article 14 of the Constitution of India, without Authority of law, against the principles of natural justice, apart from being Arbitrary and consequently to set aside the G.O.Ms.No.1875 dated 14.12.2006 and direct the respondents not to cancel the deeds of sale dated 24.11.2004 registered as document No.4376/2004 in the office of the Sub-Registrar, Patamata Lanka and not to interfere with the possession of the petitioners over their lands in Survey No.31/4 of Patamata Lanka, Vijayawada, Krishna District and pass such other order or orders as this Honourable court deems fit and proper in the circumstances of the case."**
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> **(Reproduced verbatim)**

2. I have heard the submissions of *Sri R.Raghunandan Rao*, the learned senior counsel representing the learned counsel for the writ petitioners, the learned Government Pleader for Endowments appearing for the 1st respondent and *Sri N. Subba Reedy,* the learned Senior Counsel appearing for the respondents 2 and 3. I have perused the material record including the additional material papers.

3. The facts, which are not disputed and which are necessary and relevant for consideration, in brief, are as follows:

The 3rd respondent-Sri Avadhuta Arogya Sadanam Trust of Patamata Lanka of Vijayawada, is a charitable endowment registered with the Endowments Department under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act 30 of 1987) ('the Act', for brevity). It owned an extent of Ac.1.75 cents of agricultural land in revenue survey no.31/4 of Patamata Lanka village. Out of this land, an extent of Ac.0.35 cents had been leased out to one B.Rangamma and it was under her cultivation for about 40 years. In the year 2003, she was called upon to either vacate the land or purchase the land under Section 82(2) of the Act. She had filed an application on 12.08.2003 for recognising her as a landless poor person. After an enquiry, the Executive Officer of the 3rd respondent-Trust had reported that she was cultivating the said land and her income was Rs.12,000/- per annum. The Assistant Commissioner of Endowments had also enquired into the matter; and, *vide* proceedings in Rc.no.B3/7380/03 dated 23.8.2003, he had declared that she was a landless poor person. She had requested the 2nd respondent to issue form II notice to enable her to avail the option to purchase the land under her cultivation as a lessee. The Commissioner, Endowments had directed the Executive Officer by his proceedings in R.C.no.L3/49271/2003 dated 17.10.2003 to issue Form II notice calling upon her to exercise the option as to whether she would continue as a lessee or purchase the said land. A valuation report was obtained by the Commissioner of Endowments from the Joint Collector, Krishna District. In that report, the Joint Collector, Krishna District had fixed the value of Ac.0.35 cents of land at Rs.43,68,000/-. Having regard to the facts and circumstances, the Commissioner of Endowments had recommended to the Government that the land can be alienated to B.Rangamma for consideration and sought permission of the Government to accept the rate fixed for the land. Thereupon, the Government have issued G.O.Ms.no.576 dated 10.8.2004 according permission to the Commissioner of Endowments and directing the Commissioner to take necessary action for alienation of the land. The consideration for the land was finally fixed at Rs.42,94,290/- and the said fact was intimated to the Assistant Commissioner, Endowment Department. Thereupon, a letter no.A1/8908/2003 dated 18.11.2004 was addressed to the Sub Registrar, Patamata Lanka to register the necessary conveyances which the Executive Officer of the 3rd respondent would be executing in favour of B.Rangamma. Accordingly, a sale deed dated 24.11.2004 was executed in favour of the said Rangamma and was registered in the office of the Sub-Registrar, Patamata Lanka. In fact, the said Rangamma, being a landless poor person, did not possess any means to raise the huge consideration required to be paid by her to the 3rd respondent-Trust. Therefore, she had raised loans for the purpose of paying the sale consideration to the 3rd respondent-Trust.

Thereafter, she had sold the land conveyed to her by the Endowments Department to third parties, viz., Nutakki Venkata Satyanarayana, Koneru Venkata Rama Rao and Abburi Rama Devi by executing three separate agreements of sale-cum-General Powers of Attorney. The recitals in the said three documents would disclose that since Rangamma was not in a position to raise necessary finances to purchase the land of the 3rd respondent-Trust, she had raised loans from the said three persons and that she had sold the land to the said three persons under the said three documents to clear her loans due to them. She had thus sold the land for a profit and had spent the money realized from the sales on her comforts during her old age. The 1st petitioner had purchased 726 square yards of land from Abburi Rama Devi and 618 square yards of land from K.Venkata Rama Rao by way of registered sale deed bearing Document no.223/2006 and the 2nd petitioner had purchased 350 square yards of land from the above said persons, vide sale deed bearing Document no.752 of 2006. The said sale deeds were registered in the office of the Sub Registrar, Patamata Lanka. Having purchased the respective extents, the petitioners 1 and 2 are in possession and enjoyment of their respective extents of lands.

4. In this milieu of admitted and undisputed facts, the further case of the writ petitioners, in brief, is this:

In October, 2006, the petitioners had received a show cause notice from the 1st respondent-Principal Secretary, Revenue-Endowments Department stating that the entire transaction with B.Rangamma was being cancelled and that the petitioners have to file their objections, if any. The representation dated 31.10.2006 filed by the 1st petitioner was received by the 1st respondent on 01.11.2006. There was no further communication to the petitioners from the 1st respondent. The 1st petitioner had met the 1st respondent on 16.12.2006 requesting to give an opportunity of personal hearing to them. The 1st respondent had endorsed that the case would be posted to 27.01.2007. While so, the 1st petitioner was informed that the 1st respondent had issued G.O.Ms.no.1875 dated 14.12.2006 cancelling the earlier G.O.Ms.no.576 and consequently, the orders of the Commissioner of Endowments in proceeding Dis. no.L3/4923/2003 dt.10.11.2004. The 1st respondent had also directed for the execution of the cancellation deed by the 2nd respondent and for refund of the amount paid by B.Rangamma along with interest accrued on it to the petitioners herein.

4.1 Feeling aggrieved, the petitioners had filed the present writ petition *inter alia* contending as follows:

The G.O.Ms.no.1875 dated 14.12.2006, which was issued by the 1st respondent, which is impugned in this writ petition, was issued without jurisdiction or authority under law. He has no power of review to review the earlier orders of the Government. The Government order impugned is vitiated for not providing an opportunity of personal hearing on 27.01.2007. In fact, the Government order was issued on 14.12.2006 itself without granting an opportunity of personal hearing to the petitioners. The finding of the 1st respondent that Rangamma was not a landless poor person as she was able to raise a huge amount towards sale consideration is misplaced and is not based on facts. The said finding is an indirect contradiction to the enquiry report submitted by the 2nd respondent and Assistant Commissioner of Endowments, Vijayawada. The other finding that some third parties sought to utilize B.Rangamma as a means of taking away the land of the Endowment Department is not correct and it is not based on facts. The impugned order is based on conjectures and surmises. The finding that the land is an urban land on the basis of a master plan drawn up by Vijayawada-Guntur-Tenali and Mangalagiri Urban Development Authority is not correct. The 1st respondent had lost sight of the fact that the land is situated in Patamata Lanka where agricultural operations are being carried on even as on today.

The Act does not provide for any consequences for violation of any of the Rules. In the absence of any such consequences being provided, the Rules would have to be taken as only directory and not mandatory. The cancellation of the sale transaction on the ground of alleged violation of Rule 6(2) of the A.P Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Land Rules, 2003 (for short, 'the Rules') is not clearly warranted and is beyond the authority and power vested with the 1st respondent and the said cancellation is disproportionate to the alleged violation of the Rules. Once sale deed was executed, the land went out of the control of the Endowment Department and hence, they have no right to cancel the sale deed. No deed of cancellation shall be executed without the presence of both the sides; and there cannot be a unilateral cancellation of a completed sale transaction. The land belonged to the 3rd respondent-Trust and a sale deed executed by the 3rd respondent cannot be cancelled by way of a Government Order or in pursuance of a Government Order, as the transaction is between the two private entities and there can be no cancellation except in accordance with the procedure contemplated under the provisions of the Transfer of Property Act. The decision of the 1st respondent is based on the presumption that B.Rangamma cannot be taken as a landless poor person solely on the ground that she had paid huge sale consideration. There have been a huge number of transactions wherein landless poor persons have paid large amounts of money for purchase of agricultural lands and this issue has not been considered against such landless poor persons. Whereas, in the case of Rangamma, the fact that she had paid large amount of money for purchase of the land was considered against her; and, this amounted to a clear discrimination against Rangamma and consequently the petitioners herein who are the purchasers of the land. The petitioners herein are the 2nd purchasers and they had purchased the respective extents after necessary permission obtained even under the Urban Land Ceiling Act. The fact that Rangamma died on 07.08.2006 cannot form a ground for cancellation of the sale transaction. The petitioners had purchased the respective extents of property forming part of the subject land by investing their lifetime savings; and, hence, cancellation of the sale transaction in favour of Rangamma and the consequential transactions would lead to great irreparable loss and damage to the interests of the petitioners and the same cannot be compensated in terms of money.

4.2 At the hearing, the learned counsel for the petitioners made submissions in line with the pleadings and had placed reliance on three decisions. A reference would be made to the ratios in the decisions and the import of the ratios at an appropriate later stage.

5. The Assistant Secretary to Government in his counter filed on behalf of the 1st respondent-Endowment Department, while denying the case of the petitioner insofar as it related to assailing the Government orders, had *inter alia* urged as under:

At the inception, the Assistant Commissioner had erred in sending the proposals to the Commissioner of Endowments and the sale transaction in favour of Rangamma has been done owing to suppression of facts and misrepresentation of facts; the said piece of land is in residential zone of Vijayawada Municipal Corporation. The provisions of Section 82(2) could not be made applicable to in respect of the land situated in the said Corporation and earmarked for residential purpose. Further, a landless poor person cannot sell the land to a third party within a period of five years as per Rule 6(2) of the Rules. However, the immediate sale of land by Rangamma itself is a testimony of the fact that the entire transaction and payment of Rs.42.94 lakhs was done at the behest of third party purchasers. Since the provision of the Act is enacted as a welfare measure to safeguard the interests of age old tenants, it prescribed a concessional rate, viz., 75% of the market value. The land is amidst of a posh residential area of Vijayawada Municipal Corporation and is earmarked for residential use as per Master Plan. Since the sale transaction in favour of Rangamma proceeded on mis-representation and suppression of facts, and as the then Assistant Commissioner gave a false report stating that the land is an agricultural land and as the provision of the relevant Rule was violated by Rangamma by affecting the sale by violating the prohibitory clause and valuable urban property was grabbed, G.O.Ms.No.1875, dated 14.12.2006 was issued after careful examination of the written explanation filed by the 1st writ petitioner and on due examination of the points urged by him. The purchasers from Rangamma advanced Rs.42.94 lakhs at one time to Rangamma, whose annual income is less than Rs.12,000/- itself bears testimony to the fact that there was a pre-determined plan to grab the valuable urban property by taking undue advantage of the beneficial provisions of law, which are intended to benefit landless poor persons. Having deliberately advanced huge amounts to B.Rangamma, the landless poor person, and having got made mis-representations, the writ petitioners had later got the land registered in their favour and caused loss to a charitable institution. The land was endowed for a noble purpose and persons having vested interest cannot be allowed to grab the land by deriving undue benefit out of the beneficial provisions of the Act. If the transactions are allowed to stay, it would amount to setting a bad precedent inviting attraction of realtors to emulate the same strategy and derive enormous benefit at the cost of charitable and religious institutions. The writ petitioners purchased the property of the institution under the guise that Rangamma is a landless poor person.

6. The case of the respondents 2 and 3 as stated in the counter affidavit of the Executive Officer of the Trust may be stated, in brief, as follows:

The order impugned is sustainable both under facts and in law. On coming to know that the land is situated in urban area and is also fit for commercial use, the then Assistant Commissioner addressed a letter dated 01.08.2004 directing the Executive Officer to file an appeal before the Regional Joint Commissioner of Endowments for cancellation of orders dated 23.08.2003 whereby Rangamma was declared as a landless poor person by the Assistant Commissioner. However, such appeal was not preferred by the Executive Officer. There was no subsisting lease and no lease deed was in existence as per record for the period between 1981 and 1987. This position was not brought to the notice of the Government and the Assistant Commissioner had given a report, which is completely false. Though the land was amidst of residential locality in Municipal Corporation, without bringing the said fact to the notice of the Government, the Assistant

Commissioner sent a report for registration of subject land in favour of Rangamma. The entire episode is a pre-planned act of third parties in collusion with Rangamma and the then Executive Officer and the Assistant Commissioner. Hence, the Government felt that it is a fit case to exercise the *suo motu* powers under Section 94 of the Act. Under the said provision, the Government are empowered to review any order. Only after a careful examination of the written explanation of the 1st petitioner and due examination of the points raised by him, the orders in G.O.Ms.No.1875, dated 14.12.2006 were passed. The land is earmarked for residential use with effect from the year 1969 as per the approved Master Plan for Vijayawada, vide G.O.Ms.No.958 MA dated 16.12.1969 and therefore, the subject land acquired urban character right from 1969. Lands falling in urban agglomeration area or Municipal Corporations or Municipal Towns, which have got urban character, do not attract the provision of Section 82 of the Act as the said Section deals with agricultural lands only. Government have got suo motu powers of review under Section 94 of the Act. Rangamma could afford to raise Rs.42.94 lakhs for purchase of the land by way of loans shows that she is not a landless poor lady. Rangamma having obtained registered sale deed in her favour on 24.11.2004 by paying an amount of Rs.42,94,290/- had sold the land to Nutakki Venkata Satyanarayana, Koneru Venkata Rama Rao and Abburi Rama Devi by executing three separate agreements of sale-cum-General Powers of Attorney. Under Rule 6(2) of the Rules, landless poor person shall not alienate the land purchased by her until the expiry of five years from the date of purchase. She had violated the provision of the said Rule. Taking undue advantage of the beneficial provisions of the Act, the third parties, having financed the said amount paid by Rangamma, got the registrations done in the month of November 2004 and had immediately obtained Urban Land Ceiling clearance from the authority concerned on 09.12.2004, i.e., within fifteen days of registration. All this proves that it is a pre-planned operation to grab the land of the Endowment institution. The contentions of the writ petitioners are untenable. Unless this wrong trend is curbed, it would endanger the sustenance and welfare of the religious and charitable institutions. Since the sale in favour of Rangamma is irregular and illegal, the subsequent sales by her and her attorney holders are null and void. The protection under Transfer of Property Act is not available to the persons, whose transactions are not in accordance with law. The writ petitioners who are having vested interest and who want to grab the land endowed to a charitable institution for a noble cause shall not be allowed to derive undue benefit in the facts and circumstances of the case. The valuable land cannot be allowed to go to the hands of third parties at a throw-away price. In the larger interests and welfare of the charitable institution, G.O.Ms.No.1875 was issued after observing all the above mistakes, irregularities and illegalities involved in the issue.

6.1 The learned Senior Counsel for the respondents 2 and 3 would submit as follows:

"The right given under the Statute to a landless poor person to purchase the land held on lease is a right conferred to effectuate the constitutional policy; Article 39(b) of the Constitution of India envisages that the State shall, in particular, direct its policy towards securing that the ownership and control of material resources of the community are so distributed as best to sub-serve the common good and that Rule 6 of the Rules, which contains a prohibitory clause is absolute in terms and it is stipulated to effectuate the constitutional policy and therefore, the alienation is invalid and void. The policy behind the provisions enabling the landless poor persons to purchase the land held on lease is intended to augment their economic status and to bring their economic status on par with the others who are having better economic status and to bring them into the main stream of the society and therefore, the provisions, which are intended for economic empowerment of the poor and which are intended to do economic justice shall be implemented to see that the object with which the provisions of law are enacted sub-serve the object and the ends of justice.

6.2 The learned senior counsel having placed reliance on Section 23 of the Contract Act and the decision in **R.Chandevarappa v. State of Karnataka**[1] had contended that the alienations by the landless poor person which are opposed to public policy rendered the whole sale transaction *void ab initio* in view of the statutory provisions of the Act and Section 23 of the Contract Act and that therefore, the impugned order does not call for any interference and deserves to be sustained.

7. I have bestowed my attention to the facts and I have given earnest consideration to the submissions.

8. Before proceeding further, it is appropriate to refer briefly to the facts, which are necessary for consideration. 'One B.Rangamma who was a lessee of a land of Ac.0.35 cents belonging to the 3rd respondent-charitable trust was declared by the officer concerned of the Endowment Department as a landless poor person. Thereafter, a notice in Form II as contemplated under the Rules was issued to her calling upon her to exercise the option for purchase of the said land. The said Rangamma had exercised her option to purchase the land. On that, the value of the land was finally determined at Rs.42,94,290/- by the Government. The said land of the 3rd respondent Trust was eventually directed to be alienated to the said B.Rangamma, after necessary permission was accorded as per procedure. Accordingly, the Executive Officer of the Trust had executed a registered sale deed dated 24.11.2004 in favour of the said Rangamma in respect of the said land after she had paid the said consideration. The said Rangamma was admittedly unable to raise the necessary finances on her own to pay the said consideration payable in respect of the said land. Hence, she had obtained loans from third parties for paying the sale consideration to the 3rd respondent-Trust under the said sale transaction. She had thereafter sold the entire land in contravention of Rule 6 (2) of the Rules to Nutakki Venkata Satyanarayana, Koneru Venkata Rama Rao and Abburi Rama Devi by executing three separate agreements of sale-cum-General Powers of Attorney dated 13.12.2004 having received considerations of Rs.11,83,000/-, Rs.20,88,840/- and Rs.24,53,880/- respectively for the respective extents sold to them, viz., 726 square yards, 618 square yards, and 350 square yards. In the said documents, it was recited that Rangamma had already received the respective considerations, vide (i) Demand Draft for Rs.10,07,000/- (ii) Demand Draft for Rs.17,78,000/- (iii) Demand Draft for Rs.20,89,000/-; and respective balance considerations, vide Cheque no.645202 dated 13.12.2004 for Rs.1,75,000/-, cheque no.645201 dated 13.12.2004 for Rs.3,10,000/- and cheque no.645203 dated 13.12.2004 for Rs.3,64,000/- at the time of the execution of the said documents. The dates of the three demand drafts are not mentioned in the said documents. The recitals in the said documents would lay bare that she had obtained the loans from the said three persons for purchasing the land of the 3rd respondent-Trust under sale deed dated 24.11.2004 and to clear the said loans, she had executed the said three documents. She had paid a consideration of Rs.42,94,290/- to the 3rd respondent-Trust under her sale deed and received in all, Rs.57,25,720/- as total consideration from the above said three persons under the above said three documents. Further, the 1st petitioner purchased 726 square yards of land from Abburi Rama Devi and 618 square yards of land from K.Venkata Rama Rao by way of registered sale deed bearing Document no.223/2006 and the 2nd petitioner had purchased 350 square yards of land from the above said persons, vide sale deed bearing Document no.752 of 2006. Since the dates of the sale deeds of the writ petitioners and the consideration they had paid under the said sale deeds are not mentioned in the pleadings of the writ petitioners and as the copies of their sale deeds are not filed, there is no material before this Court to take note as to for what total consideration the writ petitioners had purchased the subject property and ultimately, what profit the Agreements-cum-Powers of Attorney holders of Rangamma had made out of the transaction. Had those documents been filed, it would have come to light as to how much profit the agreements-cum-Powers of Attorney holders of Rangamma had made out of the transaction ultimately. In this backdrop and other circumstances, the Government have issued G.O.Ms.no.1875 dated 14.12.2006. Under the said GO, the Government having reviewed the matter cancelled the orders issued in G.O.Ms.no.576 dated 10.08.2004 granting permission for sale of land of the 3rd respondent Trust in favour of B.Rangamma, the then cultivating tenant.

Under the said G.O.Ms.No.1875, the Government have also cancelled the consequential orders of the Commissioner dated 10.11.2004 whereby the Joint Commissioner directed the Assistant Commissioner to take further necessary action as per G.O.Ms.no.576. Eventually, the Government have directed for execution of cancellation deed cancelling the sale deed executed in favour of B.Rangamma and for refund the amount paid by Rangamma along with interest to the purchasers of the said land. Now, the said G.O.Ms.no.1875 is impugned in this writ petition.

9. Before addressing the point in regard to the validity and sustainability of the aforementioned G.O.Ms.No.1875, it might be convenient to refer briefly to the law on the topic.

Rule 6(2) of the Rules reads as under:

> **6 (2) The landless poor person shall not be competent to alienate the land purchased by him within a period of five years from the date of purchase i.e., date of payment of the full consideration with interest.**

This Rule prohibits sale of land by the landless poor person to whom the leasehold land is sold for a period of five years from the date of sale by the institution in favour of the landless poor person.

Section 82 of the Act reads as under:

> **82. Lease of Agricultural Lands:- (1) Any lease of agricultural land belonging to or given or endowed for the purpose of any institution or endowment subsisting on the date of commencement of this Act shall, notwithstanding anything in any other law for the time being in force, held by a person who is not a landless poor person stands cancelled.**
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> **(2) In respect of leases of agricultural lands [other than those ands situated in Municipalities and Municipal Corporations] held by landless poor person for not less than six years continuously, such person shall have the right to purchase such lands for a consideration of seventy five percentum of the prevailing market value of similarly situated lands at the time of purchase and such consideration shall be paid in four equal instalments in the manner prescribed. Such sale may be effected otherwise than by tender-cum-public auction:**
>
> **[Provided that if such small and marginal farmers who are not able to purchase the land will continue as tenants provided, if they agree to pay at least two third of the market rent for similarly placed lands as lease amount.**
>
> ***Explanation:-*** **For the purpose of this sub-section "landless poor person" means a person whose total extent of land held by him either as owner or as cultivating tenant or as both does not exceed 1.011715 hectares (two and half acres) of wet land or 2.023430 hectares (five**

acres) of dry land and whose monthly income other than from such lands does not exceed thousand rupees per mensum or twelve thousand rupees per annum. However, those of the tenants who own residential property exceeding two hundred square yards in Urban Area shall not be considered as landless poor for the purpose of purchase of endowments property.]

Explanation II:- **For the purpose of this sub-section, small and marginal farmer means a person who being a lessee is holding lands in excess of acress 0.25 cents of wet land or acres 0.50 cents of dry land over and above the ceiling limits of acres 2.50 wet or acres 5.00 dry land respectively they may be allowed to continue in lease subject to payment of 2/3rd of prevailing market rent and excess land held if any more than the above limits shall be put in public auction.]**

(3) xx xxx xxxxxx

(4) xx xxx xxxxxx

(5) xxx xxxx xxxxx

Section 23 of the Indian Contract Act reads as under:

<u>What considerations and objects are lawful, and what not.-</u>

The consideration or object of an agreement is lawful, unless-

it is forbidden by law; or

is of such a nature that, if permitted, it would defeat the provisions of any law; or

is fraudulent; or

involves or implies injury to the person or property of another; or

the Court regards it as immoral, or opposed to public policy.

In each of these cases, the consideration or object of an agreement is said to be unlawful. Every agreement of which the object or consideration is unlawful is void.

Under the first limb of the section, the consideration or object of an agreement is unlawful if it is forbidden by law. Further, if the transaction is of such a nature if permitted would defeat the provisions of any law or the transaction is fraudulent or the transaction involves or implies injury to a person or property of another or where the court regards it as immoral or opposed to public policy, in each of these cases, the consideration or object of agreement is said to be unlawful. Under this provision of law, every agreement, of which, the object or consideration is unlawful is void. The word object in the present context would mean the purpose and design of the contract. If the purpose and design, which is the object of the contract, tends to defeat any provision of law or purpose of law, it becomes unlawful and thereby it is void under

Section 23 of the Indian Contract Act.

9.1 It is trite to state that the provisions under the Endowment Act, which are enacted to facilitate sale of leasehold land to the lessee, who is a landless poor person, are enacted with an avowed object obviously keeping in view the constitutional policy. The provisions, in the well considered view of this Court, are meant to augment the economic status and to bring the landless poor persons on par with others who are having a better economic status and to bring them into the main stream of the society with a view to render economic justice envisaged in the Preamble and the Articles 38 and 46 of the Constitution of India, which envisage that the State shall in particular direct its policy towards securing that the ownership and control of material resources of the community are so distributed as best to sub-serve the common good. The object of sale in favour of a landless poor person of the land held on lease for a consideration less than the market value would indicate that such landless poor person to whom the land was sold shall remain in possession and enjoy the income from the land for at least a minimum period of five years, which would help in augmenting the status and in securing the economic justice envisaged under the preamble and the directive principles of the Constitution. In the case on hand, admittedly, Rangamma, the landless poor person was not having financial capacity to pay the consideration of more than Rs.42 lakhs and purchase the land held by her on lease even though the said consideration was 25% less than the market value. Envisaging such eventualities a provision to pay the consideration in installments was made to enable such landless poor persons to purchase the lands held by them on leases. The said Rangamma did not avail the benefit of such provision. The three persons, namely, Nutakki Venkata Satyanarayana, Koneru Venkata Rama Rao and Abburi Rama Devi entered into a deal with her by obtaining three separate agreements of sale-cum-General Powers of Attorney dated 13.12.2004 and advanced monies to her for purchase of the land from the 3rd respondent Trust. Thus, even before Rangamma purchased the land from the 3rd respondent-Trust under a sale deed dated 24.11.2004, the agreement holders cum powers of attorney holders had entered into a deal with her by advancing loans to her and later they had obtained the agreements of sale-cum-powers of attorney within less than a month after she had obtained the sale deed. Though, the sale of land, within five years, by Rangamma was prohibited under the Rule extracted supra, the said documents were entered into in deliberate violation of the Rule. Later, the writ petitioners had purchased the subject property in the year 2006 from the agreements-cum-powers of attorney holders of Rangamma in violation of the provision of the said Rule. Indeed, the sale in favour of landless poor person was permitted by the Government with a view to achieve the avowed objective of the enactment, which is in tune with the constitutional policy. However, she had opted to purchase the land held by her on lease and obtained the sale deed from the charitable institution for a consideration which is less than the market value with an illegal object, design and purpose, which she had in mind, namely, for sale to third parties for some profit and not to sub-serve the avowed objective. Thus, she and her agreements-cum-powers of attorney holders pursued the deal in regard to purchase of the endowed land in contemplation of an object, which is prohibited by law and which is contrary to the avowed objective of the enactment and constitutional policy. Thus, the immorality, the illegality and the opposition to the public policy lie in the pre-planned deal between Rangamma on one hand and the agreements-cum-powers of attorney holders, who had advanced purchase money to her, on the other. Thus, the purchase transaction of Rangamma with the 3rd respondent was pursued by her immorally for achieving eventually an unlawful object quite contrary to the provisions of the Act and the constitutional policy intended to augment the economic status and to bring the landless poor persons on par with others who are having a better economic status and to bring them into the main stream of the society with a view to render economic justice envisaged in the Preamble and the Articles 38 and 46 of the Constitution of India. Since the law strikes at the transaction itself and as the contract of sale between Rangamma and the 3rd respondent charitable institution is by its very nature illegal, this Court finds that the sale deed is unenforceable and void *ab initio*. The phraseology 'opposed to public policy' may embrace within its fold such acts which are likely to deprave, corrupt or injure public morality. The Government will be dealing with similar innumerable transactions with landless poor persons. Such contracts which affect a large number of persons or a group or group of persons, if they are unconscionable, unfair or unreasonable and are injurious to public trust and are against public policy have to be necessarily adjudged to be void. Rangamma being a landless poor person, the contract of sale in her favour, for a consideration less than the market value was made in accordance with the provisions of the Endowments Act enacted with an avowed objective. Parties to such a contract, for all purposes shall be fair and must act in a perfectly lawful manner. Therefore, the law expects her to act in a perfectly lawful and fair manner. Had she disclosed that she is going to alienate the land for consideration, the Government might not have accorded permission of sale of the land to her as in the said circumstances, any permission for sale in her favour is neither going to sub-serve avowed objective of the legislation nor the interests of the institution. The views of this Court supra get reinforced by the ratio in the decision in **R.Chandrevarappa and others v. State of Karnataka and others** (1 supra). For all these reasons, this Court finds that the contention of the writ petitioners that there is no justification for issuing the GOMs no 1875 is devoid of merit.

9.2 It is now apt to refer to the ratios in the following decisions relied upon by the learned senior counsel for the writ petitioners.

(i) Vijayawada-Guntur-Tenali-Mangalagiri Urban Development Authority (VGTM-UDA), Vijayawada, rep. by its Chairman and others[2]

(ii) Maradani Srinivasa Prabhu and another v. The District Collector, Eluru, West Godavari District and others[3]

(iii) Common Orders dated 28.08.215 in Writ Appeal Nos.702 of 2010 and batch.

The decisions in Vijayawada-Guntur-Tenali-Mangalagiri Urban Development Authority (VGTM-UDA), Vijayawada, rep. by its Chairman and others and Maradani Srinivasa Prabhu and another v. The District Collector, Eluru, West Godavari District and others (2nd and 3rd supra) are relied upon in support of the proposition that a registered sale deed once executed cannot be cancelled unilaterally and that any cancellation deed canceling the transaction contained in the previously executed registered sale deed does not invalidate or affect the transaction contained in the registered deed of conveyance and that no person has the right to unilaterally invalidate a registered sale deed on any ground. The decision in Writ Appeal no.702 of 2010 and batch rendered by a Division Bench of this Court is relied upon in support of the proposition that unless the land is converted into non-agricultural use by following the procedure established by law, the nature of the land would not change and that conversion of land into non-agricultural use under the provisions of the relevant Statute is necessary even if the land is covered by the Master Plan and sanction of layout is granted by the development authority under the provisions of a Statute. The propositions laid down in the decisions relied upon are not disputed by the learned senior counsel appearing for the respondents 2 and 3. He would only submit that in view of the provisions under the Endowment Law and Section 23 of the Indian Contract Act, the ratios in the decisions do not advance the case of the writ petitioners.

9.3 Before parting, it is necessary to consider some more contentions, which are advanced by the learned senior counsel for the writ petitioners.

Firstly, it is urged that the petitioners wanted a personal hearing; and that on 16.12.2006, the 1st petitioner had specifically requested the 1st respondent to give an opportunity of personal hearing to the petitioners; and that having agreed to post the matter to 27.01.2007, the 1st respondent had issued GOMs.No.1875 dated 14.12.2006 cancelling the earlier GOMs.No.576 and other consequential orders; and that personal hearing was thus denied and the principle of natural justice is violated. At the threshold this Court narrated the facts which are admitted and undisputed. The law is well settled that right of personal hearing is not a *sine qua non* in every matter and whether or not such a right shall be provided depends upon the facts and circumstances of the case. In the case on hand, all the core facts are not in dispute and the 1st respondent having issued a show cause notice received a detailed explanation that was offered by the petitioners; and, after considering the contents of the same, he had taken the decision; and according to the submissions in the counter, he had acted with due diligence in the matter. Viewed thus, this Court finds that this is not a fit case where the personal hearing was required and therefore, the contentions of the writ petitioners need no countenance.

It is pointed out that under Rule 6(2) of the Rules there is only a prohibition to the effect that the landless poor person shall not be competent to alienate the land purchased by him/her within 5 years from the date of purchase/the date of payment of full consideration with interest and that there is no further provision in the Rule in regard to consequences of the violation of the prohibition against alienation within the prescribed period of five years. It is next submitted that when the consequences are not provided under the said Rule, it shall be construed that the Rule is directory and not mandatory and that any alienation within the prescribed period shall not attract the serious consequences of cancellation of the sale transaction in favour of the landless poor person. In the case on hand, the deal which is pre-planned and tainted with immorality and the subsequent sale of the subject land by the landless poor person in favour of third parties in violation of the prohibition in the above said Rule shall certainly be viewed with all seriousness and as indispensible; and; any such transaction which is unconscionable and injurious to public trust shall not receive approval from this Court as that would tantamount to approving actions which are likely to deprave, corrupt or injure public morality. It is an admitted fact that by now Rangamma is no more.

Thirdly, it is also submitted that the cancellation of the transaction on the ground that the land that is located in a Corporation and is covered by the Master plan had acquired Urban character is untenable as there is no conversion of the nature of land from agriculture into non-agriculture as per due procedure. Though the cancellation on this ground may not be correct, yet this is not the only ground on which the cancellation was ordered.

Lastly, it is urged that the unilateral cancellation of the sale deed of Rangamma as directed in the GO Ms 1875 is illegal as any such unilateral cancellation to invalidate a validly registered sale deed is impermissible in law. Be it noted that this Court had already recorded a finding that the sale transaction is void; therefore there is no necessity to cancel the sale deed; and, any direction or action taken for abundant caution for the cancellation of the sale deed does not advance the case of the writ petitioners.

10. To sum up on this aspect, suffice to state that when the very sale transaction entered into by Rangamma, the landless poor person, with the 3rd respondent-charitable Trust is tainted with immorality and is an outcome of a pre-planned deal to convey the property to some third parties who had advanced loans to her, and when the said deal, which is purely intended to unduly benefit the third parties, offends the constitutional framework and violates the law, which is enacted to secure economic justice envisaged in the Preamble of the Constitution and the Directive Principles, it must follow that the sale transaction in favour of Rangamma is rendered void. As a sequel, it must be held that the further alienations by her of the subject land are also invalid. In the light of the discussion coupled with reasons, the already considered ancillary contentions in regard to the nature of the land, the continuance of the land as agricultural land in the absence of conversion to non-agricultural land as per procedure, and the absence of the further provision in Rule 6(2) in regard to the consequences that would follow in case of violation of the prohibitory clause in that Rule etcetera need no further countenance.

11. Article 226, makes the jurisdiction of the High Courts more extensive but yet the Court must exercise the same with certain restraints and within some parameters. [vide **Director of Settlements, A.P. v. M.R. Apparao** (2002) 4 SCC 638)]. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions in the exercise of this power. [See: **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Ors.** (AIR1999SC22)]. "The High Courts do not, and should not, act as Courts of appeal under article 226.

Their powers are purely discretionary and though no limits can be placed upon that discretion it must be exercised along recognised lines and not arbitrarily; and one of the limitations imposed by the Courts on themselves is that they will not exercise jurisdiction in this class of case unless substantial injustice has ensued, or is likely to ensue. They will not allow themselves to be turned into Courts of appeal or revision to set right mere errors of law which do not occasion injustice in a broad and general sense, for, though no legislature can impose limitations on these constitutional powers it is a sound exercise of discretion to bear in mind the policy of the legislature to have disputes about these special rights decided as speedily as may be." **(**Vide **Samgram Singh v. Election Tribunal, Kotah)**[4]. Having regard to the facts of the instant case, this Court finds no reason to exercise discretion under Article 226 of the Constitution of India in favour of the petitioner.

12. For all the aforesaid reasons, this Court finds that no grounds much less valid grounds are made out and that there is no merit in the writ petition and hence, the writ petition is liable for dismissal.

13. In the result, the writ petition is dismissed.

There shall be no order as to costs.

As a sequel to the dismissal of the writ petition, WPMPs pending, if any, are dismissed as infructuous.

M. SEETHARAMA MURTI, J

24th February, 2016
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[1] (1995) 6 Supreme Court Cases 309

[2] 2008 (3) ALT 760

[3] W.P.No.23479 of 2010, dt.28.10.2010

[4] AIR 1995 SC 425