THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WP Nos.21873 of 2007 & 21627 of 2008

ORDER::

WP No.21873 of 2007 & WP No.21627 of 2008 are filed seeking to issue a writ of mandamus declaring the order dated 10-07-2007 passed by the 1st respondent-Joint Collector, Ranga Reddy District, as being illegal, arbitrary and without jurisdiction.

2. The subject matter of dispute in both these writ petitions being same, they are disposed of by this common order. The controversy involved in the case rests on a narrow compass and has a chequered career. It would suffice facts in WP No.21873 of 2007 are adverted to.

3. Land admeasuring an extent of Ac.9-00 in Sy.No.91, known as "Vaddevani Bhaavi" situate in Bowenpally Village, Balanagar Mandal, Ranga Reddy District (for short, 'the land') was an Inam land. One Ghulam Moinuddin is said to be Inamdar of the land. While it is the case of the 1st petitioner that his father late Sathaiah purchased the land from Inamdar

Ghulam Moinuddin on 20-11-1966, after surrender of tenancy rights by Vanam Achaiah @ Achi Reddy, who was declared as a protected tenant of the land, in favour of Ghulam Moinuddin on 18-11-1966, and the 1st petitioner and his family members were inducted into possession of the land, whereas, it is the case of respondents 6 to 11, is that Vanam Achaiah @ Achi Reddy, protected tenant, executed lease deed dated 08-02-1963 in favour of respondents 10 and 11 in respect of the land. Both parties wrangled with regard to the possession of the land, which necessitated to initiate proceedings under Section 145 of the Code of Criminal Procedure before the executive Magistrate in MC No.23 of 1968 and the executive Magistrate ultimately found that respondents 6 to 11 were in possession of the land and consequently, the possession was delivered to them. The matter was carried in revision in Crl.RC No.310 of 1969, and this Court by order dated 24-04-1970 allowed the revision and held that 1st petitioner and his brothers and their predecessors in title were in possession and are entitled for possession. Consequently, possession of the

land was re-delivered to the 1st petitioner and his family members.

4. Thereafter respondents 10 & 11 filed suit being OS No.2 of 1972 (old No.32 of 1970) on the file of Addl. Chief Judge, Secunderabad, in respect of the subject land seeking declaration of title and injunction against the 1st petitioner and others. After comprehensive trial, the suit was dismissed, against which respondents 10 and 11 (plaintiffs in the suit) carried the matter in appeal CCCA No.62 of 1980, but the same was dismissed by this Court. Further aggrieved, respondents 10 & 11 filed LPA No.61 of 1986 which was also dismissed by the Division Bench of this Court, decision thereof was reported in 1995 (2) ALT 172 (DB). Special Leave Petition filed against judgment in LPA No.61 of 1986 was also dismissed by the Supreme Court. Thus the claim of respondents 6 to 11 for declaration of title and injunction against the 1st petitioner and others was negatived and the concurrent findings against them become final.

5. During the pendency of the above proceedings, the provisions of AP (TA) Abolition of Inams Act, 1955, (for short, 'the Act') came into force *w.e.f.* 01-11-1973, the land being Inam land, the proceedings for resumption of possession of land and for grant of occupancy rights were initiated by Mustafa Shareef, who is father of respondents 6 to 9, in the year 1975. Mustafa Shareef based his claim on the basis of entries in Sesala-pahani of the year 1955 to 1957-58 wherein his name was recorded as Inamdar and he is in possession and enjoyment of the land along with Ghulam Moinuddin. The resumption was ordered in respect of Ac.4.30 guntas of land, in Sy. No.91 by the Revenue Divisional Officer, Hyderabad West, vide orders dated 30-11-1977. Occupancy rights to that extent was also granted in favour of Mustafa Shareef vide order dated 14-08-1986 by the Revenue Divisional Officer, Chevella Division. That against the said order of granting occupancy rights in favour of Mustafa Shareef, an appeal was filed by 1st petitioner and others before the 1st respondent-Joint Collector, Ranga Reddy District. The said appeal was allowed

by the 1st respondent-Joint Collector, vide order dated 06-04-1988 and remanded the matter to the 2nd respondent-RDO for denovo enquiry. That the 2nd respondent-RDO again granted occupancy rights in favour of respondents 10 & 11, in whose favour Vanam Achaiah @ Achi Reddy, protected tenant of the land, executed a lease deed for 100 years. The said order granting occupancy rights in favour of respondents 10 & 11 was set aside by the 1st respondent-Joint Collector, on appeal filed by 1st petitioner and others vide order dated 06-12-1988 and the matter was again remanded to the 2nd respondent-RDO for denovo enquiry. That after denovo enquiry, the 2nd respondent-RDO vide order dated 22-06-1991 allowed the claim of respondents 6 to 11 while rejecting the claim of 1st petitioner on the ground that possession over the land by respondents 6 to 11 vests with them, as on *i.e.* 01-11-1973, the date on which provisions of the Act were brought into force, ignoring the fact the possession of the respondents 6 to 11 was only by virtue of an order passed by the Executive

Magistrate under Section 145 of CrPC and said order was set aside by this Court in revision by virtue of which, the 1st petitioner was entitled for possession as on 01-11-1973. But the said order of 2nd respondent-RDO was confirmed in appeal by the 1st respondent-Joint Collector vide order dated 09-03-1993. Against this order, the 1st petitioner and others have filed a revision being CRP No.665 of 1994. The said CRP was tagged on along with LPA No. 61 of 1986 filed by the respondents 10 and 11, and by common order dated 13-09-1994 and the Division Bench of this Court set aside the order of the 1st respondent-Joint Collector and the 2nd respondent-RDO with an observation that possession of respondents 6 to 11 as on the relevant date i.e. 01-11-1973 was in pursuance of the Court order in proceedings under Section 145 CrPC and their possession would enure to the benefit of the persons who entitled to the possession thereof. After remand of the matter by the Division Bench of this Court, through the common order passed LPA No.61 of 1986 and CRP No.665 of 1994, the 2nd respondent-RDO vide order dated 11-07-1996 granted

occupancy rights in favour of 1st petitioner and his brothers and the claim of respondents 6 to 11 was negatived. That none of the parties to the said proceedings have filed any appeal against said orders and the same has become final.

6. That while the matter stood thus, Mandal Revenue Officer, Balanagar Mandal, made attempts to remove the encroachments on the land to hand over possession of the land to the 1st petitioner and his brothers, writ petitions were filed by several persons claiming they have purchased plots in the land through respondents 6 to 11 and are bona-fide purchasers of the plots and they have no knowledge of litigation and hence cannot be dispossessed unless the cost of the improvements made by them is paid, or in the alternative, they should be permitted to pay the market value of the land. The said writ petitions being WP Nos.16957 of 1996, 21783 of 1996, 21785 of 1996, 22020 of 1996 and 2187 of 1996 were allowed by this Court by common order dated 09-12-1996 directing the petitioners in those writ petitions to file before the

2nd respondent the total cost of the improvements made to the land by them, likewise, the 1st petitioner and his brothers were also directed to file the market value of the land of each plot on or before 31-01-1997, and thereafter the 2nd respondent was directed to offer to the 1st petitioner and his brothers to elect either to pay the compensation to the petitioners in the said writ petitions or to accept the market value of the land and, if they elect to pay the compensation for the improvements made to the land, they have to deposit the same with the 2nd respondent-RDO within six moths thereafter and if they elect to accept the market value, petitioners in the said writ petitions were directed to deposit the same within three months. That in the orders passed in those writ petitions, the order of 2nd respondent-RDO dated 11-07-1996 granting occupancy rights in favour of 1st petitioner and others was referred to and relied on.

7. That the 1st petitioner and his brothers have elected to pay the compensation for the improvements made by

purchasers of the land and accordingly they have deposited the amount before the 2nd respondent-RDO and consequently the possession of the land was delivered to them under two panchanams. Subsequently, they have conveyed the land by way of plots to various individuals through registered sale deeds and most of them have constructed houses. That 2nd petitioner also purchased plot Nos.99, 104 and 105 in the land from the 1st petitioner and has been in possession of the property.

8. That while matters stood thus again respondents 3 to 5 filed an appeal under Section 24 of the Act in the year 2006, before the 1st respondent-Joint Collector, questioning the order dated 11-07-1996 of the 2nd respondent-RDO granting occupancy rights to 1st petitioner and his brothers in respect of land pursuant to the remand order passed in LPA No.61 of 1986 and CRP No.665 of 1994, dated 13-09-1994 by the Division Bench of this Court. That the appeal filed by the respondents 3 to 5 was not at all maintainable as it was filed

after 10 years after the grant of occupancy rights to the 1st petitioner and his brothers without there being any application for condonation of delay. That respondents 3 to 5 are purchasers from the persons who have lost their case upto Supreme Court. As such, they cannot question the grant of occupancy rights in favour of the 1st petitioner and others. But, in spite of raising several objections that the appeal filed by respondents 3 to 5 was not maintainable and hopelessly barred by limitation, the 1st respondent-Joint Collector has allowed the appeal. That as on the date of proceedings initiated for grant of occupancy rights, the land was an agricultural land this Court has categorically given a finding in Crl.RC No. 310 of 1969 that 1st petitioner and his brothers are in possession of the property, confirmed in LPA No. 61 of 1986 and CRP No. 665 of 1994. In view of same, calling for a report from the Mandal Revenue Officer in the year 2007 by the 1st respondent-Joint Collector with regard to present status of the land does not arise. That the nature of the land and its use that is to be considered, under the provisions of the Act should

be, as on the crucial date *i.e.* 01-11-1973, but not the period when the appeal was filed in the year 2006 and the 1st respondent-Joint Collector grossly erred in relying on the report submitted in the year 2007 by the MRO regarding ground possession of the land which is totally irrelevant. That 1st respondent-Joint Collector failed to notice the fact that proceedings were initiated in the year 1975 for grant of occupancy rights and after several rounds of appeals and revision, ultimately vide order dated 11-07-1996, the 2nd respondent-RDO granting occupancy rights in favour of the 1st petitioner and his brothers. That the impugned order 10-07-2007 passed by the 1st respondent-Joint Collector is illegal, arbitrary and without jurisdiction and the same is liable to be set aside. Hence, the writ petitions.

9. Counter affidavit is filed by the 3rd respondent, wherein, it is denied that Ghulam Moinuddin was the only Inamdar of the land. That in the order dated 22-06-1991 passed by the then RDO, Chevella, Ranga Reddy District, it was clear that as per

Munthakab there were four share holders and as per pahani of the year 1961-62 and 1973-74, the names of Ghulam Moinuddin and Musthafa Shareef are recorded as Inamdars of the land in Sy. No.91 to an extent of Ac.58-10 guntas. That the contention of the petitioners that Ghulam Moinuddin was only the Inamdar of the land is not correct as no partition was affected between them, therefore, neither the Ghulam Moinuddin nor his vendees are entitled to get any exclusive rights over the land. That the release deed obtained by the father of 1st petitioner from Ghulam Moinuddin is hit by Section 17 (1) of the Registration Act, Section 3 of the Act and Section 47 & 48 of the AP (TA) Tenancy and Agricultural Lands Act, 1950. That even as per the orders of this Court in LPA No.61 of 1986 and CRP No.665 of 1994, enquiry ought to have been conducted by the 2nd respondent with reference to old file Nos.G/2473/1986 & G/2474/1986, and without doing so, the 2nd respondent-RDO granted occupancy rights certificate in favour of the 1st petitioner and others. That no notices were served upon the persons in possession of the land as their

predecessors-in-title have sold house plots to them in the land. That the alleged attempt by the MRO to evict the encroachers and to hand over the possession of the land to the 1st petitioner and others was illegal as there was no such direction to evict the persons from the possession of the land without following the due process of law. It is denied that the 1st petitioner and others have elected to pay the compensation for the improvements made by respondents 6 to 11 and they have deposited the amount before the 2nd respondent-RDO and consequently the possession of the land was delivered under two panchanamas. That 2nd petitioner was never in possession of the plots said to have been purchased by him from the 1st petitioner. That the civil litigation is irrelevant for the purpose of the Act. It is denied that filing of WP No.26187 of 2005 pre-supposes the knowledge of grant of occupancy rights in favour of the 1st petitioner and others. That respondents 3 to 5 filed appeal before the 1st respondent-Joint Collector within a period of 30 days from the date of knowledge of the order dated 11-07-

1996 said to have been passed in File No.L/4209/94, only when a memo was served upon them on 01-02-2006 by 2nd respondent-RDO, who issued the said memo on a petition filed by the respondents seeking re-open of the matter. That respondents 3 to 5 made copy application vide No.42 of 2006 on 07-02-2006 seeking certified copy of the order dated 11-07-1996 in File No.L/4209/94 and the same was issued on 18-02-2006 and they filed the appeal before the 1st respondent-Joint Collector on 06-03-2006 without any delay and hence, there is no need to file any condonation of delay petition. That they are bona-fide purchasers and they are in peaceful possession of the respective houses. That the 1st petitioner and the 2nd petitioner made false complaint against them to the Police, Bowenpally, and they were subjected to criminal proceedings in CC Nos.351 and 352 of 2007 on the file of XI Addl. Chief Metropolitan Magistrate, Secunderabad, and that after adducing evidence they were acquitted in the criminal cases. That the order dated 11-07-1996 granting occupancy rights in favour of the 1st petitioner and others was totally not noticed by

them, till the petitioners dragged them into the criminal cases. That the order dated 11-07-1996 passed by the 2nd respondent-RDO is in violation of Rule 6 of the AP (TA) Abolition of Inams Rules, 1975, Sections 3, 4 & 10 of the Act, Sections 58 and 114 of the Evidence Act, Section 17 (b) of the Registration Act and Article 14, 50 (a) & 300-A of the Constitution, and therefore, the writ petitions are liable to be dismissed.

10. Learned counsel for the petitioners strenuously contended that if the impugned order is allowed to stand it amounts to vindicating the orders passed by this Court in LPA No.61 of 1986 and CRP No. 665 of 1994 decided on 13-9-1994 by the Division Bench with respect to the same land in question and also the judgment of this Court WP No. 16957 of 1996 and batch. It is also contended that for grant of occupancy rights certificate, the relevant date for consideration is 01-11-1973 and the persons who were in position as on 01-11-1973 are entitled for grant of occupancy rights certificate , which is the relevant date, under Sections 4 to 8 of the Act. It is

also submitted that occupancy rights certificate was issued by the 2nd respondent-RDO in 1996 in favour of the 1st petitioner and his brothers whereas, respondents 3 to 5 have purchased property 9 years after such grant in the year 2005 from the purchasers of 6th respondent, who is son of Mustafa Shareef. It is also contended that the 1st respondent-Joint Collector ought not to have entertained the appeal after ten years when the limitation to file appeal is only 30 days. It is lastly contended that there are about 200 plot owners in the land who are purchasers from the 1st petitioner and his brothers and the MRO report stated that there are houses and plots, the said owners were not made parties to the proceedings before the 1st respondent-Joint Collector. In support of his contentions, learned counsel relied on the decisions in B. RAMENDER REDDY vs. THE DISTRICT COLLECTOR, HYDERABAD DISTRICT,[1] CHAMA NARASIMHA REDDY vs. JOINT COLLECTOR[2] & MIR ALAMDAR ALI vs. JOINT COLLECTOR, RANGA REDDY DISTRICT.[3]

11. On the other hand, learned counsel for the respondents 3 to 5 contended that the petitioners cannot lay much reliance on the judgments of the civil Courts which in itself cannot create any rights in them and the civil Courts have no jurisdiction to entertain the matters relating to Abolition of Inams and it is only the Tribunal constituted under the Act which has got jurisdiction to decide the matters relating to Abolition of Inams. It is further contended that inasmuch as 2nd respondent-RDO misconstrued the provisions of the Act and decided the case in the light of the notified entry on the relevant date i.e. 01-11-1973 and even failed consider the fact that the 1st petitioner's father was not in possession of the land as on the relevant date, the 1st respondent-Joint Collector rightly set aside the order dated 11-07-1996 passed by the 2nd respondent-RDO. It is further stated that 1st petitioner and his brothers elected to pay the compensation for the improvements made by respondents 6 to 11 and others could not deposit the amounts which goes to the tune of crores of rupees and only nominal amount was

collected from the 1st petitioner and his brothers and the amount so collected could not be distributed to the beneficiaries and order of this Court in WP No.16957 of 1996 and batch totally became infructuous consequently the possession of the land was not delivered under two panchanamas. He relied on the decisions in MUDAKAPPA vs. RUDRAPPA,[4] R. RAVINDRA REDDY vs. H. RAMAIAH REDDY[5] & NATHA SINGH vs. THE FINANCIAL COMMISSIONER, TAXATION, PUNJAB.[6]

12. Having given my anxious consideration to the pleadings of the parties and the contentions urged by the learned for the parties, the issue that arises for consideration is whether the impugned order passed by the 1st respondent-Joint Collector, Ranga Reddy District, in unsettling the occupancy rights certificate granted in favour of the 1st petitioner and his brothers on 11-07-1996 is sustainable in law.

13. Section 10 of the Act contemplates five categories of persons, *viz.,* Inamdars, Kabize-e-khadim, Permanent tenants,

Protected tenants and non Protected tenants, who can be registered as occupants so as to claim occupancy rights certificate, subject to the condition that these category of persons have to prove possession over the inam land as on the relevant date of vesting i.e. 01-11-1973. As per the scheme of the Act, all inams deemed to have been abolished and vested in State with effect from 20-07-1955 and as per notification issued by the Government, 01-11-1973 was declared as the date of vesting for determination to grant occupancy rights to the person in possession of the inam lands. The ground on which the occupancy rights granted in favour of the 1st petitioner and his brothers was reversed by 1st respondent-Joint Collector, by order dated 11-07-1996, was that under Section 4 of the Act, occupancy rights certificate cannot be issued in respect of land converted to non-agricultural use. It appears, the 1st respondent-Joint Collector relied on the report submitted by the MRO in survey conducted prior to the passing of the impugned order to the effect that the land has since been converted into house plots. A Division Bench of this Court

in ***B. Ramender Reddy's case (1 supra)*** held that persons who were in possession of inam land as on 01-11-1973 are entitled to grant of occupancy rights certificate. So, it goes without saying that the date that is to be reckoned for grant of occupancy rights is 01-11-1973, which is the date of vesting for the purpose of Sections 4 to 8 of the Act and all the persons who were in possession of the land as on 01-11-1973 are entitled for occupancy rights certificate. Same is the view expressed by this Court in ***Chama Narasimha Reddy's case (2 supra).*** The 2nd respondent-RDO vide order dated 22-06-1991 allowed the claim of respondents 6 to 11 while rejecting the claim of 1st petitioner on the ground that respondents 6 to 11 were in possession over the land as on 01-11-1973. But, this Court in CRP.NO.665 of 1994 filed by the 1st petitioner against order

dated 09-03-1993 passed by Joint Collector confirming the order dated 22-06-1991 passed by RDO held that possession of the of respondents 6 to 11 was only by virtue of an order passed by the Executive Magistrate in M.C.No.23 of 1968

under Section 145 of CrPC, but the said order of Magistrate was set aside in Crl.R.C.No.310 of 1969 by virtue of which, the 1st petitioner was held to be deemed to be in possession as on 01-11-1973, which is the date of vesting and remanded the matter to R-2. After remand of the matter by the Division Bench of this Court, through the common order passed LPA No.61 of 1986 and CRP No.665 of 1994, the 2nd respondent-RDO vide order dated 11-07-1996 granted occupancy rights in favour of 1st petitioner and his brothers. The order passed in LPA No.61 of 1986 and CRP NO.665 of 1994 became final as the SLP filed in the Supreme Court against the said order was also dismissed.

14. Section 9 of the Act deals with vesting of certain buildings and Inam lands used for non-agricultural purposes. Admittedly, as on the date of vesting i.e. 01-11-1973 the land was agricultural land and it was not put to non-agricultural use and under those circumstances, question of the parties approaching the Special Tribunal, within the meaning of Section

9 of the Act, does not arise.

15. The 1st respondent-Joint Collector who passed the impugned order set aside the order dated 11-07-1996 of 2nd respondent-RDO granting occupancy rights on the ground that matter requires to be referred to Special Tribunal by virtue of Section 9 and 24 (4) of the Act though no such plea was taken by respondents 3 to 5 herein in the appeal. Moreso, the 1st respondent-Joint Collector cannot travel beyond the scope of remand order passed by this Court in CRP No.665 of 1994 wherein, RDO was directed to dispose of the matter in view of observations made therein.

16. The grounds on which the order of the 2nd respondent-RDO was set aside by the impugned order of the 1st respondent-Joint Collector are not at all tenable. It is an admitted fact that the protected tenant Vanam Achaiah @ Achi Reddy filed a petition before the Tahsildar and surrendered his tenancy rights in respect of the land in favour of the Ghulam Moinuddin on 18-11-1966 and after conducting enquiry, the

Tahsildar passed order, accepting the surrender of tenancy rights by Vanam Achaiah @ Achi Reddy in favour of the Ghulam Moinuddin. It has come on record that shortly after the surrender of tenancy rights by Vanam Achaiah @ Achi Reddy, the 1st petitioner and his brothers entered into an agreement dated 20-11-1966 to purchase the land from the Inamdar, Ghulam Moinuddin. Subsequently, the 1st petitioner and brothers got title by way of release deed executed by Inamdar, Ghulam Moinuddin, pursuant thereto the 1st petitioner and his brothers came into possession of the land. The Inams Abolition Act abolished inams with effect from 20-07-1955 and any sale transaction by the Inamdar therefore cannot be valid transfer, even if it be 'interest' in the inam land of Inamdar, as all rights of the Inamdar in the inam stood abolished and the land vested in the State. In this case, though the release deed in respect of the land was obtained on 20-11-1966 by the 1st petitioner and his brothers from the Inamdar, admittedly, after the inams stood abolished and vested in the State, but they were in possession of the land as on the date of vesting i.e. 01-

11-1973, if not as successor in interest of Inamdar by reason of the release deed dated 20-11-1966, but as the persons in occupation of the land and are entitled for grant of occupancy rights certificate under Section 10 of the Act. In ***Chama Narasimha Reddy's case (2 supra)*** this Court expressed similar view and held that purchaser of inam land from the Inamdar subsequent to 20-07-1955 can be regarded as persons in occupation of the inam land, but cannot be successors in interest of the Inamdar as after 20-07-1995 inam lands stood vested with the State.

17. As noted above, when a dispute arose with regard to the possession of the land, proceedings under Section 145 of the Code of Criminal Procedure were initiated in MC No.23 of 1968 and the executive Magistrate found that respondents 6 to 11 were in possession of the land and consequently, the possession of the land was delivered to them for a short period. The order was appealed against by the 1st petitioner and his brothers, in revision in Crl.R.C No.310 of 1969, and this Court by order dated 24-04-1970 allowed the revision

having found that 1st petitioner and his brothers and their predecessors in title were in possession and are entitled for possession. Consequently, possession of the land was re-delivered to the 1st petitioner and his family members.

18. The claim of the contesting respondents is based on the lease deed said to have been executed by Vanam Achaiah @ Achi Reddy, protected tenant, in favour of respondents 10 and 11 with respect to the land. In the suit OS No.2 of 1972, filed by the respondents 10 and 11, the correctness of the said lease deed in respect of land, which was marked as Ex.A-1, was decided, on evidence, and held that it is not true and valid. It was held that under Ex.A-1 no rights were conferred upon the respondents 10 and 11 as the tenancy rights are only heritable and not transferable and it amounted to assignment of interest and sub-letting by a protected tenant which is prohibited under Sections 30 of the AP (Telangana Area) Tenancy and Agricultural Lands Act, (for short, 'the Tenancy Act') and under Section 19 of the Tenancy Act, the land holder is entitled to terminate the tenancy on the ground that the tenant has sub-let

the land or failed to cultivate the land personally or has assigned interest therein. This finding of the trial Court in the suit OS No.32 of 1970 was concurrently upheld by this Court in CCCA No.62 of 1980, further in appeal by the Division Bench in LPA No.61 of 1986 and ultimately by the Supreme Court in Special Leave Petition filed against the judgment in LPA No.61 of 1986. The title of the Ghulam Moinuddin, from whom the 1st petitioner and his brothers purchased the land is affirmed by all the forums in civil proceedings initiated by respondents 10 and 11 and their claim for declaration of title and for grant of perpetual injunction in respect of the land fell flat all through. This Court in LPA No.61 of 1986 filed by the respondents 10 and 11 after considering the effect of Section 30 of the Act and Section 49 of the Registration Act held that lease of inam land by protected tenant in favour of respondents 10 and 11 amounts to assignment of his interest prohibited under Section 30 of the Act and, therefore, it is illegal and void and lease which is said to have been executed by the Vanam Achaiah @ Achi Reddy for a period of 100 years requires registration and it

being unregistered document is in admissible in evidence. Even on the point of limitation, the respondents could not show any cause, muchless sufficient cause, to condone the enormous delay in filing the appeal. In ***Mir Alamdar Ali's case (3 supra),*** this Court considering similar issue held that the Joint Collector-appellate authority, does not have powers to entertain any appeal which is filed beyond 30 days. In this case there is enormously delay of 10 years and there is no application filed by the respondents 10 and 11 to condone the delay and the only explanation given by them is that they came to know only when notices were sought to be served on them. The respondents cannot plead ignorance about the filing of WP No.16957 of 1996 &batch, wherein this Court considering the rival contentions including the grant of occupancy rights certificate granted in favour of the 1st petitioner and his brothers, issued certain directions giving liberty to the 1st petitioner and his brothers to pay for the improvements made by the purchasers of plots from respondents 6 to 11 as they were bona-fide purchasers and the order in the said batch of cases

was also reported in 1997 (2) ALD 334. Under those circumstances the respondents 6 to 11 cannot plead ignorance of the order passed by the 2nd respondent-RDO granting occupancy rights certificate in favour of the 1st petitioner and others. The decision in ***Mudakappa's case (4 supra)*** and the decision in ***R. Ravindra Reddy's case (5 supra)*** relied on by the counsel for the respondents is not applicable to the facts of this case, as the matter is concluded by the Supreme Court by affirming the order of the Division Bench of this Court in LPA No.61 of 1986 and CRP No.665 of 1994. The reasoning of the 1st respondent-Joint Collector is perverse as he failed to notice the fact that the 2nd respondent-RDO considered the matter only in the light of the findings of the Division Bench decision in LPA No.61 of 1986 and CRP No.665 of 1994 and, therefore, it cannot be said that the 2nd respondent-RDO ought to have considered the effect of Section 9 of the Act and the subject matter falling under Section 9, ought to have to be dealt by the Special Tribunal, and the 2nd respondent-RDO has no

jurisdiction to decide the issue. The 1st respondent failed to notice that the lis is being fought from the year 1966 when the 1st petitioner and his brothers obtained release deed dated 20-11-1966 from the Inamdar and as on the date of granting occupancy rights certificate in favour of the 1st petitioner and his brothers, the land very much an agricultural land. Nearly after ten years of granting occupancy rights certificate in favour of the 1st petitioner and his brothers, it is not open for the 1st respondent-Joint Collector to unsettle the settled things by applying Section 9 of the Act, and taking the status of the land as on the date of passing the impugned order, and set aside the order passed by the 2nd respondent-RDO and direct the parties to go before the Special Tribunal. It is not manifestly demonstrated before this Court that there is any provision in the Act which excludes the jurisdiction of the civil Courts. The respondents themselves approached the civil Court asserting their rights basing on the lease deed dated 08-02-1963 executed by the protected tenant Vanam Achaiah @ Achi Reddy for declaration of title and injunction which was

dismissed and finding thereof was confirmed upto Supreme Court. In this case, the 1st respondent-Joint Collector has taken into consideration irrelevant facts and ignored the relevant facts, which abundantly prove that the 1st petitioner and his brothers were deemed to be in possession of the land as on the date of vesting and entitled for grant of occupancy rights certificate and in spite of overwhelming evidence, reversing the order of the 2nd respondent-RDO on untenable grounds certainly an error of law warranting this Court to correct such error of law committed by the 1st respondent.

19. On the above analysis of the matter, the impugned order dated 10-07-2007 passed by the 1st respondent-Joint Collector is unsustainable in law and it is accordingly set aside. In the result, the writ petitions are allowed. Miscellaneous petitions, if any pending, shall also stand disposed of. There shall be no orders as to costs.

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A. RAJASHEKER REDDY, J

Dated: 10th June, 2016

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THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

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Dated : 10th June, 2016

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[1] 1993 (2) An.W.R. 84

[2] 2007 (3) ALT 265

[3] 2014 (1) ALT 723

[4] AIR 1994 SC 1190

[5] AIR 2010 SC 991

[6] AIR 1976 SC 1053