

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CRP Nos. 1455, 1456, 1458 and 1481 OF 2008

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COMMON ORDER:

All the Civil Revision Petitions are filed against a common order of the Joint Collector-I, Ranga Reddy District dated 02.02.2008 in file Nos.F2/4556/2007, F2/4560/2007, F2/4656/2007 and F2/5076/2007 passed upon appeals filed by the unofficial respondents herein under Section 90 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Land Act, 1950 (for brevity 'the Act of 1950') wherein the Joint Collector has allowed the appeals by setting aside the orders of the Mandal Revenue Officer, Quthbullapur Mandal in file No.A/14827/2004, dated 10.05.2005 whereby the MRO has granted succession to the purported legal heirs of the Protected Tenant, as without jurisdiction and also set aside the consequential orders in file No.A/7498/2005, dated 08.01.2007 passed by the MRO, who has restored possession under Section 32 of the Act of 1950 to the respondents therein, revision petitioners herein.

2. Learned counsels appearing for the parties in all the above CRPs requested for disposal of all CRPs together as the property involved in all the CRPs is one and parties are also similar, as such, all the CRPs are being disposed of by way of this Common Order.

3. It is the case of all the revision petitioners that late Sri Maddagunta Ramaiah S/o.Late Maddagunta Pentaiah was the original tenant of pattedar in Sy.Nos.99, 123, 125 & 146 situated at Kompally Village, Quthbullapur Mandal, R.R.District. The 1st petitioner is the wife of Maddagunta Narsimha, who is the adopted son of late Sri Maddagunta Ramaiah and the petitioners 2 and 3 are the sons of 1st petitioner. The 1st petitioner is the daughter-in-law of late Maddagunta Ramaiah. As such, all petitioners are the legal heirs of late Sri Maddagunta Ramaiah, original tenant in respect of lands to an extent of

Acs.9.22 gts, 0.35 gts, Acs.6.20 gts and Acs.11.24 gts at Kompally village, Quthbullapur Mandal, R.R.District, in the above said survey numbers. As such, the revision petitioners filed petition under Section 40 of the Act of 1950 before the Mandal Revenue Officer, Quthbullapur, who in turn, after elaborate enquiry, granted succession vide proceedings No.A/14827/2004, dated 10.05.2005 in favour of the revision petitioners in respect of land to an extent of Acs.9.34 gts in Sy.No.146 along with lands in other survey numbers. Thereafter, the revision petitioners made an application under Section 32 (1) of the Act of 1950 for restoration of possession in respect of the lands in Sy.Nos. 99, 123, 125 & 146 situated at Kompally Village, Quthbullapur Mandal, R.R.District. The Dy.Collector & Mandal Revenue Officer, Quthbullapur Mandal, after issuing notices to interested parties, after conducting enquiry allowed the same vide proceedings No.A/7498/2005, dated 08.01.2007 and granted restoration of possession in respect of land to an extent of Acs.9.34 gts in Sy.No.146 only and restoration of land in respect of remaining survey numbers was not considered. Aggrieved by the orders dated 10.05.2005 passed under Section 40 of the Act and order dated 08.01.2007 passed under Section 32 of the Act by the Dy. Collector and Mandal Revenue Officer, Quthbullapur Mandal, the unofficial respondents herein filed appeals under Section 90 of the Act of 1950 before the Joint Collector-I, Ranga Reddy District. The Joint Collector-1, Ranga Reddy District, vide common orders dated 02.02.2008 allowed the appeals of the unofficial respondents herein. Aggrieved by the same, the present Civil Revision Petitions have been filed.

4. Heard Sri A.Chandra Sekhar, learned counsel for the revision petitioners, Sri M.V.S.Suresh Kumar, learned counsel for the respondents in CRP Nos.1456 & 1458 of 2008 and Sri R. Raghunandan, learned Senior Counsel for the respondents in

CRP Nos.1455 & 1481 of 2008.

5. Learned counsel for the petitioners submit that the unofficial respondents have no *locus standi* to maintain the appeal before the Joint Collector, as they are neither the legal heirs nor land holders of the subject property in the Civil Revision Petitions. He submits that the Mandal Revenue Officer is competent to grant succession to the petitioners under Section 40 of the Act and grant relief of recovery of possession under Section 32 of the Act of 1950. The unofficial respondents in CRPs are strangers, who claim to have purchased the plots from the persons who do not possess valid and legal title over the property. He further submits that the MRO, after duly conducting enquiry as stipulated in the Act of 1950, confirmed the status of petitioners as successors-in-interest and legal heirs of the original protected tenants as provided under Section 40 of the Act of 1950. He further submits that the judgment reported in **G.Venu Gopal Reddy v. P.Anantha Reddy and others**^[1] relied on by the 1st respondent has no application to the facts of this case and that the Civil Court has no jurisdiction to decide the succession in respect of protected tenancy and also to issue the succession certificate in favour of the petitioners in respect of protected tenancy. That the judgment of this Court in **Syed Abdul Majeed @ Miya Pasha v. Joint Collector-II, Ranga Reddy District**^[2], relied on by the 1st respondent is against the law laid down in judgment reported in **Islamia Arabic College, Kurnool, rep. by Principal and Correspondent v. Mrs. Shanta Bai & others**^[3]. He submits that since there are no disputes between the legal heirs of protected tenants, MRO is competent to grant succession certificate under Section 40 of the Act of 1950 and that in case any dispute between the legal heirs of protected tenants, MRO is not competent to enquire and issue succession certificate. As such, the judgment relied on by the 1st respondent while allowing the appeal, is erroneous. He submits that

when there is a dispute between the persons who are claiming ownership rights as protected tenants and a person who is a third party claiming rights to the same land by virtue of a sale deed or an agreement of sale, all such disputes have to be decided by civil Court. It is contended that whether the persons claiming to be the protected tenants or their father was a protected tenant or not, whether he was in possession of the property or not or whether the persons who are claiming to be the sons of the protected tenant were in possession of the land as on the date of death of the original tenant or not, all such questions have to be decided by the authorities under the Act. He also contended that Section 5 of Limitation Act has no application in respect of condonation of delay in filing appeals before the Joint Collector by relying on the judgment reported in the case of **K.Venkaiah v. K.Venkateswara Rao**^[4]. In support of his contentions, he relied on the judgments reported in **Rachappa (died per LRs v. Bhumani Hanumaiah**^[5], **Sada and etc., v. The Tahsildar, Utnoor, Adilabad District and another etc.**^[6], **Madipeddi Rajalingam v. Rudroju Chinna Somaiah**^[7], **Kotaiah and another v. The Property Association of the Baptist Churches (Pvt.) Ltd.**,^[8] **Vatlepu Saidulu and others v. Thummurugoti Sarojanamma and others**^[9], **Mir Sardar Ali and others v. Mandal Revenue Officer, Kesera Mandal, R.R.District and others**^[10], **Praga Tools Officers Co-operative Housing Society Ltd., Secunderabad v. D.S.N.Raju and others**^[11], **Karre Narasimha (Died per L.Rs) and others v. Joint Collector, Ranga Reddy District and others**^[12] and **Ponnala Narsing Rao v. Nallolla Panthaiah and others**^[13].

6. On the other hand, learned counsel for the respondents in CRP Nos.1456 and 1481 of 2008, Sri M.V.S.Suresh Kumar submits that the Act of 1950 has no application to the subject lands by virtue of notification issued in G.O.Ms.No.436, Municipal Administration and

Urban Development (II), M.A., dated 23.08.1996 under Section 12 (2) of the A.P.U.A (Dev.) Act, 1975 (Act-I of 1975) in view of Section 102 (e) of the Act. As such, the applications filed by the revision petitioners under Sections 32 and 40 of the Act of 1950 are not maintainable. He also submits that the application under Section 32 of the Act of 1950 has to be filed within a reasonable time, though no limitation is provided. He submits that application filed by the petitioners after long lapse of time, cannot be entertained. He contends that the Mandal Revenue Officer cannot decide succession under Section 40 of the Act of 1950. He submits that no details of dispossession are given in the application. An application under Section 40 of the Act of 1950 is not maintainable against the purchaser when the original landlord sold the property and more so, no certificate under Section 38-E of the Act was granted in respect of Sy.No.146. In support of his contentions, he relied on the judgments reported in **Joint Collector Ranga Reddy v. D.Narsing Rao** ^[14], **Padala Pentaiah v. Joint Collector** ^[15], **Syed Abdul Majeed and others v. Joint Collector-II, Ranga Reddy District and others** ^[16], **Manjunath Anandappa Urf.Shivappa Hanasi v. Tammanasa and others** ^[17], **G.Venu Gopal Reddy v. P.Anantha Reddy and others** ^[18], **Roshan Ali Khan and others v. Raja Kishendas and others** ^[19], **Joint Collector and others v. P.Harinath Reddy and others** ^[20] and **Ithagani Lachaiah v. The Joint Collector & Additional District Magistrate, Nalgonda & others** ^[21].

7. Sri R. Raghunandan, learned Senior Counsel appearing for the unofficial respondents in CRP Nos.1455 and 1481 of 2008 submits that the unofficial respondents who purchased the land in Sy.No.146 through registered sale deeds, are not made parties in the applications filed by the revision petitioners under Sections 32 and 40 of the Act and only the predecessors in title of the unofficial respondents are made parties, as such, the impugned orders passed by the Tahsildar under Sections

32 and 40 of the Act of 1950 are liable to be set aside for violation of principles of natural justice. He also submits that when once the predecessors in title of the unofficial respondents are made parties, it is not open for the revision petitioners to state that unofficial respondents, who are also purchasers of the land, has no *locus standi*. He further submits that late Sri M.Narsimha sold the lands in other survey numbers, but still application is filed under Section 32 and 40 of the Act of 1950 in respect of other lands, which goes to show that the application is filed by suppressing facts for granting of succession as well as recovery of possession in respect of land sold by late Narsimha. He submits that appellants were not granted protected tenancy certificate in respect of land in Sy.No.146 while granting certificate in respect of the other lands may be due to the reason that appellants are having lands exceeding the prescribed limit. As such, no relief could have been granted to the revision petitioners by the Mandal Revenue Officer. He also submits that as per Section 102 (e) of the Act, this Act has no application to the lands since notification under G.O.Ms.No.436 dated 23.08.1996 has been issued.

8. In view of above rival contentions, the following points emerge for consideration:

- a) Whether the respondents have *locus standi* to file appeal under Section 90 of the Act of 1950?
- b) Whether the Act of 1950 applies in view of Section 102(e) of Andhra Pradesh (Telangana Area) Tenancy and Agricultural Land Act, 1950?
- c) Whether the MRO is competent to issue Succession Certificate under Section 40 of the Act of 1950?
- d) Whether the application under Section 32 of the Act of 1950 is maintainable or not at this stage?

9. **Point-a:**

The unofficial respondents in these Civil Revision Petitions have filed appeals before the Joint Collector-appellate authority under

Section 90 of the Act of 1950 against the orders passed by the MRO under Section 40 of the Act for grant of succession and under Section 32 of the Act of 1950 for restoration of possession to the revision petitioners stating that they are purchasers of various extents of land in Sy.No.146 situated at Kompally Village, Quthbullapur Mandal through various registered sale deeds. All the sales took place from the year 1996 in favour of all the unofficial respondents. The succession was granted in favour of the revision petitioners in the year 2005 and possession of the said land was ordered to be delivered in the year 2007. It is the claim of the unofficial respondents that they have acquired title by way of registered sale deeds through original pattadars. The Joint Collector-appellate authority under Section 90 of the Act framed an issue with regard to *locus standi* of the appellants therein, who are unofficial respondents herein to file the appeals. The Joint Collector relied on the judgment in the case of **G.Venu Gopal Reddy v. P.Anantha Reddy and others (supra)** wherein this Court held as follows:

“Apart from this aspect of the matter, the most crucial aspect is whether the petitioner has *locus standi* to maintain the review application at all. It is not in dispute that the petitioner had purchased this property by virtue of a registered sale deed. Whether such a sale is in accordance with the provisions of the Act or not or what is the validity of such sale is a different question altogether. But the fact remains that the person who had purchased the property cannot be said to be a person having no locus standi to maintain a review application. Hence the revision petitioner, as an aggrieved party, can definitely maintain the review application. Reliance also can be placed for this purpose on the decisions (2), (3) and (4) referred supra. Hence, I am of the opinion that the revision petitioner falls within the meaning of "aggrieved party" to maintain the review application.”

The facts in the present case and the facts in the above referred decision which is being relied on by the Joint Collector-appellate authority while arriving at the conclusion that the unofficial respondents in the CRPs, who are appellants before the Joint Collector-appellate authority have *locus standi* to file appeals are almost the

same. The finding of the Joint Collector-appellate authority that the unofficial respondents in the CRPs, who are the appellants before the Joint Collector have *locus standi* to file appeals, cannot be said to be erroneous in view of the decision of this Court referred to supra. Though the learned counsel for the revision petitioners contended that the unofficial respondents have no *locus standi*, but the revision petitioners themselves impleaded some of the purchasers of the lands as respondents before the primary authority, as contended by Sri R.Raghuandan, learned Senior Counsel, as such, it cannot be said that unofficial respondents in the present CRPs have no *locus standi* to prefer appeals before the Joint Collector against the orders of primary authority under Section 32 & 40 of the Act. Admittedly, the unofficial respondents were not put on notice before passing of the orders by the primary authority while granting succession or while restoring possession, as such, the orders are also hit by principles of natural justice.

In view of the same, I do not see any reason to interdict the said finding of the appellate authority and accordingly hold that the unofficial respondents in the CRPs have *locus standi* to file the appeal. This point is answered in favour of the unofficial respondents.

10. Points (b) to (d):

The unofficial respondents stated that the subject land in the revision petitions was converted from agricultural to residential use by virtue of orders passed in G.O.Ms.No.436, Municipal Administration and Urban Development (II), M.A. dated 23.08.1996 and HUDA already approved the layout vide proceedings No.5944/MP2/HUDA/96, dated 18.11.1996, thereby means that the Act of 1950 has no application over the subject land by virtue of Section 102(e) of the Act. Though the unofficial respondents raised plea that the subject lands were converted from agricultural to residential use by virtue of the orders passed by the Government in G.O.Ms.No.436, dated 23.08.1996, as such the

provisions of the Act of 1950 has no application to the subject land, no finding was given by the Joint Collector in this aspect. Therefore, this issue has to be decided, as this will go to the root of the matter and the said aspect was canvassed before this Court by both sides.

11. Section 102-e of the Act of 1950 reads as follows:

“102. Act not to apply to certain lands and areas:

Nothing in this Act shall apply-

(a)....

(b)....

(c)...

(d)...

(e) to any area which Government may, from time to time, by notification in the [Official Gazette] specify as being reserved for urban, non-agricultural or industrial development.

Admittedly, the Government has issued G.O.Ms.No.436, Municipal Administration and Urban Development (II), M.A. dated 23.08.1996, wherein it reads as follows:

“VARATION TO THE ZONAL DEVELOPMENT PLAN FOR YAMJAL
ZONE AREA

[G.O.Ms.No.436, Municipal Administration and Urban Development (I1),
M.A., 23rd August, 1996.]

In exercise of the powers conferred by sub-section (2) of section 12 of the A.P.U.A (Dev.) Act, 1975 (Act-I of 1975) the Government hereby makes the following variation to the Zonal Development Plan for Yamjal Zone Area the same having been previously published in the Extra-ordinary issue of A.P.Gazette No.311, dated 15-7-96 as required by sub-section (3) of the said section.

VARIATIONS

The site in Sy.Nos. 120, 137/B, 138/A, 139, 146, 147, 149/A, 150/P, 151/P, 153/P, 154, 155, 178 and 179 (C) of Kompally village, Medchal Mandal to an extent of 87 acres and 15 guntas which is presently earmarked for conservation use zone in the notified Zonal Development Plan for Yamjal zone is now designated as residential use zone.”

Plain reading of above notification goes to show that the lands in Sy.No.146 of Kompally Village, Medchal Mandal, which is subject

matter of the revision petitions is now designated as 'residential use zone' by above referred notification dated 23.08.1996. As such, it is manifest that the subject land is reserved for non-agricultural purpose or urban development. Therefore, the Act of 1950 has no application as per Section 102(e) of the Act from 23.08.1996 but applications are filed by revision petitioners in the year 2005 & 2007 and by that date Act has no application to the subject lands, as such, applications filed by revision petitioners under Sections 32 & 40 of the Act are not maintainable.

12. Learned counsel for the petitioners contended that the notification ought to have been issued under Section 102 (e) of the Act, but the notification was issued under Section 12(2) of the A.P. Urban Area (Dev.) Act, 1975 (Act-I of 1975). The issue raised by the revision petitioners that the notification ought to have been issued under Section 102 (e) of the Act for non applicability of the Act is no longer *res integra*, since when similar issue was raised, it was considered by this Court in **Roshan Ali Khan and others v. Raja Kishendas and others (supra)**, relied on by the learned counsel for the unofficial respondents, wherein it is held as follows:

“Since the words used in sub clause (e) of Sec.102 are that the Government may from time to time specify as being reserved for urban development etc., it is contended that the Government should specifically refer to section 102 while reserving any area for urban development. I do not think it is necessary to do so. All that is necessary is to notify that certain area has been reserved for urban development. If an area has been included under a notification in the city area that will be sufficient for the purpose.”

Therefore, the decision relied on by the learned counsel for the revision petitioners in **Islamia Arabic College, Kurnool, rep. by Principal and Correspondent v. Mrs. Shanta Bai & others (supra)** has no application to the facts of this case, since the notification, which was relied on in that decision, was one declaring the land to be included in municipal area, but the lands were not declared for non-residential purpose. In

the said decision, it was held as follows:

“18.....It is thereby contended by Sri Suryanarayana Rao that once they are situated within the urban area, namely, municipality, they must be non-agricultural lands and they are reserved for urban development. I am unable to accept the contention to be correct. Section 102(e) postulates of issuance of a notification reserving them for urban development. Thereby, the issue of a notification expressly reserving any land in an urban area for urban development is a condition precedent. Admittedly, no such notification has been issued nor has been brought on record as evidence. Mere inclusion of agricultural lands within the municipal limits does not per se become urban land. It is common knowledge that even within municipal limits several lands are used for agricultural or horticultural purpose. Even the Urban Land Ceiling Act expressly excludes the agricultural lands from its purview. In fact, in *Syed Sharfuddin v. Anderws and others* [(1964) 1 An.W.R 171], Gopal Rao Ekbote, J, (as he then was) has considered the effect of including the agricultural lands within the municipal limits by issue of a Gazette notification. It was held that mere inclusion of lands within the municipal limits does not automatically become a declaration under Section 102 (e) of the Act. I respectfully agree and follow the ratio. Accordingly, I hold that the lands are not reserved for urban development and therefore, they do not cease to be agricultural lands under Section 102(e) taking them away fro the purview of the Act.”

13. In the present case, in the notification it is specifically declared the subject land is designated as residential use zone, is for non agricultural purpose. The applications filed by the revision petitioners under Sections 32 and 40 of the Act of 1950, were taken up for consideration in the year 2005 and 2007, which is admittedly, after issuance of notification dated 23.08.1996, as such, the Act of 1950 has no application to the instant case. The Act of 1950 is made applicable only to agricultural lands, as the title of the Act itself reads as Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950, the intention behind enactment of Section 102(e) of the Act is that the Act is made applicable only to agricultural lands but not to lands which cease to be agricultural lands. When once the Act has no application, it does not confer any jurisdiction on the primary authority i.e., Deputy Tahsildar and Mandal Revenue Officer to entertain the applications under the Act and decide the issue. In **Syed Abdul Majeed and others v.**

Joint Collector-II, Ranga Reddy District and others (supra), wherein this Court held as follows:

“11. There cannot be any doubt that with effect from the date of notification issued by the Government of Andhra Pradesh, every protected tenant in Telangana Area shall be deemed to be the full owner of the land and the land shall stand transferred and vest in such protected tenant. Therefore, when once the land becomes absolute property of the protected tenant such property can be held by the protected tenant like any owner and the law of succession applies. In case of death of protected tenant, who obtained a certificate under [Section 38E](#), it goes without saying, that property shall be deemed to be self acquired property and all the legal heirs can partition the same or deal with the property as they like. Therefore, [Section 40](#) of the Act, which declares right of protected tenancy heritable, would be insignificant. When such is the case, the question of MRO deciding issues of succession to the property held by protected tenant, which was later stood transferred and vested by reason of Sub-section (1) of [Section 38E](#) of the Act would not arise.

12. The position in the case of protected tenancy in respect of which a certificate under [Section 38E](#) of the Act is not obtained is no different. [Section 40](#) of the Act only declares that protected tenancy is heritable and that legitimate lineal descendants by blood or adoption of protected tenant shall be entitled to hold tenancy on the same terms and conditions on which such protected tenant was holding the land at the time of his death. The same does not confer any power on any Revenue Authority much less MRO to decide disputed questions of succession. For instance if a question arises as to whether a person claims that he is a legitimate lineal descendant by blood or adoption, can it be decided by MRO. Legitimacy of a child is a matter for the Court to decide determining on the evidence as well as legal presumptions well recognized in law. Similarly, if there is a dispute between two or more persons claiming to be lineal descendants of the protected tenant, if their predecessor had already obtained a certificate under [Section 38E](#) of the Act and became absolute owner, it is not for the MRO to decide the question, Similarly, in the case of a protected tenant, who did not obtain a certificate under [Section 32](#) of the Act, the MRO cannot decide the question, though it can be a matter of enquiry under the Rules, which essentially deal with preparation of preliminary record of tenancies of agricultural lands.

15. Reading [Section 40](#) of the Act and the Tenancy Rules together, it must be held that though under [Section 40](#) of the Act, Tahsildar has no power to decide questions of succession to the protected tenancy, in the event of acquisition of rights, Tahsildar can conduct verification under Rule 14 of the Rules and order amendments in the register of mutations. Such a procedure is also contemplated under Section 4 of the A.P. Rights in Land and Pattadar Pass Book Act, 1971 and Rule 18 of the A.P. Rights in Land and Pattadar Pass Book Rules, 1989. The enquiry contemplated for amending mutation in the event of acquisition of rights either by survivorship or succession is altogether different from adjudicating the question

of succession. Even while dealing with the application for recording for amendment of entries in the mutation register, if there is a dispute by the applicant, the MRO should relegate such party to the Civil Court.

16. This Court in an unreported judgment in W.P. No. 7430 of 2000 held that the question as to who are the legal heirs of a deceased protected tenant has to be decided by a competent Court of civil jurisdiction. A similar view was expressed in another unreported judgment in W.P. No. 7018 of 2000. The decisions cited by the learned Counsel for the petitioner nowhere lay down that the Tahsildar/MRO is conferred with the power to decide questions of succession. By the very nature of enquiry involved in such application, the Tahsildar/MRO is not competent to decide questions of succession.”

In the above decision, it is held that though Section 40 of the Act declares the right of protected tenancy as heritable, but it is held that Mandal Revenue Officer cannot decide the issue of succession to the property.

In the instant case also, the applications filed by the revision petitioners under Sections 32 and 40 of the Act of 1950, were taken up for consideration in the year 2005 and 2007, which is admittedly, after issuance of notification dated 23.08.1996. Moreover, the delay in filing such applications after long lapse of time has not been explained properly by the revision petitioners either before this Court or before the appellate authority-Joint Collector. As such, the applications filed by the revision petitioners after long lapse of time cannot be entertained.

15. **In Joint Collector and others v. P.Harinath Reddy and others** (supra), this Court held as follows:

“14. The other aspect viz. power of resumption, even if available, having been exercised after long length of time is also not permissible in view of the ratio in the decision of the Supreme Court in Ponnala Narsing Rao v. Nallolla Pantaiah and others. MANU/SC/1429/1988: (1998) 9 SCC 183: JT 1998 (7) SC 600. It is evident that during the interregnum, several developments have taken place with reference to the lands in question and at this length of time the names of the purchasers are mutated in the revenue records and respective purchaser has been enjoying the property as owner thereof for several years. Thus, even without going into the question of adverse possession and its applicability, it is evident that the petitioners have altered their position based upon long length of time, therefore, it cannot be allowed to be nullified at such distance of time. In view of that also the proceedings for resumption impugned in

these matters, having not been exercised within a reasonable time, the appellants are not entitled to any relief.”

16. In **Rachappa (died per LRs v. Bhumani Hanumaiah (supra)**, this Court held as follows:

“6. When there is a dispute between the persons who are claiming ownership rights as protected tenants and a person who is a third party claiming rights to the same land by virtue of a sale deed or an agreement of sale, all such disputes have to be decided under the provisions of the Act, and whether the persons claiming to be the protected tenants or their father was a protected tenant or not, whether he was in possession of the property or not or whether the persons who are claiming to be the sons of the protected tenant were in possession of the land as on the date of death of the original tenant or not, all such questions have to be decided by the Tahsildar. This point was decided by the Full Bench of this Court reported in *Prabhulingam v. Ramaiah* MANU/AP/0366/1997 : 1997 (4) ALT 376.”

When once the Mandal Revenue Officer has no power to issue succession, the question of restoration of possession under Section 32 of the Act of 1950 does not arise. Moreover, the order passed by the primary authority i.e., Mandal Revenue Officer, is without issuing notice to the unofficial respondents, who are purchasers by virtue of registered sale deeds. In view of above, the issues are answered in favour of the unofficial respondents.

17. The Judgment cited by the learned counsel for the petitioners in **K.Venkaiah v. K.Venkateswara Rao (supra)** has no application to the facts in the present case as Section 93 of the Act is amended in the year 1979 by the Act 2 of 1979 after above judgment is rendered, which reads as follows:

“93. Limitations:-

Every appeal and every application for revision under this Act shall be filed within sixty days from the date of the order against which the appeal or application is filed[and the provisions of Section 5 and Sections 12 to 24 of the Limitation Act, 1963, shall apply for the purpose of extension and computation of the said period.]^[22]

Thus making Sections 5, 12 to 24 of the Limitation Act applicable to the provisions of the Act.

In view of above facts and circumstances, the other judgments relied on by the learned counsel for the revision petitioners have no application to the facts of the present case.

Viewed from any angle, I do not see any error or illegality in the impugned order of the appellate authority-Joint Collector, as such, all the Civil Revision Petitions are liable to be dismissed.

Accordingly, all the Civil Revision Petitions are dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in these CRPs shall stand dismissed.

A.RAJASHEKER REDDY, J

02.06.2016
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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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kvs

[\[1\]](#) 2001 (6) ALD 565

[\[2\]](#) 2006 (5) ALD 348

[\[3\]](#) 1988 (1) ALT 74

[\[4\]](#) AIR 1978 AP 166

[\[5\]](#) Manu/AP/0089/2011

[\[6\]](#) AIR 1988 Andhra Pradesh 77

[\[7\]](#) 2008 (2) ALT 403

- [\[8\]](#) AIR 1989 Supreme Court 1753
- [\[9\]](#) 2014 (5) ALT 317
- [\[10\]](#) 2004 (2) ALD 526
- [\[11\]](#) 2013 (5) ALD 594
- [\[12\]](#) 2013 (3) ALT 641
- [\[13\]](#) (1998) 9 Supreme Court Cases 183
- [\[14\]](#) AIR 2015 SC 1021
- [\[15\]](#) LAWS (APH)-2012-9-69
- [\[16\]](#) 2006 (5) ALD 348
- [\[17\]](#) AIR 2003 SC 1391
- [\[18\]](#) 2001 (6) ALD 565
- [\[19\]](#) (1968) 2 ALT 66
- [\[20\]](#) 2009 (4) ALT 1
- [\[21\]](#) (2015) 4 ALD 490
- [\[22\]](#) Substituted by A.P.Act 2 of 1979.