

**THE HONB'E SRI JUSTICE CHALLA KODANDA RAM**

**WRIT PETITIONS No.15367, 15665 AND 16211 OF 2005**

**COMMON ORDER:**

**W.P.No.15665 of 2005:**

Petitioner in this Writ Petition is Sri Varaha Lakshmi Narasimha Swamy Vari Devasthanam, represented by its Executive Officer, Simhachalam (hereinafter referred to as 'Devasthanam') praying for issuance of a writ of Certiorari to call for the records and to quash the order in A.I.A. No.1/1990/C, dated 06.06.2005 passed by the Revenue Divisional Officer, Visakhapatnam (1<sup>st</sup> respondent) which confirmed the Order passed by the Mandal Revenue Officer, Pendurthy (2<sup>nd</sup> respondent) in C.No.1/88 HA, dated 29.09.1989.

**W.P.No.15367 of 2005:**

Smt. Sailabala Chowdary, W/o Damodar Chowdary and eight others claiming themselves to be legal heirs of late Sri Ramachandra Sahu (hereinafter referred to collectively as 'objector No.1 through Ramachandra Sahu') seeks for issuance of a writ of mandamus declaring the proceedings in C.No. 1/88 HA, dated 29.09.1989 passed by the 4<sup>th</sup> Respondent-Mandal Revenue Officer, Pendurthy, as confirmed by the 3<sup>rd</sup> respondent-Revenue Divisional Officer, Visakhapatnam *vide* Proceedings No. A I A No. 1/1990/C, dated 06.06.2005, as illegal. The petitioners also filed W.P.M.P. No. 30594 of 2009 to bring on record the legal representatives of respondent No.7 Dr. G. Ramanayya on the demise of the 7<sup>th</sup> respondent on 08.12.2008 stating that the wife of the 7<sup>th</sup> respondent is already on record and his daughter Sai Srinija be brought on record as the 10<sup>th</sup> respondent. W.P.M.P.No. 1

of 2018 was filed to permit the petitioner to file additional material papers. By W.P.M.P.No.7335 of 2014, amendment of the prayer was sought to include challenge to the order dated 18.12.2004 of the 1<sup>st</sup> respondent in Proceedings AIA No. 1 of 2004.

**W.P.No.16211 of 2005:**

This Writ Petition is filed by Sri Koyalakandadai Narasimhacharyulu, S/o late Sri Vijayaraghavacharyulu (hereinafter be referred to as 'Objector No.2 through Godavarthy Narayanacharyulu' seeks a Writ of Certiorari to call for the records in relation to the impugned order in A.I.A. No 1/1990/C, dated 06.06.2005 by the 1<sup>st</sup> respondent-Revenue Divisional Officer, Visakhapatnam, confirming the Order passed by the 2<sup>nd</sup> respondent-Mandal Revenue Officer, Pendurthy in C No 1/88 HA, dated 29.09.1989 and to quash the same holding it to be arbitrary and illegal.

Since the relief claimed and the subject matter involved in these Writ Petitions is one and the same i.e. challenge to the proceedings of the Mandal Revenue Officer, dated 29.09.1989 as confirmed by the order of the Revenue Divisional Officer, dated 06.06.2005, all the three Writ Petitions are heard together and are being disposed of by this common order.

**Details and description of the parties in the Writ Petitions:**

Since there are common parties in the Writ Petitions, though arrayed differently, it would suffice to set out the details of the parties as arrayed in Writ Petition No.15665 of 2005 filed by the Devasthanam.

Respondent No.1 is the Revenue Divisional Officer, Appellate Authority under Section 7(2) of the A.P. (A.A.) Inams (Abolition & Conversion Into Ryotwari) Act, 1956 (for short, 'the Act') who passed the Order dated 06.06.2005 and Respondent No. 2 is the Mandal Revenue Officer, Primary Authority, who passed the Order dated 29.09.1989, which are impugned in the present Writ Petitions, in purported exercise of power conferred under the said Act. Respondents 3, 4 and 5 are the Applicants before the 2<sup>nd</sup> respondent, invoking Sections 3, 4, 7 and 8 of the Act with a prayer to grant conferment of permanent occupancy rights in respect of the land in Survey No. 30 of Vepagunta Village, forming part of Title Deed No. 3145 (subject land) held by the petitioner Devasthanam. Respondent No. 6 is the Sub-Registrar, Gopalapatnam, Visakhapatnam District. Respondent No.7 is Hindusthan Shipyard Staff Cooperative Building Society Limited, Visakhapatnam, Gandhi Gram, rep. by its Vice President. It was impleaded by order dated 20.08.2005 in W.P.M.P.No. 21804 of 2005. It claimed to have purchased an extent of Acs.7.22 cents of land in Survey No. 164/5C (part) and an extent of Acs.16.00 in Survey No. 30 (part) of Vepagunta Village, Pendurthy Mandal, Visakhapatnam and claimed to have entered into an agreement of sale dated 12.09.1988 with the 'owners of the property' who claimed to have filed a declaration under the Urban Land (Ceiling and Regulation) Act, 1976 before the Special Officer, Urban Land Ceiling, Visakhapatnam. Respondents 8 to 10 are alleged purchasers, through registered sale deed under document No. 1521 of 2004, dated 15.03.2004, and document No. 2634 of 2004, dated 11.03.2004, Acs.7.00 of land in Survey No. 30 from

Respondents 3 to 5. Respondents 8 to 10 got themselves impleaded by the Order of the Court dated 15.11.2005 in W.P.M.P.No. 30505 of 2005.

At the outset, it is to be recorded, as the petitioner Devasthanam had prayed for a writ of *certiorari*, original records were called for from Respondents 1 and 2. Accordingly, they are produced before the Court. A perusal of the counter-affidavits filed by the petitioners, claimants, pleadings before the 1<sup>st</sup> respondent and the 2<sup>nd</sup> respondent coupled with the orders impugned disclose divergent and mutually contradictory stands, both on facts and in law having been taken by the objectors and the divergent findings recorded by Respondents 1 and 2, hence, this Court proposes to deal with the case based on the original pleadings and the stand taken by the Respondents and claimants before respondents 1 and 2 wherever necessary. For better understanding, the contradictions are put in brackets in brief and highlighted with \* mark.

**The brief facts leading to filing of the Writ Petition are as under:**

A) The land in Survey No.30 of Vepagunta Inam Village is covered under Title Deed No.3145 in favour of Sri Varaha Lakshmi Narasimha Swamy Devasthanam. Respondents 3 to 5 made an Application before the 2<sup>nd</sup> respondent - Mandal Revenue Officer for issuance of permanent tenancy rights under Section 8 of the A.P. (A.A.) Inams (Abolition & Conversion into Ryotwari) Act, 1956 (for short "the Act"). The Mandal Revenue Officer, after considering the objections raised and accepting the contention of Respondents 3 to

5, found that they were in occupation of the land on the crucial period between 07.01.1948 and 14.12.1956 and thus, were entitled to be granted pattas over an extent of 2/3<sup>rd</sup> of Acs.21.00 in terms of Section 4 of the Act and thus, directed issuance of pattas under Section 7. The Appeal filed by the petitioner was dismissed by the Appellate Authority - Revenue Divisional Officer, holding that Respondents 3 to 5 were entitled for grant of pattas for entire extent of Ac.21.00 cents, as claimed by them. Likewise, Respondents 8 to 10 were impleaded *vide* Order, dated 15.11.2005 in W.P.M.P. No.30505 of 2005. They contended that they were the purchasers of the land through Registered Sale Deeds No. 1521 of 2004, dated 15.03.2004 and document No. 2634 of 2004, dated 11.03.2004 over an extent of Acs.7.00 in the subject land from Respondents 3 to 5 and they filed O.S. Nos. 502 of 1989 on the file of the III Additional Subordinate Judge's Court, Visakhapatnam. Likewise, Objector No. 1 - the petitioners in Writ Petition No. 15367 of 2005 claim to have purchased the land over an extent of Acs.19.00 from one Godavarthy Narayanacharyulu, S/o late Godavarthy Venkata Narasimhacharyulu, who, in turn, claimed to have acquired the title to the property over an extent of Ac.21.01/2 through an approval order dated 11.02.1965 of the Devasthanam. The claimant No.2 - petitioner in W.P.No.16211 of 2005 claims to be the maternal grandson of Sri Godavarthy Narayanachayulu, claiming ownership as legal heir and successor-in-interest, of subject land to the balance extent of Acs.2. 02 ½. Their objections came to be rejected by Respondents 1 and 2. Thus, they challenge the orders impugned. Respondents 8 to 10 filed Appeal before the 1<sup>st</sup> respondent and the same came to be dismissed on the ground

that the Appeal is barred by limitation. Further, challenging the said orders, the Devasthanam is before the Court. Essentially, in all these Writ Petitions, the challenge is to the proceedings of the Mandal Revenue Officer, as confirmed by the Revenue Divisional Officer.

B) The 7<sup>th</sup> respondent was impleaded by orders dated 20.08.2015 in W.P.M.P.No.21804 of 2005. His claim is that he came to purchase Acs.16-00 cents of land in Survey No.30 from the 'land owners' for the purpose of providing house sites to its employees and they were granted exemption from the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 by the Special Officer-cum-Competent Authority ULC, Visakhapatnam in C.C.No.7619/76-B1, dated 20.09.1989, in exercise of his powers under Section 19 of the 1976 Act. It is further asserted that the Executive Officer of the petitioner-Devasthanam had categorically stated that the Devasthanam does not have any claim nor anything to do with the land in Survey No. 30 *vide* their letter dated 01.03.1991.

In other words, essentially, the claims of respondents 7 to 10 is that they have interest in land and having acquired the same through third parties, and having come to know about the Writ Petition, assert that they are necessary parties.

Since the petitioner-Devasthanam has sought a Writ of Certiorari, the original records were called for from Respondents 1 and 2 and hence, they are produced before this Court.

The 2<sup>nd</sup> respondent-Mandal Revenue Officer passed the Order dated 29.09.1989, the findings recorded therein are thus:

- a) Vepagunta is an 'INAM VILLAGE' as defined under Section 2(d) of the Act and was recorded as such in revenue records and Survey No. 30 is part of T.D.No.3145 granted in favour of the petitioner devasthanam. He recorded a finding, tracing the history of Survey and Settlement Register of Village Vepagunta and by making a reference to Gillmen's Survey Register of 1904, that Sri Ayyalasomayajula Viswanatham and Bondili Bhagawan Singh were recorded as tenants and the same was registered in permanent 'A' Register up to 10.10.1997 (Fasli 1387) thereby, giving a finding that the said Viswanatham was in occupation of the land from 1914 to 1977, and was in possession as on 07.01.1948 to 14.12.1956. In para 3 of the Order of the Mandal Revenue Officer, it was stated that Survey No.24 was covered by T.D.No.1345, however, it was clarified by both the counsel that Survey No. 24 was a typographical error and it should be read as Survey No. 30. The Mandal Revenue Officer had recorded that the declaration under Section 3(1) and a publication under Section 3(2) are to the effect that the land in Survey No.30 was 'inam land', as defined under Section 2(c) of the Act in the inam village and is the holding of the institution – Devasthanam, as defined under Section 2(e).
- b) The Mandal Revenue Officer had rejected the claims of Objector No. 1 - Ramachandra Sahu holding that, while his claim is through two sale deeds of 1965 and 1966 over an extent of Ac.18.72 cents, he failed to produce the approval order dated 11.02.1965 of the Devasthanam. He further gave a finding that Ramachandra Sahu was not in possession and

his claim is not in conformity with the Adangals for Faslis 1383, 1384, 1385 and further, he recorded that the name of Ramachandra Sahu came to be interpolated for Fasli 1385, whereas for 1386 F, the entire Acs.19.00 were shown to be in cultivation of cashew, contrary to the Fasli 1385, where mango and cashew cultivation was recorded. The statement dated 16.05.1986 of the Devasthanam Superintendent to the effect that the objection petitioners were paying miscellaneous revenue to the Devasthanam was not believed as the said individual had failed to produce the record though he promised to produce the same. It was also further recorded that the said Superintendent did not have any knowledge how the two objectors i.e. Ramachanda Sahu and Koyalakandadai Narasimhacharyulu have come into possession of the land, but taking into consideration the statement that he understood Ramachanda Sahu came into possession by purchasing the land in auction. Likewise, certain other inconsistencies were found. The claim of Ramachandra Sahu that his predecessor-in-title Godavarthy Narayanacharyulu as not tenable as he claimed Survey No. 30 as '*darimilla inam*' and that '*darimilla inams*' were in existence only in estate village but not in inam villages.

- c) Likewise, the objections of Narayanacharyulu were also rejected on the ground that that his claim that Vepagunta is a zeroiyati village and not an inam village and that the provisions of Inams Abolition Act have no application with regard to granting of permanent occupancy rights and that the Devasthanam was collecting rents from them was

rejected holding that Vepagunta is an inam village and the objector had failed to substantiate the claim that Sri Godavarthy Narayanacharyulu was in possession for more than 80 years was not substantiated and the same is contrary to the very claim, he himself claimed that he came into possession of the land of Ac.2.30 cents by virtue of an approval order of the devasthanam dated 11.02.1965, which was never produced. The enquiry under the Inams Abolition Act cannot be done was also rejected.

- d) By making a reference to the provisions of the Act and by holding that the crucial dates for considering any claims under the Act being the occupation of the land between 07.01.1948 under Section 5 or 14.12.1956 under Section 8 and by making a reference to permanent A-Register of the village maintained from year to year by the Government up to 10.10.1977, Respondents 3 to 5 were declared to be in occupation of the lands on the relevant dates. It was further recorded that Devasthanam failed to produce any record to the effect that Sri Viswanatham or his successors-in-interest were ever evicted by resorting to Section 9 of the Act or any other person was inducted as tenant in their place under Section 10. It was also put against the Devasthanam that approval order dated 11.02.1965 was not produced by the Executive Officer and it was further held that Devasthanam has no power to issue such approval orders. As Respondents 3 to 5 establish that they were in possession of the subject land on the crucial date, i.e. 14.12.1956 the date of commencement of the Act, they were entitled for grant of

pattas under Section 4(2) and 7 (\* as against the claim of the respondents 3 to 5 for grant of permanent occupancy certificate under Section 8), even if they were dispossessed subsequently. Thus, the relief as claimed by Respondents 3 to 5 was granted, while rejecting the objections filed on behalf of Objectors 1 and 2.

6) *Sri Adinarayana Raju*, learned counsel for the petitioner Devasthanam submitted the following arguments:

The proceedings of the Mandal Revenue Officer as well as the Appellate Authority are contrary to the facts and material on record and perverse, particularly with respect to the finding that the land in Survey No.30 was not within the 'holding' of the Devasthanam and the Appellate Authority holding that the land in Survey No. 30 was not forming part of T.D.No.3145. The Mandal Revenue Officer acted and granted relief beyond the prayer sought by Respondents 3 to 5 and the Appellate Authority, going one step forward, had further granted relief without there being even challenge by Respondents 3 to 5 to the Orders of the Mandal Revenue Officer. Thus granting of patta in favour of Respondents 3 to 5 by both the authorities is unauthorized, illegal and totally beyond the powers vested in them. Both the authorities failed to appreciate the scope of application made by respondents 3 to 5 and the relief that could be granted *vis-à-vis* the prayer made and the relief sought for. In the process of enquiry on the Applications of Respondents 3 to 5, the Mandal Revenue Officer and the Revenue Divisional Officer misstated and misinterpreted the earlier orders, dated 28.11.1977, 30.04.1989, 29.05.1996 and 16.01.1997

passed by the Special Deputy Tahsildar, recognizing the right of the Devasthanam with respect to the land holdings of the Devasthanam, particularly the lands covered under T.D.No.3145 and in particular the land covered under Sy.No.30 over an extent of Acs.42-05 cents. Both the authorities ignored the crucial fact that the land in Sy.No.30 was found declared to be in the 'holding' of the Devasthanam, an institution, and thus the provisions of Section 4 (2) (b) has no application to the Devasthanam and it is the Devasthanam which would be legally entitled for grant of patta and there can be no claim for grant of patta in favour of Respondents 3 to 5 and thus, Section 7 has no application to the claim made by the respondents 3 to 5. In the light of declaration that the land in Sy.No.30 is held by the institution, the authorities ought to have rejected the claim of Respondents 3 to 5 for grant of patta. The order of the Appellate Authority is wholly illegal as the same is based on the material which was never part of the record as neither the appellant nor Respondents 3 to 5 had produced the material. The appellate authority misconducted, misconstrued and thus, failed to decide the actual point involved and the order is based on several extraneous material and extraneous considerations. The order of the Appellate Authority holding that the land in Sy.No.30 is not covered by T.D. No.3145 of Vepagunta village is perverse and contrary to the material on record. The finding of the Appellate Tribunal in holding that Survey No. 30 in respect of Acs.42.05 cents as 'inam' and not covered by T.D. No. 3145 is quite contrary to the case set up by Respondents 3 to 5 themselves and not based on any evidence and failed to appreciate as a matter of fact, the land in Sy.No.30 as forming part of

T.D.No.3145 is evident from Inam 'B' Register. The Appellate Tribunal erred in construing the Appeal filed by the petitioner for grant of ryotwari patta under Section 4. The Appellate Authority erred in construing the appeal as an application made for grant of ryotwari patta in their favour rather than challenge to the orders of the Mandal Revenue Officer granting patta in favour of respondents 3 to 5 though in law it is permissible the Appellate Authority to direct grant of Patta in favour of the eligible parties as there is no prohibition in the Act. As a matter of fact, the land in Survey No. 30 was notified as 'devadayam' and was assessed under Section 3(3) of the A.P. Inams Abolition (Assessment) Act, 1955 and was notified as such in Visakhapatnam District Gazette, dated 20.03.1957.

The learned counsel placing reliance on the judgment of the Supreme Court in **Sheodhari Rai v. Suraj Prasad Singh** (1954 Supreme Court 758) to contend that mere payment of rent does not necessarily establish relationship of landlord and tenant, **Syed Yakoob v. K.S. Radhakrishnan** (AIR 1964 Supreme Court 477) with respect to the scope of certiorari jurisdiction, **Veerappa v. Revenue Divisional Officer** (2002(5) ALD 121 (DB)), to support that the Revenue Divisional Officer under Section 7(2) of the 1956 Act has no power or jurisdiction to entertain Appeal beyond statutory period of limitation of 60 days to justify the rejection of the petitioner's appeal in W.P.No. 15367 of 2005, **Sri Swamy Hathiramjee Mutt, Tirupati rep. by its Custodian Assistant / Assistant Commissioner of Endowments, v. Komma Venkatamuni** (2018(4) ALT 354) to support that sale exchange or mortgage of property of religious institution of immovable

properties belonging to any charitable or religious institutions or endowments affected without prior sanction of the commissioner / government shall be null and void.

The Writ Petition is mainly contested by Respondents 3 to 5, while the petitioners in W.P.No.15367 of 2005 and W.P.No16211 of 2005 sought for remand of the case to the Appellate Authority for fresh consideration of their objections. Sri K.G. Krishnamurthy, learned Senior Counsel, in his usual persuasive submissions diligently by drawing attention to the various portions of both primary and appellate authorities orders would pray for confirmation of the orders of the Mandal Revenue Officer granting 2/3<sup>rd</sup> of Acs. 21-02 ½ of land to Respondents 3 to 5 and 1/3<sup>rd</sup> to the petitioner Devasthanam. He would assert that, as on date, pattas have been granted in favour of Respondents 3 to 5 and no interference is warranted at this stage. Without prejudice to the said submission, learned Senior Counsel mainly would urge that the claim of Respondents 3 to 5 is limited to Acs.21-02 ½ out of Acs. 42.05 in Sy.No.30 of Vepagunta Village and pattas were granted over an extent of only Acs.14.00 and the balance Acs.21.00 was under the possession and enjoyment of one Sri Bondili Bagavan Singh who in turn had sold the same to 3<sup>rd</sup> parties including the 7<sup>th</sup> respondent. The sales made by Sri Bondili Bhagavan Singh have not been challenged by the Devasthanam, thus, impliedly accepting the right of the said Bondili Bhagavan Singh, whose name admittedly found in the Survey and Settlement Register of Vepagunta village along with Ayyalasomayajula Viswanatham. The very fact that the petitioner's Devasthanam never made an application for grant of patta in their

favour with respect to the land in Sy.No.30 and even after the claim made by Respondents 3 to 5 itself is proof positive that the land in Sy.No.30 was never in the 'holding' of the petitioner devasthanam and the fact that the unofficial respondents' predecessors were in possession of the property on the crucial date over an extent of Ac.21-00 cents, is evident from the records and was never in dispute. In that view of the matter, granting of the patta in favour of Respondents 3 to 5 is in order and does not warrant any interference. According to the learned Senior Counsel, the Writ Petition is also liable to be dismissed in *limini* on the ground of the petitioner having alternative remedy of revision before the Commissioner under Section 14A of the Act. The factum of Respondents 3 to 5 making an Application under Section 8 of the Act seeking grant of right of permanent occupancy to tenants in inam lands is by oversight under a *bona fide* mistake of fact and law and the same, by itself, does not disentitle Respondents 3 to 5 to seek grant of patta in their favour and the authorities are not precluded from considering the just claim of Respondents 3 to 5.

The learned Senior Counsel Sri Murthy further submits that in the process of enquiry conducted under Section 3 of the Act, second time, particularly with respect to waste and poramboke lands and granting ryotwari patta over an extent of Ac.639-77 cents, the Mandal Revenue Officer had held that ryotwari pattas have to be issued in favour of minor inam lands after conducting enquiry under the 1956 Act. The said order was upheld by the Revenue Divisional Officer and when a challenge was made before the Commissioner, Survey and Settlement of Land Records by

revision, the revision also came to be dismissed. Thus, the order dated 30.04.1989 of the Mandal Revenue Officer became final. Thereafter, patta was granted over an extent of Ac.639-77 cents in T.D.No.3145 situated at Vepagunta village to the Devasthanam *vide* proceedings dated 29.05.1996. Likewise, for over an extent of 487-17 cents, ryothwari pattas were granted *vide* proceedings dated 16.01.1997. As the lands in Sy.No.30 never belonged to Devasthanam and were never in its possession, the Devasthanam never filed an Application for grant of ryothwari patta in respect of said land. Thus, even granting of 1/3<sup>rd</sup> share in Sy.No.30 by the Mandal Revenue Officer, in his order dated 29.09.1989 is wholly illegal and without jurisdiction and viewed in that angle, granting of the balance 1/3<sup>rd</sup> in favour of the respondents by the appellate authority is justified and cannot be found fault.

While dealing with the claims of the petitioners in W.P.No. 15367 of 2005, learned Senior Counsel for Respondents 3 to 5, making a reference to the averments in the counter-affidavit, vehemently opposes the Writ Petition contending that the petitioners therein had belatedly challenged the decision of the Mandal Revenue Officer by filing the Appeal without filing an Application seeking condonation of delay and the same was rightly dismissed as time barred; there are no *bona fides* in the petitioners in W.P.No. 15367 of 2005 as they had chosen to approach the civil Court by filing a suit and prosecuting the suit in spite of the specific objection taken with respect to the jurisdiction on account of bar contained in Section 14 of the Limitation Act and even after the civil Court holding that the suit is not maintainable in law, chose to file First Appeal and it is only after dismissal of the said

First Appeal, chose to file the Appeal before the Appellate Authority that too without seeking condonation of delay, citing Section 14 of the Limitation Act which came to be rejected rightly as Section 14 has no application to the proceedings before the Appellate Authority. With a mala fide intention, they did not choose to make Respondents 3 to 5 as party respondents in the Writ Petition and it is only on their own, they came to be impleaded *vide* orders of the Court dated 03.07.2008 in W.P.M.P.No. 14616 of 2006 as Respondents 7 to 14 in Writ Petition No. 15367 of 2005. Having filed Revision before the Revisional authority against the orders in the Application filed for delay condonation, failed to pursue the same and thus, the order dated 29.09.1989 of the 2<sup>nd</sup> respondent as well as the order dated 06.06.2005 of the 1<sup>st</sup> respondent have become final as against the petitioners. Against the orders passed by judicial authorities, in exercise of the statutory power, a writ of mandamus cannot be issued and on the simple ground itself, the Writ Petitions are liable to be dismissed. The general power of attorney filed by the GPA Holder does not authorize filing of a Writ Petition impugning the impugned order dated 06.06.2005. The petitioners are neither necessary nor proper parties to the Appeal as the grievance of the Devasthanam is only against Respondents 3 to 5 who were granted pattas by the Mandal Revenue Officer *vide* its order dated 29.09.1989. The claim of the petitioners that Sri Godavarthy Narayanacharyulu was the owner of the property is unsubstantiated and the proceedings dated 11.02.1965 of the Devasthanam does not confer any title on Sri Narayanacharyulu and further, the very genuineness of the same is disputed by the Devasthanam. Merely because the Appeal i.e. AIA No. 1 of 2004

was directed to be listed along with AIA 1 of 1990 of the Devasthanam, the order dismissing AIA No. 1 of 2004 is an independent order which is legally valid and by virtue of which, the Appeal stands dismissed. Though the petitioners were in possession of the property, when they filed A.S.No. 399 of 1997, after the conditional initial injunction was granted, it came to be vacated on 07.10.2002 and thereafter, the petitioners themselves voluntarily vacated and delivered possession of the land to Respondents 3 to 5. The respondents continued to be in possession and on account of the frequent disturbances being caused, they were constrained to file criminal complaints before the law enforcing authorities. As both the authorities had passed the orders, on appreciation of the facts on record, there is no warrant for this Court in exercise of power under Article 226 of the Constitution to interfere with the decision arrived at. He therefore, prays for dismissal of the Writ Petitions.

Learned Senior Counsel, submits that as the case of the petitioner in Writ Petition No. 16211 of 2005 being similar, and the petitioner therein claiming right through Sri Godavarthi Narayanacharyulu, who himself did not have any title to the property, the same is also liable to be dismissed.

Sri P. Venu Gopal, learned Senior Counsel instructed by Sri Venkata Mayur, learned counsel appearing on behalf of the petitioners in W.P. No 15367 of 2005 would submit that the order of the Revenue Divisional Officer is liable to be interfered with, on the simple ground of the irregular manner in which the Appeals came to be disposed of thus, denying fair opportunity to all the

parties concerned, which is in utter violation of the principles of natural justice. Elaborating the same, the learned Senior Counsel submits that initially, on appeal being filed by objector No.1, after disposal of the Appeal on 24.12.2003, the petitioner filed Appeal before the Appellate Authority, which was numbered as AIA No. 1 of 2004 and taking into consideration the fact that AIA No. 1 of 1990 filed by the Devasthanam is pending, directed both the matters to be heard together. However, for strange reasons, the 1<sup>st</sup> respondent instead of disposing of both the Appeals, after enquiry, chose to pass separate order disposing of the Appeal filed by the Devasthanam on 06.06.2005 and thereafter, chose to dismiss the Appeal filed by claimant No.1 on 18.12.2004 as appeal not maintainable on account of the delay. In the process, the 1<sup>st</sup> respondent miserably failed to appreciate that the delay if any shall be deemed to have been condoned when the Appellate Authority accepting the Appeal and directing clubbing of the same and thus the question of considering the delay in filing the Appeal is untenable and illegal. He would further submit that in the order dated 06.06.2005, the Appellate Authority had taken into consideration the genuine and *bona fide* reasons for the delay in filing the Appeal and rightly, taken the Appeal on file and directed both the Appeals to be heard together and thus, the order dated 18.12.2004 dismissing the Appeal is wholly irregular, unsustainable and liable to be interfered with. The learned Senior Counsel therefore, prays for remanding the matter to the Appellate Authority by setting aside the order dated 18.12.2004 and the order dated 06.06.2005. He would further contend that the Appeal filed by the Devasthanam itself ought to have been dismissed for

not making claimants 1 and 2 as party respondents on the ground of non-joinder of necessary parties. Though initially Revision bearing No. 25 of 2005 came to be filed by the petitioners seeking interim stay of the proceedings in AIA No. 1 of 1990, the same became infructuous on account of the subsequent developments. The efforts made by claimant No. 1 to implead in the Appeal filed by the Devasthanam (AIA 1 of 1990), no orders were made in the said implead petition. Thus, the method and manner in which the 1<sup>st</sup> respondent conducted proceedings discloses denial of fair opportunity to the claimants for presenting their case. Dealing with merits of the case, learned Senior Counsel would urge that the additional material papers filed before this Court through W.P.M.P.No. 1 of 2018, may be taken on record which would go to establish that land in Vepagunta Village are the lands within Inam Estate and as such the provisions of Inams Abolition Act are inapplicable and the issue relating to the lands falling within the Inam Estate, the matters would have to be dealt with under A.P. Estates Abolition Act and in that view of the matter, the orders passed by Respondents 1 and 2 are devoid of merits and thus, he prays for allowing of W.P.No. 15367 of 2005 by setting aside the orders of the Appellate Authority.

The matter was heard at length by one of my learned Brothers, however, as the arguments were inconclusive, though the matters were posted for orders, they were deleted from the caption 'for orders'. Thereafter, on change of roster, they were listed before this Court, and arguments were commenced on 09.07.2018. During the arguments, on emphasis being laid by the learned counsel for the petitioner that the subject land was

forming part of T.D.No.3145 and whereas the appellate authority in its order had recorded that the land in Survey No. 30 was not covered by T.D.No.3145 and the same is resettlement minor inam, this Court desired to look into the original 'B' Register, particularly when the Senior Counsel for Respondents 3 to 5 tried to sustain the finding recorded by the Appellate Authority and thus, is not an inam land held by the institution. Accordingly, original 'B' Register was summoned before this Court and this Court, having perused the same, was satisfied that Survey No. 30 was part of T.D.No.3145 and the same was registered as 'Devadayam'. Further, during the course of hearing confronted with the original 'B' Register being produced and this Court expressing satisfaction with respect to the land covered in T.D.No.3145 finding place in Inam 'B' Register, learned Senior Counsel for Respondents 3 to 5 would fairly concede to the fact that the land in Survey No. 30 forming part of T.D.No.3145 is an inam land within the 'holding' of the Devasthanam. However, he would contend that his clients would be satisfied if the order of the Mandal Revenue Officer is confirmed directing grant of patta under Section 8 of the Act conferring permanent occupancy rights in the land in respect of 2/3<sup>rd</sup> portion of the land treating them as permanent tenants.

It may be noted the material placed before this Court and as verified leaves no manner of doubt that the land in Survey No. 30 in fact, forms part of T.D.No. 3145. One of the principal reasons the 1<sup>st</sup> respondent directing granting of patta to the whole extent of Acs.19.00 in favour of Respondents 3 to 5 is by holding that the land in Survey No. 30 does not form part of T.D.No. 3145 is a finding contrary to the record, perverse and thus, the order of the

1<sup>st</sup> respondent directing to grant patta over entire extent of land in favour of Respondents 3 to 5 is unsustainable.

Now the question remains to be decided is whether the order of the Primary Authority, as confirmed by the Appellate Authority, is without jurisdiction and a certiorari is liable to be issued on that ground.

Application on behalf of Respondents 3 to 5 signed by them was made before the 2<sup>nd</sup> respondent-Mandal Revenue Officer on 27.04.1988. The Application reads as under:

“PETITION FILED UNDER SECTIONS 3, 4, 7 and 8 OF THE INAMS ABOLITION ACT, 1956

We represent that our grand-father namely late Sri Ayyalasomayajula Viswanadham was originally the permanent lessee in respect of an extent of Ac.21-02 ½ cts., of inam land in S.No.30 of Vepagunta village which formed part of Title deed No.3145 held by the respondent herein as inamdar thereof. The land was originally leased out by the Devasthanam in favour of the said Viswanadham garu prior to the year 1908. After the demise of the said Viswanadham garu our father namely late S.Suryanarayana garu and his brother Narasimhamurthy succeeded to the permanent lease hold rights. The permanent village A. Register of 1936 as originally approved by the Estate Collector, Vizagpatnam on 20.5.36 and as it is being approved by the Tahsildar every year at the time of quit rent Jamabandies since then would establish the fact that our predecessors-in-title held the land as permanent lessees. After the demise of our father Sri Suryanarayana garu we have come into possession of the lands. Thus, we represent, the said land has been under our continuous and uninterrupted possession for over 80 years. We have acquired permanent occupancy rights in the land. We are therefore entitled for conferment of permanent occupancy rights under section 8 of the Inams Abolition Act, 1956.

We, therefore, pray the Honourable Court of the Mandal Revenue Officer, Pendurthi to consider our case for conferment of permanent occupancy rights in respect of the claim land in terms of the provisions contained in section 4, 7 and 8 of the Act.

The original tenant Sri Viswanadham garu had two sons Narasimhamurthy and Suryanarayana. The former died unmarried and intestate. The latter has three sons, Ramanamurthy, narasimhamurthy and Ramesam. Firth two undermentioned signatories, Sri Ramesam died leaving his only son Bogendraprasad, who is the third signatory to this petition.”

(emphasis supplied)

From the above, it is clear that the very case of Respondents 3 to 5 is that land in Survey No. 30 forms part of Title Deed No.3145 and the Devasthanam is the ‘inamdar’ of the land. Respondents 3 to 5 claim to be leaseholders of the land through their predecessors from 1908 and they assert that they are entitled for conferment of occupancy rights under Section 8 of the 1956 Act. Their prayer is also for consideration of conferment of permanent occupancy rights in respect of the land claimed. The verbatim Application of the petitioner as found in the record as extracted above reveal that though Sections 4, 7 and 8 were mentioned, there was no prayer by Respondents 3 to 5 for grant of ryotwari patta under section 7 of the Act. In other words, the Application of Respondents 3 to 5 was strictly required to be considered by the 2<sup>nd</sup> respondent within the parameters of Section 8 of the Act alone as granting of permanent tenancy rights is governed by Section 8 and not under Section 7 of the Act. In that view of the matter, the argument of the learned counsel for the petitioner is required to be accepted that the authorities have travelled beyond the relief claimed by Respondents 3 to 5. It may also be noted that objectors – petitioners in Writ Petitions No.15367 and 16211 of 2005, both claim their right to the subject land through late Sri Godavarthy Narayanacharyulu, who was claimed to be in possession since 1955 as a tenant paying rent to

the Devasthanam, thereby claiming that the said Narayanacharyulu was a lessee of the Devasthanam. Before the Primary Authority, neither they contended nor claimed that the subject land was not forming part of T.D.No. 3145 nor the Devasthanam was not 'holding' the subject land.

The order of the Appellate Authority though running into about 13 pages, the same is nothing but extraction of various pleadings and extracts from earlier orders and finally, conclusions, recording findings contrary to the pleadings, findings of the primary authority and contrary to the final findings and the directions of the primary and Appellate Authorities in earlier proceedings conducted under Section 3 of the Act. While there being no dispute that the land covered in T.D.No. 3145 is forming part of minor inam, enquiries were held whether the lands were in inam village or an inam estate and whether the lands are in the 'holding' of the Devasthanam. Such enquiries were conducted in the proceedings in 1977, 1989, 1996 and 1997. After culmination of earlier enquiry under the Estates Abolition Act, finally the tenure of Vepagunta Village was held not as an inam estate. In the final order made under Section 3(3), after enquiry, the Special Deputy Tahsildar (Inams), Visakhapatnam held 1) the lands in T.D.No. 3145 of Vepagunta Village are undoubtedly, inam lands of Devasthanam; 2) the grant in favour of Devasthanam is not an estate and the same has been declared to be so, by the Estate and Abolition Tahsildar in A.S.No. 189/50, dated 09.05.1953 and the Assistant Settlement Officer, anakapalle in S.R.No. 9/3/VSP, dated 16.04.1953; 3) the lands in T.D.No. 3145 are inam lands; 4) the enquiry under the Estates Abolition Act declared that Vepagunta

village is an inam village and the lands covered under T.D.No. 3145 are in Vepagunta Inam Village; 5) the entries in I.F.R. discloses that the lands were granted to Sri Varaha Lakshmi Narasimha Swamy Varu, Simhachalam and the entries in Taluk 'B' Register confirm that the grant is Devadayam in favour of diety Sri Varaha Lakshmi Narasimha Swamy and the grant is in favour of the institution and not personal grants; 6) thus the lands are held by the institution.

In the said order, the Special Deputy Collector found that the total lands covered under T.D.No.3145 consists of dry, wet lands (562.10 + 41.06) and waste and poramboke lands (410.43 and 653.69). In the light of the conclusions arrived with respect to the above lands as inam lands of the Devasthanam and there being no dispute with respect to the dry and wet lands, were held to be the holdings of the Devasthanam. In view of introduction of Section 2A of the Act, with effect from 29.03.1975, waste and poramboke lands were held to be vest in government. In the proceedings conducted under Section 7, final orders were passed on 29.05.1996 and pattas were granted so far as dry and wet lands are concerned.

The order dated 28.11.1977, was subject matter of appeal, wherein the disputes were raised specifically contending that entire land which came to be classified as waste and poramboke was not waste and poramboke and the various improvements were made bringing the large extent of the said land into cultivation. The order to the extent of finding 1063.82 ( waste lands 410.23 acres + poramboke 653.69) was set aside with a direction to conduct a fresh enquiry. In the fresh enquiry made, final orders were passed

on 30.04.1989. After enquiry, by taking into consideration the position of the lands as on 20.06.1975 and after physical inspection of the site with the help of survey records, the Deputy Tahsildar classified the lands into 'A' schedule and 'B' Schedule. 'A' schedule land as waste and poramboke vesting in government and 'B' Schedule lands vesting in Devasthanam. It may be noted that in 'A' schedule and 'B' Schedule clear survey numbers of the lands and the extents and the nature of land were mentioned. It may be noted that these proceedings were issued under Section 3(3) of the Act. With respect to these lands, subsequent enquiry under Section 7 were conducted and final orders were came to be passed on 16.01.1997 and patta was granted over an extent of Acs.378.10 out of Acs. 603.16. In the said order, it was recorded that for an extent of Acs.325.06 patta was already granted. (On further enquiry, it appears, in fact, no patta was granted and the statement appear to be a misstatement)

A specific legal objection was raised before the Appellate Authority contending that in view of Section 4(2)(a) of the Act, as the institution i.e., Devasthanam being the holder of the land on the date of commencement of the Act, under Section 3(3) of the Inams Abolition Act, the question of issuance of patta in favour of a tenant does not arise. In the light of the finding that the subject land is an inam land in an inam village held by institution, the question squarely falls under Section 4(2)(a).

In the case on hand, it may be noted that the Devasthanam is an institution squarely falling under Section 4(2)(a) of the Act and the question of inquiry under Section 7 vis-a-vis tenants does not arise. In that view of the matter, grant of pattas, in terms of

Section 4(2) read with Section 7 does not arise. The question of invoking Section 4(2)(b) would arise only in cases where the inamdar is other than an institution and the tenant is declared to be in occupation of the land on 07.01.1948 under sub-section (3) of Section 5 or the Collector under sub-section (5) of Section 5. In the case on hand, it is neither the claim of Respondents 3 to 5 / claimants 1 and 2 nor the finding of the MRO that Respondents 3 to 5 / claimants 1 and 2 have fulfilled the pre-requisite mandatory stipulation contained under Section 4(2)(b). Even on that legal ground, Respondents 3 to 5 ought not to have been declared to be entitled for grant of patta to the extent of 2/3<sup>rd</sup> and thus, the order of the MRO is unsustainable. As the order of the Primary Authority itself is found to be defective, consequently, the order of the Appellate Authority is also liable to be set aside for more than one ground; firstly, by recording a finding on the material which was not available with the primary authority; secondly, the Appellate Authority also misconstrued and misdirected himself in appreciating the scope of the Appeal i.e., instead of challenge to the orders of the MRO, dated 29.09.1989 and treating the Appeal as a claim made for ryotwari patta under Section 4(2) (b) which goes to show total non-application of mind both as to facts and law.

Yet another ground the Appellate Authority relies on to justify granting of pattas in favour of Respondents 3 to 5 is that the petitioner institution has failed to make a claim before the primary authority to obtain / grant ryotwari patta in respect of the schedule land. Assuming for argument sake, the Devasthanam authorities have failed to make an Application on behalf of the institution, for grant of patta under Section 4 of the Act that by

itself cannot be a reason in law for coming to a conclusion, that the Devasthanam is not entitled for a patta, or that someone claiming can be granted patta even without there being entitlement. At the cost of repetition, it may be noted that the entire land covered under T.D.No. 3145 except 'A' schedule lands appended to the order dated 30.04.1989 were determined to be 'holdings' of the Devasthanam and the Devasthanam was entitled to be granted pattas. Once it is not in dispute that the subject land forms part of T.D.No. 3145 and the cultivable land, the eligibility with respect to grant of patta stands determined in 1977 itself or otherwise, by virtue of determination in 1989. The question of anyone claiming for grant of patta or granting patta in anyone other than the Devasthanam does not arise as in a way, granting of patta is only a ministerial act, the entitlement and basis for granting of patta having been determined in the proceedings under Section 3(3) with respect to an institution.

The Appellate Authorities reference to GILLMEN register and other discussion was irrelevant once a notification was issued in terms of Section 3 determining that a particular land is an inam land, such land is in an inam village and such land is held by an institution. In the case on hand, undisputedly, such declaration was made as far back as on 1977 and 1989.

Even assuming an enquiry could be conducted in terms of Section 4 of the Act or under Section 8, the finality attached to the declaration under Section 3 is the guide-post to start with and the enquiry under Section 8 is limited with respect to granting of a right of permanent occupancy.

The specific plea of the objectors is that they came to acquire title to the property through Godavarthy Narayanacharyulu, who in turn trace his authority to execute the sale deeds to approval order dated 11.02.1965 alleged to have been issued by the Devasthanam. Even assuming there exists such approval order, it is well-settled that the rights in immovable property cannot be transferred without a sale deed executed as required under Section 54 of the Transfer of Property Act. In view of the same, claimants cannot and could not have acquired any right over the property of the Devasthanam as their vendor Sri Narayanacharyulu never had title to execute a valid and binding sale deed. As a result the claim of Respondents 8 to 10 that they have acquired title to the property is unsustainable. Likewise, the claim of the 7<sup>th</sup> respondent that they had acquitted title through registered sale deeds from the owners whose names have not been disclosed in the implead Application, whoever they may be also falls to ground as none had title to the property, ownership of which vest with the Devasthanam.

In the light of the discussion above, particularly in the facts as found in the record, and the facts of the present case, the order of Mandal Revenue Officer dated 29.09.1989 granting ryotwari patta in favour of Respondents 3 to 5 being contrary to the express provision under Section 4(2) of the Act, is illegal and *ultra vires* the powers of the 2<sup>nd</sup> respondent and consequently, the order of the RDO further granting the entire extent of land in favour of Respondents 3 to 5 is unauthorized, *ultra vires* and illegal and thus, the Writ Petitions are technically required to be allowed.

The judgments relied on by the learned counsel Sri Adinarayana Rao also supports the case of the petitioners.

In the light of the above, so far as the prayers in all the Writ Petitions questioning the orders of the Mandal Revenue Officer and the Revenue Divisional Officer are also required to be allowed.

Now the question that requires to be considered is whether Respondents 3 to 5 or the objectors - petitioners in W.P.No 15367 and 16211 of 2005 are entitled to any relief including granting of permanent occupancy rights in the subject land?

In the scheme of the Inams Abolition Act, the tenants in occupation of an inam land in an inam village, the persons in occupation of the land are entitled to be considered for grant of pattas in terms of Section 4. In the case on hand, the land in Survey No. 30 was held to be an inam land as defined under Section 2(c) in an inam village as defined under Section 2(d) and was held to be the land of the 'institution' as defined under Section 2(e) of the Act. The finding recorded by the Mandal Revenue Officer based on the village permanent 'A' Register originally approved by the Estate Collector, Visakhapatnam on 20.05.1936 that Sri Ayyalasomayajula Viswanatham and Bondili Bhagawan Singh continued to be the tenants of the inam land. Further finding is to the effect that there was no change even after taking over of the estate by the government and there were no changes in the occupancy or tenancy in the permanent 'A' Register during the annual quit rent jamabandis, the last being on 10.10.1977 (Fasli 1387). Thus, a finding was recorded that Sri Ayyalasomayajula Viswanadham or his successor-in-interest were in possession. In fairness to the writ petitioner, the said finding is not challenged

either before the Appellate Authority or before this Court in the Writ Petition. In other words, the said finding is required to be considered and the effect of the same is also required to be considered in view of the claims of the claimants. Both the claimants claim their right over the property as owners having acquired the title from Sri Godavorthy Narayanacharyulu who is alleged to have been in possession of the subject land since 1955. Record does not disclose any material to support their claim except their self-serving statement apart from a statement of Sri Tota Venkata Ramana Krishna, S/o Ramanna, Revenue Superintendent of the Devasthanam, stating that the claimants were paying miscellaneous land revenue to the Devasthanam. He also deposed that he is not aware how the property came to be acquired by the claimants. Yet another document produced by the claimants is the memorandum in Rc.No. 44/63 S2, dated 11.02.1965 of the Executive Officer of the Devasthanam purported to have been issued to Sri G. Narayanacharyulu, Adavivaram 2) Sri Ramachandra Sahu, Visakhapatnam, through which memo, a demand for payment of rent at 0.50 ps. Per acre excluding cess etcetera, as per the details noted for the lands in their possession and occupation for ten years with a direction to the Revenue Inspector to collect the same. In the said memo, extent of Acs.21.02 from G. Narayanacharyulu and another extent of Acs.21.02 ½ from Hemachandra Sahu was shown. This document by itself, does not and cannot be taken as the document evidencing possession of either of the claimants or of their vendors, that they were in possession of the land on the appointed date i.e. 1956 to consider their cases. It may also be noted that the claimants by

themselves did not make any Application before the Competent Authority either for grant of patta in their favour claiming ownership or for grant of permanent tenancy rights under Section 8 except filing objections to the claim made by Respondents 3 to 5. In this context, the argument of the learned Senior Counsel appearing on behalf of claimants is that the MRO, the 2<sup>nd</sup> respondent himself had issued notice to the petitioners and in that context, their case ought to have been considered. A perusal of the impugned order passed by the MRO, disclose that by setting out the reasons for rejecting their claim with respect to their right and occupation had dealt with the objections except stating that they are not entitled for grant of pattas. As there was no rival claims for grant of pattas, not stating so by the MRO cannot be found fault.

However, this by itself does not solve the problem on account of the claims and rival claims of the Respondents 3 to 5 and claimants 1 and 2 apart from the claim of the implead respondents 7 to 10. In the civil suit filed by the claimant No.1 against Respondents 3 to 5 relief was refused by setting aside the MRO order dated 29.09.1989 on the ground of there being a bar under Section 14 for filing a suit in civil Court. However, findings were recorded to the effect that the claimants therein were in possession of the subject land. Likewise, implead respondents 7 to 10 also claim to be in possession of the land. While the claim of the title and possession of claimants 1 and 2 is through Govindacharyulu, Respondents 8 to 10 trace their title and possession through registered sale deeds executed by claimant No.2. Respondent No.7 while claiming to be in possession over an extent of Acs.16.00 is

silent with respect to their source of acquiring title. The record also discloses there are both civil and criminal cases pending with respect to subject land, details of which are not necessary for the present. A reference to these are being made only for limited purpose to bring home the fact that even as on the date of MRO considering the Application of Respondents 3 to 5, there is no definiteness about who is in physical possession of the land. In this context, the parameters of enquiry under Section 8 and granting of a right of permanent occupancy is to ensure cultivation of the land, thus bringing lease rentals in favour of the institution. The same is evident from Section 9 which gives when an institution can seek eviction of a tenant who was granted a right of permanent occupancy under Section 8. Section 9 reads as under:

“ **9. Procedure for evicting tenants having right of permanents occupancy:**

- (1) Any institution seeking to evict tenant under sub-section (2) of Section 8 may file an application before the Tahsildar for that purpose.
- (2) Notwithstanding anything contained in sub-section (1) of Section 8, an intuition may apply to the Tahsildar for the award of compensation in addition to, or in lieu of eviction for the damage or waste caused by the tenants, the institutions may also apply for an order prohibiting the tenant from damage of wasting the land in any manner in case the tenant is not evicted;
- (3) On receipt of such an application the Tahsildar shall cause a notice to be served in the prescribed manner on all the persons and institutions concerned and after hearing their representations, if any pass an order either allowing the application or rejecting it. While passing an order allowing the application for eviction, the Tahsildar may make such further orders as appear to him to be just and equitable.

Provided that where the application is allowed, no tenant shall be evicted from the land until he has cut and gathered the crops raised by him on such land.

- (4) Any person or institution aggrieved by an order of the Tahsildar under sub-section (3) may appeal to the Revenue Court within sixty days from the date of communication of such order and the Revenue Court may, after giving the parties to the appeal a reasonable opportunity of being heard pass such orders on the appeal as it thinks fit.

- (5) The decision of the Revenue Court under sub-section (4) and where no appeal is filed, decision of the Tahsildar under sub-section (3), shall be final.”

In the fact situation above, there being no definiteness with respect to possession of the land being in the hands of Respondents 3 to 5, question of considering their case for grant of permanent occupancy rights in 1989 does not arise. It may also be noted in an enquiry conducted under Section 3, as is evident from the order dated 28.11.1977 in the process of enquiry, the claims of 200 tenants were also considered. There is no explanation forthcoming from any of the parties why no claim was made by the respective parties for more than three decades as the Act is of the year 1956. This Court also is bound to take note of the assertion by Respondents 8 to 10 that Respondents 3 to 5 have executed two sale deeds in their favour vide document No. 1521 of 2004, dated 15.03.2004 and document No. 2634 of 2004 dated 11.03.2004 which aspect is not denied by the Respondents 3 to 5 which also disentitles for any direction from this Court to the MRO to reconsider the case of the petitioners under Section 8 of the Act.

Further, this Court is mandated to take into consideration of the statutory amendments which have come into effect by Act 16 of 2013 by adding a proviso to sub-section (1). Act 16 of 2013 and the amendments brought therein by virtue of sub-section (2) of Section 1 shall come into force with effect from 26.11.1956 i.e., from the commencement of A.P. (A.A.) Inams Abolition and Conversion into Ryotwari Act, 1956. In the light of the above statutory amendments, pattas granted in favour of the respondents 3 to 5 by operation of law shall be null and void and no effect shall be given to such pattas granted.

Yet another reason for the Appellate Authority recording a finding that the land in Survey No. 30 is not forming part of T.D.No. 3145 is the notification issued in G.O.No. 509 dated 28.07.2000 under Section 22-A of the Registration Act notifying the prohibition of registration of lands not containing Survey No. 30. The same can hardly be a reason for coming to a conclusion that the land in Survey No. 30 is not forming part of T.D.No.3145 and the same is contrary to the record, particularly Gazette Notification dated 1957.

A reference is also made to the claim of the 7<sup>th</sup> respondent seeking information from the Devasthanam with respect to the land covered in T.D.No. 3145 whether as belonging to the Devasthanam or not and the Executive Officer of the Devasthanam clarifying through a letter dated 09.07.1985 that the same is not forming part of T.D.No. 3145 is palpably a false statement as letter dated 09.07.1985 at page 137 of the Appellate Authority record from the Executive Officer of Devasthanam is on record of the Appellate Authority and the same is categorical in satisfying that Devasthanam has no claim over the lands covered in T.D.No.3147. likewise, Trust Board of the Devasthanam on 06.10.1990 agreeing to seek 2/3<sup>rd</sup> of land under Resolution No.691, does not bind the institution and at any rate, cannot jeopardize the right of the institution in law as it is beyond the powers of the Trust Board to part with the valuable property of the vested right of the Devasthanam.

No objection said to have been given by the Devasthanam on 01.03.1991 which is available at page 145 of the Appellate Authorities record discloses lands in Survey No. 164/5C is covered

under T.D.NO. 3146 but not relating to land covered under T.D.NO. 3145. To the same effect is the certificate of MRO dated 27.05.1989. The fact that the land was notified under Section 3(3) of the Inams (A.A) Assessment Act, as notified as devadayam in the Visakhapatnam District Gazette as far back as on 20.03.1957 fortified the fact by 1948 the land in TD No.3145 was held to be an inam land and outside the purview of AP Estates Abolition Act which fact stands confirmed subsequently, in the proceedings under the A.P. Inams Abolition Act, 1956.

In normal circumstances, this Court would have been content by declaring the law, particularly considering the scope of a writ of certiorari. However, considering the fact that the property involved in the case as belonging to Sri Varaha Lakshmi Narasimha Swamy Vari Devasthanam at Simhachalam, and also considering the conduct of respondents including the non-challenge attitude of the Devasthanam authorities in not taking the needed care and steps to protect the vast properties endowed to the Devasthanam, this Court is obliged to invoke the principle parent patria as it is its duty not to ignore in the glaring facts which have come to its notice. It appears, notwithstanding the categorical findings recorded in the enquiries conducted under Section 3 and 7 of the Inams Abolition Act, the respondent authorities are yet to issue pattas in favour of the Devasthanam. It also appears notwithstanding the conclusion of the proceedings under Section 7, Gazette notification as required was not published which otherwise would have put a finality to the entire of the litigation. The entertaining of the belated claims and adjudicating the same and without regard to the totality of the

properties held by the institution and the rights declared from time to time appear to be deliberate and calculated either by design or otherwise.

In those circumstances, this Court is constrained to issue a writ of mandamus to the Principal Secretary, Revenue Department, Principal Secretary, Endowments Department and the Trust Board of the Devasthanam to forthwith

- i) take all necessary steps to ensure to gather, collect and preserve all the records relating to the Devasthanam properties, particularly immovable properties;
- ii) to cause publication of necessary statutory notices as mandated under the Endowments Act as well as under the Inams Abolition Act;
- iii) take necessary steps by initiating both civil and criminal proceedings against the individuals / institutions who are in physical possession of the properties belonging to the Devasthanam;
- iv) take necessary steps to nullify various documents which have been created for the purpose of the respective occupants to claim title, possession by invoking the provisions of the Registration Act and the Rules there under which particularly provide for annulling unilateral nullification of the such documents of title;
- v) initiate enquiry on civil, criminal and departmental side to identify and fix responsibility with the individual officers who are aiding and abetting the falsification of documents enabling the unscrupulous elements to deal with the properties of the institution.

One disturbing factor which this Court found in the proceedings conducted by the MRO is to the effect that there were no effective objections filed before the MRO in the inquiry, the MRO in turn while choosing to issue notices to the objectors, not issuing notice to the Devasthanam and the total non-challenge to the

conducting of proceedings before the MRO and late realization before the Appellate Authority and the Appellate Authority going an extra mile by filling up the order with unrelated material thereby making it impossible for anyone to understand what were the issues raised, what were the respective contentions and what were the findings. Both the authorities, were supposed to be quasi-judicial authorities on whom great trust and responsibility with ample powers are conferred supposedly on account of their experience in dealing with the matters relating to the land under various enactments. The devasthanam authorities also appear not to be having any precise knowledge about the vast properties that were endowed to the Devasthanam by the erstwhile Rajas and the method and management of the same not being in place.

Before parting with the case, with great pain, this Court desires to record the anguish with respect to the conducting of the case by the Devasthanam authorities and the great pains taken by the revenue authorities to record findings without there being any basis. Maintenance of the record by the primary quasi-judicial authority.

Accordingly, all the Writ Petitions are allowed. No order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

**CHALLA KODANDA RAM, J**

Date:31.12.2018.

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