

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

**WRIT PETITION Nos. 38720 of 2017, 38662 of 2017,
38699 of 2017 and 8746 of 2018**

COMMON ORDER:

1) Since the proceedings dated 26.10.2017 passed by the HMDA in notice No.LA/06/2017 is subject matter of challenge in all the four writ petitions, they are being disposed of by this Common Order by taking Writ Petition No.38720 of 2017 as a lead petition.

2) The facts, which lead to filing of the present Writ Petition are as under:-

It is stated that originally, the petitioners' forefathers held the personal Inam lands admeasuring Ac.18.24 gts., covered by Sy.Nos.247, 250, 251, 483, 484, 485, 503, 521, 523 and 536 situated at Uppal Bhagat village and Sy.No.781 of Uppal Khalsa village, Uppal Mandal erstwhile Ranga Reddy District, as their personal Inam. The petitioners are said to be in uninterrupted possession and enjoyment over the subject lands for more than 3 generations and possess title over the subject lands. It is said that the inam lands were released for ever in the year 1309 Fasli in favour of Laxman Das i.e., the grand father of late Laxminarayana Das. The possession and enjoyment is maintained by the family members of Laxman Das since 1782. After the

death of Laxman Das his son Raghav Das and after him his wife Sitaramamma and thereafter her son late Lakshminarayan Das, succeeded to Inam lands, duly recognized by the Paiga Nawab and subsequently by the Government of Andhra Pradesh. On 10.06.1985, the Joint Commissioner passed an order holding that the Inams lands granted to the Inamdar cannot be treated as endowment lands. Thereafter on 23.08.2005, a notification under 4(1) of the Land Acquisition Act (for short "the Act") came to be published in the Gazette for initiating land acquisition proceedings. An enquiry under Section 5-A of the Act came to be conducted vide proceedings dated 19.11.2005 before the Land Acquisition Officer and objections also came to be filed by the writ petitioners. A declaration under Section 6 of the Act came to be issued on 05.07.2006. Enquiry under Section 11 and 12 of the Act came to be conducted and thereafter an award under Section 12(2) of the Act came to be passed in favour of the writ petitioners vide Award No.10 of 2008.

The Inams Tribunal initiated ORC proceedings after due notice to the Endowments Tribunal and after conducting a thorough enquiry, occupancy rights certificates came to be issued under Section 4 of the A.P. (Telangana Area) Abolition of Inams Act, to Laxminarayan Das. Pursuant to the grant of ORC

by Inams Tribunal on 29.07.1989, the M.R.O./Recording Authority under the A.P. Rights in Land and Pattadar Passbooks Act has sanctioned mutation and issued pattadar passbooks and title deeds in favour of Lakshminarayan Das, in respect of the said lands. The said Lakshminarayan Das enjoyed the said lands during his lifetime as an absolute owner and was managing the affairs of the temple of Sri Rama Chandra Swamy Devasthanam from generations. While things stood thus, the ORCs granted in favour of Lakshminarayan Das came to be questioned by one M.Sivareddy by filing an appeal under Section 24 of A.P. (Telangana Area) Abolition of Inams Act, 1955 (for short "the Inams Act"). In the said Appeal, the plea of the appellant appears to be that the said land belonging to Ramachandraswamy Devasthanam, Uppal and that Lakshminarayana Das has no authority over the same. The stand of the Endowments Department basing on the report of the Commissioner, Endowments was to the effect that the subject lands are personal imams granted in favour of ancestors of Lakshminarayan Das and not endowed to Devasthanam. Accordingly, the said appeal was dismissed confirming the ORC on 12.07.1994. It is said that the ancestors of the immediate successors of the writ petitioners filed O.A.No.1 of 1990 before the Deputy Commissioner, Endowments, Hyderabad, seeking declaration

under Section 45 read with Section 87 of the A.P. Charitable and Hindu Religious Institutions and Endowment Act (Act 30 of 1987) to the effect that the subject lands are not the endowed property of the temple. The Assistant Commissioner, Endowments, Ranga Reddy was a party to the said O.A. By an order, dated 09.02.1990, the Deputy Commissioner-cum-Endowments Tribunal, Hyderabad allowed the said O.A. holding that the subject lands are not endowed and ordered for annulment of entries in the book of endowments register maintained under Section 38 of Act 30 of 1987 pertaining to the said temple. The said order was confirmed by the Commissioner of Endowments as required under Section 87(3) of Act 30 of 1987, holding that the subject land is not endowed property. Again Mr. M.Shiva Reddy, who earlier challenged the mutation proceedings, filed a Revision under Section 92 of the Act 30 of 1987 before the Regional Joint Commissioner, which was dismissed on merits on 31.01.1994. It is stated that the Commissioner, Endowments has also addressed the Sub-Registrar, Uppal for effecting the alienations by late Laxminarayan Das, if he approaches the registration department. After the demise of M.Lakshminarayan Das on 18.02.2004, the petitioners and others have been declared as legal heirs as per the orders in O.S.No.1087 of 2004. There was division of

properties amongst the heirs and thereafter mutation proceedings dated 22.08.2005 came to be issued in the name of the petitioners along with two other sons and pattadar passbooks were also issued in their favour. While so, on 23.08.2005, the Collector issued notification under Section 4 (1) of the Inams Act, proposing to acquire the land for the purpose of Moosi River Conservation and River Front Development. Objections were called for under Section 5(A) of the Act, which were filed on 19.11.2005. Without considering the same, the first respondent issued a declaration under Section 6 of the Act proposing to acquire the petitioners' land for public purpose and thereafter notices dated 21.06.2006 came to be issued under Section 9(3) and Section 10 of the Act. The petitioners not only submitted their claim-cum-refusal for cash award but also submitted written statement of claims before the Land Acquisition Officer on 08.07.2008. On 19.07.2018, the first respondent passed award Nos.10 and 15 under Section 11 of the Act. The said award bearing Nos.10 and 15 of 2008 in respect of the petitioners lands, fixing compensation in terms of cash were communicated to the petitioners through a notice dated 06.08.2008 in Form 9 under Section 12(2) of the Act. As the compensation in cash, awarded by the first respondent was found to be inadequate, petitioners made a representation to the

concerned authorities for a package to compensate for parting with developed land. Considering the grievance of the Farmers G.O.Ms.No.36M.A. & U.D. dated 22.01.2011, came to be issued to which the petitioners expressed their willingness before the first respondent under Section 31 of the Act to take developed plotted land in view of cash compensation by way of compromise proposal. It is said that by virtue of G.O.Ms.No.36, the 5th respondent has approved allotment of land at the rate of 1000 sq. yds developed area per Acre in lieu of compensation to the land owners. The second respondent has been delaying the development of Project as such the effected parties, who have been deprived of their land in the acquisition, have questioned the inaction of the 5th respondent/Government and the second respondent in not completing the project by way of W.P.No.17005 and batch of 2008. By an order dated 28.02.2011 this Hon'ble Court directed the second respondent and others to complete the project within six months from the date of order, so as to give benefit of the said G.O. under public private partnership model to the effected parties in the acquisition. Thereafter, the first respondent referred the compromise proposals between the writ petitioners and first respondent to the Lok Adalat, Ranga Reddy District and the Lok Adalat on a reference under Section 19 of Legal Services Authority Act,

1987, took up the matter and having regard to the proceedings, delivered possession of the acquired land to the first respondent therein in compliance of notice in Form 10 dated 09.08.2011. The Lok Adalat in terms of memorandum of compromise passed a consent award on 24.09.2011 in P.L.C.Nos.131, 138 to 141 of 2011 in respect of extents of plotted lands of the development project at Uppal Bagath. Without implementing the consent awards, which were passed as back as on 24.09.2011, the first respondent issued a notice dated 20.02.2017 calling upon the writ petitioners to furnish documents in view of the claim made by fourth respondent seeking compensation to the acquired land on the ground that acquired lands are endowed lands of Seetharama Swamy temple. A detailed explanation came to be filed enclosing all the orders passed by the different authorities holding that the Endowments have no right on the land. On 09.03.2017 the second respondent addressed a letter to the third respondent requesting to send records or documents in proof of setting aside the order of the Tribunal in grant of O.R.C. to the writ petitioners and also the orders of the authorities under the Endowment Act. The first respondent, being satisfied with the petitioners' reply, permitted to participate in the lottery for allotment of lands to the awardees on 31.03.2017 and 04.04.2017. In the draw of lots, the

petitioners were allotted plotted land on 10.07.2017. Thereafter, on 26.10.2017 the impugned notice came to be issued by the first respondent intimating the decision taken by the second respondent in stopping registration of conveyance deeds in favour of the writ petitioners in respect of the schedule plots allotted to the petitioners. Challenging the same, these writ petitions came to be filed.

3) The main ground urged by the learned counsel for the petitioners is that the action of the authorities in refusing to register the plots is ex-facie illegal, in view of the orders passed by various authorities in favour of the petitioners. The endorsement of the Assistant Commissioner, Endowments dated 23.01.2017 to the effect that the lands are endowed lands and that the lands were acquired in view of the orders passed by different authorities which were referred to above, wherein all the authorities held that the lands are not endowed lands and the plea that the lands were acquired for Moosi River Conservation and River Front Development cannot stand in view of G.O.Ms.No.36 issued on 22.01.2011 wherein allotment of developed land to an extent of 1000 sq. yards per acre in lieu of compensation was ordered to the land owners who gave willingness, under Section 31 of the Land Acquisition Act. He

placed on record the judgments to show that the Land Acquisition Officer being an independent authority under Land Acquisition Act, cannot act differently at the instance of second respondent, more particularly to the award. He also relies upon a judgment of learned Single Judge of this Court in C.R.P.No.1799 of 2002 to show that the petitioners are entitled to claim occupancy rights under Section 5 of the Inams Act and that the first proviso to Section 4(1) of the Inams Act is applicable to the claims made by the applicants under Sections 5, 6, 7 and 8 of the Inams Act.

4) A counter came to be filed by the respondents 1 and 2 disputing the averments made in the affidavit filed in support of the writ petition except to the extent admitted by them. According to them, in view of the letter addressed by the Commissioner of Endowments dated 13.09.2017, the HMDA has issued orders stopping the registration, in view of the claim made by the Endowments Department.

5) A counter came to be filed by Sri K.Vinod, Assistant Commissioner, Endowments Department, on behalf of the 4th respondent questioning the very award passed by the Land Acquisition Officer and the orders passed by various authorities.

It would be appropriate to extract the relevant portion of the counter, which is as under:-

"9. In reply to para 3 averments, it is submitted that, the lands admeasuring Acs.18-24 gts covered by Sy.Nos.247, 250, 251, 483, 484, 485, 503, 521, 523, 536 and 781 were granted to Sri Ramachandra Swamy temple as Service Inam and the alleged claim of the petitioners that they are in the uninterrupted possession and enjoyment of the subject land from the last three generations and possess title to the subject lands and the same were released forever in the year 1309 Fasli in favour of Laxminarayana Das son of Amba Das, the grandfather of Laxminarayan Das may be put to strict proof of the same. They are enjoying the subject lands as Hereditary Trustee performing Archakatvam as the Inam was burdened with service that the matter as to the apportionment of the said lands has come up before the Jt. Commissioner, Endowments Department, A.P. Hyderabad vide order dated 10.06.1985 held that "the lands were given to the Inamdar. The Inamdar is the Hereditary Trustee and also the Archaka of the temple. The Inam lands cannot be apportioned between the temple and archakas as they are subject to resumption at any time. Further, it cannot be treated as endowed property also. The entire land will under the possession of the Hereditary Trustee as usual therefore the only alternative is to apportion the income from the lands. The temple in fact is entitled to one third share in the income from the land therefore the Hereditary Trustee should deposit one third share in the income of the temple towards its maintenance expenditure and the rest of the income shall be utilized by him towards the services rendered to the temple in the capacity of the Archaka. As such the award passed by the LAO are unsustainable and liable to be set aside.

10. In reply to the para 4 averments of the affidavit, it is submitted that it is evident from the orders of the RDO cum Inams Tribunal and the report of the Mandal Revenue Officer, Uppal that the subject lands are classified as Dasthagardan and Sri Deval Sriramulu is the Inamdar. Therefore, the RDO cum Inams Tribunal erred in coming to a conclusion that Late M.Laxminarayana Das is an inamdar and entitled for ORC under Section 4 of the Abolition of Inams Act 1955. In fact, in the event in terms of the provisos to Section 4(1) of the Abolition of the Inams Act 1955, the

institution alone is entitled to occupancy right under the said act and any registration in favour of any person other than institution after the amendment Act 19/1994 to the Act 1985 is null and void and as such the father of the petitioners herein is not entitled for grant of ORC.

11. In reply to para No.5 averments for the issuance of the mutation orders by the Mandal Revenue Officer and issuance of the title deeds and pattadar passbooks in favour of Late M.Laminarayana Das they are only consequential orders to the ORC granted by the Inams Tribunal and entries in Revenue records which do not confer any title by virtue of Amendment to Section 4(1) of the Act, 19/94 since the temple alone is entitled for ORC's.

12..... A grant burdened with service to the institution can never be a personal grant and as such the claim that the subject matter lands constituted a personal grant coupled with service to the institution is a self-contradictory claim. The proviso to Section 4(1) of Abolition of Inams Act 1955 make it abundantly clear that "the Inams held by or for the benefit of Charitable or Religious Institutions can be registered only in favour of the institution under the act and not the individual person holding the Inam for the benefit of the Institution". Thus the authorities under the Inam Abolition Act erred in not applying the mandatory provisions contained in the Provisions to Section 4(1) of the Abolition of the Inams Act 1955 and authority under the Endowments Act 30/1987 erred in holding that the Service Inam Lands are not endowed property. The above orders under both the enactments, unfortunately are decades old and issue of latches would crop up in any remedial proceedings initiated thereon. However, the second proviso to Section 4(1) of the Abolition of the Inams Act declares that where any person other than the concerned Charitable or Religious Institution has been registered as an occupant U/s.5,6,7 and 8 after the commencement of the A.P. (T.A) Abolition of Inams Amendment Act 19/1994 such registrations shall and shall be deemed always to have been null and void and no effect shall be given to such registrations."

6) From a reading of the counter filed by Endowments Department, it appears that they never questioned the orders passed by the authorities right from 1985 and which have

become final and were not challenged at the earliest point of time.

7) Therefore, the question that arises for consideration is "Whether the authorities were right in issuing the impugned order in not registering the property basing on a letter written by the Commissioner stating that the lands are endowed lands?"

8) In order to appreciate the rival contentions, it would be appropriate to extract the proceedings before various authorities in a tabular form.

QUASI JUDICIAL PROCEEDINGS U/TELANGANA INAM ABOLITION ACT, 1955	QUASI-JUDICIAL PROCEEDINGS U/ ENDOWMENTS ACT	LAND ACQUISITION PROCEEDINGS
<u>1. Dt:21.04.1989(P-11)</u> Occupancy Rights Certificate issued by Inams Tribunal u/sec.4 to Laxmi Narayan Das. <u>2. Dt:29.07.1989(P-12)</u> MRO Mutation ordered <u>3. Dt:12.07.1994(P-18)</u> Appeal filed by third party before Joint Collector orders U/s.24 of the Inams Act 1955 was dismissed confirming the ORC. <u>4. Dt:08.02.2007(P-</u>	<u>1. Dt:10.06.1985 (P-9)</u> Joint Commissioner, Endowments passed orders holding that the Personal Inams burdened with service cannot be treated as endowed lands. <u>2. Dt:09.02.1990(P-14)</u> Quasi-judicial orders passed by Deputy Commissioner-cum-Endowments Tribunal u/s.87 r/w.45 of Endowments Act.30/1987 annulling the entries of the Sec.38 Register, in O.A.1 of 1990.	<u>1. Dt:23.08.2005</u> Sec 4(1) Notification published in Gazette. <u>2. Dt:19.11.2005 (P-22)</u> Sec.5-A Enquiry in File No.LA/363/2005, dt:22.10.2005 before the LAO on objections filed by WP's. <u>3.05. 07.2006</u> Declaration U/sec.6 was issued. <u>4. Dt:06.08.2008(P-24)</u> Enquiry U/s.11 & 12 and General cash award u/s.12(2) was passed in favour of

<u>20)</u> Mutation orders in favour of legal heirs of Late Laxminarayana Das confirmed by H.C. in W.P.No.2161/2007. ORC issued in favour of Late M.Laxminarayana Das has attained finality under Inams Act.	<u>3. Dt:10.12.1990 (P-15)</u> Commissioner of Endowments issued confirmation orders u/s.87(3) of the Endowments Act 30/1987 confirming Quasi-judicial orders dt:09.02.1990 holding subject land as not endowed property. <u>4. Dt:31.01.1994 (P-17)</u> Revision filed by third party before Joint Commissioner u/s.92 of the Endowments Act 30/1987 was dismissed. The orders of the Endowments Authorities declaring subject property as NOT ENDOWED has attained finality under Endowments Act.	Writ Petitioners vide Award No.10/2008. <u>5. 09.08.2011 (P-27)</u> Possession taken u/s.16. <u>6.dt:24.09.2011 (P-28)</u> The matter has been referred to the Honorable Lok Adalat in the light of G.O.Ms.No.36, dt:22.01.2011. Award u/s.31(4) of the L.A. Act in PLC Nos.131, 138, 139, 140, 141, 179/11 was passed in favour of writ petitioners. <u>7. dt:20.02.2017(P-4)</u> LAO (HMDA) issued Notice No.LA/06/2017 to the Awardees on the letter of objection addressed by the Asst. Commr., Endowments, RR District (Ex.P-4) <u>8. dt:22.02.2017 (P-5)</u> WP's reply to the Notice given to the LAO, HMDA. <u>9. dt:09.03.2017 (P-6)</u> Letter of reply No.LA/06/2017 addressed by the HMDA (R&R4) to the Commissioner of Endowments (R3) that Lok Adalat orders have become final and cannot be revoked basing on the record & reply given by WP's.
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		<u>10. dt:31.03.2017 & 02.04.2017</u> Having satisfied with reply, LAO allowed the awardees to participate in the lottery/draw. <u>11. dt:10.07.2017(P-29)</u> Allotment letters with schedule of plots issued by the LAO in certificate no.LA/363/2005 through the Honorable Minister for MA&UD,MP, Mayor etc., and the Metro Commr, HMDA. <u>12. dt:26.10.2017 (P-1)</u> Surprisingly impugned notice issued by the LAO at the instance of Metro Commissioner, HMDA not to execute conveyance deeds.
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9) A perusal of the orders passed would show that the ORC certificates issued in favour of late Lakshminarayan Das has attained finality under the Inams Act. The Revision filed by the third party before the Joint Collector under Section 92 of the Act 30 of 1987 came to be rejected thereby declaring the subject property as not an endowed property. These two orders have become final. Therefore, the observations in the impugned proceedings, that it is endowed land and as such the property

cannot be registered in favour of the petitioners, cannot be accepted.

10) Insofar as the usage of the land for beautification of Moosi is concerned, in the light of G.O.Ms.No.36 , an award came to be passed by the Land Acquisition Officer in favour of the writ petitioners. In spite of the same, about 8 years later Land Acquisition Officer issued notices to the awardees on the letter of objections by the Joint Collector, Ranga Reddy District stating that the land is endowed land. A reply came to be issued enclosing all the orders and the Award of Lok Adalat which have become final. After accepting the plea, the Land Acquisition Officer permitted the awardees to participate in the lottery and subsequently on 10.07.2017 allotment letters with schedule of plots were issued by the Land Acquisition Officer through HMDA. That being the position, refusal to register appears to be illegal.

11) In the counter filed by the Endowments Department, an objection was taken with regard to the registration of the land alleging that the property is an endowed property in view of the first proviso to Section 4 to Inams Act. But the issue is no more *res integra* in view of the orders passed in C.R.P.No.1799 of 2002 dated 19.02.2003. It is not in dispute that an application came

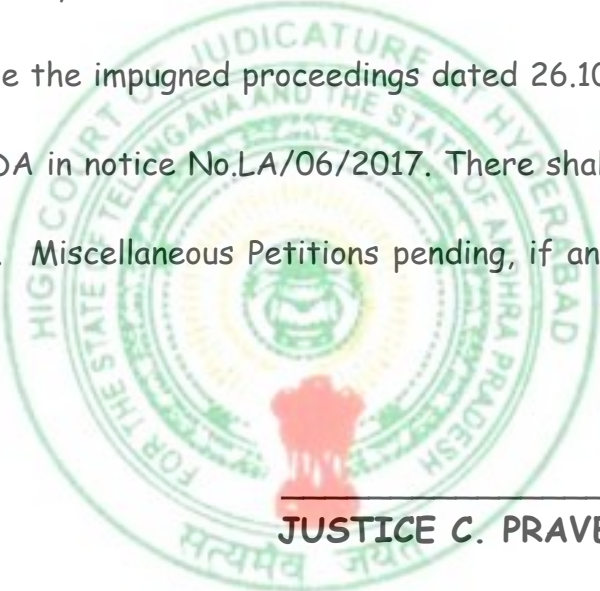
to be filed before the authorities under Section 4 of the Inams Act. When once an application is made under Section 4 of the Inams Act, the first proviso to Section 4 (1) of Inams Act becomes inapplicable as it is the applicable to the claims filed by the occupants under Sections 5, 6, 7 and 8 of the Inams Act. Therefore, the averments in the counter that the writ petitioners will not get any right over the property in view of the proviso to Section 4(1) of the Inams Act is incorrect and it appears that the provision has been totally misread by the authority.

12) One of the arguments, which was advanced orally is that the Legal Services Authority has no power to deal with Pre Litigation Cases. According to them, Legal Services Authority has no power to entertain application for settlement of disputes unless it is referred by a Court. The said issue came up for consideration before a Bench of this Court in Ch.Muralikrishna v. District Legal Services Authority¹. Referring to Section 19(5) to 22 of Legal Services Authority Act, the Bench held that the said provision unambiguously confer jurisdiction to deal with the matters even without any reference by the Court.

¹ AIR 2013 AP 41

13) In view of the ratios laid down in judgments referred to above and having regard to the fact that the findings of the Endowments Tribunal and findings of the Inam Tribunal have reached finality, and as they were never questioned till date before the High Court, all the Writ Petitions are liable to be allowed.

14) Accordingly, all the four Writ Petitions No.38720 of 2017, 38662 of 2017, 38699 of 2017 and 8746 of 2018 are allowed, setting aside the impugned proceedings dated 26.10.2017 passed by the HMDA in notice No.LA/06/2017. There shall be no order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.



JUSTICE C. PRAVEEN KUMAR

Dt:28.12.2018
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