

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NOs.22896, 25132,
26824 AND 27963 OF 2018

COMMON ORDER

The prayers of the petitioners in these four cases run on the same lines. All of them assail the action of the registration authorities in receiving for registration the documents executed by Prime Properties, Hyderabad, a registered partnership firm, in favour of Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad, relating to extents of land in Sy.No.1007 of Kukatpally Village, Balanagar Mandal, Malkajgiri-Medchal District.

In W.P.No.26824 of 2018, the prayer is more specific inasmuch as it sets out the nature of one document, viz., the Joint Development Agreement dated 28.06.2018 entered into by Prime Properties, Hyderabad, with Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad. The prayers in the other writ petitions, except for W.P.No.27963 of 2018, manifest that the petitioners therein asserted that the registration authorities failed to discharge their statutory obligation under Section 22-A of the Registration Act, 1908 (*for brevity*, 'the Act of 1908'), read with Sections 7, 17 and 19 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (*for brevity*, 'the Act of 1973'). In W.P.No.27963 of 2018, no reference was made in the prayer therein to the Act of 1973 but the relief sought is on the same lines as in the other writ petitions. Consequential directions were sought to the registration authorities in all the cases not to register the documents presented by Prime Properties, Hyderabad, Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad.

W.P.No.22896 of 2018:

The petitioners in this case are seven individuals. They claim to be the absolute owners and possessors of Plot Nos.20, 21, 33, 34, 35 and 36 in Sy.No.1007 of Kukatpally Village, having been allotted the same as members of Bhagyanagar Cooperative Housing Society Limited, Kukatpally. They claim title over the subject plots under registered sale deeds. According to them, Bhagyanagar Cooperative Housing Society Limited entered into an agreement of sale for an extent of Acs.70.00 guntas in Sy.No.1007 of Kukatpally Village with Fazilath Hussain, its pattadar and possessor. The society obtained a decree for specific performance in O.S.No.581 of 1994 and in execution thereof, Sale Deed No.2548 of 1996 dated 18.04.1996 was executed through Court in favour of the society for Acs.70.00 guntas. The plots claimed by the petitioners are stated to fall within this extent. They allege that Prime Properties, Hyderabad, created the series of partnership deeds dated 16.09.1974, 10.11.1983, 25.02.1984, 19.04.2006, 11.07.2011, etc., to claim the lands in Sy.Nos.806, 1007, 1009 and 1043 to 1065 of Kukatpally Village, admeasuring Acs.1500.00 guntas, claiming that these lands belonged to one Hashim Ali, by virtue of the registered sale deed bearing Document No.707 of 1952 executed in his favour by one Wali Mohammed. In turn, Wali Mohammed claimed title over this property under a gift from the original pattadar, Nawab Rayees Yar Jung Bahadur. Hashim Ali obtained a compromise decree in O.S.No.122 of 1973 on 22.11.1973 against Fazilath Hussain and others, whereunder they were stated to have given up their claims in respect of the lands in Sy.Nos.806 and 1007 of Kukatpally Village. An extent of Acs.340.00 guntas in Sy.No.1007 was stated to have been given to the eight donees of Hashim Ali as per the Memorandum of Hiba dated 14.07.1972.

The petitioners however assert that the alleged sale deeds and the decree in O.S.No.122 of 1973 never saw the light of day till about 2004, when Prime Properties, Hyderabad, filed a claim petition in I.A.No.811 of 2004 in I.A.No.1108 of 2001 in O.S.No.3306 of 1984 on the file of the learned VII Junior Civil Judge, City Civil Court, Hyderabad. This suit, according to the petitioners, was a collusive suit filed for dissolution of another firm called Sridevi Colonizers and for rendition of its accounts. It was filed by a third party who did not have anything to do with the land in Sy.No.1007 of Kukatpally Village. The petitioners point out that in spite of the so-called sale deeds and decree, none of the land records, including the pahanies, ever reflected the name of Hashim Ali from 1952 till date. On the other hand all the revenue records, according to them, including the khasra pahani, showed the name of Fazilath Hussain as the pattadar and possessor from the beginning till now. The petitioners also rely upon the proceedings of the Land Reforms Tribunal dated 09.12.1976 in C.C.Nos.156 to 159/West/W/75, which reflect that the pattadar, Nawab Rayees Yar Jung Bahadur, was survived by his widow, two sons, one being Fazilath Hussain, and two daughters, and the two sons were determined to be holding surplus land. The said proceedings also demonstrate that some land in Sy.Nos.1009, 1043 and 1063 was acquired by the Housing Board and the land in Sy.No.806 was sold under a registered sale deed in 1966 itself and these lands were accordingly deleted from the holdings of the declarants. The record also manifests that the surplus land was taken possession of, including an extent of Acs.24.50 cents in Sy.No.1007, *vide* C.C.No.W/158/75 dated 08.02.1977. The petitioners allege that Hashim Ali neither filed any declaration nor did he challenge the proceedings of the Land Reforms Tribunal, including the surrender proceedings, whereby the Government took possession of the

surplus land. The petitioners assert that Prime Properties, Hyderabad, got itself registered only on 14.09.2001, though it claimed to have come into existence originally as Sahara Real Estate Management Consultancy, under Partnership Deed dated 16.09.1974. According to them, the documents set up by Prime Properties, Hyderabad, were all spurious and fraudulent. They point out that Hashim Ali himself filed C.R.P.M.P.No.1222 of 2014 in C.R.P.No.6697 of 2004 in which he alleged that these documents were fraudulently obtained from him. The petitioners rely upon the common order dated 23.02.2018 passed in Review C.R.P.M.P.No.4638 of 2017 in C.R.P.No.6697 of 2004, whereby the earlier order dated 20.03.2009 passed in C.R.P.No.6697 of 2004 was set aside, and point out that Prime Properties, Hyderabad, filed S.L.P.No.7305 of 2018 against the said order but got it dismissed as withdrawn on 07.05.2018. They further point out that Prime Properties, Hyderabad, then filed implead petitions in O.S.Nos.899 and 900 of 2001 on the file of the learned I Additional Senior Civil Judge, Ranga Reddy District, which are pending. The petitioners allege that Prime Properties, Hyderabad, tried to interfere with the possession of the plot owners with the support of the police but the same was successfully resisted by the plot owners. The police were stated to have advised Prime Properties, Hyderabad, to obtain some registered document as it has no registered conveyance in its favour. To prevent Prime Properties, Hyderabad, from achieving this purpose, the petitioners claim that they submitted representation dated 18.05.2018 to the registration authorities requesting them not to permit any registration of documents in respect of Sy.No.1007 of Kukatpally Village. However, the Sub-Registrar, Kukatpally, endorsed upon their representation that as per Standing Order No.219, the registration authorities could not stop a registration in the absence of a Court order and advised them to bring

appropriate orders from a competent Court of law. The petitioners allege that Prime Properties, Hyderabad, created two bogus Development Agreements-cum-General Powers of Attorney in favour of Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad, and the said documents were received for registration in July, 2018. According to them, the documents were kept pending registration and one such pending document was No.P-133 of 2018. The petitioners claim that the document executed in favour of Sri Siddharth Infratech and Services Limited, Hyderabad, covered 5,75,960 square yards, which would be equivalent to about Acs.119.00 guntas, in Sy.No.1007 of Kukatpally Village and for the remaining extent, the other development agreement in favour of ACE HIBC Private Limited, Hyderabad, was executed and presented for registration but it was not shown in the website. The petitioners claim that these documents would cover not only the plots which were kept in the prohibitory list but also a 150 feet wide public road-cum-flyover from Madhapur to Kukatpally and a number of roads which vested in the Greater Hyderabad Municipal Corporation (GHMC), apart from the land surrendered to the Government as surplus. The petitioners filed another representation dated 02.07.2018 but the registration authorities remained unmoved. They contend that the action of the registration authorities in receiving documents which cover public roads and surplus land, which had vested in the Government, would come within the prohibition envisaged by Section 22-A(1)(a) and (d) of the Act of 1908. They further assert that as Prime Properties, Hyderabad, was claiming more than Acs.1500.00 guntas of agricultural land from Hashim Ali, clearly exceeding the ceiling limit, it could not alienate any part of such holding in view of Sections 17 and 19 of the Act of 1973 which, in turn, would attract the statutory prohibition contemplated by Section

22-A(1)(a) of the Act of 1908. They accordingly sought a writ of mandamus to declare the action of the registration authorities in receiving the documents executed by Prime Properties, Hyderabad, in favour of Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad, in respect of the land situated in Sy.No.1007 of Kukatpally Village, in violation of Sections 7, 17 and 19 of the Act of 1973 and in refusing to discharge their statutory obligations under Section 22-A of the Act of 1908 read with Sections 7, 17 and 19 of the Act of 1973, as illegal. They sought a further direction to the registration authorities not to register such documents. By way of their interim prayer, they sought a direction to the registration authorities not to register any document executed by Prime Properties, Hyderabad, in relation to the land situated in Sy.No.1007 of Kukatpally Village, including the pending Document No.P-133 of 2018.

W.P.No.25132 of 2018:

Bhagyanagar Cooperative Housing Society Limited (T.A.No.164 of 1961), Hyderabad, is the petitioner in this case. E.Raja Uma Reddy, the President of the petitioner society, deposed to the affidavit filed in support of the writ petition. Therein, he stated as follows:

The petitioner society has over 2,000 members. It entered into Agreements of Sale dated 13.06.1973, 18.10.1974, 15.09.1974, 18.01.1974 and 19.03.1974 for purchase of Acs.70.00 guntas, Acs.22.00 guntas, Acs.50.00 guntas, Acs.25.00 guntas and Acs.119.00 guntas respectively, in Sy.No.1007 of Kukatpally Village from the owner, Fazilath Hussain, son of Nawab Rayees Yar Jung Bahadur. The vendor received the sale consideration and delivered possession of the land on 25.11.1980 but failed to execute and register sale deeds in terms of the agreements of sale. The petitioner society thereupon filed specific performance suits in

O.S.Nos.152 and 521 of 1984, O.S.No.253 of 1985 and O.S.No.581 of 1992 before the learned Subordinate Judge, Ranga Reddy District. All the suits were decreed and execution petitions in E.P.Nos.12 and 93 of 1996, 43 of 1991 and 4 of 1986 came to be filed in relation thereto. Eventually, registered sale deeds bearing Document Nos.2548 of 1996 dated 15.04.1996; 1621 of 2001 dated 22.08.1998; 8985 of 1992 dated 27.12.1991; and 8824 of 1994 dated 27.06.1994 were executed in favour of the petitioner society through Court. After registration of these title documents, the petitioner society obtained layout sanction from Kukatpally Gram Panchayat and divided the land into as many as 2,000 plots. Most of the sale deeds in relation to these plots were executed in the years 1994 to 1996 in favour of as many as 1,400 individuals who were inducted into possession. Four suits, *viz.*, O.S.Nos.898, 899, 900 and 901 of 2001 were filed by Prime Properties, Hyderabad, before the learned I Additional Senior Civil Judge, Ranga Reddy District, seeking cancellation of the specific performance decrees and the registered sale deeds executed in favour of the petitioner society in relation to this land. According to the President, the unofficial respondents in the writ petition were using the machinery of the registration authorities for their gain without informing the Sub-Registrar, Kukatpally, about the litigation that was pending. He asserted that the unofficial respondents were claiming to be the owners of the land as their title was confirmed by the High Court, *vide* order dated 20.03.2009 passed in C.R.P.No.6697 of 2004, which is incorrect.

The President then referred to the litigation relating to the land and the society. He claimed that the original owner, Nawab Rayees Yar Jung Bahadur, had title over a larger extent of Acs.1500.00 guntas in Sy.Nos.806, 1007, 1009 and 1043 to 1065 of Kukatpally Village. He gifted

some property to Wali Mohammed who, in turn, executed registered Sale Deed bearing Document No.707 of 1952 dated 02.05.1952 in favour of Hashim Ali, who was aged about two years at that time. Nawab Rayees Yar Jung Bahadur was stated to be the grandfather and guardian of Hashim Ali. Nawab Rayees Yar Jung Bahadur died on 18.03.1960 leaving behind the following heirs.

1. Bilquis Jahan Begum (wife)
2. Fazilath Hussain (son)
3. Mir Muzitab Hussain (son) died
4. Bilquis Jahan Begum (daughter)
5. Fakar Jahab Begum (daughter)
6. Smt.Shajahan Begum (daughter)
7. Smt.Bahseer Unissa Begum (W/o Mir Muzitab Hussain)
8. Smt.Muneer Unissa Begum (D/o Mir Muzitab Hussain)
9. Smt.Sarfaraz Jahan Begum (D/o Mir Muzitab Hussain)

Hashim Ali filed O.S.No.122 of 1972 before the learned Additional Chief Judge, City Civil Court, Hyderabad, against the legal heirs of late Nawab Rayees Yar Jung Bahadur claiming rights and title based on the Sale Deed bearing Document No.707 of 1952 dated 09.05.1952 allegedly executed in his favour. The said suit was compromised and an extent of Acs.340.00 guntas in Sy.No.1007 was given to the alleged eight donees of Hashim Ali, in terms of the Memorandum of Hiba dated 14.07.1972. Thereafter, the alleged eight donees of Hashim Ali constituted a firm, by name Sahara Real Estates Management and Consultancy, claiming rights over the entire extent of Acs.340.00 guntas in Sy.No.1007 of Kukatpally Village. Hashim Ali, himself, was one of the partners of the said firm. However, Hashim Ali and the other donees retired from the firm and some of the remaining partners entered into a new partnership in the name of Prime Properties, Hyderabad, which now claims to be the owner of the land by virtue of its partnership deed. The President contended that the said partnership deed would not make Prime Properties, Hyderabad, the

owner, as there was no transfer *inter vivos*. He further pointed out that the original Hiba document never saw light of the day and in any event, once it was executed and put into writing, it required compulsory registration under the Act of 1908. He pointed out that Prime Properties, Hyderabad, filed suits seeking cancellation of the sale deeds executed through Court in favour of the petitioner society and that the said suits were dismissed on 05.11.2008 for non-prosecution, but were thereafter restored and were pending trial. According to him, a firm, by name, Sridevi Colonizers, obtained a registered General Power of Attorney, being Document No.147 of 1982, from Hashim Ali in relation to the land admeasuring Acs.349.00 guntas in Sy.No.1007 of Kukatpally Village. One Mohd. Kazim Ali, a partner of Sridevi Colonizers, filed a civil suit in O.S.No.3306 of 1984 before the learned VII Junior Civil Judge, City Civil Court, Hyderabad, against Sridevi Colonizers and its partners seeking dissolution of the firm and rendition of accounts apart from determination and payment of profits. He filed I.A.No.857 of 1985 therein seeking appointment of a Receiver, which was allowed. A preliminary decree was passed in the suit on 27.09.2000. I.A.No.1108 of 2001 was thereupon filed in the suit for passing of a final decree. At that stage, Prime Properties, Hyderabad, filed an application in I.A.No.1339 of 2001 in I.A.No.1108 of 2001 seeking to be impleaded. This application was dismissed on 08.07.2002. Assailing the correctness of the said order, Prime Properties, Hyderabad, filed C.R.P.No.3516 of 2001 before the High Court. This C.R.P. was dismissed on 22.07.2003 leaving it open to Prime Properties, Hyderabad, to avail an appropriate independent remedy. Thereupon, Prime Properties, Hyderabad, filed O.S.No.4401 of 2002 before the learned VII Junior Civil Judge, City Civil Court, Hyderabad, for cancellation of the preliminary decree passed in O.S.No.3306 of 1984 and

for delivery of possession. It also filed I.A.No.238 of 2002 in the said suit seeking determination of the Court-fee payable. The trial Court passed an order thereon on 15.04.2002 directing Prime Properties, Hyderabad, to pay deficit Court-fee. Assailing the correctness of this order, Prime Properties, Hyderabad, filed C.R.P.No.2461 of 2004 before the High Court. The C.R.P. was however dismissed on 18.06.2004, directing payment of deficit Court-fee within a time frame. As Prime Properties, Hyderabad, did not pay the amount, O.S.No.4401 of 2002 failed at the threshold. Thereafter, Prime Properties, Hyderabad, filed I.A.No.811 of 2004 in I.A.No.1108 of 2001 in O.S.No.3306 of 1984 under Order 21 Rule 52 CPC for adjudication of title and possession. The trial Court dismissed this application, by order dated 22.11.2004. Assailing the correctness of this order, Prime Properties, Hyderabad, filed C.R.P.No.6697 of 2004 before the High Court. The said revision was disposed of by order dated 20.03.2009, whereby a learned Judge set aside the order passed by the trial Court in I.A.No.811 of 2004 and directed the lower Court to release the property from the custody of the Receiver in favour of the original owner, Prime Properties, Hyderabad. Aggrieved by the said order, Bhagyanagar Plot Owners Welfare Association approached the Supreme Court in S.L.P(Civil) No.3785 of 2012. By order dated 02.03.2012 passed in this SLP, the Supreme Court opined that the said Association should first approach the High Court seeking review of the order dated 20.03.2009 in C.R.P. No.6697 of 2004 and approach the Supreme Court only in the event it failed in the review petition. Mohd. Kazim Ali, the plaintiff in O.S.No.3306 of 1994, also filed a separate Special Leave Petition against the order dated 20.03.2009 passed in C.R.P.No.6697 of 2004 and the same was numbered as S.L.P.(Civil) No.11595 of 2009. The said S.L.P. was dismissed as withdrawn on 10.01.2017 observing that in

the event the rights of any other parties and interveners were affected in any manner, they were at liberty to take appropriate steps under the relevant provisions of law before the appropriate forum. Pursuant to the aforesaid orders passed by the Supreme Court, the matter was heard afresh by a learned Judge of the High Court. By order dated 23.02.2018 passed in Rev.C.R.P.M.P. No.4638 of 2017 in C.R.P.No.6697 of 2004, the learned Judge allowed the review petition and set aside the order dated 20.03.2009 passed in C.R.P.No.6697 of 2004, thereby upholding the order of the trial Court in I.A.No.811 of 2004 in I.A.No.1108 of 2001 in O.S.No.3306 of 1984. The learned Judge further made it clear that all parties who had claims were at liberty to agitate their rights under the relevant provisions of law before the appropriate forum in line with the order of the Supreme Court dated 10.01.2017 in S.L.P.No.11595 of 2009. The President asserted that consequent to this order, all the parties would have to agitate their rights before the appropriate forum. He pointed out that O.S.No.3306 of 1984 filed by Mohd. Khazim Ali and the suits filed by Prime Properties, Hyderabad, for cancellation of the decrees and sale deeds in favour of the petitioner society were pending consideration before the trial Courts and asserted that except for these suits, no other case was pending as on date. He adverted to the fact that proceedings were initiated under the Urban Land (Ceiling and Regulation) Act, 1976 (*for brevity*, 'the Act of 1976'), by the Special Officer and Competent Authority in relation to the land in Sy.No.1007 of Kukatpally Village and by proceedings dated 04.08.2003, the Special Officer recorded that the members of the petitioner society were in possession of the property. He also adverted to issuance of G.O.Ms.No.455 dated 29.07.2002 in relation to regularization of surplus lands and asserted that all the members of the petitioner society tendered applications thereunder and paid considerable

amounts to the Government for regularizing their plots. However, owing to the repeal of the Act of 1976, the Government returned these amounts. He then referred to G.O.Ms.No.902 dated 31.12.2007 and G.O.Ms.No.113 dated 31.01.2008 issued by the Government for regularization of unauthorized plots under a Layout Regularization Scheme and stated that several members of the petitioner society paid necessary amounts to the GHMC for claiming such regularization and more than 550 plots were regularized by the GHMC as per the due procedure. He asserted that some of the members of the petitioner society had also obtained building permission from GHMC and constructed buildings in their respective plots. He further asserted that the sale deed bearing Document No.707 of 1952 dated 02.05.1952 was a fabricated document and had never seen the light of day. According to him, the said sale deed would be void for want of prior permission under Sections 47 and 48 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950. He also assailed the compromise decree dated 22.11.1973 passed in O.S.No.122 of 1973 on the ground that it was in violation of the Andhra Pradesh Agricultural Lands (Prohibition of Alienation) Ordinance Act, 1972, and the Act of 1973 apart from being hit by Section 17 of the Act of 1908. He pointed out that Fazilath Hussain and his family members filed declarations under the Act of 1973 and they were determined as surplus holders in relation to an extent of Acs.49.00 guntas, *vide* order dated 08.02.1977 passed by the Land Reforms Tribunal in C.C.Nos.W/158/75 and W/159/75. He pointed out that the consideration amount paid by the petitioner society was received by all the heirs of Nawab Rayees Yar Jung Bahadur and none of them questioned the sale deeds executed through Court in its favour. He further pointed out that after appointment of the Receiver in O.S.No.3306 of 1984, the land remained in the legal custody

of the Receiver from 1988 till 20.03.2009 and the so-called delivery by the Receiver to Prime Properties, Hyderabad, pursuant to the order dated 20.03.2009 in C.R.P.No.6697 of 2004 was collusive and not binding on the petitioner society. He asserted that the land always remained in the possession of the members of the petitioner society and the Receiver appointed in O.S.No.3306 of 1984 never resumed the lands physically. He contended that the order passed in O.S.No.3306 of 1984 and the Memos filed therein by the Receiver or by Prime Properties, Hyderabad, were not binding on the petitioner society or its members.

Coming to the issue on hand, he asserted that after the order dated 23.02.2018 was passed by a learned Judge of the High Court relegating the parties to the appropriate forum, Prime Properties, Hyderabad, got the document styled as a Development Agreement presented for registration as if it had right, title and interest over the land. The petitioner society filed a protest petition on 02.07.2018 before the registration authorities. Similarly, individual members of the petitioner society who had purchased plots from it also filed protest petitions and separately filed W.P.No.22896 of 2018 before the High Court. He further asserted that after passing of the order dated 23.02.2018 in the review petition, Prime Properties, Hyderabad, and its men intensified their attempts to interfere with the possession of the members of the petitioner society and several complaints were lodged with the Madhapur Police Station and also the Assistant Commissioner/Deputy Commissioner of Police in March and July, 2018. He pointed out that the name of Hashim Ali never figured in the revenue records, which continued to reflect the name of Fazilath Hussain as the pattadar and possessor even as on date. He asserted that the unofficial respondents in the writ petition were trying to register the land admeasuring Acs.70.00 guntas belonging to the

petitioner society and its members but despite their protest, the registration authorities endorsed on the representation that as per Standing Order No.219, they could not stop the registration in the absence of a Court order and to bring appropriate orders from a competent Court of law. The President stated that they reliably came to know that Prime Properties, Hyderabad, created two bogus Development Agreements-cum-GPAs in favour of Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad, and the same were received for registration. One such document was kept pending for registration with the number P-133/2018 on 02.07.2018. The said document covered not only the land belonging to the petitioner society and its members, but also a 150 feet wide public road-cum-flyover from Madhapur to Kukatpally and a number of roads which vested in the GHMC. The President asserted that registration of these documents would be in violation of Section 22-A(1)(a) and (d) of the Act of 1908 apart from being violative of Sections 17 and 19 of the Act of 1973. He pointed out that the document presented for registration reflects that Prime Properties, Hyderabad, was relying upon the order passed in the year 2009 in C.R.P.No.6697 of 2004, which had been set aside thereafter by way of the order passed in the review petition, but that fact had been suppressed. In these circumstances, the petitioner society sought a writ of mandamus declaring the action of the registration authorities in receiving the documents executed by Prime Properties, Hyderabad, in favour of Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad, in respect of the land in Sy.No.1007 of Kukatpally Village, in violation of Sections 7, 17 and 19 of the Act of 1973 and in refusing to discharge their statutory obligations under Section 22-A of the Act of 1908 read with Sections 7, 17 and 19 of the Act of 1973, to

be illegal and contrary to law and not to register the documents presented by the unofficial respondents.

W.P.No.26824 of 2018:

Bhagyanagar Plot Owners Welfare Association (Registration No.1412 of 2010), Hyderabad, is the petitioner in this case. The affidavit filed in support of this writ petition was deposed to by one P.Venkat Ram Reddy, claiming to be its President. Therein, he stated as follows: The subject matter of the writ petition was patta land admeasuring Acs.349.24 guntas in Sy.No.1007 of Kukatpally Village. Nawab Rayees Yar Jung Bahadur was the original owner of an extent of Acs.1483.50 guntas in various survey numbers, including Sy.Nos.806, 1007, 1009 and 1043 to 1065 of Kukatpally Village. He died on 18.03.1960. Fazilath Hussain, son of Nawab Rayees Yar Jung Bahadur, entered into five agreements of sale in respect of Acs.286.00 guntas in Sy.No.1007 of Kukatpally Village in favour of Bhagyanagar Cooperative Housing Society Limited, Kukatpally. Having received the entire sale consideration and having delivered possession to the society, he failed to execute registered sale deeds constraining the society to file specific performance suits before the competent civil Court. The said suits came to be decreed and registered sale deeds were executed through Court. None of the legal representatives of Nawab Rayees Yar Jung Bahadur questioned the sale deeds. The society thereupon obtained a sanctioned layout and sold the plots to about 1400 members and put them in physical possession. The purchasers formed into an association, viz., the petitioner association.

The President claimed that one Wali Mohammad brought into existence the alleged sale deed bearing Document No.707 of 1952 dated 02.05.1952 in favour of Hashim Ali, aged about two years, showing his grandfather, Nawab Rayees Yar Jung Bahadur, as his guardian. Hashim Ali

filed O.S.No.122 of 1973 before the learned Additional Chief Judge, City Civil Court, Hyderabad, against the heirs of Nawab Rayees Yar Jung Bahadur claiming rights pursuant to the aforestated sale deed. Compromise decree dated 22.11.1973 was brought into existence in this suit whereby the extent of Acs.349.00 guntas in Sy.No.1007 of Kukatpally Village was given to the alleged eight donees of Hashim Ali, as per Memorandum of Hiba dated 14.07.1972. Hashim Ali and the so-called donees brought into existence a partnership firm, *viz.*, Sahara Properties, which claimed rights over an extent of Acs.160.00 guntas in Sy.No.1007 of Kukatpally Village. A new partnership firm, Prime Properties, Hyderabad, was then brought into existence by Hashim Ali and others. The President pointed out that the original Hiba never saw the light of day and in any event, it was not even registered though reduced to writing. He pointed out that Prime Properties, Hyderabad, was claiming ownership under a partnership deed and there was no transfer *inter vivos* to support such a claim. He also pointed out that Prime Properties, Hyderabad, had filed suits seeking cancellation of the registered sale deeds executed in favour of the society and that the same were pending consideration after restoration. He adverted to the fact that Fazilath Hussain allegedly executed a General Power of Attorney in favour of Sridevi Colonizers, a partnership firm, *vide* Document No.147 of 1982, in relation to an extent of Acs.349.00 guntas in Sy.No.1007 and one Mohd. Kazim Ali, a partner of Sridevi Colonizers, filed O.S.No.3306 of 1984 seeking dissolution of the said partnership firm and for rendition of accounts apart from determination and payment of his share in the net profits. He adverted to the history of the litigation arising out of and in connection with this suit, already set out *supra*. The rest of the pleadings in this writ petition, being on the same lines as in the earlier writ petition, do not require

reproduction. The President stated that Prime Properties, Hyderabad, having lost the battle at every stage, brought into existence Joint Development Agreement-cum-General Power of Attorney dated 28.06.2018 with Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad. The petitioner association filed a protest petition on 02.07.2018 before the Sub-Registrar, Kukatpally, who made an endorsement thereon in evidence of its receipt. Some of the members of the association gave a representation on 18.05.2018 requesting the Sub-Registrar not to process any document presented for registration in respect of the land in Sy.No.1007. However, the Sub-Registrar endorsed thereon that as per S.O.No.219, he could not stop registration of documents without a Court order. Aggrieved by the same, some plot owners filed W.P.No.22896 of 2018 before the High Court.

The President stated that one R.Koteswara Rao, a partner of Prime Properties, Hyderabad, filed O.S.No.901 of 2017 on the file of the learned X Additional Chief Judge, City Civil Court, Hyderabad, for dissolution of the firm and by order dated 16.10.2017, the trial Court appointed an Advocate-Receiver to take charge of the firm. He further stated that he came to know that Hashim Ali had filed a private complaint on 29.03.2014 against Prime Properties, Hyderabad, and its partners and the same was referred to the KPHB Police Station for investigation, leading to registration of FIR No.305 of 2014.

On the strength of these pleadings, the petitioner association sought a writ of mandamus to declare the action of the registration authorities in receiving the Joint Development Agreement dated 28.06.2018 entered into by the unofficial respondents in relation to the land in Sy.No.1007 of Kukatpally Village in violation of Sections 7, 17 and 19 of the Act of 1973 and in refusing to discharge their statutory

obligations under Section 22-A of the Act of 1908 read with Sections 7, 17 and 19 of the Act of 1973, as illegal. A consequential direction was sought to the registration authorities not to register the documents presented by the unofficial respondents.

W.P.No.27963 of 2018:

M/s.Swagruha Projects Private Limited, Secunderabad, is the petitioner in this case. The Managing Director of the said company deposed to the writ affidavit and therein, he stated as follows:

Hashim Ali was the owner of Acs.1500.00 guntas of land in Sy.Nos.806, 1007, 1009 and 1043 to 1065 of Kukatpally Village by virtue of the registered Sale Deed bearing Document No.707 of 1952 dated 09.05.1952. The extent of Acs.340.00 guntas in Sy.No.1007 of Kukatpally Village also formed part of this land. Hashim Ali's grandfather had provided him these lands under the aforestated sale deed as he lost his parents during his childhood. Due to this reason, he remained unaware of the fact that he was the owner of this land and taking advantage of his ignorance, the stepbrothers and stepsisters of his father started enjoying the land after the death of his grandfather in the year 1960, by projecting themselves as the owners. The Government of Andhra Pradesh acquired a large extent of land belonging to Hashim Ali for the purposes of the Andhra Pradesh Housing Board, wherein Kukatpally Housing Board Colony came up. The stepbrothers and stepsisters of his father illegally claimed and received the compensation paid by the Government for this acquired land. It was only after he attained the age of understanding that Hashim Ali came to know of these facts with the help of one Sadiq Mohiuddin, who was aware of these details. Hashim Ali filed O.S.No.122 of 1973 before the City Civil Court, Hyderabad, against the stepbrothers and stepsisters of his father seeking possession of his lands in Sy.Nos.806 and

1007 of Kukatpally Village and for recovery of the compensation illegally claimed by them. Hashim Ali totally relied upon Sadiq Mohiuddin for prosecuting the suit as he was not educated and was eking out his livelihood as a car mechanic. Taking advantage of the trust and confidence reposed in him by Hashim Ali, Sadiq Mohiuddin played fraud upon him and also the Court so as to knock away the lands. The defendants in the suit entered into a compromise with Hashim Ali, the plaintiff therein, and the suit was decreed on 22.11.1973 in terms thereof. Without the knowledge of Hashim Ali, Sadiq Mohiuddin got incorporated some clauses in the said decree to the effect that the defendants therein would not dispute the handing over of possession of an extent of Acs.349.00 guntas in Sy.No.1007 of Kukatpally Village to the alleged eight donees of Hashim Ali and only an extent of Acs.43.00 guntas in Sy.No.806 was to be handed over to Hashim Ali. The suit plaint in O.S.No.122 of 1973 made no mention of any execution of a Hiba/gift deed in relation to the suit properties. According to the Managing Director, Hashim Ali never executed any Hiba. After passing of this collusive decree, Sadiq Mohiuddin created a fictitious firm by name Sahara Real Estate and Investment Management Consultancy under the fabricated Partnership Deed dated 16.09.1974, showing Hashim Ali and the alleged eight donees as partners. Hashim Ali was shown to have invested the extent of Acs.43.00 guntas in Sy.No.806 of Kukatpally Village, being the land that he got under the compromise decree, as his capital in the said firm. The alleged eight donees invested the extent of Acs.340.00 guntas in Sy.No.1007 of Kukatpally Village, which they got under the alleged Hiba. Sadiq Mohiuddin then got fabricated the Deed of Retirement dated 10.11.1983 to the effect that all eight donees retired from the firm by receiving Rs.37,500/- each towards return of their capital, leaving Acs.48.00 guntas

each to the firm by relinquishing all their rights therein. Thereby, the firm was shown to have become the owner of the entire extent of Acs.340.00 guntas in Sy.No.1007. Sadiq Mohiuddin, along with others, then fabricated another Partnership Deed dated 17.02.1994 stating that Hashim Ali had given away the extent of Acs.43.00 guntas in Sy.No.806, which he had invested as capital in the firm, to the Government for allotment to weaker sections. In effect, Hashim Ali gave away all the lands which were the subject matter of the compromise decree in O.S.No.122 of 1973. Thereafter, another partnership firm, by name, Prime Properties, Hyderabad, was created and it was gotten registered on 14.09.2001. Sadiq Mohiuddin then fabricated the Partnership Reconstitution Deed dated 19.04.2006, whereby Hashim Ali was shown to have retired from the firm, and the entire land became the property of this new firm.

The Managing Director pointed out that there was no registered document and no stamp duty was paid in relation to this so-called change of ownership and these documents were fabricated with forged signatures so as to illegally knock away the land in Sy.No.1007 of Kukatpally Village. Hashim Ali then filed a private complaint before the XIX Metropolitan Magistrate, Miyapur, against Sadiq Mohiuddin and the other partners, alleging that they had fabricated the aforesaid documents by forging his signatures. This led to registration of Crime No.305 of 2014 on the file of KPHB Police Station. The accused therein filed CrI.P.No.6007 of 2014 before the High Court under Section 482 CrPC to quash the proceedings. Though a stay was granted initially in relation to further proceedings in Crime No.305 of 2014, it was not extended after 23.01.2015. The police thereupon completed the investigation and filed a charge sheet in December, 2017, against Sadiq Mohiuddin and others. However, the Magistrate returned the said charge sheet under the impression that the

stay granted by the High Court was still operating. The police did not resubmit the charge sheet due to the pressure brought by the accused. The Managing Director then referred to C.R.P.No.6697 of 2004 and the order dated 20.03.2009 passed therein. He stated that Hashim Ali and the petitioner company filed petitions seeking review of the said order and the same were allowed on 23.02.2018, directing the parties to work out their rights, if any, before the competent civil Court. Without doing so, Prime Properties, Hyderabad, hatched a plan to create registered documents so that it could claim rights over the land in Sy.No.1007 of Kukatpally Village. In furtherance of this plan, it created two collusive agreements with Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad, and presented them for registration.

Upon coming to know of the same, the petitioner company submitted representation dated 05.07.2018 to the registration authorities requesting them not to register the documents executed by Prime Properties, Hyderabad. However, the registration authorities went ahead and allotted a pending registration document number to one of the documents, viz., P-133 of 2018. This document covered an extent of Acs.119.00 guntas in Sy.No.1007 of Kukatpally Village, while the other document covered the remaining extent. According to the Managing Director, even public roads and over-bridges constructed by the GHMC were not spared. The Managing Director stated that Hashim Ali, being the owner of the land in Sy.No.1007, executed Agreements of Sale dated 30.04.2013, 19.05.2014 and 22.08.2014 in favour of the petitioner company and its nominees. He also executed two registered Agreements of Sale dated 18.03.2015, each for an extent of Acs.6.00 guntas, and Sale Deed dated 16.03.2015 for an extent of Ac.1.00 guntas. It is on the basis of these documents that the petitioner company claimed title and interest

in the subject land. On the strength of these pleadings, the petitioner company sought a writ of mandamus declaring the action of the registration authorities in receiving the documents executed by Prime Properties, Hyderabad, in favour of Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad, in respect of the land in Sy.No.1007 of Kukatpally Village, as illegal. A direction was sought to the registration authorities not to register such documents.

W.P.No.22896 of 2018 came up for admission on 05.07.2018. Having heard the submissions made by the learned counsel, the Court directed thus:

'Heard Sri *M.V.Durga Prasad*, learned counsel appearing for the petitioners, learned Government Pleader for Revenue (Telangana) appearing for the respondents 1 to 4, and Sri *D.Prakash Reddy*, learned senior counsel, appearing for the fifth respondent Caveator. Perused the material record.

Heard the submissions preliminarily. As the matter requires detailed examination, considering the nature of the relief claimed, let there be a *status quo* as on today till tomorrow.

Post tomorrow in Motion List.'

The matter was taken up on the next day, viz., 06.07.2018, and the following order was passed in I.A.No.1 of 2018 therein:

'Heard Mr.M.V.Durga Prasad, learned counsel for the petitioners, Mr.D.Prakash Reddy, learned senior counsel for respondent No.5, Mr.Y.Srinivasa Murthy for respondent No.6 and the learned Assistant Government Pleader for Revenue.

Section 22-A of the Registration Act is a source of perennial litigation under Article 226 of the Constitution of India against registering authorities for not registering the documents presented by the parties. The instant writ petition canvasses a converse situation viz., the petitioners pray for Mandamus declaring the action of respondent Nos.2 to 4 in receiving, processing and registering the documents presented by respondent Nos.5 to 7 in the writ petition, as illegal and in violation of Sections 7, 17 and 19 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short, 'the COAH Act') and Section 22-A of the Registration Act, 1908. Briefly stated the prohibition for registration of documents is ignored and documents are processed for registration.

The petitioners, on the one hand, and respondents 5 and 6, on the other, claim either rival title or possession to the land covered by Sy.No.1007 of Kukatpally Village. Respondents 5 and 6 presented

development agreement for registration before respondent No.4. The document presented is kept pending with document bearing P.No.133/2018. The schedule of the development agreement reads thus:

“Vill/ Col: Kukatpalle (M)/ Kukatpally Village W-B: 15-31, Survey: 1007, Extent:5,75,960 Sq.Yds, Boundaries: (N): Roadway Line, (S): NAC Compound Wall, Khanamet Village, (E):Remaining land in Sy.No.1007 of Kukatpally, (W):Sy.No.79 of Hafeezpet Village”.

The petitioners claim to have purchased the following extents in Survey No.1007 of Kukatpalli Village from Bhagyanagar Housing Cooperative Society:

Document No/Date	Plot No.	Extent Sq. Yds	Purchaser
685/99 1.03.1999	36	500	K. Sujatha Reddy
687/99 01.03.1999	34	417	Sana Laxmi Devi
688/99 01.03.1999	35	500	Pranathi Reddy Sana
689/99 01.03.1999	33	417	Sana Maruthi
690/99 01.03.1999	21	417	Aparna Mendonce
692/99 01.03.1999	20	480	Pramod K.Sana

For the present, it is sufficient to advert to the declarations filed under the CAOH Act, which are numbered as CC.Nos.156/W/75, 157/W/75, 158/W/75, 159/W/75.

According to petitioners, the schedule property of pending document No.133 of 2018 is covered by the declarations referred to above. Therefore, according to petitioners, registration of document is hit by Section 22-A (1) sub-clauses (a) & (d) which read thus:-

22-A Prohibition of Registration of certain documents- (1) The following classes of documents shall be prohibited from registration, namely:

- (a) documents relating to transfer of immovable property, the alienation or transfer of which is prohibited under any statute of the State or Central Government;
- (b) xxx
- (c) xxx
- (d) Agricultural or urban lands declared as surplus under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 or the Urban Land (Ceiling and Regulation) Act, 1976;

Respondent Nos.5 and 6 refer to the orders of competent authority under the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the ULC Act') in proceedings No. F1/6360, 6361, 6362 & 6363/76 dated 04.08.2003 and the order of the Commissioner of Appeals, Office of the Chief Commissioner in Appeal Progs. No. Hyd/49, 51, 53, 55, 56, 62, 64, 76/03 & 8/04 dated 26.05.2004 to contend that the very basis to attract prohibition from registration in the writ petition, is unfounded and untenable.

The learned counsel appearing for private parties have made detailed submissions on entitlement or the defence available in opposition to the case pleaded by the opposite party. This Court for the present prefers to make it plain that in the present writ petition none of the rival claims on merits or their entitlement is considered. This Court is

proposing to examine the statutory duty fastened on the Sub-Registrar/R-4 vis-à-vis the orders passed by competent authorities in respect of Sy.No.1007 in the declarations referred to above and whether the prohibition under Section 22-A is attracted or not.

Sri D.Prakash Reddy and Sri Y.Srinivasa Murthy have vehemently contended that the registration of a document *per se* cannot and could not be understood as either creating a right or defeating the right of a third party. Therefore, learned counsel pray for allowing the statutory authorities to continue to discharge the duty and function in the manner in which the authorities understand.

The learned Assistant Government Pleader, on instructions, states that the 4th respondent has sought for clarification or departmental instructions from 3rd respondent and the document is still at the stage of pending registration. He seeks time to file counter affidavit on various orders under COAH Act and ULC Act concerning subject matter of W.P.

The objection since has been argued with considerable vehemence by the learned counsel, the Court prefers to advert to the said contention. The consideration shall not be understood as concluding the same for the remark made by the Sub-Registrar on the representation of petitioners dated 18.05.2018 which refers to the obligation fastened on the registering authority by Standing Order 219, but R-4 is not examining the issue from Section 22-A-(1) (a) & (d). This Court understands the Standing Order as applicable in refusing registration pursuant to an order of prohibition passed by a Court of competent jurisdiction. In the case on hand, the objection of petitioners is that the 4th respondent is failing in his duty under Section 22-A (1) sub-clauses (a) & (d) of the Registration Act. Before applying the statutory duty under Section 22-A (1) and keeping in view the object of Section 22-A viz., to prohibit registration of a particular class of documents, this Court ought not to allow completion of registration, pending consideration of the main prayer. By order dated 05.07.2018, this Court directed maintenance of *status quo* till today. The status quo granted on 05.07.2018 is directed to be continued till 23.07.2018

List on 23.07.2018 in 'Adjourned Motion List'.

This Court directs 1st respondent to file counter affidavit with particular reference to the orders passed under the CAO/H/ULC Act, extent vested in Government and all revenue records within two weeks from today.'

Aggrieved by the above order, Prime Properties, Hyderabad, the fifth respondent therein, filed W.A.No.935 of 2018. The writ appeal was disposed of by a Division Bench on 10.12.2018. The order reads as under:

'M/s.Prime Properties *i.e.*, the appellant-respondent No.5 is aggrieved by Order, dated 06-07-2018, in IA.No.1 of 2018, in WP.No.22896 of 2018, whereby the learned Single Judge has directed the parties to continue to maintain *status quo* as existed on 05.07.2018 till 23.07.2018.

Briefly stated, respondent Nos.1 to 7-writ petitioners have filed the aforesaid Writ Petition wherein they have claimed that registration of the document made by respondent Nos.2 to 4 in respect of the land situated in Survey No.1007 of Kukatpally Village, Balanagar Mandal, Malkajgiri, Medchal District, was contrary to Section 22-A of the Registration Act, 1908. Taking this plea on a priority basis, the learned Single Judge has passed the impugned order.

Although the learned Counsel for the appellant has pleaded that this Court should direct respondent Nos.2 to 4 to consider whether registration of the subject document is in violation of Section 22-A of the Act or not, the said plea cannot be accepted by this Court for two reasons; firstly, for such a plea would make the entire Writ Petition filed before the learned Single Judge an academic exercise and secondly, since the matter is already subjudice, it would be in the interests of justice for the learned Single Judge to apply his mind to the legal issue raised by the petitioner lest directing respondent Nos.2 to 4 to decide the said issue. Since merely an order of *status quo* has been passed, the same cannot be faulted by this Court. However, the appellant is free to make a request, to the learned Single Judge, to decide the case within a reasonable time. In such an eventuality, the learned Single Judge is requested to decide the case as expeditiously as possible.

With the above directions, this Writ Petition stands disposed of.

Consequently, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.'

The interim order of *status quo* granted in I.A.No.1 of 2018 in W.P.No.22896 of 2018 was thereafter extended from time to time and on 30.01.2019, it was extended until the hearing was completed. Upon such completion, while reserving orders in these matters on 22.02.2019, this Court extended the said interim order till pronouncement of final orders.

The Special Chief Secretary to Government, Revenue (Registration and Stamps), Government of Telangana, Hyderabad, filed a counter-affidavit in W.P.No.22896 of 2018 on behalf of the State. This was in keeping with the order dated 06.07.2018 passed in I.A.No.1 of 2018 in this writ petition. Therein, he stated as follows: Acquisition of land by Prime Properties, Hyderabad, through the partnership deeds dated 16.09.1974, 10.11.1983, 25.02.1984, 19.04.2006, 11.07.2011, etc., in relation to Sy.Nos.806, 1007, 1009 and 1043 to 1065, admeasuring Acs.1500.00 guntas, was not within his knowledge. Prime Properties,

Hyderabad, however, filed an application before the Tahsildar, Kukatpally, on 18.07.2017 under Section 4(1) of the Telangana Rights in Land and Pattadar Pass Books Act, 1971 (for brevity, 'the Act of 1971'), seeking mutation in its favour in relation to the land admeasuring Acs.286.00 guntas in Sy.No.1007 of Kukatpally Village. However, the same was not considered as various writ petitions were filed and an order of interim stay of all further proceedings was obtained in W.P.Nos.1160, 1162 of 2018 and 44648 of 2017. In compliance with the said orders, the Tahsildar, Kukatpally Village, kept the matter in abeyance. The Special Chief Secretary stated that the revenue records did not reflect the name of Hashim Ali and that Nawab Rayees Yar Jung Bahadur was shown as the pattadar of the land admeasuring Acs.349.24 guntas in Sy.No.1007 of Kukatpally Village. He died in the year 1960. Thereafter, it was recorded in the name of Fazilath Hussain who, along with his mother, brother and sisters, had filed declarations under the Act of 1973. Orders were passed by the Land Reforms Tribunal, Hyderabad (West) on 09.12.1976 holding that they were surplus land holders to the extent of 0.8166 standard holding, equivalent to Acs.49.00 guntas. This surplus land was taken possession of on 29.03.1977 by the Tahsildar, Hyderabad West Taluq, and handed over to the Police Patel for safe custody. The patta was transferred in the name of the Government in the Faisal Patti of 1977-78. This surplus land was leased to HANSEN's Social Welfare Rehabilitation of Lepers for a period of thirty years under G.O.Ms.No.369 dated 07.09.1980. Due to breach of conditions of the lease, the Government then issued G.O.Ms.No.96 dated 29.01.2004 limiting the extent to be given to the organization to Acs.6.00 guntas in Sy.No.1007 of Kukatpally Village and resumed the balance land of Acs.43.00 guntas in Sy.No.1007 and Acs.7.20 guntas in Sy.No.1011/7. He further stated that as on date,

1101 structures had come up and only a half-acre, in bits and pieces, was left as open land with boulders. The Government appointed one K.Vijayanand, Joint Collector, Ranga Reddy District, *vide* G.O.Rt.No.3116 dated 09.11.2001 to enquire into the sale transactions and the involvement of the revenue and registration departments in these sales and in facilitating and strengthening bogus claims, by way of manipulation of records. According to the land reforms proceedings dated 09.12.1976, Nawab Rayees Yar Jung Bahadur was survived by his wife, two sons and two daughters. As per these proceedings, the lands in Sy.Nos.1009 and 1043 to 1065 were acquired by the Andhra Pradesh Housing Board and the land in Sy.No.806 was sold under registered sale deed of 1966 and therefore, they were deleted from the holdings of the declarants, namely, Fazilath Hussain and the five others. Some of the houses constructed illegally in the surplus lands were regularized under the provisions of G.O.Ms.Nos.58 and 59 dated 30.12.2014, on payment of cost during 2014-15. Fazilath Hussain and others filed declarations under the Urban Land (Ceiling and Regulation) Act, 1976, for the remaining land, being an extent of Acs.300.24 guntas (Acs.349.24 guntas – minus - Acs.49.00 guntas). The competent authority held that the retainable area was only 16000 square metres and that the surplus land aggregated to 14,14,761.28 square metres. Aggrieved by this finding, Bhagyanagar Cooperative Housing Society Limited, Kukatpally, and Mohd. Khaja Miya filed writ petitions before the High Court. Due to pendency of these Court cases, the ceiling case was not processed beyond the Section 8(4) stage and in the meanwhile, the Act of 1976 was repealed with effect from 27.03.2008. As the ULC proceedings in relation to the subject land were not processed beyond the Section 8(4) stage, they stood abated. Some of the purchasers, who had filed applications for regularization under

G.O.Ms.No.455 dated 29.02.2002 were refunded the money paid by them, owing to the repeal of the Act of 1976. The Secretary stated that Hashim Ali neither filed any declaration nor did he challenge the order of the Land Reforms Tribunal, including the surrender proceedings under which the Government took possession of the surplus land to the tune of Acs.49.00 guntas. As per the land reforms proceedings, the land taken over to the extent of Acs.49.00 guntas out of the total extent of Acs.349.24 guntas was in Sy.No.1007. He gave the boundaries of this surplus land admeasuring Acs.49.00 guntas and pointed out that the land covered by the pending Document bearing No.P-133 of 2018 dated 30.06.2018, being an extent of Acs.119.00 guntas in Sy.No.1007/A, had different boundaries altogether. He summed up that the land covered by the said document was not part of the surplus land taken over by the Government, as alleged by the petitioner. He further pointed out that the pending Document dated 30.06.2018 related to a Joint Development Agreement-cum-General Power of Attorney, covering an extent of Acs.119.00 guntas, executed by Prime Properties, Hyderabad, in favour of Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad. He stated that as per Section 3(o) of the Act of 1973, a 'person' would include an individual, a family unit, a trustee, a company, a firm or a society or an association of individuals, whether incorporated or not, and as per Sections 8 and 18 of the Act of 1973, a 'person' whose holding exceeds the specified limit prescribed under Section 5 of the Act of 1973 should file a declaration. He referred to Section 17 of the Act of 1973 which prohibits any person from alienating any part of his holding by sale, lease, gift, exchange, settlement, surrender, mortgage, or converting agricultural into non-agricultural land, and stated that the action of the Sub-Registrar, Kukatpally, in entertaining the pending document was in

contravention of Sections 17 and 19 of the Act of 1973. He further pointed out that Prime Properties, Hyderabad, had not filed any declarations about its holding under the Act of 1973, whereas Section 17 thereof mandates that no person whose holding is in excess of the ceiling area as on 24.01.1971 or at any time thereafter, should alienate his holding or any part thereof by way of sale or otherwise, until he furnishes a declaration under Section 8 and the extent of land, if any, to be surrendered in respect of his holding has been determined. He then referred to Section 19 of the Act of 1973, whereunder the executant has to file a declaration in Form XIV before the registering officer to the effect that his holding does not exceed the ceiling area prescribed under Section 5 of the Act of 1973. He also referred to Section 19(4) of the Act of 1973 which requires the registering officer to forward such a declaration to the Revenue Divisional Officer under whose jurisdiction the subject land is situated and that on receipt of the same, the Revenue Divisional Officer has to decide whether or not the transaction is in contravention of the Act of 1973, and if so, whether it should be declared null and void. He noted that the Sub-Registrar, Kukatpally, had not referred to any such declaration having been given by Prime Properties, Hyderabad, and concluded by stating that the subject land, covered by the pending document, did not include the surplus land of Acs.49.00 guntas, which had already been taken over by the Government, and therefore, Section 22-A(1)(a) to (d) of the Act of 1908 would not be applicable. He however stated that the holding of Prime Properties, Hyderabad, attracted Sections 5 and 8 of the Act of 1973 and it was prohibited from alienation under Section 17 thereof until its retainable holding was determined by the Land Reforms Tribunal.

ACE HIBC Private Limited, Hyderabad, filed I.A.No.4 of 2018 in W.P.No.22896 of 2018 to vacate the interim order of *status quo* dated

06.07.2018. In the counter-affidavit filed in support thereof, its authorized signatory stated as follows: ACE HIBC Private Limited was stated to have made its mark in world-wide markets in the field of power projects. It entered into the field of infrastructure development in India and in furtherance thereof, the joint development agreement was executed with Prime Properties, Hyderabad, and Sri Siddharth Infratech and Services Limited, Hyderabad, to develop the subject land, being an extent of Acs.119.00 guntas in Sy.No.1007 of Kukatpally Village, Hyderabad. This project was to be a 'state of the art' project which would create great potential for employment generation and to augment resources. Some disgruntled bodies of individuals and misguided plot owners in neighbouring lands made representations to the Sub-Registrar, Kukatpally, raising false and frivolous contentions so as to restrain him from proceeding with the registration of the agreement. Having failed before the Registration Authorities, they filed writ petitions before this Court. Reference was made to the interim order granted in I.A.No.1 of 2018 in W.P.No.22896 of 2018 on 05.07.2018, which was being extended thereafter from time to time, and the authorized signatory stated that the interim order was obtained behind its back in as much as it was not made a party to W.P.No.22896 of 2018 with its right name and was wrongly shown as ACE Urban Developers Private Limited, Hyderabad. The cause title was amended only on 29.01.2019, when an order was passed in I.A.No.6 of 2018 describing it correctly. On merits, the authorised signatory stated that the land was not agricultural in nature and had become urban land long prior to the transaction. He pointed out that even as per the petitioners in these cases, several transactions had been made in their favour in relation to the plots laid out in this land and therefore, it was not open to them to claim otherwise. He further pointed out that the

development agreement was in relation to only Acs.119.00 guntas with clear and unambiguous boundaries, leaving aside an extent Acs.167.00 guntas, and the motive of the writ petitioners was only to bargain for unlawful enrichment. He asserted that the indulgence shown to the writ petitioners by this Court was misplaced and would adversely impact society, as employment generation in the State would be jeopardized. He accordingly sought vacating of the interim order of *status quo*.

Prime Properties, Hyderabad, filed counter-affidavits in W.P.Nos.22896 and 26824 of 2018. Therein, Najeeb Ahmed, one of its partners, denied that Nawab Rayees Yar Jung owned the land in Survey No.1007 of Kukatpally Village and that his son, Fazilath Hussain, entered into five agreements with Bhagyanagar Cooperative Housing Society. He alleged that false ante-dated agreements were brought into existence and that Fazilath Hussain had no title or possession at any time. According to him, four collusive suits were filed and four sale deeds were brought into existence in favour of Bhagyanagar Cooperative Housing Society pursuant thereto. He stated that Prime Properties, Hyderabad, filed O.S.Nos.898 to 901 of 2001 for cancellation of the decrees in the four suits filed by Bhagyanagar Cooperative Housing Society and the same were pending before the learned I Additional Senior Civil Judge, Ranga Reddy District.

Reference was made to the earlier litigation initiated by Hashim Ali and on the strength thereof, he asserted that Prime Properties, Hyderabad, was the true and lawful owner of the subject land. He referred to the litigation in O.S.No.3306 of 1984 and CRP No.6697 of 2004, culminating in the order dated 01.10.2018 passed by the Supreme Court. According to him, the observation of the Supreme Court that possession of the land in Survey No.1007 of Kukatpally Village was with the Receiver would mean that possession of Prime Properties, Hyderabad,

stood confirmed. He further stated that the land in Survey No.1007 of Kukatpally Village was not agricultural land since the year 1950 and therefore, the Act of 1973 would not be applicable thereto. He sought dismissal of the writ petition on the ground that it had been filed with the oblique motive of restraining the Sub-Registrar from registering the joint development agreement as per law.

Prime Properties, Hyderabad, also filed a counter-affidavit in W.P.No.27963 of 2018, which reads as follows: The writ petition was filed with the sole purpose of laying a false claim over the land in Survey No.1007. The petitioner company along with other conspirators brought into existence an imposter styling him as Hashim Ali, son of Mohammed Ali, the owner of the land under the sale deed bearing Document No.707 of 1952 dated 02.05.1952 and the decree holder in O.S.No.122 of 1973. He pointed out that the agreements of sale dated 30.04.2013, 19.05.2014 and 22.08.2014 allegedly executed in favour of the petitioner company and its nominees led to registration of the sale deed dated 18.03.2015 as Document No.2151 of 2015. Similarly, the agreement of sale dated 18.03.2015 resulted in registration of the sale deed bearing Document No.2152 of 2015 and another agreement of sale dated 18.03.2015 was registered as Document No.2153 of 2015. This, according to him, clearly showed that there was no bar under Section 22-A of the Act of 1908 with regard to registration of documents relating to the land in Survey No.1007. He asserted that the imposter was not the grandson of late Nawab Rayees Yar Jung and was not the son of Nawab Mohammed Ali. He claimed that the petitioner company was attempting to set up a false identity by projecting another person as Hashim Ali though the real name of this person was Mir Hasham Ali Khan and his father's name was Mir Inayath Ali Khan and his date of birth was 14.05.1992, i.e., he was born

after execution of Document No.707 of 1952 on 02.05.1952. He referred to the Aadhaar Card, Ration Card, Driver's Licence, Voter's ID, LIC Policy, Employees Provident Fund ID and Bank Account of the alleged imposter to prove this point. He then stated that the erstwhile partners of Prime Properties, Hyderabad, filed W.P.No.14696 of 2014 to initiate action against the imposter and also filed CrI.P.No.6007 of 2014 to quash Crime No.305 of 2014 falsely lodged by the imposter. The Assistant Commissioner of Police, Kukatpally, filed his report in CrI.P.No.6007 of 2014 and an affidavit in W.P.No.14696 of 2014 informing the Court that the petitioner was an imposter. The petitioner company itself filed W.P.No.29790 of 2014 to direct the police to determine the authenticity of Hashim Ali and the alleged imposter admitted that he was not Hashim Ali, by way of an affidavit filed in CrI.P.No.6007 of 2014 and by way of his written statement in O.S.No.756 of 2018 on the file of the learned XV Additional District Judge, Ranga Reddy District. The deponent further stated that the original Hashim Ali gifted the land in Survey No.1007 to eight donees, who had taken care of his welfare, and the said donees along with Hashim Ali formed a partnership firm, Sahara Real Estate Management and Consultancy, in which the donees contributed the gifted land in Survey No.1007 as capital. After subsequent reconstitutions of the firm, the name of the firm was changed to Prime Properties and Hashim Ali retired from this firm in due course of time. One Mohammed Kazim Ali Khan, a partner of Sridevi Colonizers, filed O.S.No.3306 of 1984 against the other partners including N.T.Krishna Naidu and G.Yadagiri Rao, Managing Partners, who later became the President and the Director of Prime Properties, Hyderabad, for dissolution of the firm and rendition of accounts. I.A.No.857 of 1985 was filed therein for appointment of a Receiver to take custody of the assets of the firm. A Receiver was

appointed and even though the land in Survey No.1007 of Kukatpally Village was not the subject matter of the suit, it was erroneously taken into custody by the Receiver. I.A.No.811 of 2004 was filed therein by Prime Properties, Hyderabad, to release the land in Survey No.1007 from the *custodia legis* of the Receiver. As the said I.A. was dismissed, Prime Properties, Hyderabad, filed CRP No.6697 of 2004 before the High Court and it was allowed on 20.03.2009. The land in Survey No.1007 of Kukatpally Village was directed to be released to Prime Properties, Hyderabad, and it resumed lawful possession under due intimation to the trial Court, *vide* Memo dated 13.04.2009. He however admitted that Review CRPMP No.4638 of 2017 filed in CRP No.6697 of 2004 was allowed on 23.02.2018 and the earlier order dated 20.03.2009 passed in CRP No.6697 of 2004 was recalled. He also admitted that this order was assailed by Prime Properties, Hyderabad, in SLP (Civil) No.020052 of 2018 and the same was disposed of by order dated 01.10.2018, wherein the Supreme Court reiterated that possession of the land in Survey No.1007 was with the Receiver and set aside the order dated 23.02.2018 passed in the review petition, the order dated 20.03.2009 passed in the CRP and the order dated 22.11.2004 passed in I.A.No.811 of 2004 in the suit. He stated that Prime Properties, Hyderabad, being the lawful owner and possessor, executed the joint development agreement and that no grounds were made out to restrain the registration authorities from registering the said joint development agreement as per law.

The petitioner company in W.P.No.27963 of 2018 filed a reply affidavit in response to the aforestated counter of Prime Properties, Hyderabad. Therein, its Managing Directed stated as follows: The partners of Prime Properties, Hyderabad, were trying to grab valuable land in Survey No.1007 of Kukatpally Village with the help of forged and

fabricated documents. Coming to know of the same, Nawab Mir Hashim Ali Khan, the owner of the land, filed a private complaint before the learned XIX Metropolitan Magistrate at Miyapur and the same was forwarded to the KPHB Police Station, and registered as Crime No.305 of 2014 but the partners of Prime Properties, Hyderabad, filed W.P.No.14696 of 2014 alleging that the complainant was an imposter and they also filed CrI.P.No.6007 of 2014 to quash the Crime No.305 of 2014. He then referred to the past litigation in CRP No.6697 of 2004 and the developments that took place thereafter. He further stated that the partners of Prime Properties, Hyderabad, won over Nawab Mir Hashim Ali Khan by paying him monies and he dishonestly submitted false statements that he was not the owner of the land in Survey No.1007 to help them escape from the prosecution in Crime No.305 of 2014. He concluded by stating that registration of any documents presented by Prime Properties, Hyderabad, at this stage would violate the *status quo* order passed by the Supreme Court on 01.10.2018.

Sri P.Venugopal, learned senior counsel appearing for Bhagyanagar Cooperative Housing Society Limited, the petitioner in W.P.No.25132 of 2018, and Sri M.V.Durga Prasad, learned counsel for the individual petitioners in W.P.No.22896 of 2018, advanced the following arguments: The Sub-Registrar, Kukatpally, entertained the documents presented by Prime Properties, Hyderabad, in relation to Ac.119.00 guntas in Survey No.1007 of Kukatpally Village, though there were rival claims in relation thereto. Prime Properties, Hyderabad, claimed rights under the CRP order, which was thereafter set aside, and it had never declared these lands under the Ceiling Laws, be it the Act of 1973 or the Act of 1976. After the repeal of the Act of 1976, the Act of 1973 would automatically revive in so far as agricultural lands in urban agglomerations are concerned and the

provisions of the said Act would bar the registration authorities from entertaining the subject documents for registration. Sahara Real Estate Management Consultancy was not a registered firm and Prime Properties, Hyderabad, itself was registered only in the year 2001. The appellate authority under the Act of 1976 held against Prime Properties, Hyderabad, and those findings attained finality as the writ petition filed against the said order was not adjudicated on merits. Section 3(j) of the Act of 1973 defines 'land' widely and the same would take within its ambit all types of lands. As the counter-affidavit of the Chief Secretary brings out that no declaration was ever filed by Prime Properties, Hyderabad, under the Act of 1973, the prohibition under Sections 17 and 19 thereof would be attracted. Section 22-A of the Act of 1908 constitutes a code in itself and Sections 7, 17 and 19 of the Act of 1973 would be a bar to the registration of documents covered thereby, under Section 22-A(1)(a) of the Act of 1908. Prime Properties, Hyderabad, applied to the Tahsildar in Form VI(A) under the Act of 1971 seeking mutation in its favour in the revenue records and therefore, it cannot contend that the land is not agricultural in nature. The Supreme Court observed that the rival claims of the parties need to be adjudicated before the competent civil Court by way of a civil suit and therefore, it is not open to the State to say that it is only concerned about revenue collection and proceed with registration of documents presented by Prime Properties, Hyderabad, thereby complicating the matter further through creation of third party interests. Prime Properties, Hyderabad, already filed suits for cancellation of the specific performance decrees and the sale deeds and it is, therefore, for it to establish its rights, if any, therein or by way of an independent declaratory suit.

Sri V.S.R.Anjaneyulu, learned counsel for Bhagyanagar Plot Owners Welfare Association, the petitioner in W.P.No.26824 of 2018, advanced the following arguments: Bhagyanagar Cooperative Housing Society got executed five sale deeds in its favour through Court on the strength of specific performance decrees. It then sold the land after plotting them. The owners of such plots formed into a registered association bearing Registration No.1412 of 2010. As per the khasra pahani, the lands were agricultural in nature and Prime Properties, Hyderabad, itself filed an application for mutation in this regard under the Act of 1971. As the said Act would apply only to agricultural lands, learned counsel would contend that Prime Properties, Hyderabad, cannot approbate and reprobate. After the death of Nawab Rayees Yar Jung on 18.03.1968, the name of Fazilath Hussain was shown in the revenue records. As the prescribed procedure for conversion of land use from agricultural to non-agricultural under the Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purpose) Act, 2006, was not followed, the land still continues to be agricultural land as on date. The sale deeds executed in favour of Bhagyanagar Cooperative Housing Society Limited are dated 27.12.1991, 27.06.1994, 15.04.1996 and 22.08.1998. In October, 2001, Prime Properties, Hyderabad, filed suits seeking cancellation of these four sale deeds. He would therefore contend that having filed such suits, Prime Properties, Hyderabad, could not assert any rights over the land so as to execute a joint development agreement in relation thereto.

Sri K.Venkata Rao, learned counsel appearing for the petitioner company in W.P.No.27963 of 2018, would point out that, unlike the petitioners in the other cases, his client and Prime Properties, Hyderabad, trace their claims to Hashim Ali who lost his parents before he attained the age of five years and claimed rights under the sale deed bearing

Document No.707 of 1952. He then filed O.P.No.117 of 1972 *in forma pauperis*, which was thereafter numbered as O.S.No.122 of 1973 and was ultimately compromised. Learned counsel would point out that the Receiver cannot dispossess a third party from possession and the question of the Receiver taking possession to deliver it to Prime Properties, Hyderabad, did not arise. He would assert that even if Prime Properties, Hyderabad, presented documents for registration earlier, the registration authorities could not proceed further in that regard owing to the *status quo* order passed by the Supreme Court as to the possession of these lands. He pointed out that not a single document was filed by Prime Properties, Hyderabad, and the CRP order that it was relying upon had already been set aside. He challenged the alleged Hiba said to have been made by Hashim Ali, on the ground that there was no delivery of possession which was the core ingredient to validate a Hiba. He would further point out that there were registered documents dated 30.04.2013 and 19.05.2014 executed in favour of the petitioner company and therefore, the Sub-Registrar could not proceed to register another document ignoring the earlier documents. He would assert that there would be no end to such illegal registrations. He would further assert that Hashim Ali died in the year 2014 in Dhaka and that all the documents were fabricated. In the light of the counter-affidavit filed by the Special Chief Secretary, the registration authorities could not go ahead with registration of the subject documents. Further, registration of such documents would violate the order of the Supreme Court to go before the competent Civil Court and to maintain *status quo* as regards possession. He would point out that the Hiba was stated to have been made on 05.11.1971 and the Memorandum of Compromise was executed on 14.07.1972. The defendants came into possession on 15.01.1963 after the

death of Nawab Rayees Yar Jung Bahadur. He would point out that there could have been no Hiba in the eye of law without delivery of possession. He would further point out that Hashim Ali gave a criminal complaint to the effect that the partnership deeds were forgeries and it was registered as Crime No.305 of 2014. He would state that W.P.No.14696 of 2014 was filed by Prime Properties, Hyderabad, to direct the police to establish the identity of Hashim Ali. Criminal Petition No.6007 of 2014 was then filed by Prime Properties, Hyderabad, under Section 482 CrPC to quash Crime No.305 of 2014. Stay of further proceedings was granted in this case till 20.01.2015 but after its expiry on that date, the Investigation Officer proceeded and ascertained Hashim Ali's identity. The Investigation Officer was thereupon transferred and in December 2017, the charge-sheet was erroneously returned by the Magistrate concerned on that ground that the stay granted by the High Court was operating. The charge-sheet was not represented thereafter and the case itself was quashed recently. He would point out that Section 2(10) of the Act of 1899 was amended in the year 1998 and Article 41 was inserted in Schedule 1-A to the Act of 1899 with effect from 01.08.2005, *vide* Amending Act No.19 of 2005, as per which 5% has to be paid for reconstitution of a partnership firm. He would point out that the property changed hands through the so-called reconstitutions of partnership firms without registration or payment of stamp-duty and in such circumstances, the registration authorities should have been cautious in dealing with documents presented by Prime Properties, Hyderabad. He would point out that in the absence of any proof of change of land use, the land would have to be treated as agricultural and the registration authorities have to insist upon production of pattadar pass books/title deeds in terms of Section 6-D of the Act of 1971. He would contend that execution of documents was an attempt by Prime Properties, Hyderabad,

to circumvent the Supreme Court order and the registration authorities could not blindly allow the same.

Learned Government Pleader for Revenue, State of Telangana, would contend that as the members of Bhagyanagar Cooperative Housing Society claimed to have purchased plots, they could not claim to the contrary that the land remained agricultural in nature. He would state that it is not within the domain of the registration authorities to go into issues of title. He would further contend that without a final determination being made under the Act of 1973, the embargo under Section 17 thereof could not be construed as a prohibition under Section 22-A(1)(a) of the Act of 1908. He would assert that registration would not confer title, if it was otherwise wanting, and that it is for the Sub-Registrar concerned to apply his mind to the documents kept pending for registration and take a decision thereon. He would contend that these writ petitions are not maintainable and that the provisions of the Act of 1973 should not be construed to be a bar for processing the documents for registration.

Sri D.Prakash Reddy, learned senior counsel appearing for Prime Properties, Hyderabad, would contend that it is not within the ken of the registration authorities to decide the nature of the land. He would point out that unless a duty is cast upon the registration authorities to undertake the enquiry that is now sought to be thrust upon them by the petitioners, there would be no illegality attaching to the receiving and processing of documents for registration. He would point out that Fazilath Hussain filed a declaration under the Act of 1973 for five family members and therefore, he alone could not have sold Ac.286.00 guntas to Bhagyanagar Cooperative Housing Society. He would further submit that these are not issues that need to trouble this Court. He would point out that the Receiver appointed by the Court recorded that possession was

delivered to Prime Properties, Hyderabad, and the contempt case filed before the Supreme Court was dismissed, while ordering *status quo* with regard to possession. The mere registration of the development agreement, *per* the learned senior counsel, would not violate the *status quo* order. He would further state that the SLP filed against the review order would disclose that it mentioned the execution of the development agreement. He would further state that even as long back as in the year 1952, the land in question was shown to be non-agricultural in nature. He would assert that it is not the duty of the Sub-Registrar to go into the title or the nature of the land and a roving enquiry could not be sought in that regard. He would further point out that once there is no inclusion of this land in the list of prohibited properties relatable to Section 22-A of the Act of 1908, the registration authority need not go into it. He would assert that in terms of a Full Bench order of the combined High Court, it is for the District Collector to furnish a list of prohibited properties under Section 22-A(1)(a) and in the absence of such a list, the registration authorities had no right to refuse registration. He would adopt the learned Government Pleader's submission that mere registration of documents would not create title, if it is otherwise wanting, and assert that this Court need not interfere in the matter or go into the title issue at this stage. He would state that even if surplus land was covered by the document, unless a list is furnished as directed by the Full Bench, the Sub-Registrar need not look into that aspect. He would rely on the Special Chief Secretary's counter-affidavit to the effect that no such surplus land has been included in the document and assert that when the Sub-Registrar need not go into that issue, this Court ought not to either. He would point out that the Full Bench order has not been set aside and therefore, the registration authorities would have to act only upon the list

furnished by the District Collector under Section 22-A(1)(a) and in any event, the Sub-Registrar has no legal duty to enquire into the various issues that the petitioners wish to raise. Further, if the argument of the petitioners is to be accepted that the land is agricultural in nature and there was no change of land use, their sale deeds also would be rendered void and the argument advanced would be contrary to their own interest. According to them, the society purchased 286 acres from one person, Fazilath Hussain. 70 acres was stated to have been sold by way of one document while 54 acres is the standard holding. The sales would therefore be void and the petitioners could not maintain these writ petitions, when they trace their title through such sale deeds. The Sub-Registrar has no power to adjudicate such issues and he could not be estopped from registering a document if it is otherwise found to be in order. He would assert that there are no violations in relation to the Act of 1973 in so far as the subject documents are concerned.

Sri Malla Rao and Sri Srinivas Mantha, learned counsel appearing for ACE HIBC Private Limited, adopted the arguments of Sri D.Prakash Reddy, learned senior counsel.

Sri Y.Srinivasa Murthy, learned counsel for Sri Siddharth Infratech and Services Limited, Hyderabad, would point out that the prohibition in Section 22-A(1)(d) of the Act of 1908 is with regard to determined surplus land and as there was no such determined surplus covered by the documents, the question of the prohibition thereunder coming into play does not arise. He would assert that as per Part II of the Act of 1908, general and special duties have been spelt out and the registration authorities need not go beyond the scope of such prescribed duties.

In reply, Sri M.V.Durga Prasad, learned counsel, would point out that alienation as per Section 19 of the Act of 1973 must be understood

with respect to Sections 7 and 17 thereof. He would further point out that the Special Chief Secretary himself stated that the documents could not have been accepted for registration and therefore, no other question for adjudication would arise before the Sub-Registrar. He would contend that the argument of the Government Pleader is contrary to the counter as it is an admitted fact that Hashim Ali and Prime Properties, Hyderabad, never filed declarations under the Act of 1973. The Sub-Registrar could not accept any document in the absence of declarations under Sections 7, 17 and 19 of the Act of 1973. Prime Properties, Hyderabad, itself was well aware of the import of the Act of 1973. The binding findings of the authorities under the Act of 1976 could not be ignored and as per the revenue records, the land was clearly agricultural in nature.

Sri V.S.R.Anjaneyulu, learned counsel, would submit in reply that even involuntary sales would be covered by Sections 7 and 17 of the Act of 1973 and therefore, the question of the registration authorities brushing aside these provisions does not arise. He would further submit that the Receiver has not been discharged till date and therefore, the question of Prime Properties, Hyderabad, claiming actual physical possession pursuant to the Receiver's Memo would not arise. He would further state that the nomenclature of the document would not be decisive and the contents thereof would have to be taken into account. He would point out various averments contained in the joint development agreement and assert that the stand taken by Prime Properties, Hyderabad, that possession was with it cannot stand scrutiny.

The pleadings in the writ petitions and the arguments advanced by the learned counsel have been set out at length only for the purpose of bringing clarity to the disputed facts and issues sought to be raised before this Court. However, in the context of the actual point that arises for

consideration, viz., registration of the documents executed by Prime Properties, Hyderabad, in favour of Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad, this Court is not required to go into questions relating to the flow of title, disputed identity, ownership and rival claims in relation thereto, etc., which have been argued at length by the learned counsel. Significantly, on 01.10.2018, while disposing of Civil Appeal No.10128 of 2018 filed by Prime Properties, Hyderabad, against the order dated 23.02.2018 in Review C.R.P.M.P.No.4638 of 2017 in C.R.P.No.6697 of 2004, all the earlier orders, being the impugned order dated 23.02.2018 and the earlier order dated 20.03.2009 passed in C.R.P.No.6697 of 2004; and the order dated 22.11.2004 passed by the trial Court in I.A.No.811 of 2004 in O.S.No.3306 of 1984 were set aside. The Supreme Court noted that various proceedings, including suits, were pending between the parties and directed that *status quo* with regard to possession as on that date should continue until further orders were made in those proceedings at the behest of any of the parties. The intention of the Supreme Court, as is clear from this order, was that the parties must seek resolution of their disputes in the pending proceedings, including the suits. That was the reason why the Supreme Court set aside the review order dated 23.02.2018, being of the opinion that once it was clear that the partnership firm, Sridevi Colonizers, was not the owner of the subject land, the High Court was not correct in thereafter going into the merits as to ownership, which was pending consideration in the civil proceedings between the parties. In effect, it would be wholly inappropriate for this Court to go into issues which were relegated to resolution in the pending proceedings, as per the Supreme Court's order.

The only question that requires to be decided presently is whether the documents executed by Prime Properties, Hyderabad, in favour of Sri Siddharth Infratech and Services Limited, Hyderabad, and ACE HIBC Private Limited, Hyderabad, should be registered at this stage even before adjudication takes place in the pending proceedings, including the suits.

Be it noted that the Supreme Court only ordered *status quo* as to possession obtaining as on 01.10.2018 to be maintained during such adjudication in the pending proceedings. Therefore, the *status quo* order would not apply *per se* to registration of documents. However, a copy of the Joint Development Agreement and General Power of Attorney dated 28.06.2018, which has been kept pending registration with the number P-133/2018, is placed before this Court. Perusal thereof reflects that Prime Properties, Hyderabad, was shown as the owner of the extent of Acs.119.00 guntas in Sy.No.1007 of Kukatpally Village while Sri Siddharth Infratech and Services (I) Private Limited was shown as its co-partner and ACE HIBC Private Limited, Hyderabad, was shown as the developer. As per Clause 3.4 of this agreement, Prime Properties, Hyderabad, had given possession of the said land to ACE HIBC Private Limited, Hyderabad, and granted it the licence to enter thereupon for the purpose of carrying out development and construction. The agreement also recorded that in consideration of ACE HIBC Private Limited, Hyderabad, developing the project on the subject land, it would be entitled to Acs.99.00 guntas of the land, while the balance Acs.20.00 guntas would fall to the share of Prime Properties, Hyderabad. ACE HIBC Private Limited, Hyderabad, was also authorised, by virtue of the irrevocable General Power of Attorney conferred on it by Prime Properties, Hyderabad, to execute buyers' agreements, sale/conveyance deeds, memoranda of understanding, agreements to lease, lease deeds, leave and licence agreements in

relation to its share of the project in favour of prospective buyers/lessees. It was also authorised to present and admit execution of sales, conveyances, leases etc., for registration before the Sub-Registrar of Assurances. Clause 7.4 of the agreement stipulated that each party would be the absolute owner of their respective shares to deal with as such party deems fit and neither party should make or have any claim over the other party's share or any development thereon. Clause 8 set out the owner's representation and warranties. Clause 8.2(b) stated to the effect that Prime Properties, Hyderabad, represented and warranted in relation to the land that it had been converted to non-agricultural use. Clause 12 dealt with assignment and provided that ACE HIBC Private Limited, Hyderabad, being the developer, would have the right to assign or otherwise transfer its rights or obligations under the agreement without the consent of Prime Properties, Hyderabad, and Sri Siddharth Infratech and Services Limited, Hyderabad. ACE HIBC Private Limited, Hyderabad, had the right to substitute a new developer, as deemed fit by its bank/ financial institution, and proceed as per the terms of the financing agreements and Prime Properties, Hyderabad, and Sri Siddharth Infratech and Services Limited, Hyderabad, were to cooperate with the bank/ financial institution in this regard. In effect, various aspects relating to possession find mention in this document.

The other document allegedly executed by Prime Properties, Hyderabad, which was presented for registration, is not placed before this Court and its contents therefore remain in the realm of the unknown.

Though the disputed factum of possession over the subject land as on today is also sought to be raked up, this Court is of the opinion that this issue also requires to be addressed in the pending proceedings, including the suits. Perhaps, that is the reason why the Supreme Court,

without going into the same, directed *status quo* obtaining as on 01.10.2018 to be maintained in so far as possession was concerned. It may be noted that contempt proceedings were initiated before the Supreme Court against Surender Singh Choudhary, the Court appointed Advocate-Receiver in O.S.No.3306 of 1984, presently on the file of the learned VII Junior Civil Judge, City Civil Court, Hyderabad, apropos the report dated 18.03.2017 filed by him before the trial Court. The contention was that by order dated 10.01.2017 passed in the SLPs filed against the order dated 20.03.2009 in C.R.P.No.6697 of 2004, the Supreme Court had directed that the review petition in C.R.P.No.6697 of 2004 should be decided in the first instance and therefore, the filing of the report dated 18.03.2017 amounted to interference with the administration of justice.

Perusal of the said report demonstrates that the Advocate-Receiver acknowledged that the entire land in Sy.No.1007 of Kukatpally Village was in his custody as Receiver since his appointment as such in the year 2004 when he replaced the earlier Advocate-Receiver, Lal Chand. He then referred to the order dated 20.03.2009 passed in C.R.P.No.6697 of 2004 and stated that as per the said order, the entire property in Sy.No.1007 of Kukatpally Village, was released to Prime Properties, Hyderabad, and having resumed their physical possession over the land in Sy.No.1007 of Kukatpally Village, Prime Properties, Hyderabad, filed a memo on 13.04.2009 to this effect before the trial Court. He stated that he came to know that the SLPs filed against the order in C.R.P.No.6697 of 2004 were dismissed as withdrawn on 10.01.2017 and in view of the orders passed by the higher Court in respect of the land in Sy.No.1007 in Kukatpally Village, Prime Properties, Hyderabad, had resumed physical possession of the land and the finality of the order passed in the C.R.P. was

enforceable. He accordingly prayed that the trial Court receive the said report as his final report in so far as the land in Sy.No.1007 of Kukatpally Village was concerned, which had been released to Prime Properties, Hyderabad, by the High Court in C.R.P. No.6697 of 2004.

However, as the Supreme Court ordered notice in Contempt Petition (Civil) Nos.1583-1584 of 2017 in SLP (C) Nos.18163 of 2010 and 11595 of 2009 to the Advocate-Receiver, he did a *volte-face*. He filed counter-affidavit dated 06.11.2017 before the Supreme Court stating that he never sought for the alleged release of the land in question in his report dated 18.03.2017 filed before the trial Court nor did the trial Court pass any order releasing the land in question. He stated that with great hardship he had been honestly discharging his duties as an Advocate-Receiver from 2004 till that date, a period of thirteen years. He stated that in his final report dated 18.03.2017, he had not said anything relating to the alleged delivery of possession by him to Prime Properties, Hyderabad, and he never sought release of the property before the trial Court. According to him, it was Prime Properties, Hyderabad, which claimed that it was exercising ownership rights without any hindrance from the Receiver by way of a Memo filed on 13.04.2009 before the trial Court. He, however, remained silent as to what he had to say about this claim.

Significantly, in its Memo dated 13.04.2009 filed before the trial Court, Prime Properties, Hyderabad, never stated in clear terms that it had taken over actual physical possession of the lands pursuant to the order dated 20.03.2009 passed in C.R.P.No.6697 of 2004. It merely stated that the High Court had declared therein that it was the real owner of the land and was entitled to enjoyment of ownership rights without any hindrance from the Receiver and further stated that for its beneficial enjoyment, it was exercising all ownership rights over the entire extent of land in

Sy.No.1007 of Kukatpally Village without any hindrance from the Receiver as per the specific order of the High Court. There was therefore no claim made by it that it had actually and physically taken over possession of the land from the Advocate-Receiver under proper documentation, after passing of the order dated 20.03.2009 in C.R.P.No.6697 of 2004.

The contempt cases were dismissed by the Supreme Court on 10.11.2017, noting that the review petition filed in relation to the order dated 20.03.2009 in C.R.P.No.6697 of 2004 had been substantially heard and observing that it may be disposed of at the earliest.

It is therefore clear that as per the Advocate-Receiver, he never delivered possession of the land, be it to Prime Properties, Hyderabad, or to anyone else. The self-serving claims of the parties themselves would therefore be of no avail to ascertain as to who is in actual possession as on date, if at all any one is in possession.

The arguments advanced by the learned counsel, supported by the pleadings, throw up various other factual and disputed issues for consideration, including basic issues as to ownership and title in relation to the land, the nature of the said land, etc. Pertinent to note, the nature of the land is relevant even in the context of registration of documents as stamp duty and registration charges payable thereon would depend upon the nature of the land which is the subject matter of such documents. Though Sri D.Prakash Reddy, learned senior counsel, would argue that documents are available to show that the land was described as non-agricultural as long back as in the year 1952, there is no getting over the fact that Prime Properties, Hyderabad, itself applied for mutation under the provisions of the Act of 1971 as recently as on 18.07.2017. The copy of the Form VI-A application filed by Prime Properties, Hyderabad, before the Revenue Authorities on 18.07.2017 would demonstrate that mutation

was sought by it in relation to Acs.286.00 guntas in Sy.No.1007 of Kukatpally Village on the strength of the registered document bearing No.707 of 1952 executed in favour of Hashim Ali. Admittedly, the Act of 1971 applies only to agricultural lands. There is no explanation forthcoming as to how and when the land ceased to be agricultural, going by the reckoning of Prime Properties, Hyderabad, itself as there are no proceedings in relation to any change of land use after 18.07.2017. As rightly pointed out by the other side, it is not open to Prime Properties, Hyderabad, to approbate and reprobate in this regard.

According to the counter of the Special Chief Secretary, Government of Telangana, only a half-acre, in bits and pieces, is available on the ground. Further, when there is no evidence of any conversion of land use, the question would arise as to whether the operation of the Act of 1973 would revive after the repeal of the Act of 1976, insofar as this land is concerned. This aspect also would have to be addressed in the pending proceedings, depending upon an issue being raised in that context. At this stage, it would suffice to note that even as per the Special Chief Secretary, Government of Telangana, certain provisions of the Act of 1973 would posit a bar to registration of the subject document in as much as Prime Properties, Hyderabad, never filed any declaration in relation to this large extent of Acs.119.00 guntas in Sy.No.1007 of Kukatpally Village. This aspect assumes importance as Sections 17 and 19 of the Act of 1973 would operate independently, without Section 22-A of the Act of 1908 being brought into play. This is because these provisions postulate certain essential steps being insisted upon by the registration authorities prior to acceptance of a document for registration and non-compliance therewith would have its own consequences. Such a situation cannot be treated on par with a situation covered by Section 22-A of the Act of 1908, which

postulates a clear prohibition with regard to registration of certain classes of documents. Therefore, irrespective of the applicability of Section 22-A of the Act of 1908, the registration authorities cannot proceed with registering of documents ignoring the mandate of the provisions of the Act of 1973.

In this context, reference made to the Full Bench order of the erstwhile High Court for the States of Telangana and Andhra Pradesh, which provides for a list of prohibited properties being furnished to the registration authorities, may not even come into play.

As this Court is not going into the merits of the various issues sought to be canvassed before it, for the reasons already stated *supra*, it would not be necessary to burden this order with the plethora of case law pressed into service by the learned counsel. Precedents, only to the extent relevant, are therefore set out hereunder:

Reliance is placed on BHARAT SINGH V/s. STATE OF HARYANA¹ by Sri D.Prakash Reddy, learned senior counsel,. Therein, the Supreme Court observed that when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition. As this Court already found that sufficient foundation has been laid to the effect that the land in question was originally agricultural land, being a large extent of over several hundred acres, the burden would be upon the other side to show as to when it ceased to be agricultural land. Sufficient evidence has not been placed before this Court to render any finding on this aspect and that is the reason why this Court leaves it open to be decided in the pending

¹ AIR 1988 SC 2181

proceedings as already directed by the Supreme Court. This judgment is therefore of no avail to Prime Properties, Hyderabad.

On the same lines, the observation made by the Privy Council in *SIDDIK MAHOMED SHAH V/ s. MT.SARAN*² is of no relevance.

In *KANUMURI SATYA SURYANARAYANA RAJU V/ s. SRIBHASHYAM JAGANNADHASWAMI*³, it was held that even a Court which executes a sale deed pursuant to a decree for specific performance of a sale agreement is obliged to furnish a declaration under Section 19 of the Act of 1973 and if the Judge concerned does not sign the declaration, the decree-holder would be deprived of the fruits of the decree. It was pointed out that if an alienation is found to be in violation of the provisions of the Act of 1973, it would be null and void. The expression 'transferor' in Section 19 of the Act of 1973 was therefore interpreted to be referable to even a Judge executing a decree of specific performance.

In *STATE OF GUJARAT V/ s. MANOHARSINHJI PRADYUMANSINHJI JADEJA*⁴, the Supreme Court was considering the provisions of the Gujarat Agricultural Land Ceiling Act, 1960 (*for brevity*, 'the Act of 1960'), which were akin to the provisions of the Act of 1973. In that context, the Supreme Court observed that the provisions of the Act of 1960 gave a clear idea that lands which were used as well as those which were capable of being used for the purpose of agriculture would come within the ambit of the Act of 1960. Juxtaposing the said Act with the Act of 1976, the Supreme Court observed that any land which was mainly used for agriculture was excluded from the definition of 'urban land' for the purposes of the Act of 1976 and therefore, the apparent purport and intent was to exclude lands used for agriculture from the purview of the

² AIR 1930 PC 57

³ 1978(1) ALT 14

⁴ (2013) 2 SCC 300

Act of 1976. Taking note of the repeal of the Act of 1976 in the State of Gujarat in the year 2000, the Supreme Court held that once the Act of 1976 came to be repealed, the Constitutional embargo that was existing as against the Act of 1960 ceased to exist and the Act of 1960 would operate in full force. The import of this judgment is that after the repeal of the Act of 1976 with effect from 27.03.2008 in the erstwhile State of Andhra Pradesh, even if the land stood excluded from the reach of the Act of 1973 owing to its situation in an urban agglomeration falling within the ambit of the Act of 1976, such a situation ceased to exist after the repeal of the Act of 1976 and such land would be covered by the provisions of the Act of 1973 after the said date.

In DUBBASI MALLAYYA V/ s. THE GOVT. OF A.P.⁵, a Division Bench of the erstwhile Andhra Pradesh High Court dealt with Section 17 of the Act of 1973 in the context of the proceedings under the Revenue Recovery Act, 1864. It was held that proceedings under the said Act by attachment and sale were in the course of execution of an order or certificate forwarded by the competent authority. Such sales were hit by Section 7(2) as well as Section 17(1) read with Section 17(3) of the Act of 1973 and were therefore null and void. Under Section 7(2) of the Act of 1973, any alienation made by way of sale, etc., on or after 02.05.1972 and before 01.01.1975, in contravention of the provisions of the Andhra Pradesh Agricultural Lands (Prohibition of Alienation) Act, 1972 is null and void. Section 17(1) of the Act of 1973 prohibits alienation of land by way of sale etc., after the notified date until the extent of land that should be surrendered by the landowner is determined by the Tribunal. Section 17(3) makes the provisions of Section 17(1) applicable to any transaction

⁵ 1986 (1) APLJ 25

of the nature referred to in Section 17(1) in execution of a decree or order of a civil Court or of any award or order of any other authority.

In SRI VARAHA LAKSHMI NARASIMHA SWAMY VARI DEVASTHANAM V/ s. MATTA SATYA RAO⁶, a Division Bench of the High Court for the States of Telangana and Andhra Pradesh observed that anyone can present a document lawfully before the Registration Authority and if the requirements of law are complied with, registration would have to be done. Applying this standard, non-compliance with Sections 17 and 19 of the Act of 1973 would be grounds to refuse registration.

As pointed out in SATYA PAL ANAND V/ s. STATE OF MADHYA PRADESH⁷, the function of a Registering Officer is purely administrative in nature, meaning thereby, he cannot decide as to whether a document presented for registration is executed by a person having title, as mentioned therein.

Though Sri D.Prakash Reddy, learned senior counsel, would contend that there is no clear averment in the pleadings that the subject land was agricultural land and only reference was made to the provisions of the Act of 1973, this Court is of the opinion that this argument is no more than mere quibbling over technicalities. The specific contention of the petitioners, as is clearly brought out in their main prayers in the writ petitions, except in W.P.No.27963 of 2018, was that the provisions of the Act 1973 would be violated by accepting the documents in question and registering them. The very fact that the Act of 1973 was specifically referred to clearly demonstrates that the claim of the petitioners in these cases was that the subject land was agricultural in nature. Further, the learned senior counsel has no answer as to why Prime Properties,

⁶ 2014 (6) ALT 711 (D.B.)

⁷ (2016) 10 SCC 767

Hyderabad, applied for mutation in its favour by treating this land as agricultural in July 2017, if it was non-agricultural land since 1952. It is neither here nor there to state that the petitioners themselves claimed rights under the sale deeds treating the lands or at least a part thereof as plots and that it would be counter-productive to their own interest to now assert that the land is agricultural. The Joint Development Agreement bearing P.No.133/2018 deals with no less than Acs.119.00 guntas in what is now an urban agglomeration in Kukatpally and there is no indication of any change of land use in accordance with law. In effect and subject to a finding to the contrary in the pending proceedings as to the nature of the subject land, the provisions of the Act of 1973 would be attracted to this land after the repeal of the Act of 1976, as per the edict of the Supreme Court in MANOHARSINHJI PRADYUMANSINHJI JADEJA⁴.

Reference may be made to Section 3(j) of the Act of 1973 which defines land to mean land which is used or is capable of being used for the purposes of agriculture and includes land deemed to be agricultural land under the said Act. Section 3(i) defines holding to mean the entire land held by a person be it as an owner; limited owner; usufructuary mortgagee; tenant; or who is in possession by virtue of a mortgage by conditional sale or through part-performance of a contract for the sale of land or otherwise. Therefore, whatever be the nature of the right under which a person holds the land, such right would come within the ambit of 'holding' as defined in Section 3(i) of the Act of 1973.

Be it noted that Section 8 of the Act of 1973 mandates that every person, whose holding on the notified date together with any land transferred by him on or after 24.01.1971, exceeds the specified limits has to furnish a declaration in respect of his holding to the Tribunal within whose jurisdiction the whole or a major part of his holding is situated in

such form as may be prescribed. Section 9 provides that upon receipt of a declaration furnished under Section 8, the Tribunal shall publish the same and make an enquiry so as to determine whether the person holds or is deemed to be holding an extent of land in excess of the ceiling area and if so, the extent of land so held in excess. Sections 10, 11 and 12 deal with surrender of excess lands and other issues connected thereto.

Section 17 prohibits alienation of holdings in excess of the ceiling area. It reads as under:

'17. Prohibition of alienation of holding:—

- (1) No person whose holding, and no member of a family unit, the holding of all the members of which in the aggregate, is in excess of the ceiling area as on the 24th January, 1971 or at any time thereafter, shall on or after the notified date, alienate his holding or any part thereof by way of sale, lease, gift exchange, settlement, surrender, usufructuary mortgage or otherwise, or effect a partition thereof, or create a trust or convert on agricultural land into non-agricultural land, until he or the family unit, as the case may be, has furnished a declaration under Section 8, and the extent of land, if any, to be surrendered in respect of his holding or that of his family unit has been determined by the Tribunal and an order has been passed by the Revenue Divisional Officer under this Act taking possession of the land in excess of the ceiling area and a notification is published under Section 16; and any alienation made or partition effected or trust created in contravention of this Section shall be null and void and any conversion so made shall be disregarded.
- (2) For the purpose of determining whether any transaction of the nature referred to in sub-section (1) in relation to a land situated in this State, took place on or after the notified date, the date on which the document relating to such transaction was registered shall, notwithstanding anything in Section 47 of the Registration Act, 1908, be deemed to be the date on which the transaction took place, whether such document was registered within or outside the State.
- (3) The provisions of sub-section (1) shall apply to any transaction of the nature referred to therein in execution of

a decree or order of a civil court or of any award or order of any other authority.'

Section 19 requires a declaration to be furnished before the Registering Officer and it reads as under:

'19. Declaration to be furnished before registering officer:—

- (1) Notwithstanding anything in the Registration Act, 1908, every person presenting before a registering officer appointed under the said Act, for registration on or after the notified date, any document relating to alienation of any land or creation of a trust in respect of any land shall, at the time of such presentation, furnish a declaration, in duplicate by transferor making the alienation, or creating the trust, to the effect that the holding of the transferor does not exceed the ceiling area, and in a case where such transferor is a member of a family unit, that the holdings of all the members of such family unit in the aggregate do not exceed the ceiling area.
- (2) The declaration mentioned in sub-section (1) shall be in such form and contain such particulars as may be prescribed.
- (3) On or after the notified date, no registering officer shall accept for registration any document relating to the alienation, or the creation of any trust, of any land, if the document is not accompanied by the declaration mentioned in sub-section (1).
- (4) The registering officer shall, as soon as may be after the date of registration of the document, forward one copy of the declaration referred to in this Section to the Revenue Divisional Officer within whose jurisdiction the holding which is the subject matter of the document or a major part thereof, is situate and on receipt of such copy, the Revenue Divisional Officer may obtain such information as may be necessary for verifying as to the correctness of the statements contained in the declaration.
- (5) Every village officer and every officer of the Revenue, Registration and Survey and Settlement Departments of the Government, shall report to the Revenue Divisional Officer any information which they may receive of transactions in respect of any land made in contravention of any of the provisions of this Act and on receipt of such information the Revenue Divisional Officer may verify the correctness of the same.
- (6) Where it appears to the Tribunal or the Revenue Divisional Officer, as the case may be, as a result of verification under sub-section (4) or sub-section (5) or in any other manner that a transaction has taken place in contravention of the provisions

of this Act it or he shall, after giving an opportunity of making representation to the parties likely to be affected and holding such enquiry as it or he may consider necessary, by order, determine whether or not the transaction is in contravention of the provisions of this Act; and where any transaction is so determined to be in contravention of the said provisions, it shall be null and void.'

In the context of the aforestated statutory scheme, the issue as to whether the subject land is agricultural land or whether it has ceased to be so on some date in the past would have to be first determined. Without such determination, at this stage, the presumption would be that it continues to be agricultural land. The khasra pahani of 1954-55 indicates it to be so and records that the total extent of Ac.349.24 guntas in Survey No.1007 of Kukatpally Village stood in the name of Nawab Rayees Yar Jung Bahadur. Further, Prime Properties, Hyderabad, which contends otherwise, itself filed an application under the Act of 1971 as recently as in the year 2017 seeking mutation in its favour in relation to the larger extent of Ac.286.00 guntas in Survey No.1007 of Kukatpally Village treating it as agricultural land and it is for it to explain as to how and when the said land ceased to be agricultural land thereafter.

Therefore, as matters stand, unless proven to the contrary, any document relating to the land in this survey number would necessarily have to meet the requirements of the Act of 1973 and more particularly, Sections 17 and 19 thereof. Except for a bald recital to the effect that the land is non-agricultural in nature, the subject development agreement-cum-irrevocable power of attorney dated 28.06.2018 does not furnish the details as to how and when it ceased to be agricultural land. The self-serving statement in this document therefore does not have the effect of taking it out of the purview of the Act of 1973. This appears to be the understanding of no less than the Special Chief Secretary to the

Government of Telangana, as is clear from his counter-affidavit. *Ergo*, it is not open to the registration authorities to take a different stand, though the learned Government Pleader would have it otherwise.

That apart, as already noted *supra*, the subject development agreement records that Prime Properties, Hyderabad, delivered possession of the extent of Ac.119.00 guntas in Survey No.1007 of Kukatpally Village covered thereby to the developer, ACE HIBC Private Limited, Hyderabad, and further provides for the said developer to execute sale deeds in favour of others and receive monies. In effect, the development contemplated under this document would involve interests of third parties who would be made to part with their valuable monies with the expectation that they would be delivered possession of the developed units on this land, which they had purchased. This document therefore contemplates future unconditional acts involving delivery of possession in violation of the *status quo* order dated 01.10.2018 passed by the Supreme Court. Further, as already stated *supra*, innocent third party interests would be dragged into the picture without resolution of the disputes in the pending proceedings, including the suits, as directed by the Supreme Court. Such interventions would not be in public interest, as gullible and unknowing third parties would be dragged into this milieu, and it would only complicate the matter some more.

Further, Section 22-A(1)(d) of the Act of 1908 prohibits registration of documents relating to agricultural or urban lands declared as surplus under the Act of 1973 or the Act of 1976. As it is an admitted fact that Prime Properties, Hyderabad, never filed a declaration under the Act of 1973, the question of a determination having taken place as to whether it holds retainable extent of agricultural land or in excess thereof does not arise. By failing to abide by the statutory mandate of the Act of 1973, a

person cannot be permitted to pre-empt the reach of Section 22-A(1)(d) of the Act of 1908. Further, it may be noted that there is already a declared surplus land of Acs.49.00 guntas, in terms of the declaration filed by the Fazilath Hussain and others under the Act of 1973, which was admittedly taken over by the Government as long back as in the year 1977. The Special Chief Secretary would contend in his counter affidavit that this surplus land is not covered by the joint development agreement relating to Acs.119.00 guntas of land on the ground that the boundaries of the two are different. This argument however loses sight of the fact that if the lesser extent of Acs.49.00 guntas of surplus land falls within the larger extent of Acs.119.00 guntas, the boundaries of the two would invariably differ and such a circumstance, in itself, cannot lead to the inference that the said surplus land is not encompassed in the larger extent of Acs.119.00 guntas covered by the joint development agreement. Therefore, this aspect of the matter also requires to be examined in the pending proceedings. In consequence, the argument of Sri Y.Srinivasa Murthy, learned counsel, that as there is no determined surplus extent of agricultural land under the Act of 1973, there is no embargo as on date is a self-serving argument which needs to be rejected.

In addition thereto, as Section 19(3) of the Act of 1973 specifically prohibits the registering officer from accepting for registration any document relating to alienation or creation of any trust in any land if the document is not accompanied by a declaration as mentioned in Section 19(1), the Sub-Registrar, Kukatpally, ought not to have received the documents presented by Prime Properties, Hyderabad, and kept them pending registration. There is no indication of the Sub-Registrar having even called for a declaration under Section 19(1) of the Act of 1973. As already stated *supra*, the opinion expressed by the Special Chief Secretary

to Government, Revenue (Registration and Stamps), in his counter affidavit, puts it beyond the pale of doubt that the Sub-Registrar ought not to have accepted the subject documents for registration when there was no compliance with the requirements of the Act of 1973. The argument of the learned Government Pleader that this Court should leave it to the discretion of the Sub-Registrar to apply his mind and take appropriate action therefore cannot be countenanced. The Sub-Registrar, Kukatpally, seems to be unaware of the law and appears to be proceeding with the registration formalities in utter ignorance of mandatory legal requirements.

All issues have been thrown open for adjudication in the pending proceedings by the Supreme Court, *per* the last order passed on 01.10.2018, whereby all the earlier orders were set aside. Therefore, as directed by the Supreme Court, the parties would have to first seek resolution of their disputes and rival claims in the pending proceedings, including the suits, and without doing so, it would be wholly improper on the part of any of them to involve third party interests, complicating matters further.

In this regard, it may also be noted that though a document may not create title, if it is otherwise wanting, registration thereof would be deemed to be public notice to one and all as per Explanation I to Section 3 of the Transfer of Property Act, 1882. That apart, as already noted *supra*, the joint development agreement authorizes ACE HIBC Private Limited, Hyderabad, the developer, to execute further documents after developing the subject land. It also authorizes ACE HIBC Private Limited, Hyderabad, to bring in a third party developer, if a bank/financial institution insists upon the same. These acts, as already pointed out,

would entail violation of the *status quo* order passed by the Supreme Court with regard to possession.

Thus, on all the above counts, this Court finds that registration of the documents executed by Prime Properties, Hyderabad, claiming to be the owner and possessor of the land, cannot be countenanced at this stage.

The writ petitions are accordingly allowed to the extent of directing the registration authorities not to entertain any document for registration in relation to the subject land in Survey No.1007 of Kukatpally Village till appropriate orders in that regard are passed in the pending proceedings, including the suits, as directed by the Supreme Court, *vide* its order dated 01.10.2018 in Civil Appeal No.10128 of 2018.

Pending miscellaneous petitions, if any, in all these cases shall stand closed in the light of this final order. No order as to costs.

4th JUNE, 2019
PGS/Svv

SANJAY KUMAR,J