

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE

PRESENT

**THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA
AND
THE HON'BLE SRI JUSTICE N. TUKARAMJI**

WRIT APPEAL NO: 202 OF 2010

Writ Appeal under clause 15 of the Letters Patent preferred against the orders dated 05.02.2010 in W.P.No 3634 of 2007 on the file of the High Court.

Between:

1. **State of Telangana**, rep. by its Secretary, Revenue Department, Secretariat, Hyderabad
2. The District Collector, Ranga Reddy District, Hyderabad
3. The Revenue Divisional Officer, Chevella Division, R.R.District
4. The Mandal Revenue Officer, Rajendranagar Mandal, R.R.District

(Cause Title is amended as per Court Order dated 24.07.2014 in WAMP No. 2357 of 2014)

...APPELLANTS/PETITIONERS

AND

1. Mailarapu Jangaiah, S/o. Papaiah
2. M. Swamy, S/o. Late Balaiah
3. Yadaiah, S/o. Late Balaiah
4. Ashok, S/o. late Kalwakaul Balaiah
5. Mirajagudem Yadaiah, S/o.M.Malkaiah
6. Shankaraiah, S/o. Yerenkaiah Veeraiah
7. Mailaram Yadaiah, S/o. Late Pedda Gangaiah
8. M. Raju, S/o Late Pedda Gangaiah
9. Bal Ram, S/o. Late Revella Achaiah
10. Narsimha, S/o. late Revella Achaiah
11. Veeraswamy, S/o. Late Revella Chandraiah
12. Raju, S/o. late Revella Chandraiah
13. Mailaram Narsimha, S/o. Pedda Gandaiah
14. Gungurthi Gandaiah, S/o. G.Pochiah
15. Gungurthi Padma Rao, S/o. Late G.Jangaiah
16. Balaiah, S/o. late Venkaiah
17. Chikati Lingamma, W/o. late C.Mallaiah
18. Chikati Narsimha, W/o. late C. Mallaiah
19. Babu Rao, S/o. late C.Mallaiah
20. Nagaiah, S/o. late C. Mallaiah
21. Raju, S/o. late C.Yellaiah
22. M. Jai Raj, S/o. late Mailaram Venkataiah
23. Uppari Gopal, S/o. Late U. Gandaiah
24. Upar Muthyalu, S/o.late Sayanna
25. Uppari Veeraiah, S/o. late Narsimha
26. Laxamma, W/o. Late Mailaram Jangaiah
27. M. Narasimha, S/o. Late Mylaram Gandaiah
28. M. Jangaiah, S/o. late Mailaram Gandaiah
29. Yerpula Ramulu, S/o.late Gandaiah
30. Yerpula Narasimham, S/o. late Gandaiah
31. Dappu Muthyalu, S/o.late Laxmaiah
32. Dappu Anjaiah, S/o. late Jangaiah
33. Jaganaiah, s/o. late Jangaiah
34. Dappu Dan Raj, S/o. late Ramaiah
35. Anjaiah, S/o. Late Mirajagudem Venkataiah
36. Krishnaiah, S/o. Late Mirajagudem Venkaiah
37. Nagaiah, S/o. Late Mirajagudem Venkaiah
38. Mailaram Yadagiri, S/o. late Sukkaiah
39. M. Narsimha, S/o. late Shankaraiah

40. G.Raju, S/o. Late Eabaiah
41. G. Swamy, S/o. Venkaiah
42. G. Venkataiah, S/o. G. Jangaiah
43. Gudepu Swamy, S/o. Sayanna
44. G.Suresh, S/o.late Narasimha
45. G.Raju, S/o. Sayanna

(All are residents of Manchirevula Village, Rajendranagar Mandal, Ranga Reddy District)

46. Syed Latafat Hussain Razvi, S/o. Syed Shah Tajamul Hussain Razvi R/o.23-2-442, Moghulpura, Hyderabad.
47. Mrs. Seyeda Naseerunnissa Begum, W/o.Syed Najamuddin Khusro R/o.23-2-442, Moghulpura, Hyderabad.

(RRs 46 & 47 are impleaded as per Court Order dated.21-10-2010 in WAMP NO. 1461 of 2010)

...RESPONDENTS

I.A. NO: 1 OF 2010(WAMP. NO: 476 OF 2010)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the order dated 05.02.2010 passed in W.P.No. 3634/2007 pending disposal of the above writ appeal

I.A. NO: 1 OF 2011(WAMP. NO: 2596 OF 2011)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the petitioners /appellants herein to construct the compound wall over the land given to the Training Academy for Gray Hounds, pending disposal of the Writ Appeal

I.A. NO: 1 OF 2012(WAMP. NO: 547 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the petitioner to file the Sketch of the land allotted in favour of Greyhounds Organization in Sy. No. 393 to an extent of Ac. 326.83 gts of Manchirevula Village, Rajendranagar Mandal, R.R. District and pass

I.A. NO: 1 OF 2015(WAMP. NO: 2961 OF 2015)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased hear the above writ appeal on out of turn basis, in the interest of justice

IA NO: 1 OF 2021:

Between:

1. Mailarapu Swamy, S/o. Late Balaiah, R/o. Mahchirevula Village, Rajendra Nagar Mandal, Ranga Reddy District.
2. M. Jai Raj, S/o. late Mailaram Venkataiah R/o. Mahchirevula Village, Rajendra Nagar Mandal, Ranga Reddy District.
3. Uppari Muthyalu, S/o.late Sayanna R/o. Mahchirevula Village, Rajendra Nagar Mandal, Ranga Reddy District.
4. G. Venkataiah, S/o. G. Jangaiah, R/o. Mahchirevula Village, Rajendra Nagar Mandal, Ranga Reddy District.

.....PETITIONERS/
RESPONDENT NOS. 2, 22, 24 AND 42

AND

1. The State of Telangana, rep. by its Secretary, Revenue Department, Secretariat, Hyderabad
2. The District Collector, Ranga Reddy District, Hyderabad

3. The Revenue Divisional Officer, Chevella Division, R.R.District
 4. The Mandal Revenue Officer, Rajendranagar Mandal, R.R.District
 5. Mailarapu Jangaiah, S/o. Papalah
 6. Yadaiah, S/o. Late Balaiah
 7. Ashok, S/o. late Kalwakau Balaiah
 8. Mirajagudem Yadaiah, S/o.M.Malkaiah
 9. Shankaraiah, S/o. Yerenkaiah Veeraiah
 10. Mailaram Yadaiah, S/o. Late Pedda Gangaiah
 11. M. Raju, S/o Late Pedda Gangaiah
 12. Bal Ram, S/o. Late Revella Achaiah
 13. Narsimha, S/o. late Revella Achaiah
 14. Veeraswamy, S/o. Late Revella Chandraiah
 15. Raju, S/o. late Revella Chandraiah
 16. Mailaram Narsimha, S/o. Pedda Gandaiah
 17. Gungurthi Gandalah, S/o. G.Pochaiah
 18. Gungurthi Padma Rao, S/o. Late G.Jangaiah
 19. Balaiah, S/o. late Venkaiah
 20. Chikati Lingamma, W/o. late C.Mallaiah
 21. Chikati Narsimha, W/o. late C. Mallaiah
 22. Babu Rao, S/o. late C.Mallaiah
 23. Nagaiah, S/o. late C. Mallaiah
 24. Raju, S/o. late C.Yellaiah
 25. Uppari Gopal, S/o. Late U. Gandaiah
 26. Uppari Veeraiah, S/o. late Narsimha
 27. Laxamma, W/o. Late Mailaram Jangaiah
 28. M. Narasimha, S/o. Late Mylaram Gandaiah
 29. M. Jangaiah, S/o. late Mailaram Gandaiah
 30. Yerpula Ramulu, S/o.late Gandaiah
 31. Yerpula Narasimham, S/o. late Gandaiah
 32. Dappu Muthyalu, S/o.late Laxmaiah
 33. Dappu Anjaiah, S/o. late Jangaiah
 34. Jaganaiah, s/o. late Jangaiah
 35. Dappu Dan Raj, S/o. late Ramaiah
 36. Anjaiah, S/o. Late Mirajagudem Venkataiah
 37. Krishnaiah, S/o. Late Mirajagudem Venkaiah
 38. Nagaiah, S/o. Late Mirajagudem Venkaiah
 39. Mailaram Yadagiri, S/o. late Sukkaiah
 40. M. Narsimha, S/o. late Shankaraiah
 41. G.Raju, S/o. Late Babaiah
 42. G. Swamy, S/o. Venkaiah
 43. Gudepu Swamy, S/o. Sayanna
 44. G.Suresh, S/o.late Narasimha
 45. G.Raju, S/o. Sayanna
- (Respondents 5 to 45 are residents of Manchirevula Village, Rajendranagar Mandal, Ranga Reddy District)
46. Syed Latafat Hussain Razvi, S/o. Syed Shah Tajamul Hussain Razvi R/o.23-2-442, Moghulpura, Hyderabad.
 47. Mrs. Seyeda Naseerunissa Begum, W/o.Syed Najamuddin Khusro R/o.23-2-442, Moghulpura, Hyderabad.

...RESPONDENTS

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to expedite the hearing of the Writ Appeal No 202 of 2010 and fix a date for hearing of the same.

Counsel for the Appellants: THE ADVOCATE GENERAL

Counsel for Respondent Nos. 1, 3 to 21, 23, 25 to 41 & 43 to 45:

SRI AVINASH DESAI

**Counsel for Appellant Nos. 2, 22, 24 and 42: SRI VEDULA VENKATARAMANA,
SENIOR COUNSEL FOR
SRI PERI PRABHAKAR**

Counsel for Respondent Nos. 46 & 47: SRI T. SHARATH

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA
AND
THE HON'BLE SRI JUSTICE N. TUKARAMJI

WRIT APPEAL No.202 OF 2010

JUDGMENT: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

The present writ appeal is arising out of an order dated 05.02.2010 passed in W.P.No.3634 of 2007 by the learned Single Judge.

2. The facts of the case reveal that the Government of Andhra Pradesh sanctioned assignment of Acs.200.00 of Astabal Kancha of Manchirevula village to the landless poor persons under the Special Laoni Rules, after regular phodi on 28.10.1953. The Laoni Rules are framed in 1950 in exercise of powers conferred under Section 172 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317F (hereafter referred to as 'Land Revenue Act, 1317F'). The Laoni Rules prohibits transfer of land by the assignees without the sanction of the Collector. The State Government, hereafter, issued a Revised Assignment Policy on 31.07.1958 in exercise of powers conferred under Section 172 of the Land Revenue Act, 1317F and again the alienation was prohibited. The facts further reveal that in the light of the initial sanction dated 28.10.1953, the Collector initiated proceedings and the Collector had sent a list of twenty beneficiaries/landless harijans for the

purpose of creating sub-division in respect of Acs.200.00 sanctioned for assignment. On 07.11.1959, the Tahsildar inspected the land reporting that phodi (sub-division) needs to be done for the assignment of the land and in turn, the Collector on 04.06.1960 wrote to the Secretary, Revenue Department reporting that Acs.142.39 guntas is fit for cultivation and it has been phodied, which can be assigned to harijans under Special Laoni Rules. The Revenue Divisional Officer on 16.08.1960 wrote to the Tahsildar stating that Acs.142.39 guntas can be assigned under the Special Laoni Rules while rest of the extent out of Acs.326.28 guntas will be auctioned. The State Government, thereafter, issued a G.O.Ms.No.1122, dated 29.06.1961 providing exhaustive guidelines for assignment and alienation of Government lands overriding all previous orders governing assignment and alienation. The Tahsildar, on 21.10.1961, made the Phodi and issued temporary patta certificates to persons who have been in possession and enjoyment of the same and one such certificate is on record at page No.49 of the paper book granting temporary patta to Mr. Mylarapu Pedda Gandaiah. The aforesaid certificate makes it very clear that the grantee was not empowered to transfer the occupancy without the previous sanction of the Collector. At this point

of time, it is noteworthy to mention that in those cases where the land was assigned by receiving consideration by the State Government, the right of transfer was granted to the assignees. In the present case, the respondents in the writ appeal were granted temporary pattas free of cost without charging any consideration.

3. The Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (hereafter referred to as Act No.9 of 1977) came into effect on 21.01.1977 and Section 3(1) of the said Act provides that any sale executed by a landless farmer in respect of an assigned land, before or after the commencement of the Act, shall be void and Section 3(2) provides that no landless farmer shall transfer the assigned land.

4. It is again an undisputed fact that all those persons, in whose favour the assignment was done, executed a Power of Attorney in favour of a builder, M.A.Baksh on 14.08.1991 empowering him to enter into an agreement to sell in respect of the property in question and later on 23.10.1992, M.Jangaiah cancelled the General Power of Attorney (GPA) granted in favour of M.A.Baksh. On 27.10.1992, other respondents namely D.Shankaraiah, D.Nagaiah, M.Gandaiah also cancelled the GPA, which was

executed in favour of M.A.Baksh. However, the fact remains that M.A.Baksh executed as many as seventy-one sale deeds in respect of the land, which is subject matter of the present writ petition. There was a clear violation of the terms and conditions of the assignment order dated 21.10.1961 as the land was sold without the permission of the Collector. However, on 28.03.1994, the Collector issued a show cause notice for cancellation of assignment in terms of the *suo motu* revision powers under Section 166-B of the Land Revenue Act, 1317F. It was stated in the show cause notice that a large number of irregularities have been committed by the Subordinate Officer while issuing assignment orders.

5. While all this was going on, the Inspector General, Special Security Force submitted proposals for acquisition of land in survey Nos.393/1 to 393/20 along with other lands for the purpose of setting up of operational headquarters and training, along with residential accommodation and the Revenue Divisional Officer, on receipt of the proposals, was asked to conduct an enquiry and to prepare a Report for initiating Land Acquisition Proceedings. The Revenue Divisional Officer reported that the land was assigned to Scheduled Caste families and that the land was fallow on the spot and mostly unfit for

cultivation. It is evident from the faizal patti 1961-62, Laoni Izafa was effected in favour of the individuals based on the certificates issued for temporary occupation and accordingly the names of the individuals were incorporated in pahanis from 1962 onwards. The Collector arrived at a conclusion that the assignment was illegal, irregular and liable to be cancelled as Form-G certificate was for temporary occupation and thereby implementation of Faizal Patti 1961-62 was illegal. The assignment ought to have been processed under Assignment Rules, 1958 instead of Laoni Rules, 1950. The assignments were in contravention of ban orders of assignment issued in G.O.Ms.No.1222, dated 29.06.1961. The Collector also arrived at a conclusion that the land has not been put to use for cultivation and is fallow, thereby Rule 19 of the Laoni Rules was violated and the *suo motu* power was exercised seeking explanation from the assignees as to why their assignment should not be cancelled.

6. Mailaram Jangaiah, being aggrieved by the issuance of the show cause notice issued by the Collector, dated 28.03.1994, challenged the proceedings before this Court by filing the writ petition, i.e., W.P.No.9106 of 1994 and this was the first writ petition in the matter. This Court, by order dated 03.05.1994, disposed of the said writ petition

directing the petitioner therein to submit explanation to the show cause notice within a period of one week and the writ petitioner Mailaram Jangiah submitted his reply, dated 06.05.1994. The District Revenue Officer, on 15.09.1994, after considering the reply of Mailaram Jangaiah refused to interfere with the assignments which took place in 1961 and held that the assignments were valid in terms of the Laoni Rules.

7. The Collector, Ranga Reddy District in exercise of powers conferred under Section 166-B of the Land Revenue Act, 1317F passed Orders on 03.01.1995 suspending the orders of the Tahsildar, dated 21.10.1961 (by which written permission to occupy land was granted by the Tahsildar under the Laoni Rules) as well as the order of the District Revenue Officer, dated 15.09.1994 on the ground that Form 9(g) certificates under the Laoni Rules, 1950 were issued in 1961 despite the G.O.Ms.No.1122, dated 29.06.1961, banning the assignments. The Collector, Ranga Reddy District, thereafter on 31.07.1995 sought Government's ratification of the Order dated 03.01.1995 and it was also brought to the notice of the State Government that the disputed land was being developed into plots by Baksh Estate, owned by M.A.Baksh, the GPA holder. The State Government on

09.10.1995 wrote to the District Collector bringing it to the notice of the Collector that the said order was passed without issuing notice, hence it cannot be sustained. The Government, therefore, decided to undertake *suo motu* revision under Section 166-C of the Land Revenue Act, 1317F of the order passed by the District Revenue Officer dated 15.09.1994. The State Government initiated proceedings and on 20.10.1995 intimated the assignees to approach the Government in *suo motu* revision sought to be undertaken by it and finally, the Government on 24.01.1996 ratified the Order dated 03.01.1995 passed by the District Collector, after considering the representation of the assignees and directed the District Collector to complete the enquiry and to pass a final order. At this stage, the assignees filed W.P.Nos.484 of 1995 and 7221 of 1996 prayed for issuance of writ of certiorari seeking quashing of the proceedings dated 24.01.1996. The writ petitions were allowed by a common order dated 01.09.1997 and a writ appeal was preferred against the order dated 01.09.1997 passed in W.P.No.7221 of 1996 by the Government of Andhra Pradesh, i.e., W.A.No.1487 of 1998. The writ appeal was dismissed upholding the view taken in the writ petition that the power of *suo motu* revision could not have been exercised after three decades.

8. The GPA executed in favour of M.A.Baksh was ultimately cancelled by all the assignees on 16.11.1998 as well as by the legal representative of the assignees. Again on 05.12.1998, some other GPAs were cancelled by the assignees and the legal representatives of the assignees. The Government of Andhra Pradesh filed W.A.No.24 of 2000 against the Order passed in W.P.No.484 of 1995, dated 01.09.1997 and the said writ appeal was dismissed. S.L.P., was preferred before the Hon'ble Supreme Court against the order dated 14.09.1998 passed in Writ Appeal No.1487 of 1998. The Hon'ble Supreme Court in Civil Appeal No.3033 of 2000, vide order dated 28.04.2000, after discussing the entire issues and after giving findings on certain issues granted leave and set aside the order passed in Writ Appeal on the ground that it was the District Collector who was supposed to consider the explanation of the assignees and pass an order and not the District Revenue Officer and the District Collector was directed to consider the explanation and to pass an order. The second S.L.P. (C) No.10303 of 2000, preferred against the Order passed in W.A.No.24 of 2000, was allowed in terms of the judgment passed on 28.04.2000 in SLP (C) No.311 of 1999 remanding the matter back to the District Collector.

9. The District Collector, Ranga Reddy in compliance to the order passed by the Hon'ble Supreme Court in SLP (C) No.311 of 1999 issued notices to the respondents on 17.08.2001 to submit explanation and evidence in the fresh enquiry was taken up in the matter. All the assignees on 28.01.2002 submitted their explanations and the Joint Collector passed an order of resumption on the ground that the assignment was irregular and assignees had executed a power of attorney in favour of one A.M.Baksh, who had converted the lands into plots and executed sale deeds. The order was passed by the Joint Collector on 22.12.2001. The assignees/respondents being aggrieved by the Order of the Joint Collector, preferred a writ petition No.4812 of 2002 challenging the order dated 22.12.2001 and the afore said writ petition was allowed on the ground that the Hon'ble Supreme Court has directed the District Collector to pass an order after remand and it was the District Collector who was supposed to pass an order and the matter was remanded to the District Collector to pass a fresh order after issuing fresh notice. The Order was passed by this Court on 04.04.2002. The District Collector has thereafter vide order dated 10.05.2003 passed an order of resumption of land and relevant portion of the same is reproduced as under:-

"The assignments said to have been made in terms of Laoni Rules, 1950 after coming into force of the revised assignment policy of 1958 is vitiated by law and does not have any validity. ...

The Village of Manchirevula falls within the 10 miles belt area wherein assignment is prohibited by G.O.Ms.No.1122, dated 26.06.1961 since assignment made in 1961 shall be deemed to be made in accordance with Rules in force. ...

Section 3(2) of the A.P. Assigned Lands (Prohibition of Transfers) Act 1977 states that no landless poor shall transfer any assigned land and by entering into the GPA said provision stands violated. By entering into GPA, there was intention on part of the assignees to sell the land and they had received Rs.1 lakh for each assignee. ...

The lands have lost their nature as agricultural lands, therefore, they do not serve the purpose of cultivation for which they were originally assigned."

10. The assignees being aggrieved by the orders passed by the Collector preferred writ petitions, i.e., W.P.Nos. 13165 and 23639 of 2003 and this Court has allowed the writ petitions by an order dated 21.04.2006. Another important aspect of the case is that while the litigation was going on, possession of the entire land was handed over to the Special Police Force (Greyhounds) on 03.06.2003 by duly drawing panchanamas and Academy/Fire Ranging and other facilities have been developed by greyhounds, which is an elite armed force to combat naxalite and other terrorists. The assignees, as they were aggrieved by the observation granting liberty to the Government for cancellation of assignment in violation of conditions,

preferred Review Petitions i.e., W.P.M.P.No.15642 of 2006 in W.P.No.13155 of 2003 and the said review petition was dismissed, meaning thereby the State was at a liberty to cancel the assignment in case of violation of assignment conditions.

11. This Court while allowing the W.P.Nos.13165 and 23639 of 2003 has held that the alienation of land in contravention of the Rules by execution of GPA does not survive in the light of the GPA holder's death and therefore, no cause survived for exercise of *suo motu* power of review. It was also held that the assignment of land was in contravention of the existing rules and the issue need not be gone into nearly after forty years as those Rules were subsequently amended substituting some other Rules and that could not have been a ground to exercise *suo motu* review. However, this Court granted liberty to the State Government to cancel the assignment if there is any contravention of the conditions of the assignment. The review was filed only because liberty was granted to the State Government to pass an order in case of contravention of the conditions of the assignment order and it is again a matter of fact that seventy-one sale deeds have been executed in respect of the land in question by the GPA holder.

12. the appellant/State Government keeping in view the liberty granted in the matter vide Judgment dated 21.04.2006 passed in W.P.Nos.13165 and 23639 of 2003 issued notices to the landholders as well as to the purchasers informing them that the sale is impermissible and void as they are in contravention of Section 3(2) of the Act No.9 of 1977. The assignees submitted a reply on 29.12.2006 and thereafter, the Mandal Revenue Officer initiated proceedings on 27.01.2007 for resuming the lands. As already stated earlier, the notices were issued to all assignees as well as to all purchasers and finally an order was passed resuming the land in exercise of powers conferred under Section 4 of the Act No 9 of 1977. The assignees again preferred a writ petition, i.e., W.P.No.3634 of 2007 challenging the proceedings dated 27.01.2007 and contended before this Court that the sale deeds were executed prior to the Judgment delivered in W.P.Nos.13165 and 23639 of 2003 as this Court has already decided violations committed i.e., sale of land without permission of the Collector. It was pleaded that notice dated 11.12.2006, which was issued in respect of the sale deeds was issued by the Mandal Revenue Officer who was not authorised by the District Collector to issue such notice and the sale deeds referred in the notice do not

reveal the date of sale, name of vendor or purchaser and extent of land sold. It was also contended that the power of attorney was cancelled on in October 2002, cancellation of power of attorney was published in the news paper, cancellation took place before any sale was effected and the power of attorney holder died on 26.04.2006 and therefore, no cause of action survives for resuming the land.

13. A detailed and exhaustive counter affidavit has been filed by the Mandal Revenue Officer in W.P.No.3634 of 2007 and the authorisation to the Mandal Revenue Officer has been brought on record and the execution of sale deeds was also verified. The learned Single Judge has allowed the writ petition by an order dated 05.02.2010 on the ground that the *lis* between the parties involved has attained finality in the earlier round of litigation i.e., W.P.No.13165 of 2003 and batch and therefore, issuing notice on the very same grounds amounts to *res judicata*. The learned Single Judge has also set aside the order dated 10.05.2003 on the ground that the assignment which was made forty years ago could not have been looked into and the allegation that the petitioners were not cultivating the land and not in possession also could not have been looked into as it has attained finality. It was also observed that the GPA holder was no more and the GPA was not in existence.

The learned Single Judge though liberty was granted to the authorities to pass a fresh order in case of any contravention in respect of the assignment order has given an interpretation to the observation of the learned Single Judge that contravention means future contravention and therefore, the writ petition deserves to be allowed. The learned Single Judge finally allowed the writ petition and set aside the proceedings dated 27.01.2007. The relevant portion of the Order passed by the learned Single Judge is reproduced as under:-

"I have given my earnest consideration to the respective submissions made by the learned counsel appearing on either side and perused the material made available on record.

As could be seen from the material made available, ultimately, the show-cause notice issued on 28.3.1994 and the orders passed in pursuance to the said show-cause notice i.e. proceedings in File No.E/2237/02 dated 10.5.2003 have attained finality in view of disposal of W.P.Nos.13165 of 2003, 23269 of 2003 and C.C. 163 of 2004 by an order dated 21.4.2006. Therefore, the contention of the learned senior counsel appearing for the petitioner that the lis between the parties and the issues involved therein have attained finality in the earlier litigation i.e. W.P. No. 13165 of 2003 and batch and, therefore, the question of again issuing notice on the very same grounds amounts to *res judicata*, cannot be said to be far from truth. In this regard, it is necessary to notice paragraphs 11, 12, 13, 14, 15 and 17 of the order passed in W.P. No. 13165 of 2003 and batch, which read as follows:

"The facts which are not in dispute are that the petitioners and the predecessors in interest have been in possession and enjoyment of the lands right from the year 1953. Their possession came to be recognized and orders of assignment came to be issued on 21.10.1961. The District Revenue Officer exercising powers under section 166-B sought to cancel the assignments on two grounds by issuing a show-cause notice. The two grounds are: firstly, after introduction of Assignment Rules, 1958, the Land Rules, 1950 became inoperative and therefore the assignments made under the rules which were not in exercise are invalid and secondly, the assignees resorted to alienating the lands contrary to the terms of the assignment. For the sake of brevity, I may reproduce the operative portion of the show-cause notice, and it is thus:

"In view of the above irregularities committed by the Subordinate Officer, the matter taken on suo motu revision under sections 166-B of A.P. (T.A.) L.R. Act, 1317 F. Therefore, Sir Malarap Malliah s/o Yellamah r/o Manchirevula is called upon to explain the reasons why the alleged permission granted for temporary occupation of Government land and subsequently implemented in Faisa Patti, should not be cancelled and their names should not be deleted from the village pahanics for the period from 1953-54 to till date, within 15 days from the date of receipt of the notice. Failure to offer any explanation would tantamount acceptance of the above mentioned irregularities and it would be concluded that the alleged assignment is irregular, illegal and in contrary with the rules then existed and orders will be passed to cancel the alleged assignment and for deleting the names from the pahanics".

Undisputedly, the lands came to be assigned to the assignees by virtue of their being in possession of the lands and the names of the assignees have been implemented in the revenue records through Faisa Patti for the year 1961-62 and their names have been brought in the revenue records and continued as pattadars. It can be said without any fear of contradiction that the lands have been in possession of the petitioners/their predecessors in interest over a

period of 40 years prior to the issuance of show cause notice dated 28.3.1994.

The question that falls for consideration is whether after a lapse of 40 years the District Revenue Officer is justified in invoking suo motu revision with the sole object of cancelling the assignments which came to be given effect in the year 1961-62.

The principal ground on which assignments sought to be cancelled by invoking the review powers under section 166-B of the Act is execution of GPA by the assignees in favour of the predecessor in interest. As on this day, the GPA holder is not alive and even if any power of attorney exists, it ceases with his death. Therefore, no cause survives for the District Revenue Officer to take suo motu review. The other question is whether the assignments made in favour of the petitioners and their predecessor in interest is contrary to the Rules then in existence. That issue is not required to be examined after a lapse of nearly 40 years. The Laoni patta certificates came to be issued in accordance with the provisions of Laoni Rules, 1950. Merely because those Rules came to be amended by substituting some other rules cannot be a ground to exercise suo motu review by the District Revenue Officer or the District Collector under Section 166-B of the Act.

In view of the above discussion, I find that the show cause notice issued by the District Revenue Officer, R.R. District is not legal and proper. When once the show cause notice is set aside, the basis for passing the order impugned in the writ petitions by the Joint Collector cannot be said to be well founded. Before parting the case, I deem it appropriate to observe that if

there is any contravention of the conditions imposed in the assignment order, the Government is always at liberty to cancel the same in accordance with the provisions of law".

From the above, it is seen that the very show-cause notice issued on 28.3.1994 was found to be not legal and proper and, therefore, the impugned order therein dated 10.5.2003 was set aside after having found that as on the date the G.P.A. Holder was not alive and even if any power of attorney exists, it ceased with his death and therefore, no cause survives for District Revenue Officer to take suo motu review. It was also observed that the other question that whether the assignment made in favour of the petitioners or their predecessors in interest is contrary to the Rules then in existence, is not required to be examined after a lapse of nearly 40 years. The Laoni patta certificates came to be issued in accordance with the provisions of Laoni Rules, 1950. Merely because those Rules came to be amended by substituting some other rules, it cannot be a ground to exercise suo motu review by the District Revenue Officer or the District Collector under Section 156-B of the Act.

Thus, the allegations that the petitioners were not cultivating the land or they were not in possession of the subject land and the G.P.A. Holder was trying to dispose of the land etc., were all considered in W.P. No. 13163 of 2003 and the orders passed thereon have attained finality. What the learned Judge observed was, if there is any contravention of the conditions imposed in the assignment order, the Government is always at liberty to cancel the same in accordance with the provisions of law. In fact, against these observations, the petitioners have filed Review WPMP No. 15642 of 2006 in W.P. No. 13163 of 2003 and on 7.7.2006, this Court passed the following order:

"Heard learned senior counsel appearing for the review petitioners and learned Government Pleader appearing on behalf of respondents.

This review petition has been filed for deletion of the clause whereby liberty has been given to the Government to cancel the same in accordance with the provisions of law, if there are any contraventions of the conditions imposed in the assigned order.

Learned senior counsel appearing on behalf of the petitioners submits that since the Assignment was under Laoni Rules, 1950, the question of invoking any other provisions of law for cancellation of the assignment is not proper and therefore, the observation made in the writ petition needs to be deleted. In support of his submission, reliance has been placed on the judgment of this Court in G.V.K.Rama ao v. Rakente Hylam Employees Co-op. House Building Society, Hyderabad (1997 (4) ALT 304) and Shyam Sunder v. Govt. of A.P. Revenue (Assignment) Department (2001 (6) ALT 128.

The observation made in the last but two paragraphs of the writ petition reads as follows:

"In view of the above discussion, I find that the show cause notice issued by the District Revenue Officer, R.R. District is not legal and proper. When once the show cause notice is set aside, the basis for passing the order impugned in the writ petitions by the Joint Collector cannot be said to be well founded. Before parting the case, I deem it appropriate to observe that if there is any contravention of the conditions imposed in the assignment order, the Government is always at liberty to cancel the same in accordance with the provisions of law".

What is stated in the above paragraph is that in case of contravention of the conditions imposed in the assignment order, the

Government is always at liberty to initiate necessary proceedings. If the contention of the learned Senior Counsel is accepted, it would fetter on the powers of the Government to cancel the land in case the land is not used for the purpose for which it was assigned.

I do not see any valid ground to review the order passed in W.P. No. 13165 of 2003 dated 21.4.2006. Accordingly, this review petition is dismissed".

The learned Judge earlier observed that this will not preclude the authorities from taking action, if there is any contravention of the conditions imposed in the assignment patta. This must be deemed as, "if any future contravention is made and not otherwise". All the grounds on which the earlier litigation attained finality are being raised again by way of issuing notice and passing final orders, which are impugned in this writ petition, on the very same grounds. Therefore, the respondents have no authority under the law to rake up the issues which are already settled. Issuance of any further notice as to cancellation of assignment on the very same old cause of action does not survive and it is affront in the face of the order passed by this Court in W.P. No. 13165 of 2003. In none of the proceedings issued after the order in W.P. No. 13165 of 2003 is passed, no fresh cause of action has been cited nor brought to the notice of this Court. Here, it is apt to refer the decision of the Supreme Court in **Forward Construction Co. v. Prabhat Mandal (Regd.), Andheri** (AIR 1986 3C 391), wherein it is held:

"In view of S.11, Explan IV it could not be said that the earlier judgment would not operate as res judicata as one of the grounds taken in the subsequent petition was conspicuous by its absence in the earlier petition. An adjudication is conclusive and final not only as to the actual

matter determined but as to every other matter which the parties might and ought to have litigated and have had it decided as incidental to or essentially connected with the subject matter of the litigation and every matter coming within the legitimate purview of the original action both in respect of the matters of claim or defence”.

Further, in **P.K. Vijayan v. Kamalakshi Amma** (AIR 1994 SC 2145), the Supreme Court held:

“It is a sheer abuse of the process of the Court to raise at each successive stages different pleas to protract the proceedings or to drive the party to multiplicity of proceedings. It would be fair and just that the parties to raise all available relevant pleas in the suits or the proceedings when the action is initiated and the omission thereof does constitute constructive res judicata to prevent raising of the same at a later point of time thereby it must be deemed that they are waived”.

It may not be out of place to mention here that the Laoni Rules have come into force in 1950, under the Government of Hyderabad. The revised Assignment Rules were introduced in 1958 in the State of A.P. Strictly speaking, the Assignment Rules, 1958 have no application to the case of the petitioners, since the possession of the petitioners from the year 1940 is not denied and the assignment order was made by the Government of Hyderabad in the year 1953 and, after completion of the process at various levels the assignment was completed in the year 1961 for the purpose of Phodi etc. Thus, the Assignment Rules, 1958 cannot be said to be applicable in case of the petitioners. Further, this Court in a reported decision in **Letter taken up as writ petition v. Collector & District Magistrate** 2008 (5) ALT 313 (D.B) held that the Assignment Rules, 1958, have no application to the

assignments made prior to 1958 and no such assignment can be cancelled basing on 1958 Rules.

Thus, the contentions of the learned Special Government Pleader representing the learned Advocate General that the assignment itself was irregular and the assignment conditions were violated in view of issuance of G.P.A. in favour of one Allabaksh and since the entire area is urbanized, it does not serve the purpose for which it was allotted and it is only hereditary and not alienable and no permissions for the sales were obtained etc., were all irrelevant since those issues were already attained finality in the earlier proceedings. Further, no issue was left which arises for consideration in this writ petition, in the previous proceedings.

Further, from the facts noticed above, it is clear that the entire cause of action was sought to be dug up for the purpose of denying the legitimate compensation to which the petitioners are entitled for, if land acquisition proceedings are initiated for the purpose of acquiring the land for locating Academy for Police Department or to deny ex gratia to which the petitioners are entitled for.

For all the above reasons, the impugned proceedings No.B/289/1999 dated 27.1.2007 are liable to be set aside and they are accordingly set aside. The writ petition is allowed accordingly. No order as to costs."

14. This Court has carefully has carefully gone through the facts on record, the statutory provisions governing the field and has also heard the learned counsel for the parties at length.

15. The relevant statutory provisions governing the field are reproduced as under:-

Sections 3 and 4 of the Telangana Assigned Lands (Prohibition of Transfers) Act, 1977:-

"3. Prohibition of transfer of assigned lands:-

(1) Where, before or after the commencement of this Act any land has been assigned by the Government to a landless poor person for purposes of cultivation or as a house-site then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to such land, it shall not be transferred and shall be deemed never to have been transferred; and accordingly no right or title in such assigned land shall vest in any person acquiring the land by such transfer.

(2) No landless poor person shall transfer any assigned land, and no person shall acquire any assigned land, either by purchase, gift, lease, mortgage, exchange or otherwise.

(3) Any transfer or acquisition made in contravention of the provisions of sub-section (1) or sub-section (2) shall be deemed to be null and void.

(4) The provisions of this section shall apply to any transaction of the nature referred to in sub-section (2) in execution of a decree or order of a civil court or of any award or order of any other authority.

(5) Nothing in this section shall apply to an assigned land which was purchased by a landless poor person in good faith and for valuable consideration from the original assignee or his transferee prior to the commencement of this Act and which is in the possession of such person for purposes of cultivation or as a house-site on the date of such commencement.

Consequence of breach of provisions of section 3:-

1. If, in any case, the District Collector or any other officer not below the rank of a Mandal Revenue Officer, authorised by him in this behalf, is satisfied that the provisions of sub-section (1) of section 3, have been contravened in respect of any assigned land, he may, by order-

(a) take possession of the assigned land after evicting the person in possession after such written notice as the Collector or Mandal Revenue Officer may deem reasonable and any crop or other produce raised on such land shall be liable to forfeiture and any building or other construction erected or anything deposited, thereon shall also be forfeited, if not removed by him, after such notice, as the Collector or the Mandal Revenue Officer may direct. Forfeitures under this section shall be adjusted by the Collector or Mandal Revenue Officer and any property forfeited shall be disposed of as the Collector or Mandal Revenue Officer may direct; and;

(b) (i) reassign the said resumed land, other than those lands/areas as may be notified by the Government from time to time in public interest and for public purpose to the transferee who purchased the land in good faith and for valuable consideration on or before 31st December, 2017, subject to the condition that he/she is landless poor person, and is in occupation of the land by using the said for agriculture or as house site, as on the date of taking possession by eviction;

Provided that the reassignment in case of transferee shall be limited to only such an extent that the total holding of the reassigned including any other land held by him/her does not exceed 5.00 Acres dry land and 2 ½ Acres wet land;

Provided further that where the transferee who has purchased the land and got reassignment of it, or his legal heir, transfers the reassigned land, the land shall be resumed for assignment to the other eligible landless poor;

(ii) restore the said assigned land, other than those lands/areas as may be notified by the Government from time to time in public interest and for public purpose, to the original assignee, subject to the condition that he or she is landless poor person as on the date of restoration for one time; or

(iii) assign to other eligible landless poor person:

Provided that the restoration of land shall be limited to only such an extent that the total holding including any other land held by him/her does not exceed 5.00 Acres dry land or 2 ½ Acres wet land:

Provided further that where the original assignee or his legal heir, after first restoration transfers the assigned land, the land shall be resumed for assignment to the other eligible landless poor:

Provided also that if no eligible landless poor persons are available in the village/area, the resumed land will be utilised for public purpose.

Explanation: For the purpose of this clause "Public Interest" and "Public Purpose" shall mean and include, the Weaker Section Housing, Public Utility, Infrastructure Development, promotion of industries and Tourism or for any other public purpose;

(c) in the area which may be notified by Government from time to time, lands resumed under clause 4(a) above, shall be utilised for public purpose;

(2) An eviction under sub-section (1) shall be made by serving a notice in the manner prescribed in section 25 of the Telangana Revenue Recovery Act, 1864, or in any such other manner as the State Government may direct, on the person reputed to be in occupation or his agent requiring him within such time as the Collector or the Mandal Revenue Officer may deem reasonable after receipt of the said notice to vacate the land, and, if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and if the officer removing any such person shall be resisted or obstructed by any person, the

Collector shall hold a summary inquiry into the facts of the case and if satisfied that the resistance or obstruction was without any just cause and that such resistance or obstruction still continues, may issue a warrant for arrest of the said person and on his appearance commit him to close custody in the office of the collector or of any Mandal Revenue Officer for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance or may send him with a warrant in the form of schedule for imprisonment in the civil jail of the District for the like period:

Provided that no person so committed or imprisoned under this section shall be liable to be prosecuted under sections 143, 186 or 188 of the Indian Penal Code in respect of the same facts.

(3) Any person who unauthorisedly re-enters and occupies any land from which he was evicted under this section, shall be punished with imprisonment for a term which may extend upto six months or with fine upto rupees five thousand or with both.

(4) Any order passed in revision under Section 4-B and subject to such order, the decision in appeal under section 4A and subject to the said orders in revision and appeal, any order passed under sub-section (1), shall be final and shall not be questioned in any court of law and no injunction shall be granted by any court in respect of any proceeding taken or about to be taken by any officer or authority or Government in pursuance of any power conferred by or under this Act.

(5) For the purposes of this section, where any assigned land is in possession of a person, other than the original assignee or his legal heir, it shall be presumed, until the contrary is proved, that there is a contravention of the provisions of sub-section (1) of section 3."

Sections 166-C and 172 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 F:-

166-B. Revision:- (1) Subject to the provisions of the Andhra Pradesh (Telangana Area) Board of Revenue Regulation, 1358 F, the government or any Revenue Officer not lower in rank to a Collector, the Settlement Commissioner of Land Records may call for the record of a case or proceedings from a subordinate department and inspect it in order to satisfy himself that the order or decision passed or the proceedings taken is regular, legal and proper and may make suitable order in that behalf;

Provided that no order or decision affecting the rights of the ryots shall be modified or annulled unless the concerned parties are summoned and heard.

(2) Every Revenue Officer lower in rank to a Collector or Settlement Commissioner may call for the records of a case or proceedings for a subordinate department and satisfy himself that order or decision passed or the proceeding taken is regular, legal and proper and if, in his opinion, any order or decision or, proceedings should be modified or annulled, he shall put up the file of the case with his opinion to the Collector or Settlement Commissioner, as the case may be. Thereupon the Collector or Settlement Commissioner may pass suitable order under the provisions of sub-section (1).

(3) the original order or decision or an authentic copy of the original order or decision sought to be revised shall be filed along with every application for revision.

166-C. Review by Government:- The Government may, at any time, either, suo motu, or on application any person interested, made within ninety days of the passing of an order under section 158 or section 166B review any such order if it was passed by them under any mistake,

whether on the fact of law, or ignorance of any material fact,

Provided that the Government shall not pass any order adversely affecting the interests of any person unless such person has been given an opportunity of making his representation.

(2) This Government may stay the execution of any such decision or order, pending the exercise of their powers under sub-section (1) in respect thereof.

(3) The provision of this Section shall apply to any order passed under Section 158 or Section 166-B whether before or after the Commencement of the Andhra Pradesh (Telangana Area) Land Revenue (Amendment) Act, 1990 and in the case of an application for review from any person interested in respect of such an order passed prior to such Commencement, the period of ninety days specified in Sub-Section (1) shall be computed from the date of such Commencement.

172. Power to make rules:- (1) The Government may, by notification published in the Official Gazette, make rules not inconsistent with the provisions of this Act, the carry out the purposes and objects of this Act and for the guidance of all persons in the matters connected with the enforcement of this Act or in matters not expressly provided for in the Act.

(2) In particular, and without prejudice to the generality of the foregoing power, rules may be made with regard to the following matters;

- (a) the appointment of revenue officers and the exercise of their powers and their duties;
- (b) where the appointment of the official is subject to furnishing security, the manner in which security shall be taken from them and the nature and the amount of such security;
- (c) Omitted
- (d) Omitted

- (e) the assessment of land revenue and the alteration and revision of such assessment and the recovery of land revenue;
- (f) the disposal of attached land;
- (f-1) to prescribe the manner of publication of the notification and of the service of the notice referred to in sub-section (3) of section 46-A;
- (g) the maximum amount of fine leviable under Section 57;
- (h) the purpose for which land assessed for land revenue may or may not be used and to grant permission to use agricultural land for non-agricultural purposes;
- (i) issuing of notice in the matter of enhancement of rent and eviction from land by the holder to the Asami or by the Asami to the holder under Section 71;
- (j) prescribing the area of a number under Section 79 and the records, registers, accounts and maps to be maintained for the purposes of this Act and the manner and forms in which they shall be prepared and maintained;
- (k) the interest or penalty chargeable if land revenue is not paid in time;
- (l) regulating the conduct of survey and settlement and land revenue and prescribing the notice to be issued under Section 84 before the introduction of settlement;
- (m) Omitted
- (n) Omitted
- (o) the division of survey numbers into pote-numbers and the assessment of pote-numbers under Section 89-B;
- (p) the construction, laying out, maintenance and repair of boundary marks;
- (q) the mode of drawing up plaint, appeal, application for review and revision of prescribing forms and the manner of presenting them.

Rule 19 of the Laoni Rules, 1950

19. The allottee of the land shall prepare the land for cultivation within three years of being placed in possession and commence cultivation of the land thereafter. The pattadar may be rejected by the order of the Collector for breach of any of the above conditions:

Provided that he has been served with a notice calling upon him to comply with the conditions which he has violated and he fails to comply with it within three months of the date of service thereof. If land has been transferred in contravention of the conditions, the Collector may reject the transferee."

16. The learned Single Judge while allowing the writ petition on 05.02.2010 has held that the issue decided by the Mandal Revenue Officer in proceedings dated 27.01.2007 was already dealt with in W.P.Nos.13165 and 23639 of 2003

17. In the considered opinion of this Court, the issues involved in W.P.Nos.13165 and 23639 of 2003 and the proceedings involved in the present writ petition are different. In W.P.Nos.13165 and 23639 of 2003, the issues raised therein pertained to the legality of the assignment orders issued in favour of the respondents/assignees and the execution of the GPA in favour of one M.A.Baksh to transfer the lands and consequent violation of the assignment orders. The proceedings in the aforesaid cases were by way of *suo motu* revision under Section 166-B of the Land Revenue Act, 1317F and the High Court has

answered that the legality of the assignment orders need not be gone into after forty years and the cause of action regarding the execution of GPA does not survive since the GPA holder is not alive. On the contrary, the issue involved in the present writ petition deals with the proceedings issued by the Mandal Revenue Officer (W.P.No.3634 of 2007) relates to the execution of sale deeds by GPA holder in favour of several persons and the action taken under Act No.9 of 1977. As many as 71 sale deeds were executed in respect of the assigned lands. A copy of the notice dated 11.12.2006 furnishing all minute details of the sale deeds, is reproduced as under:-

"File No.B/289/99

Dated:11-12-2006

FORM-I

Notice Under Rule of The Andhra Pradesh Assigned
Lands (Prohibition of Transfers) Rules, 1977

To
Sri Gudupu Saiyulu & other (As per the list)
Residing in: Manchirevula, Village:
Mandal: Rajendranagar, R.R.Dist.

As per the verification of Village Records of Manchirevula Village it is evident that the land bearing Sy.No.393 admeasuring Ac.326-29 gts is classified as "Poramboke" Out of the said extent of the land the then Tahsildar Hyd. West assigned an ext. Of Ac. 142-39 gts covered by Sy.No.393/3 to 393/21 vide File No.A6/8524/61, Dt.21/10/61 in favour of Sri. Balaiah S/o Venkaiah and 21 other and temporary permission has been given to the above assignees to occupy the land in Form-9 (G) under Laoni rules 1950. Thereafter the names of the individuals have been implemented in the

Revenue record in Faisal patti for the year 1961-1962 and their names brought in to the Revenue Records.

It is noticed that Sri Mailaram Jangaiiah and 21 other assignees in respect of assigned lands bearing Sy.No.393/20 to an ext. Of Aers 143-00 situated at Manchirevula Village, Rajendranagar Mandal have executed a General Power of Attorney vide Doct.No.1118/91, Dt. 14/08/1991 in favour of the Sri Allah Bakshi S/o Ali Saheli in turn he executed various sale deed in favour of 71 of Purchasers, in the lands covered by said survey number, the details of the sale deed as furnished by the Jt.Sub-Registrar-II, R.R District are as follows:-

Sl.No	Sale Deed No	Sl.No	Sale Deed No	Sl.No	Sale Deed No
1	585/92	25	5466/92	49	10278/92
2	1034/92	26	5470/92	50	10423/92
3	1036/92	27	5471/92	51	10424/92
4	2378/92	28	5472/92	52	10425/92
5	3381/92	29	5967/92	53	10426/92
6	2381/92	30	5968/92	54	10427/92
7	2378/92	31	5969/92	55	10428/92
8	548/92	32	5807/92	56	10441/92
9	850/92	33	5808/92	57	10735/92
10	951/92	34	5809/92	58	10736/92
11	4157/92	35	6810/92	59	3311/93
12	4164/92	36	6811/92	60	3312/93
13	4165/92	37	6812/92	61	3313/93
14	4431/92	38	6813/92	62	3314/93
15	4431/92	39	6814/92	63	3315/93
16	4431/92	40	7341/92	64	3316/93
17	4431/92	41	7342/92	65	3317/93
18	4431/92	42	7343/92	66	3318/93
19	4431/92	43	7344/92	67	3319/93
20	4436/92	44	10273/92	68	3320/93
21	4437/92	45	10274/92	69	6198/94
22	4438/92	46	10275/92	70	608/94
23	4441/92	47	10276/92	71	6105/94
24	5435/92	48	10277/92		

The sale transactions above shown are impermissible and void as same are in contravention of the provision of sub-section (2) of section-3 of the Andhra Pradesh assigned land (Prohibition of Transfer) Act 1997. As per the prohibition of the said Act there is prohibition to sell the land assigned to you and hence the sale transaction above referred are invalid.

As per the Section 4 of A.P assigned lands (Prohibition of transfer) Act 1977 I, satisfied that the assignees are contravened the provision of sub-section (1) of section 3 in respect of assigned lands bearing Sy.No.393/1 to 393/20 of Manchirevula Village. Hence you are hereby show cause as to why the scheduled land should not be resumed into Govt. possession as in such manner as prescribed by law.

Further the Hon'ble High Court of A.P in its order in W.P.No.13165 & 23639/03, Dt. 21/04/2006 filed by M.Narsimha & Other in respect of the same scheduled lands has ordered "I deem it appropriate to observe that if there is any contravention of the condition imposed in the assignment order, the Government is always at Liberty to cancel the same in accordance with the provisions of law". On verification of records I am satisfied that there is contravention of conditions stipulated in the assignment order.

Therefore, you are hereby directed to show cause within (15) days of receipt of this notice as to why your assigned land should not be resumed back in respect of Sy No. 393/1 to 393/20 situated at Manchirevula Village, Rajendranagar Mandal for the scheduled land as show below.

THE SCHEDULE

Village	Sy.No. Sub-Division	Description of land	Entire extent		Occupied Extent		Nature of Occupation/Patta
			Acres	Gts.	Acres	Gts.	
1	2	3	4	5	6	7	8
Manchirevula	393/1 to 393/20	Poramboke	142	39	Nil	Nil	Assignment

Dy. Collector &
Mandal Revenue Officer,
Rajendranagar Mandal.

To
Sri Narsimha S/o Gangaiah & his L.Rs
R/o Manchirevula Village
Through AMRI for service and return the served copy."

18. Meaning thereby in respect of assigned lands, sale deeds were executed which were impermissible in law. The aforesaid issue was never the subject matter of earlier litigation and therefore, by no stretch of imagination, it could have been held by the learned Single Judge that the proceedings dated 27.01.2007 are hit by *res judicata*.

19. Another important aspect of the case is that this Court while deciding the earlier writ petition i.e., W.P.Nos.13165 and 23639 of 2003 and C.C.No.163 of 2004 has held that the Government was at liberty to proceed with the cancellation of the assignment in case of violation of conditions. Paragraph 15 of the Order, dated 21.04.2006, passed in W.P.Nos.13165 and 23639 of 2003 and C.C.No.163 of 2004 is reproduced as under:-

"15. In view of the above discussion, I find that the show cause notice issued by the District Revenue Officer, R.F. District is not legal and proper. When once the show cause notice is set aside, the basis for passing the order impugned in the writ petitions by the Joint Collector cannot be said to be well founded. Before parting the case, I deem it appropriate to observe that if there is any contravention of the conditions imposed in the assignment order, the Government is always at liberty to cancel the same in accordance with the provisions of law."

20. Not only this, Review Petitions were preferred by the assignees challenging the aforesaid order and it is an admitted fact that the Review Petitions were dismissed by the High Court. Meaning thereby, the order granting liberty to the State Government to take action in case of contravention of the conditions imposed in the assignment order was upheld. The learned Single Judge, in spite of aforesaid categorical liberty granted earlier to the State Government to take action in case of contravention of the conditions imposed in the assignment order, has erroneously held that the contravention of the conditions imposed in the assignment order means 'future contraventions'. The learned Single Judge on his own has imported certain words in the impugned order, which is certainly impermissible in law. The learned Single Judge has given an erroneous interpretation which amounts to re-writing of the Judgment delivered in W.P.Nos.13165 and 23639 of 2003. That the land in dispute is an assigned land with a condition of non-alienation. The Mandal Revenue officer has issued written permission to occupy the land on 21.10.1961, one such permission which was granted in favour of Mylarapu Pedda Gangaiah is reproduced as under:-

"D.Dis No. A6/8524/60

Hyderabad District
Hyderabad.
West Tahsildar Office
Dt. 21.10.1961.

Form-G
(Under Rule 9(g))

Written permission to occupy land

(To be given by the Tahasildar under Loani Rules)

Temporary patta is granted to Shri. Mylarapu Pedda Gandaiah S/o Venkaiah resident of Manchirevula village, Talasil Hyderabad West, Hyderabad district, to occupy the following land and to cultivate the same, till the phodi work is completed.

1. Village name	: Manchirevula
2. Taluk	: Hyderabad West
3. Sy. No.	: 393
4. Total extent	: 326.28
5. Extent given under patta	: Ac. 7.06 Gts.
6. Cess	: Rs. 7.15
7. Nature of land	: Kancha
8. Classification	: Dry

Sri Mylarapu Pedda Gandaiah has to pay Rs. 7.15 per year from 1961-62 for the land granted for occupation under this permit as assessment.

After the podhi is completed the area and assessment are both fixed by the Dept. of Land Records (Survey and Settlement). The pattadar is bond to pay the assessment so fixed, but this change will take effect only from the year following in which such change has been made as a result of the completion of phodi work by the Dept. of Land Records.

(In the case of land granted as not transferable)

The grantee is not empowered to transfer the occupancy without the sanction previously obtained from the Collector. This permission to occupy shall not confer the right to mine on the land or collect minerals therefrom.

The rights on the toddy trees will vest with the Government.

Sd/-Tahasildar
24.10.1961
Hyderabad West,

/Translated Copy/"

21. The aforesaid assignment order makes it very clear that the land in question was having a clause restraining the grantee to transfer the land without previous sanction of the Collector. In the present case, no sanction was obtained at any point of time and therefore, the appellants were well within their jurisdiction to issue notice dated 11.02.2006 and after hearing the assignees, the order dated 27.01.2007 has been passed by the Mandal Revenue Officer.

22. Another important aspect of the case is that in the earlier round of litigation, the matter has travelled to the Hon'ble Supreme Court and the Hon'ble Supreme Court in its Judgment dated 28.04.2000 passed in Civil Appeal No.3033 of 2000 has held that assignees were allotted Government land and the assignment was subject to two conditions that it shall be used only for cultivation and the lands would not be alienated without the sanction of the Tahsildar. The relevant extract of the Judgment delivered by the Hon'ble Supreme Court is reproduced as under:-

"...Thus, under the original Laoni Rules, 1950 as also under the Revised Policy published in 1958, the alienation of the assigned land was prohibited. While under the Laoni Rules, 1950, the alienation or transfer without the previous sanction of the Collector was prohibited, under the Revised Policy, it was clearly provided that though the assigned lands would be heritable, they would not be transferred...

This order was examined by the Collector who was of the opinion that the District Revenue Officer had not examined certain vital aspects of the matter and consequently by his order dated 3rd of January, 1995, he suspended the operation of the order dated 15.9.1994, passed by the District Revenue Officer. This order was challenged by the respondents in Writ Petition No.484 of 1995.

In the meantime, the Collector wrote to the Government on 31st of July, 1995 to ratify the action indicated by him in his order dated 3rd of January, 1995. By order dated 24th of January, 1996, the Government ratified the Collector's order dated 3rd of January, 1995 and directed him to proceed with the enquiry and pass final order. This order of the Government was challenged by the respondents in Writ Petition No 7221/96. By a common judgment dated 1st of September, 1997, a learned Single Judge of the High Court allowed both the Writ Petitions and quashed the order of the Government dated 24th of January, 1996. It may be stated that in the counter-affidavit, filed on behalf of the Government of Andhra Pradesh (appellants), it was, inter alia, stated that the respondents had alienated the lands in favour of a third person. They had converted the agricultural lands into non-agricultural lands and had also appointed a General Power of Attorney in favour of a developer, for developing and sale of the plots, who converted the lands into

residential plots in the name and style of "Bakshi Estates".

The State of Andhra Pradesh, thereafter, filed two appeals before the Division Bench but the Division Bench took up only one of the two appeals, namely, Writ Appeal No.1487/98 and by judgment dated 14th of September, 1998, it dismissed the said appeal and maintained the order of the Single Judge that the assignment of lands, made in favour of the respondents thirty years ago, could not be touched."

23. The Hon'ble Supreme Court after holding that the lands were non-transferable without proper permission, remanded the matter back to the Collector to complete the proceedings and the Hon'ble Supreme Court has categorically held that the lands were assigned and were non-alienable. Thus, in short as the lands in question fall within the definition of assigned lands under the Act No.9 of 1977, the condition of non-alienation was applicable. It is nobody's case that the Government lands were allotted on payment of premium/consideration or by way of auction. The Government lands were allotted at free of cost to the allottees with a clear clause relating to non-alienation and therefore, the learned Single Judge has erred in law and facts.

24. The Judgment delivered by the coordinate Bench in
the case of **Letter sent from Plot No.338 v. the Collector and**

District Magistrate¹ is not applicable to the facts of the present case. In the present case, there was a categorical condition of non-alienation and the Hon'ble Supreme Court has held, as stated earlier, that the assignment of lands were prohibited both under Laoni Rules and the Revised Assignment Rules and therefore, the learned Single Judge has again erred in law and on facts in allowing the writ petition.

25. In the case of **Letter sent from Plot No.338** (supra), the issue of assignment and the applicability of the provisions of the Act No.9 of 1977 has also to be looked into. It was considered by the Division Bench as to whether the assignment made under Rule 9 of the Laoni Rules by way of assignment after collection of market value would be covered by the provisions of the Act No.9 of 1977 and a coordinate Bench of this Court in paragraph 49 has held as under:-

"49. We are of the view that provisions of Act No.9 of 1977 will not be applicable to the cases where assignments were made on collection of market value or under Circular 14 except it were granted to the landless poor persons free of market value. ..."

26. In the light of the aforesaid, as in the present case, the assignment was not done after collection of market

value and the assignment was done in favour of landless persons without collection of market value, the question of alienation without the permission of the competent authority does not arise and therefore, the learned Single Judge has erred in law and on facts in allowing the writ petition.

27. The learned counsel for the respondents has placed reliance upon the Judgment delivered in the case of State of Telangana v. (Writ Appeal No.91 of 2020, decided on 10.08.2021).

28. In the aforesaid case, the land was assigned in favour of the petitioners therein without any condition and it was an unconditional assignment. Not only this, the land was assigned on payment of upset price equal to sixteen times of the land revenue, whereas no such contingency is involved in the present case. The assignment of land was done without charging a single rupee and therefore, the Judgment relied upon is again distinguishable on facts.

29. That the factum of execution of sale deeds with all minute details was furnished to the assignees and the same has not been controverted. The GPA holder M.A.Baksh has executed various sale deeds on behalf of assignees by developing plots and therefore, as there was a

clear violation of the terms and conditions of the assignment, and by no stretch of imagination, the proceedings dated 27.01.2007 could not have been set aside by the learned Single Judge.

30. It is pertinent to note that the purchasers have also filed implead petitions and the same was allowed by this Court. They have also heard by the competent authority and thereafter, the Order has been passed. The Act No.9 of 1977 was in force at the time the sale deeds were executed and Section 3() of the Act No.9 of 1977 expressly provides that the sale of assigned lands before or commencement of the Act is deemed null and valid and therefore, the Order was rightly passed by the competent authority resuming the lands.

31. That the land resumed is being used for public purpose in terms of the Act No.9 of 1977. The land is in possession and is being used by Greyhounds force which is an elite force dealing with anti-naxal operations. It is imparting training to commandos and to the soldiers of central armed police force who are deployed to curb naxalism. The possession of the land was taken by the Government on 03.06.2003 and the present land has been notified vide C.O.Ms.No.1835, dated 11.12.2006 by the

Government for public interest and therefore, the Order passed by the learned Single Judge deserves to be quashed.

32. Much has been argued by learned counsel for the respondents before this Court that in respect of their entitlement stating that the land is governed by the condition of patta issued under Rule 9(g) of the Laoni Rules. The argument is certainly misplaced as Rule 9(g) contemplates two conditions, viz., the lands are put to auction and the party to whom the land is allotted shall deposit 25% of the value of the land and the auction amount of the trees thereon and the balance 75% of the deposit within fifteen days thereafter. In the present case, no such exercise took place. The lands so allotted are free of cost to landless persons and therefore, once the lands were allotted free of cost with a 'non-alienation' clause, the appellants have rightly passed the Order resuming the land and allotting the same to Greyhounds.

33. Another undisputed aspect of the case is that all land owners gave a power of attorney in 1991 to M.A.Baksh who executed various sale deeds and even though the power of attorney was cancelled later on after execution of the sale deeds, it does not have any consequence since the sale

deeds executed *per se* constitute violation and the cancellation of the GPA by no stretch of imagination can come to the rescue of the landholders.

34. Resultantly, this Court is of the opinion that the learned Single Judge has erred in law and on facts in allowing the writ petition. The finding of the learned Single Judge that issuance of notice by the authorities amounts to *res judicata* is erroneous and therefore, the writ appeal deserves to be allowed. The writ appeal is accordingly allowed and the Order passed by the learned Single Judge is set aside. However, there shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

//TRUE COPY//

SD/-K.SRINIVASA RAO
JOINT REGISTRAR

Gto
SECTION OFFICER

To,

1. The Secretary, Revenue Department, State of Telangana Secretariat, Hyderabad
2. The District Collector, Ranga Reddy District, Hyderabad
3. The Revenue Divisional Officer, Chevella Division, R.R. District
4. The Mandal Revenue Officer, Rajendranagar Mandal, R.R. District
5. Two CCs to the Advocate General, High Court for the State of Telangana. [OUT]
6. One CC to Sri Pari Prabhakar Advocate [OPUC]
7. One CC to Sri T. Bharath Advocate [OPUC]
8. One CC to Sri Avinash Desai Advocate [OPUC]
9. Two CD Copies
10. One Spare Copy

MBC

Com

HIGH COURT

DATED: 31/12/2021



JUDGMENT

WA.No.202 of 2010

ALLOWING THE WRIT APPEAL

WITHOUT COSTS

12
[Signature]
06/01/2022