

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

Review C.M.P.No.472 of 2013

in

C.R.P.No.1086 of 2004

%24-06-2013

Praga Tools Officers co-operative Housing Society Limited,
Secunderabad.

...Petitioner

VERSUS

\$ DSN Raju and others.

...Respondents

< **GIST:**

> **HEAD NOTE:**

!Counsel for the petitioner : Sri C.B.Rammohan Reddy

^ Counsel for the respondents : Sri Vedula Venkata Ramana

? Cases referred

[1] 1994 (1) An.W.R. 189

² AIR 1989 SC 1753

³1988 (2) ALT 74

⁴ 2004 (4) ALT 443

⁵ 2001 (2) ALT 604

⁶ AIR 1968 AP 353 (F.B.)

⁷ 2001 (6) ALT 226 (F.B.)

⁸ (2000) 1 SCC 666

⁹ (1995) 1 SCC 170

¹⁰ (1997) 8 SCC 715

¹¹ (2012) 7 SCC 200

¹² (2002) 10 SCC 578

¹³ AIR 1988 SC 2121

¹⁴ (1995) 4 SCC 163

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA

RAO

Review C.M.P.No.472 of 2013

in
C.R.P.No.1086 of 2004

ORDER :

This is an application filed under Order 47 Rule 1 C.P.C. by the 1st respondent in the C.R.P.No.1086 of 2004 to review the judgment dt.21.12.2012 in C.R.P.No.1086 of 2004.

2. A brief history of the litigation is set out as under :

3. The C.R.P.No.1086 of 2004 was filed u/S.91 of the A.P. (T.A.) Tenancy and Agricultural Lands Act, 1950, (for short, 'the Act') by respondent Nos.1 to 24 herein against the petitioner and respondent Nos.25 to 28 to revise the order dt.15.11.2003 in case No.F.2/8313 of 2002 of the Joint Collector, Ranga Reddy District, reversing the order dt.30.03.2002 in case No.G/2912/2001 of the Revenue Divisional Officer, Chevalla Division, Ranga Reddy District (for short, 'the RDO').

4. By order dt.30.03.2002 in case No.G/2913/2001, the RDO granted to respondent Nos.25 to 27 a sale certificate u/S.38A of the Act in respect of an extent of Acs.5.26 gts. in Sy.No.36 part of Bowenpally Village, Balanagar Mandal, Ranga Reddy District (hereinafter referred to as 'the subject land') and had directed them to deposit non-judicial stamp papers worth Rs.34,190/-. To

the said proceeding, the respondent No.28 is a party. Before the RDO, the Respondent Nos.25 to 27 claimed that their father N. Pochaiah was a protected tenant over an extent Acs.11-12 gts. in the above village under the father of respondent No.28 who was the land owner; after the death of their father, they approached the Revenue authorities for issue of Patta certificate but the matter got prolonged; and that a sale certificate u/S.38A be granted in their favour. The respondent No.28 filed a petition before the RDO on 02.03.2002 supporting the claim of respondent Nos.25 to 27 stating that the then RDO, Chevella-cum-Inam Tribunal issued Occupancy Rights Certificate No.A1/1233/75 dt.28.11.1979 in respect of the subject land in his favour ignoring the claims of the respondent Nos.25 to 27 and their father and to avoid further litigation, he had assigned all his rights, title and possession in favour of respondent Nos.25 to 27 under an un-registered sale deed dt.03.02.1992 for Rs.2,63,000/-. A general notification was issued vide proceedings dt.20.03.2002 calling for claims and objections, if any, from general public on or before 30.03.2002 published at all prominent places. Sworn statements were filed by respondent Nos.25 to 27 and also respondent No.28 reiterating the above facts. On the basis of this material, the RDO passed orders on 30.03.2002 granting sale certificate under Section 38A of the Act to respondent Nos.25 to 27 in respect of the subject land.

5. The petitioner filed an appeal u/S.90 of the Act before the Joint Collector, Ranga Reddy District against the order dt.30.03.2002 of the RDO in Case No.G/2913/2001. The said appeal was numbered as Case No.F2/8313/2002. In the said appeal, the petitioner contended that it is a Housing Co-operative Society registered under the A.P. Co-operative Societies Act, 1964; it had entered into an agreement of sale dt.12.07.1985 for purchasing an extent of Acs.19.10 gts. in Sy.No.36 of Bowenpally Village with respondent No.28 and his other family members in whose favour Occupancy Rights Certificate was granted by the Inam Tribunal-cum-Revenue Divisional Officer, Chevalla Division; Occupancy Rights Certificate for an extent of subject land was granted to respondent No.28 vide proceedings No.A1/1233/75 dt.28.11.1979; that a suit O.S.No.435 of 1989 was filed before the II Senior Civil Judge, Ranga Reddy District, for specific performance of the said agreement of sale which is pending; the Revenue Divisional Officer has no jurisdiction to grant sale certificate u/S.38A of the Act when Occupancy Rights Certificate was granted to respondent No.28 on 25.11.1979 which was not challenged; on the issuance of such certificate in favour of respondent No.28, the rights of respondent Nos.25 to 27 stood extinguished; that respondent Nos.25 to 27 filed proceedings No.B/3047/90 previously u/S.32 of the Act

which was dismissed on 23.02.1991 by the Mandal Revenue Officer, Balanagar Mandal (for short, 'MRO') and the same was confirmed by the High Court; the proceedings before the RDO initiated by respondent Nos.25 to 27 for issuance of sale certificate u/S.38A of the Act are collusive and were intended to defeat the rights of the petitioner in the land purchased by it which is the subject matter of the above suit; the order of the RDO was passed without issuing any notice to the petitioner who is interested in the said land; in view of Section 102(e) of the Act, the land in question having been included in the urban agglomeration of Hyderabad , it ceased to be agricultural land and therefore the application u/s.38-A of the Act filed by respondent Nos.25 to 27 is not maintainable.

6. The respondent Nos.25 to 28 contended before the Joint Collector that the Inam proceedings were initiated without notice to the protected tenant N.Pochiah and to his legal heirs; the appropriate forum for settling rights of landlords and tenants is the RDO; therefore, the application u/s.38-A of the Act was rightly filed before the RDO; the suit before the Civil Court is not maintainable; Section 102 (e) of the Act is not attracted as there was no notification u/S.102 (e) of the Act.

7. By order dt.15.11.2003 in Case No.F2/8313/2002, the Joint Collector allowed the appeal. The agreement of

sale dt.12.07.1985 between the petitioner and respondent Nos.28 and others was not filed before him. He held that the subject land is Inam land and respondent No.28 had obtained Occupancy Rights Certificate in respect of the said land; after respondent No.28 became a Pattedar, he cannot surrender his Pattedar rights in favour of respondent Nos.25 to 27; it is open to the protected tenants who are in possession and cultivation of the land on 01.11.1973 to file appeal u/S.24 of the A.P. (T.A.) Abolition of Inams Act, 1955; it was not open to the RDO to issue a sale certificate u/S.38-A of the Act in favour of respondent Nos.25 to 27 after an Occupancy Rights Certificate is issued in favour of respondent No.28.

8. The respondent Nos.1 to 24 filed C.R.P.No.1086 of 2004 in this Court u/S.91 of the Act challenging the order dt.15.11.2003 of the Joint Collector, Ranga Reddy District in Case No.F2/8313/2002. They contended that they purchased the above land from respondent Nos.25 to 27 under three registered sale deeds being Doc.Nos.1319 of 2002, 6140 of 2002 and 6141 of 2002, dt.25.09.2002, relying upon the certificate u/S.38A granted on 30.03.2002 by the RDO in their favour and that behind their back, the said order was got set aside by the petitioner before the Joint Collector. They also contended that there was no decree for specific performance in favour of petitioner in the suit filed by it and therefore it

could not have maintained the appeal u/S.90 before the Joint Collector challenging the order dt.30.03.2002 of the RDO; that in view of S.54 of the Transfer of Property Act, 1882, a mere agreement of sale does not create any right in the above land in favour of petitioner; the rights of the protected tenants under the Act are not affected merely because an Occupancy Rights Certificate is granted to Inamdar u/S.4 of the A.P. (T.A.) Abolition of Inams Act, 1955 in view of Section 33 of the said Act as held in

N. Sudarshan Reddy and others v. Smt.

Kannamma (died) per LR's ^[1]; the respondent No.28 could not have alienated any land in favour of petitioner in view of the bar in Section 38D of the Act as held in **Kotiah v. Property Association of Baptist Churches (P) Ltd. ^[2]**; the sale deeds dt.25.09.2002 in favour of respondent nos.25-27 being registered sale deeds, the petitioner is deemed to have notice of the rights of the respondent Nos.1 to 24 in view of Section 3 of the Transfer of Property Act; and therefore, the order of the Joint Collector be set aside.

9. On 16.11.2012, at the request of Sri R. Narasimha Reddy, counsel for petitioner herein/1st respondent in the C.R.P., the case was adjourned to the following week. It was next listed on 21.12.2012. On that day the counsel for respondent Nos.1 to 24 submitted oral arguments.

The counsel for the petitioner did not appear and submit any arguments. This Court allowed the C.R.P. by an elaborate order dt.21.12.2012.

10. This Review Petition was filed by the petitioner on 31.01.2013 under Order – 47 Rule 1 C.P.C. through another counsel Sri C.B. Rammohan Reddy, contending that the petitioner's then counsel R.Narasimha Reddy failed to appear before the court and did not represent its case when it was heard by this Court and therefore the C.R.P. was allowed without giving any opportunity and hearing to the petitioner; the order of this Court is an *ex parte* order passed without hearing the petitioner and the same is contrary to law; facts and relevant orders which go to the root of the matter were not placed before this Court and the respondent Nos.1 to 24 failed to bring to this Court the earlier orders of the revenue authorities wherein their claim was not upheld. It is further contended that respondent no.28 along with other Inamdars sold the subject land to the review petitioner under an un-registered sale deed dt.12.07.1985; the petitioner filed petition under Section 5-A of the A.P. Records of Rights in Land Pattedar Pass Books Act,1971 for regularization of their sale before the MRO and the same was allowed on 17.03.1990; in the said petition the respondent no.28 was shown as 16th respondent; the respondent no.28 asserted that he had received part consideration,

delivered possession of the land, stating that he had no claim over the land; On 17-3-1990, proceedings were issued by MRO directing the revenue authorities to record the name of petitioner in the records of Rights and the said proceeding attained finality ; so respondent no.28 had no right to sell the subject land; the Inamdars including respondent no.28 filed an application under Section 4 of the A.P.(T.A) Abolition of Inams Act,1955 before the RDO for grant of Occupancy Right Certificates to the extents held by the respective Inamdars; the respondent No.28-Syed Ifthekar Ali had only 1/6th share and was granted occupancy certificate under Section 4 of the Act by proceedings of the Revenue Divisional Officer in A/1233/75, dt.25.11.1979 which attained finality; the rights of the protected tenants, if any, were extinguished by virtue of the above order under Section 4 of the A.P. (T.A) Abolition of Inams Act, 1955 and, as such, they had no right to alienate the property in favour of respondent Nos.1 to 24 herein; so the application of respondent no.25-27 under Section 38-A is not maintainable; the petitioner filed O.S.No.435 of 1989 on the file of the II Senior Civil Judge, Ranga Reddy District, seeking for Specific Performance of the Agreement dt.12.07.1985 against all the Inamdars including respondent No.28 and in the said suit respondent Nos.25 to 27 filed an application seeking their impleadment and the same was dismissed by the trial court on 11.12.1998; the

respondents having knowledge of the sale made by the Inamdars in favour of the petitioner and having sought for impleadment in the suit cannot file an application before the Revenue Divisional Officer under Section 38-A and seek issuance of Sale Certificate on the basis of an unregistered sale deed dt.03.02.1992; the subject land has fallen into urban agglomeration of Hyderabad city and the lands are covered under the A.P. Urban Area Development Act, 1975; the Zonal Development Plan as well as Master Plan were notified prior to the alleged sale in favour of the respondent Nos.25 to 27 ; the subject land ceased to be agricultural land and therefore the provisions of the Act are not applicable; so, the application filed under Section 38-A of the Act is not maintainable; respondent no.s 1-24 failed to bring to notice of the Court all the above facts/orders which disentitle them to claim any relief; the CRP No.1086/2004 was not maintainable under law and the impugned judgment thus deserves to be reviewed.

11. In his oral submissions, the counsel for the petitioner stated that Sri R. Narasimha Reddy, who had filed Vakalat for the petitioner in the CRP had returned the file to the petitioner's representative prior to 21.12.2012 (the date on which the CRP.No.1086/2004 was heard and disposed off) and that the petitioner was aware of the fact that the case was listed on that day but it could not

engage a counsel to represent it at the time of the hearing. He also contended that respondent No.28 died during the pendency of the revision and this fact was not brought to the notice of this Court; this Court did not consider the effect of dismissal by this Court on 14.10.2004 of C.R.P.No.63 of 2004 filed by respondent Nos.25 to 27 challenging the order dt.15.11.2003 in Case No.F2/8312/2002 of the Joint Collector, Ranga Reddy; therefore, insofar as respondent Nos.25 to 27 are concerned, the order of the Joint Collector had become final; the petitioner had filed an application u/S.5A of the A.P. Rights in Land and Pattadar Passbooks Act, 1971, before the competent authority along with respondent No.28 and on 17.03.1990, the competent authority had passed orders regularising the sale in its favour; therefore, respondent No.28 had no right in the property and could not have sold the same in 2002 in favour of respondent Nos.1 to 24; respondent Nos.25 to 27 were never in possession of the land and only respondent No.28 was in possession of the land and this can be seen from the order dt.23.02.1991 in proceedings B/3847/90 passed by the MRO dismissing the application filed under Section 32 of the Act filed by respondent Nos.25 to 27; that respondent Nos.25 to 27 filed another application subsequently under Section 32 of the Act and this Court by order dt.09.08.2001 in W.P.No.19995 of 1994 held that a second application under Section 32 by respondent

Nos.25 to 27 is not maintainable; an application was filed under Order I Rule 10 C.P.C. by respondent Nos.25 to 27 in O.S.No.435 of 1989 to implead themselves in the suit but it was dismissed on 11.12.1998; subsequently, the said order was set aside in C.R.P.No.690 of 2003 filed by respondent Nos.25 to 27 in this Court and they are impleaded now in the suit; there is another suit O.S.No.57 of 2004 filed before the I Addl. District Judge, Ranga Reddy District for declaration of title and injunction by respondent Nos.1 to 24 against the petitioner and respondent Nos.25 to 28; that an application I.A.No.881 of 2004 seeking temporary injunction filed therein was dismissed on 24.08.2004; these facts were not placed before the Court and therefore, the Review petition should be allowed and the order passed by this Court on 21.12.2012 should be set aside.

12. Sri Vedula Venkata Ramana, learned Senior Counsel appearing for the respondent Nos.1 to 24, opposed the review petition contending that the application for review is not maintainable as there is no provision under the Act permitting review of an order passed by the High Court under Section 91 of the Act; the petitioner had engaged a counsel and even if the said counsel had returned the case file to the petitioner, it ought to have engaged another counsel; it did not do so and suffered the judgment and the Court should not allow

such a party, who is casual and negligent, to seek review of its judgment by raising fresh arguments; that a review is not a re-hearing and review is meant only for correcting errors apparent on the face of record; it is not an appeal in disguise; new facts which were not placed before the Joint Collector or before this Court on 21.12.2012 cannot be allowed to be pleaded by the petitioner; there is no error apparent on the face of record warranting exercise of review jurisdiction by this Court; in ground (iii), the petitioner had stated falsely that it had an un-registered sale deed dt.12.07.1985 in its favour whereas only an agreement of sale exists in its favour for the specific performance of which, the petitioner admittedly filed O.S.No.439 of 1985; nowhere had the petitioner stated that it had obtained regularisation under Section 5A of the A.P. Rights in Land and Pattadar Passbook Act, 1971 and about O.S.No.57 of 2004; the dismissal of C.R.P.No.63 of 2004 on 14.10.2004 has no bearing on C.R.P.No.1086 of 2004 filed by respondent Nos.1 to 24 as by the date C.R.P.No.63 of 2004 was dismissed, the respondent Nos.1 to 24 had already filed and got admitted C.R.P.No.1086 of 2004; respondent Nos.25 to 27 had no interest in the property having sold it in 2002 to respondent Nos.1 to 24 and therefore might have withdrawn C.R.P.No.63 of 2004; there was never any surrender of protected tenancy rights by respondent Nos.25 to 27 in favour of respondent No.28 under Section

19 of the Act and the mere dismissal of application under Section 32 filed by them before the MRO on 23.02.1991 does not in any way extinguish their rights; Section 104 of the Act gives overriding effect to the provisions of the Act over the provisions of the A.P. (T.A.) Abolition of Inams Act, 1955; the petitioner had not contended before the Joint Collector that the order obtained by it under the provisions of A.P. Record of Rights in Land and Pattadar Passbook Act, 1971 would prevail over the certificate under Section 38A granted in favour of respondent Nos.25 to 27; in **Islamia Arabic College, Kurnool, Rep. by Principal and Correspondent v. Mrs. Shanta Bai & others**^[3] and in **Mir Sardar Ali and others v. Mandal Revenue Officer, Kesera Mandal, R.R. District and others**^[4], it has been held that mere inclusion of agricultural lands in an urban agglomeration/municipal corporation does not make them urban land and exclude them from the operation of the provisions of the Act; this Court had rightly held that the petitioner cannot get any right, title or interest in the subject land in view of Section 38D of the Act and also could not have filed any appeal under Section 90 as it only had an agreement of sale in its favour which did not create any right in its favour. He therefore prayed that the Review be dismissed.

13. In the light of the above contentions, the following questions arise for consideration:

- (a) Whether a final order dt.21.12.2012 passed by this Court under Section 91 of the Act in CRP No.1086/2004 can be subjected to review in the absence of a specific provision in the Act providing for a review?
- (b) If the answer to question (a) is in the affirmative, what would be the parameters for review?
- (c) Whether the petitioner has made out a case for review of the order dt.21.12.2012 in C.R.P.No.1086 of 2004?

QUESTION (a) :

14. Sections 89, 90, 90-A, 91 and 92 of the Act state:

“89. Procedure and powers at inquiries : -

- (1) *The provisions of sections 149 and 150 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 F shall apply to the recording of evidence and of decisions at inquiries held under this Act.*
- (2) *For the purposes of any such inquiry the Tahsildar, Tribunal and Collector may exercise all or any of the powers conferred on Civil Court by the Code of Civil Procedure, 1908 including the power to award costs.*

90. Appeals and revisions : -

- (1) *From every order other than an interim order passed by the Tahsildar or the Deputy Collector or the Tribunal under this Act, an appeal shall lie to the Collector and the orders of the Collector on such appeal shall*

be final.

- (2) *From every original order other than an interim order passed by the Collector, an appeal shall lie to the Board of Revenue and the order of the Board of Revenue on such appeal shall be final.*
- (3) *There shall be no appeal from any interim order passed by the Tahsildar or Deputy Collector or Tribunal or Collector in any case, but an application for revision on the grounds mentioned in Section 91 shall lie from an interim order passed by the Tahsildar or Deputy Collector to the Collector.*

90-A. Transfer of appeal or proceeding : -

The Collector may on his own motion or on an application made in this behalf by any party to the proceedings, after due notice to the parties by an order in writing : --

- (a) *transfer any proceeding or an appeal under this Act pending before a Tahsildar or any other officer subordinate to him to any other officer in the district empowered in this behalf by the Government and the officer to whom the proceeding or appeal is so transferred shall thereupon exercise jurisdiction under this Act in any such proceeding or appeal; or*
- (b) *withdraw any proceeding or appeal from such officer and himself hear and decide the same or transfer it for disposal to some other officer in the district empowered in this behalf by the Government.*

91. Revisions : -

Notwithstanding anything contained in this Act or any other law for the time being in force, an application for revision shall lie to the High Court from any final order passed on appeal by the Collector or Board of Revenue on the following grounds : -

- (a) *that the original or appellate authority exercised a jurisdiction not vested in it by law; or*
- (b) *that the original or appellate authority failed*

- to exercise a jurisdiction so vested; or*
- (c) *in following the procedure or passing the order, the original or appellate authority acted illegally or with material irregularity.*

92. Powers exercisable on appeal or revision :-

An authority exercising appellate or Revisional jurisdiction under this Act shall pass such order consistent with this Act, whether by way of confirmation, recession or modification of the order under appeal or revision, as appears to it to be just, and shall have the powers conferred on the original authority by sub-section (2) of Section 89."

15. A learned single Judge of this Court in **Gandaiah (died) per L.R.'s v. Government of Andhra Pradesh**^[5], following a full Bench decision of this Court in **Radha Bai v. B. Chinnayya**^[6], held that the original and appellate authorities under the Act are entitled to exercise review jurisdiction as envisaged under Section 114 of C.P.C. in view of Section 91 and 92 of the Act. But both the above cases did not deal with the power of the High Court, which had passed a final order under Section 91 of the Act, to review it. The Court was only concerned with the power of the original and appellate authorities under the Act to review their orders. However, the correctness of this decision was doubted in **Digambar Rao v. Government of Andhra Pradesh**^[7] wherein the question whether authorities under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, have the power of review, despite the fact that there is no specific provision

conferring the said power of review under the Act. The Full Bench held that the power of review can be classified into two groups – procedural review and substantive review and that every Court or Tribunal has inherent powers, so far as procedural review is concerned, for example in a case where an order has been passed by a Court without complying with principles of natural justice, the Court may recall such an order. But it held that in the absence of any provisions, a power of substantive review does not exist in a statutory authority and that no substantive power of review inheres in the Tribunal or Appellate Tribunal under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. The Full Bench however held that whenever it is brought to the notice of the Court that a litigant had obtained an order by practising fraud upon it, then the Court is entitled to recall such an order passed by it in view of the principle *Actus Curiae Neminem Gravabit* meaning ‘act of the Court should prejudice no one’.

16. However, in view of the decision in **M.M. Thomas v. State of Kerala and another**^[8], this question has to be answered in the affirmative. The Supreme Court in the said case was considering the issue whether power to review a decision rendered under the Kerala Private Forests (Vesting and Assignment) Act, 1971 by the High Court in an appeal filed under the Act exists, in the

absence of a provision for review. It held :

“13. Does it mean that the High Court has no power to correct its own orders, even if the High Court is satisfied that there is error apparent on the face of the record?”

14. The High Court as a court of record, as envisaged in Article 215 of the Constitution, must have inherent powers to correct the records. A court of record envelops all such powers whose acts and proceedings are to be enrolled in a perpetual memorial and testimony. A court of record is undoubtedly a superior court which is itself competent to determine the scope of its jurisdiction. The High Court, as a court of record, has a duty to itself to keep all its records correctly and in accordance with law. Hence, if any apparent error is noticed by the High Court in respect of any orders passed by it the High Court has not only power, but a duty to correct it. The High Court's power in that regard is plenary. In Naresh Shridhar Mirajkar v. State of Maharashtra, a nine-Judge Bench of this Court has recognised the aforesaid superior status of the High Court as a court of plenary jurisdiction being a court of record.

15. In Halsbury's Laws of England (4th Edn., Vol. 10, para 713) it is stated thus:

“The chief distinctions between superior and inferior courts are found in connection with jurisdiction. Prima facie, no matter is deemed to be beyond the jurisdiction of a superior court unless it is expressly shown to be so, while nothing is within the jurisdiction of an inferior court unless it is expressly shown on the face of the proceedings that the particular matter is within the cognizance of the particular court. An objection to the jurisdiction of one of the superior courts of general jurisdiction must show what other court has jurisdiction, so as to make it clear that the exercise by the superior court of its general jurisdiction is unnecessary. The High Court, for example, is a court of universal

jurisdiction and superintendency in certain classes of actions, and cannot be deprived of its ascendancy by showing that some other court could have entertained the particular action.”

(Though the above reference is to English courts the principle would squarely apply to the superior courts in India also.)

16. Referring to the said passage and relying on the decision of this Court in *Naresh Shridhar Mirajkar* a two-Judge Bench of this Court in *M.V. Elisabeth v. Harwan Investment & Trading (P) Ltd.* has observed thus:

“The High Courts in India are superior courts of record. They have original and appellate jurisdiction. They have inherent and plenary powers. Unless expressly or impliedly barred, and subject to the appellate or discretionary jurisdiction of the Supreme Court, the High Courts have unlimited jurisdiction....”

17. If such power of correcting its own record is denied to the High Court, when it notices the apparent errors its consequence is that the superior status of the High Court will dwindle down. Therefore, it is only proper to think that the plenary powers of the High Court would include the power of review relating to errors apparent on the face of the record.”

17. In view of this decision of the Supreme Court, I have no hesitation to hold that this Court, being a Court of record under art.215 of the Constitution of India, can review an order passed by it under Section 91 of the Act exercising power of review envisaged under Section 114 of the C.P.C. read with Order 47 Rule 1 C.P.C., even though there is no specific provision in the Act permitting review by it of its own order under Section 91. Moreover,

under sub-section (2) of Section 89, the Tahsildar, Tribunal and Collector are permitted to exercise all or any of the powers conferred on Civil Court by Civil Procedure Code for the purposes of any enquiry conducted by them, including the power to award costs. If the Tahsildar, Tribunal and Collector can exercise the powers conferred under the Civil Procedure Code, 1908 on a Civil Court (which would include the power of review), it is incongruous to hold that the High Court, to whom they are subordinate and which is a superior forum where their orders can be challenged, cannot exercise such power.

QUESTION (b) :

18. Order 47 Rule 1 of C.P.C. deals with the power of review of a Court. It states :

"1. Application for review of judgment –

(1) Any person considering himself aggrieved –

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred.

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree

passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

- (2) *A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.*

Explanation : -- *The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.*

19. Thus, the grounds on which review can be sought are [apart from the ground that an order is obtained by playing fraud on court as held in **Digambar Rao** (7 *supra*)] :

- (i) discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time when the order was made;
- (ii) mistake or error apparent on the face of record; and
- (iii) any other sufficient reason.

20. The scope of Or.47 R.1 has been explained by the Supreme Court in several decisions.

21. In **Meera Bhanja v. Nirmala Kumari**

Choudhary^[9], the Court declared:

“8. It is well settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, CPC. In connection with the limitation of the powers of the court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma*¹, speaking through Chinnappa Reddy, J., has made the following pertinent observations: (SCC p. 390, para 3)

“It is true as observed by this Court in *Shivdeo Singh v. State of Punjab*, there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.”

9. Now it is also to be kept in view that in the impugned judgment, the Division Bench of the High Court

has clearly observed that they were entertaining the review petition only on the ground of error apparent on the face of the record and not on any other ground. So far as that aspect is concerned, it has to be kept in view that an error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on points where there may conceivably be two opinions. We may usefully refer to the observations of this Court in the case of Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale wherein, K.C. Das Gupta, J., speaking for the Court has made the following observations in connection with an error apparent on the face of the record:

“An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari according to the rule governing the powers of the superior court to issue such a writ.””

22. In **Parsion Devi v. Sumitri Devi**^[10], the Supreme Court held :

“6. A perusal of the application filed by the judgment-debtors seeking review of the order dated 25-4-1989 shows that none of the grounds stated therein can strictly speaking be said to fall within the ambit and scope of Order 47 Rule 1 CPC. The review petition in effect challenged the correctness of the order of Gupta, J. on the question of limitation without pointing out any “error apparent on the face of the record” which could have been reviewed. Sharma, J. appears to have ignored the limits of the exercise of jurisdiction under Order 47 Rule 1 CPC while passing the impugned order and reversing the order of Gupta, J. on merits.

7. *It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In Thungabhadra Industries Ltd. v. Govt. of A.P. (SCR at p. 186) this Court opined:*

“What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an ‘error apparent on the face of the record’). The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an ‘error apparent on the face of the record’, for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by ‘error apparent’. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error.”
(emphasis ours)

8. *Again, in Meera Bhanja v. Nirmala Kumari Choudhury while quoting with approval a passage from Aribam Tuleshwar Sharma v. Aribam Pishak Sharma this Court once again held that review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.*

9. *Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be*

remembered has a limited purpose and cannot be allowed to be “an appeal in disguise”.

23. Recently, the Supreme Court in **Haryana State Industrial Development Corpn. Ltd. v. Mawasi**^[11], reiterated:

“33. *In Lily Thomas v. Union of India, R.P. Sethi, J., who concurred with S. Saghir Ahmad, J., summarised the scope of the power of review in the following words: (SCC p. 251, para 56)*

“56. ... Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise. The mere possibility of two views on the subject is not a ground for review. Once a review petition is dismissed no further petition of review can be entertained. The rule of law of following the practice of the binding nature of the larger Benches and not taking different views by the Benches of coordinated jurisdiction of equal strength has to be followed and practised.”

34. *In Haridas Das v. Usha Rani Banik, the Court observed: (SCC p. 82, para 13)*

“13. ... The parameters are prescribed in Order 47 CPC and for the purposes of this lis, permit the defendant to press for a rehearing ‘on account of some mistake or error apparent on the face of the records or for any other sufficient reason’. The former part of the rule deals with a situation attributable to the applicant, and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the court and thereby enjoyed a favourable verdict.”

35. *In State of W.B. v. Kamal Sengupta*, the Court considered the question whether a Tribunal established under the Administrative Tribunals Act, 1985 can review its decision, referred to Section 22(3) of that Act, some of the judicial precedents and observed: (SCC p. 633, paras 21-22)

“21. At this stage it is apposite to observe that where a review is sought on the ground of discovery of new matter or evidence, such matter or evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. In other words, mere discovery of new or important matter or evidence is not sufficient ground for review *ex debito justitiae*. Not only this, the party seeking review has also to show that such additional matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court earlier.

22. The term ‘mistake or error apparent’ by its very connotation signifies an error which is evident *per se* from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision.”

36. In the light of the propositions laid down in the aforementioned judgments, we shall now examine whether the petitioner has succeeded in making out a

case for exercise of power by this Court under Article 137 of the Constitution read with Order 47 Rule 1 CPC. This consideration needs to be prefaced with an observation that the petitioner has not offered any explanation as to why it did not lead any evidence before the Reference Court to show that the sale deed, Ext. P-1 was not a bona fide transaction and the vendee had paid unusually high price for extraneous reasons. The parties had produced several sale deeds, majority of which revealed that the price of similar parcels of land varied from Rs 6 to 7 lakhs per acre. A reading of the sale deeds would have prompted any person of ordinary prudence to make an enquiry as to why M/s Duracell India (P) Ltd. (vendee) had paid more than Rs 2,42,00,000 for 12 acres of land, which have been purchased by the vendor only a year back at an average price of Rs 6 lakhs per acre. However, the fact of the matter is that neither the advocate for the petitioner nor its officers/officials, who were dealing with the cases made any attempt to lead such evidence. This may be because they were aware of the fact that at least in two other cases such parcels of land had been sold in 1993 for more than Rs 13 lakhs and Rs 15 lakhs per acre and in 1996, a sale deed was executed in respect of the land of Village Naharpur Kasan at the rate of Rs 25 lakhs per acre. This omission coupled with the fact that the petitioner's assertion about commonality of the management of two companies is ex facie incorrect leads to an irresistible inference that the judgment dated 17-8-2010 does not suffer from any error apparent on the face of the record warranting its review. Surely, in the guise of seeking review, the petitioner cannot ask for de novo hearing of the appeals."

24. In **Nehali Panjiyara v. Shyama Devi**^[12], the Court held that entirely new grounds, not raised earlier during the regular hearing, cannot be raised for the first time in review. It observed:

"2. The review petition raises entirely a new point about the extinction of the legal heirs in the line of

descendants of the estate represented by Gurudayal Panjiara and Kunjlal Panjiara prior to the institution of the suit and that the said estate stood inherited in amongst the descendants of only Matuki Panjiara and Ashrafi Panjiara. Such a contention was never canvassed before any of the courts below. Not only that, there was no issue sought for on this point even before the trial court. In second appeal the only dispute raised was regarding suit properties Items 2 to 8. The High Court confirmed the decision about their partibility in the light of the findings reached by the lower appellate court which has noted in para 49 of its judgment that defendant 2nd party admitted the plaintiff's claim for Items 2 to 8 of the schedule."

3. *Consequently, no case is made out for our interference in the review proceedings on the aforesaid new contention.*

4. *The review petition is, therefore, dismissed on merits."*

25. Similar view has been expressed by the Apex Court in **Collector of 24 Parganas v. Lalith Mohan Mullick**^[13], where it held :

"2. *Learned counsel for the applicant has also raised the contention embodied in ground No. D reading as under:*

This Honourable Court was allowed to be misled by documents alleged to be the petition of appeal presented before this Honourable Court and not bringing to the notice of this Honourable Court the facts that the Society of Experimental Science, India for whom the land in dispute was sought to be acquired was not in existence and in fact the land was not at all needed by the appellants herein for public purpose for constructing a hospital for the crippled children as claimed by the appellants herein;

So far as this ground is concerned, it was not raised before this Court when the appeal was heard on merits. It

does not appear to have been raised even before the High Court. The new ground cannot be taken into consideration for the purposes of the review application, apart from the fact that it would also involve investigation of new facts which were not on record till the point of time when the appeal was disposed of by this Court on 13-2-1986. We see no reason to entertain this review petition which accordingly fails and is dismissed.”

26. Keeping in view the above principles, I will now consider whether the petitioner in the review petition has made out any case for review of the order dt.21.12.2012 in C.R.P.No.1086 of 2004. The petitioner has nowhere alleged that respondent nos.25 to 27 had played fraud on the Court. So that ground is not available to it.

27. The counsel for the petitioner contended that the advocate representing the petitioner failed to appear before the Court on 21.12.2012 and represent on behalf of the petitioner. In his oral submissions, he stated that prior to the date on which the case was heard i.e., 21.12.2012, the then counsel for the petitioner Sri R. Narasimha Reddy had returned the file to the petitioner, asking the petitioner to engage another counsel. If this is true, the petitioner ought to have made arrangements to engage another counsel to represent it at the time of the hearing. As already noted by me above, on 16.11.2012, the counsel for the petitioner R.Narasimha Reddy had sought adjournment and the case was posted to the following week but it was listed on 21.12.2012 on which date it was heard and disposed of. No representation was

made by any representative of the petitioner on 21.12.2012 before the Court stating that its counsel had returned the file and it required time to engage another counsel. The counsel who represented the petitioner in the review petition did not mention any dates as to when the file was returned by the earlier counsel and did not assign any reason why the said fact was not brought to the notice of the Court on 21.12.2012 by petitioner. In my opinion, a party who is aware that the counsel it had engaged would not appear and represent it at the hearing of the case (he having returned the brief), and which is negligent in appointing another counsel to represent it at the hearing or to bring the said fact to the notice of the court on the date of the hearing and seek time to enable it to engage another counsel, cannot file a petition for review of the order passed by the Court and seek a re-hearing of the matter.

28. In ground (ii) in the review petition, the petitioner contends that certain facts and relevant orders which go to the root of the matter were not placed before the Court and the petitioner blames respondent Nos.1 to 24 for not placing earlier orders of Revenue authorities before this Court. I am of the opinion that the petitioner cannot plead new facts in the review petition and seek review of the order dt.21.12.2012 in the C.R.P. Whether the respondent Nos.1 to 24 could be blamed for not placing

the facts set out in paras (iii) to (vi) would be considered *infra*.

29. In ground (iii), the petitioner submits that it had obtained an un-registered sale deed dt.12.07.1985 from respondent No.28 in respect of subject land. The petitioner has admittedly filed a suit for specific performance of agreements of sale dt.12.07.1985 against respondent No.28 and his family members in respect of Acs.19.10 gts. in Sy.No.36 and pleaded that respondent No.28 had also executed one of the agreements of sale in its favour in respect of Acs.5.20 gts. out of Sy.No.36. It is not the case of the petitioner that there was an unregistered sale deed dt.12.07.1985 in its favour executed by respondent No.28 and his family members. If it had obtained only an agreement of sale from respondent No.28, under Section 54 of the Transfer of Property Act, 1882, such a document would not by itself create any interest in or charge on the property comprised therein. Therefore, such an agreement of sale could not have been regularised under Section 5A of the A.P. Rights in Land and Pattadar Passbooks Act, 1971, because it cannot be termed as an 'alienation' or 'transfer' which alone could have been regularised. The fact that it had obtained an order on 17.03.1990 from the M.R.O., Balanagar Mandal, under Section 5A of the said Act was not pleaded before the Joint Collector and it is a new fact

being pleaded in the review. In this review such new facts cannot be pleaded.

30. In ground (iv) in the grounds of review, the petitioner contended that the rights of respondent Nos.25 to 27 as protected tenants stood extinguished in view of grant of Occupancy Rights Certificate in favour of respondent No.28 under Section 4 of the Act and therefore, respondent No.28 could not have agreed for issuance of sale certificate under Section 38A of the Act in favour of respondent Nos.25 to 27. The counsel for the petitioner relied upon Section 4 of the Act in support of the said contention and did not cite any authority which supports it. This point has been considered in the order dt.21.12.2012 by this Court and it had held, by placing reliance on a Division Bench judgment of this Court in **N. Sudarshan Reddy and others** (1 *supra*), that the rights of protected tenants of the Inamdar continue even after 01.11.1973 as they are saved by Section 33 of the A.P. (T.A.) Abolition of Inams Act, 1955. This Court also referred to the judgment in **Kotaiah** (2 *supra*) wherein the Supreme Court held that a protected tenant of land has a right to become full owner of the land in his possession; that he became owner when the Government issued notification under Section 38A on 01.01.1973; that Section 38D of the Act prohibits the land owner from alienating it to third parties; that if the land holder intends to sell, he must

intimate the protected tenants of such intention and if they do not exercise their right to purchase, then only he can sell to third parties. The petitioner has not been able to place any authority to the contra and therefore this ground for review also cannot be accepted. It is not the contention of the petitioner that respondent No.28 had complied with Section 38D of the Act and offered the property to the protected tenants first and that only after they failed to purchase, he executed the agreement of sale in its favour. Thus, the agreement of sale in favour of the petitioner dt.12.07.1985 executed by respondent No.28 is hit by Section 38D and is void.

31. In ground (v), the petitioner submits that in view of the pendency of O.S.No.435 of 1989 before the II Senior Civil Judge, Ranga Reddy District in which respondent Nos.25 to 27 are now impleaded, they could not have made an application to the RDO under Section 38A of the Act and seek for issuance of sale certificate on the basis of unregistered sale deed dt.03.02.1992 executed in their favour by respondent No.28. The counsel for the petitioner has not been able to cite any authority in support of the said contention. I am of the view that there is no such impediment for respondent Nos.25 to 27 to approach the RDO and seek a sale certificate under Section 38A of the Act merely because there is a civil suit pending in respect of the said land. Therefore, I reject this

contention. Moreover, no such contention was raised by the petitioner before the Joint Collector. Therefore, it cannot be permitted to be raised now in the review petition.

32. In ground (v), the petitioner submitted that the subject land has fallen into urban agglomeration of Hyderabad city and is covered under the A.P. Urban Area Development Act, 1975; the Zonal Development Plan as well as the Master Plan are notified prior to the alleged sale in favour of respondent Nos.25 to 27; and therefore, the provisions of the Act are not applicable and the application under Section 38A of the Act filed by them is not maintainable. This contention also had not been raised before the Joint Collector and is being urged for the first time in the review petition. Section 102(e) of the Act on which the petitioner relies on states that nothing in the Act would apply to any area which Government may, from time to time, by notification in the Official Gazette specify as being reserved for urban, non-agricultural or industrial development. The petitioner has not filed any such notification issued by the State Government reserving the subject land for the above purposes. Without such a notification, merely because the subject land which is an agricultural land is included within the municipal limits, it does not *per se* become urban land. In **Islamia Arabic College** (3 *supra*), this court held:

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

This was followed in **Mir Sardar Ali** (4 *supra*).

Following these decisions, I reject this contention.

33. It is also contended that respondent Nos.25 to 27 had filed C.R.P.No.63 of 2004 challenging the order dt.15.02.2003 of Joint Collector, Ranga Reddy District in proceedings No.F2/8313/2002 which are also impugned in C.R.P.No.1086 of 2004; that the said C.R.P. was dismissed as withdrawn by respondent Nos.25 to 27 on

14.10.2004; therefore, the order dt.15.02.2003 of the Joint Collector has attained finality and could not have been set aside in the order dt.21.12.2012 in C.R.P.No.1086 of 2004. The fact that C.R.P.No.63 of 2004 was dismissed as withdrawn was recorded in the order dt.21.12.2012 in C.R.P.No.1086 of 2004. The order dt.14.10.2004 in C.R.P.No.63 of 2004 states :

“The learned counsel for the petitioner seeks permission of this Court to withdraw the C.R.P. as the subject matter of C.R.P. is settled out of Court.

Permission is accorded.

Accordingly, the C.R.P. is dismissed as withdrawn.”

The counsel for the petitioner submitted respondent Nos.25 to 27 who were petitioners in C.R.P.No.63 of 2004 had withdrawn the same after they had settled the dispute with the petitioner. There is no dispute that respondent Nos.25 to 27 had sold the subject land to respondent Nos.1 to 24 under three registered sale deeds bearing document Nos.1319 of 2002, 6140 of 2002 and 6141 of 2002, dt.25.09.2002. Therefore, respondent Nos.25 to 27 had no right, title or interest in the subject land after 25.09.2002. Any settlement between respondent Nos.25 to 27 with the petitioner subsequent to 25.09.2002 can only be collusive with an intent to defeat the claims of respondent Nos.1 to 24 and any judgment passed by a Court on the basis of such collusion, behind the back of

respondent Nos.1 to 24, has to be termed as a fraudulent one obtained by suppressing from the Court, the true facts. It is settled law that a judgment which is obtained by fraud or collusion would not be binding in view of Section 44 of the Evidence Act and the principle of *res judicata* cannot be applied. [See **Asharfi Lal v. Koili (Smt.) and others**^[14]].

34. Moreover, by the date the CRP No.63 of 2004 was withdrawn, the respondent nos.1 to 24 had already filed CRP.No.1086/2004 and it was also pending by then. For this reason also, the dismissal of C.R.P.No.63 of 2004 has no effect on C.R.P.No.1086 of 2004 which was also admittedly filed and pending by the date of dismissal of C.R.P.No.63 of 2004.

35. Apart from this, the counsel for the petitioner sought to rely upon order dt.23.02.1991 in proceeding B/3847/90 whereunder the Mandal Revenue Officer, Balanagar, Ranga Reddy District, had rejected an application filed by respondent Nos.25 to 27 under Section 32 of the Act for restoration of their possession in respect of the subject land and other land. He also sought to rely on order dt.09.08.2001 in W.P.No.19995 of 1994 wherein this Court held that a second application under Section 32 of the Act by respondents Nos.25 to 27 and others is not maintainable. In this regard, no authority is cited by

counsel for petitioner to show that the rights of a protected tenant stand extinguished on account of dismissal of an application filed by a protected tenant under Section 32 of the Act for restoration of possession. Unless there is a surrender of protected tenancy by a protected tenant under Section 19 of the Act or where a protected tenant, declines to purchase the land in which he is a protected tenant when the same is offered to him by the landholder under Section 38D of the Act, the rights of a protected tenant *prima facie* would not stand extinguished. Therefore, the dismissal of the applications filed under Section 32 of the Act would have no bearing on the right of the protected tenant to secure a sale certificate under Section 38A of the Act. Therefore, this contention is also without any merit. In fact, this contention was not raised before the Joint Collector and therefore cannot be raised in this review petition for the first time.

36. Lastly, it was contended by counsel for petitioner that respondent no.28 had died during the pendency of CRP.No.1086/2004, his legal heirs were not brought on record and therefore order in CRP is a nullity. But no material such as a Death certificate is placed by petitioner in support of the said plea. Therefore this plea is rejected.

37. For all the above reasons, I hold that there is no error apparent on the face of record in the order

dt.21.12.2012 in CRP.No.1086/2004 and the petitioner has not made out any ground for reviewing it. Therefore this Review Petition is dismissed. No costs.

JUSTICE M.S.RAMACHANDRA RAO

Date: 24-06-2013

Note:

Mark the L.R. Copy.

B/o.

Ndr/*

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

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Review C.M.P.No.472 of 2013
in
C.R.P.No.1086 of 2004

Date: -06-2013
Ndr/*

[\[1\]](#) 1994 (1) An.W.R. 189
[\[2\]](#) AIR 1989 SC 1753
[\[3\]](#) 1988 (2) ALT 74
[\[4\]](#) 2004 (4) ALT 443
[\[5\]](#) 2001 (2) ALT 604
[\[6\]](#) AIR 1968 AP 353 (F.B.)
[\[7\]](#) 2001 (6) ALT 226 (F.B.)
[\[8\]](#) (2000) 1 SCC 666
[\[9\]](#) (1995) 1 SCC 170
[\[10\]](#) (1997) 8 SCC 715
[\[11\]](#) (2012) 7 SCC 200
[\[12\]](#) (2002) 10 SCC 578
[\[13\]](#) AIR 1988 SC 2121
[\[14\]](#) (1995) 4 SCC 163