HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

C.R.P. Nos. 2491/2014, 2493/2014, 2497/2014, 2498/2014,

C.R.P.Nos.2499/2014, 2499/2014, 2550/2014 & 2559/2014 and

3224/2013, 3253/2013, 3961/2013, 2490/2014, 2492/2014,

2495/2014, 2496/2014

COMMON ORDER :

Being aggrieved by the Common Order of the Land Reforms Appellate Tribunal Cum II Additional District Court, L.B. Nagar at Ranga Reddy in L.R.A No.4 of 2007, L.R.A No.5 of 2007, L.R.A No.6 of 2007, L.R.A No.7 of 2007, L.R.A No.8 of 2007, L.R.A No.9 of 2007 and L.R.A No.10 of 2007 dated 19-06-2012, both the Appellant and Respondent in the above L.R.As have filed Separate Civil Revision Petitions, but on common grounds. The Appellant in the above appeal filed 7 C.R.Ps vide C.R.P. Nos 2491/2014, 2493/2014, 2497/2014, 2498/2014, 2499/2014, 2499/2014, 2550/2014 and 2559/2014, whereas the Respondent/Government filed 7 C.R.Ps vide 3224/2013, 3253/2013, 3961/2013, 2490/2014, 2492/2014, 2495/2014, 2496/2014. Both the learned advocate for the Appellant and Learned Government Pleader for the Respondent have advanced common arguments in all the Revision Petitions. Therefore it is proposed to dispose of all the Revision Petitions by a Common Order.

2. The subject matter of the batch of CRPs is in respect of the land over which the Appellant constructed and developed Ramoji Film City, an integrated Film Studio at Hyderabad city. The Ramoji Film City was recognized by the Government of Andhra Pradesh as Tourist Centre under GO.Ms.31, Tourism, Culture, Sports and Youth Services (Tourism) Department dated 13.04.1994 and that it is an integrated township Developed by the Eenadu group companies and concerns to create infrastructure for the respective businesses like media, filmmaking, T.V. and satellite channels, tourism and hospitality and it was opened in 1996 and that it is a well-known tourist destination. It received certificate from the Guinness Book of World Records as the largest film studio complex in the world and measures 674 ha (1666 acres) with 47 sound stages, as per the said certificate.

3. The entire litigation started when Land Reforms Tribunal (called LRT for brevity) issued separate notices dated 12.12.2006 to the declarants, who are the constituents of Ramoji Film City in Form III directing them to file declaration in Form I with full and correct particulars of the lands held by the company" as on the specified date under section 18 (1) of the Land Reforms (ceiling on Agricultural holdings) Act, herein after called the 'Act'.

4. The declarants filed separate declarations in prescribed Form, before LRT giving particulars of the agricultural lands held by them respectively, with a note, “Except the agricultural land shown in enclosure-I of this declaration, the company does not have any other agricultural lands.”

5. After filing of the declarations, the LRT called for verification reports from the concerned Tahsildar, under Rule 4 and 5 of the AP Land Reforms Rules, 1974 (Rules, for brevity). The Tahsildar, Hayathnagar and Ibrahimpatnam Mandals filed verification reports dated 02.02.2007 in form V on 09.02.2007. After the filing of verification reports, the MRO/Tahsildar, Hayathnagar sent a letter bearing No.B/353/2007 dated 10.02.2007 to the declarants that the Bhagana of the lands of Anajpur Village (where most of the lands of the declarants are situated) is not available in terms of Rule 19 and hence fixed on the basis of adjacent village, Koheda.

6. The declarants also filed two Interlocutory Applications before the LRT in all Ceiling Cases, to decide the question of jurisdiction as a preliminary issue and to reject the verification reports of Tahsildars on 14.05.2007 separately. The State represented by the Authorised Officer filed counters to the said applications on 04.06.2007, to which the declarants filed their reply on 25.06.2007.

7. The record shows the Authorised Officer filed a Memo dated 18.06.2007 stating that the verification under Rule 4 was completed.

8. The declarants filed detailed objections to the verification reports in some Ceiling Cases, on 23.07.2007 inter alia, stating that non-agricultural lands and lands which do not belong to them were also included wrongly. The Authorised Officer filed the reply to the objections on 30.07.2007 in some cases and on 31.07.2007 in other cases. However, when the LRT insisted for hearing of the main Ceiling Cases on 30.07.2007, the Counsel for declarants filed a memo objecting to the same, which reads as under:

> "The Authorized Officer filed reply to the objections filed by the declarants and also counters in the I.A. and served them at 5.30 p.m. The IA's objecting the jurisdiction and the rejection of verification reports are pending. The pleading in IA's and the main CC's are complete only today. There was no occasion for enquiry and opportunity to lead evidence to the declarants either in the IAs or in the main CCs. The matters are called that 6.30 p.m. in the IAs but the Hon'ble Tribunal is insisting the main CCs themselves are be argued, otherwise, they will be reserved for orders today itself. The right of the declarants to lead evidence cannot be shut. Even then objection is not being recorded or being heard by the tribunal. Hence this memo."

9. The docket order of the LRT dated 30.07.2007 states that the counsel for declarants present and advanced arguments and further

states that the counsel for the A.O. represented that inadvertently could not file the reply statement of the objections in CC and the counter in the IA and requested time and advanced arguments and that counsel for the declarants filed a memo and served a copy on A.O.s counsel. The LRT reserved the matter for orders, endorsing, “RFO”. The docket order dated 31.07.2007 shows that the counsel for the A.O. filed a memo duly served on the counsel for the declarants along with the reply statement and counter affidavit. The LRT again endorsed, “RFO” on 31.07.2007. There is no order reopening the matter, for receiving the pleadings on 31.07.2007.

10. The declarants filed CRPs before this Court questioning the manner in which the enquiry was shut by LRT on 07.08.2007, but they were directed to be returned as not maintainable by order dated 07.08.2007. On 08.08.2007, the LRT pronounced its separate, but similar orders in all the ceiling cases, holding that all the declarants are surplus holders. The declarants filed appeals before the Land Reforms Appellate Tribunal cum II Additional District Judge, R.R. District, which were allowed by a common order dated 19.06.2012, remanding the matter, against which both the state and declarants filed the present batch of Revision Petitions.

11. **2. Proceedings of the Lower Tribunals:**

The LRT framed 6 points for its consideration in its orders dated 8.08.2007, as under:

"In view of the rival contentions the following points will arise for consideration.

(1) Whether this Tribunal has jurisdiction to entertain this case.

(2) Whether the lands in respect of which the Declarants/his vendor claimed to have obtained permission under Section 61 of A.P. (Telangana Area) Land Revenue Act, 1317 Fasli, are liable to exclude from the holding of the Declarants.

(3) Whether the verification reports are vitiated for any reason.

(4) Whether the lands on which the Declarants had made some constructions after acquiring, after the notified date have to be excluded from the holding of the Declarants.

(5) Whether the proceedings before the Tribunal are vitiated either for malice or for any other ground.

(6) Whether the Declarants is holding the land in excess of the ceiling limit under A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 and if so, to what extent?"

12. **3. Findings of LRT**

The LRT held on Point No.1, that if it is the case of the declarants that the verification reports are vitiated on any grounds whatsoever or that the lands are not agricultural lands in view of the said permission obtained for the land use, on that basis it cannot be contended that, this Tribunal has no jurisdiction. On Point No.2 the LRT held that the permission under Section 61 presupposes that land in respect of which such an application is made, is an agricultural land and the permission obtained will only enable the occupant utilising the land, otherwise than for agricultural. It will not have the effect of changing the very nature of the land for any purpose whatsoever. It also held under Section 28 of the Act, the provisions of this Act were given overriding effect and it is declared that the provisions of this Act shall have effect, notwithstanding anything inconsistent therewith in any other law for the time being in force and also relied on Article 39 of the Constitution and held that the permission/permissions claimed to have been obtained by the declarants or his vendor are not in accordance with Section 17 (1) of the Act. On Point No.3, the LRT held that since he has already held the permissions are liable to be disregarded, the verification reports are not vitiated. On Point No.4, the LRT held by reason of the said permission under Section 61 of the Act, the declarants might be entitled to utilise the land for the purposes other than agriculture. But it is altogether different thing to contend that with such permission, the declarants can hold beyond the ceiling limit. On Point No.5, the LRT held that since the permissions are not in accordance with Section 17 (1) of the Act, the allegations of malice pales into insignificance. On Point No.6 the LRT held that the declarant is entitled to a family holding and held the declarants are surplus holders.

13. Though separate orders were passed, the orders were similar. In substance, the LRT disregarded the Permissions for Conversion into Nonagricultural Lands under Section 61 of the AP (Telangana Area) Land Revenue Act, 1317 Fasli (Land Revenue Act, for brevity) and recorded all the Lands shown in the verification report, as agricultural lands and determined the ceiling limit. The LRT dismissed the serious allegations made by the declarants that the proceedings are malafide and that there is a conspiracy to destabilize the media business of the companies belonging to Eenadu group in order to cripple them in every manner, as bald.

14. **4. Declarants Filed Appeals :**

The declarants filed seven separate appeals before the Appellate Tribunal against the orders in 7 ceiling cases and the said appeals were allowed by common order dated 19.06.2012. Pending the appeals, the Appellate Tribunal allowed the applications filed by the declarants for summoning the orders passed by the District Collector for conversion of the lands under Section 61 of the Land Revenue Act and the Appellate

Tribunal has referred to the records and from the Collector in paras 69 and 96 of the impugned judgment, while disposing of the appeals. It also allowed the applications for additional evidence, namely the village maps issued by the Asst. Director, Survey and Land Records RR District, topo sheets of the survey of India, photographs pertaining to the lands situated at Surmaiguda and Anajpur and the proceedings under Section 47 A Indian Stamp Act and the conversion orders passed under Section 61 of the Land Revenue Act And Encumbrance Certificates, along with the affidavit of an expert who has digitized the village maps and the topo sheets of the survey of India in his computer to establish that the lands are in fact sheet rock lands unfit for cultivation. The proceedings of the Collector under Section 47A of the Indian Stamp Act also show that the lands are full of boulders and hillocks with Rocky surface.

15. **5. Findings of the Appellate Tribunal :**

The Appellate Tribunal has given a categorical finding in para 67 of its common judgment that even at the time of purchase of the property by the respective declarants relating to the Film City, it was not at all agricultural land and that it was with boulders and pits and there was no agricultural activity in the entire extent of land. In Para 105 of its judgment, the appellate Tribunal held that admittedly the land in dispute was not used for agriculture. In para 125 of its judgment, the Appellate Tribunal clearly found that the disputed lands were not capable of being used for agricultural purposes and on the other hand they were used for non-agricultural purposes after obtaining necessary sanction permission from the authorities. It further held by the Appellate Tribunal that it is to be said that till all the permission of conversion orders are set aside, these lands could not be termed as agricultural lands or lands were being used for agriculture. In Para 138 of the impugned judgment, the Appellate Tribunal held that when the land was not an agricultural land, coming within the purview of section 3 (j) of the Act, the question of deeming provisions or other aspects of the Act, would not arise for consideration. In Para 142 of the impugned judgment, it reiterated that it was not at all agricultural land and no agricultural activities were carried out.

16. In Para 68 of its common judgment, it was observed by the Appellate Tribunal that it was important to note that it was well within the knowledge of the Government i.e., the Development and conversion of lands and conversion orders and necessary permissions and exemptions granted. In Para 69 of its common judgment, the Appellate Tribunal held that the records summoned by the appellants (declarants) from the District Collector office of various orders of

conversion etc., established these aspects and that it was because there was no dispute that on purchasing the lands, there was conversion orders issued by the Government and necessary permissions and necessary exemptions were granted by the Government. In Para 72 of the impugned judgment, the Appellate Tribunal held that when we read the counter, what it made out was that the Government was very much aware and conscious of the fact that by the time it gave permission and conversion orders, it was not an agricultural land. In para 82 of the impugned judgment, the Appellate Tribunal held that the verification report was not in accordance with the Rules of the Act.

17. In Para 83 of its judgment, the Appellate Tribunal found fault with the LRT for accepting the verification report in toto, ignoring the affidavit given by the District Collector about the nature of the lands and details thereof filed in the Writ Petition No.10623/1998. In Paras 91 and 94 of the impugned judgment, it held that the LRT had not considered, what was the crucial date for appreciating the declaration, whether it was notified date or the specified date. In Paras 107, 109, 110 and 114, the Appellate Tribunal held that it was not the case of the respondents that the land in dispute was to be deemed agricultural lands and that what was urged before it was not raised before the LRT and therefore

concluded in paragraph 114 that there was no need to consider about Section 7 (3) of the Act and the deemed provisions thereof.

18. Thus, the Appellate Tribunal gave categorical findings with regard to the nature of the land and that the land of the declarants did not fall within the meaning of ‘Land’ as defined in Section 3(j) of the Act. It upheld the conversion orders and their binding nature. Having held so, the Appellate Tribunal in para 145 of its judgment remanded the matter to the LRT.

19. **6. Submissions at the Bar:**

Being aggrieved by the remand order, both the declarants and the state filed these revision petitions.

The learned counsel for the declarants contends that the directions of Appellate Tribunal are contrary to its own findings. Further, he relied on the admissions in the pleadings of the State before the LRT, the blanks in the material columns of the verification report and also the notice issued by the LRT under Rule 19 of the Land Reform Rules establish subject lands were not cultivated or cultivable and further the conversion orders support the aforesaid findings of the Appellate Tribunal. He further relies on the proceedings under Section 47 A of the Indian Stamp Act and the expert report based on the topo sheets of survey of India by superimposing on the village maps, issued by the

Assistant Director of Survey and Land Records, RR District. It is his case that once the jurisdictional fact is wanting namely, the subject lands do not fall within the scope of Section 3(j), the proceedings before the LRT are without any jurisdiction and hence the remand was illegal. He relies on the admissions in the pleadings with regard to the nature of the land, being unfit for cultivation. It is the contention of the learned counsel for the appellant that in view of the fact though the land is not used or capable of being used for cultivation, being sheet rock land, since the lands were held under ryotwari Patta, conversion orders were taken by way of abundant caution and once the lands were converted for the purpose of non-agricultural use under the provisions of Land Revenue Act, the rebuttal presumption in the Explanation I of Section 3(j) has no application at all. He also points out that definition of 'land' in Section 3(j) includes the lands which are not agricultural lands, if they fall within the Explanation I, thereof. He also points out that the word 'land' is used throughout the Act, but when it comes to Sections 7 and 17, the word, 'agricultural land' is used and this distinction is material and hence these two expressions, namely 'land' and 'agricultural land', used in the same statute convey different meanings. It is only the actual agricultural land that is contemplated by these Sections as the question of non-agricultural land being converted into non-agricultural purpose does not arise and those sections prohibit only unilateral conversions without permission. He also contends that the conversion by order of the order of the competent authority is not prohibited. Therefore, the permission for conversion under Section 61 of the Land Revenue Act, was obtained by way of abundant caution, as the land is shown in the land records like pahanies. He supports the findings of the Appellate Tribunal that the land is a non-agricultural land and the conversion orders are valid and binding on the Government. He further contends that the declarants acted on the conversion orders and put the land to non-agricultural use my making huge infrastructure with buildings as per law and altered their position irretrievably and hence they operate as estoppel against the Government. His further grievance is with regard to the observations in paras 56 to 61 of the impugned judgment, with regard to the filing of the Memo dated 30.07.2007. He relies on the docket order of the LRT dated 30.07.2007 to show that the memo was filed before the conclusion of proceedings and relies on the judgment of the Hon'ble Supreme Court in (1982) 2 SCC 463, para 4 @ 467. He cites several judgments on the point when the land can be treated as capable of being cultivated and on the effect of admissions.

20. The learned Government pleader appearing for the State supports the legal position taken by the LRT with regard to the validity

of the conversion orders and states that the Appellate Tribunal seriously erred in reversing these findings on the question of law. He argues that the affidavit filed by the Collector in W.P. No.10623/1998 is not binding and there is no estoppel against the statute. He strenuously contends that Section 17 (1) of the Act renders all conversion orders as invalid, in view of the non-obstante clause in Section 28 of the Act. It is also his contention that the very purpose of obtaining permission for conversion, presupposes that the lands are agricultural and hence, the fact that they are sheet rock hilly areas, unfit for cultivation are all irrelevant. It is his case that the provisions of the Land Revenue Act have no application and after the notified date, there can't be any conversions at all, in view of Section 17 (1) of the Act. The conversion orders under Section 61 of the Land Revenue Act are only for the purpose of using the land for non-agricultural purposes, but it cannot change the character of the land into non-agricultural land, to take lands out of the purview of the Act. He further argues that all the development with infrastructure subsequent to the commencement of the Act, including the Development of Film City has no bearing on the application of the Act.

21. In reply, the learned counsel for the declarants argues that the admissions in the evidence also operate as estoppel and relied on the judgments of the Hon'ble Supreme Court in in AIR 1996 SC 817

(para 14 @ page 822). In (2008) 8 SCC 236 (para 20 @ page 245). He submits that there is no inconsistency between the provisions of Land Revenue Act and the Act and both operate in different fields and no inconsistency was pointed out either by the LRT or by the learned Government Pleader and therefore the non-obstante clause in Section 28 of the Act has no application. He emphasis that it is only the Land Revenue Act which is an exhaustive Code in respect of the land revenue, fixing of the Taram or Bhagana for the purpose of the land revenue and the procedure for conversion of agricultural land for non-agricultural purposes. The Act simply adopts the Taram/ Bhagana for the purpose of classification under Section 5 read with Schedule I. He refers to the Explanation to Rule 3 of the Second schedule of the Act adopting the definition of the 'Land Revenue' as defined in section 2(i) of the Andhra Pradesh Land Revenue (enhancement) Act, 1967(Act No.8 of 1967) and points out the said definition in turn adopts, the land revenue payable under the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli (Act VII of 1317 F), in relation to the Telangana area. Therefore, both the Acts are supplementary to each other and do not conflict with each other. In fact, in view of section 5 read with schedules, it is not possible to implement the provisions of the Act, without resort to the Land Revenue Act. He relies on the judgments of the Hon'ble Supreme Court reported in AIR 1983 SC 762 (paragraphs 9, 13 & 21) and AIR 1967 SC 1458. He further argues that Section 17 does not make any absolute prohibition and it applies only to the holder of land in excess of ceiling limit and not the purchaser, and speaks of conversion of 'agricultural land' and not "land'. He points out that it is not the case of the state that the subject lands are agricultural lands and on the other hand, it is an admitted case that the lands are unfit for cultivation and hence Section 17 of the Act has no application at all to the present case.

22. **7. Admitted Facts**:

It is to be noted that both the state and the declarants are aggrieved by the direction as to remand in the impugned order. But, the material facts are not in dispute. Therefore, it is necessary to note material facts and documents which are not in dispute, for examining the legal contentions raised. The material facts and documents which are not in dispute can be summarised as under:

(i) The declarants in para 2 of its objections to the verification reports pleaded as under:

> "Even after the commencement of the Act (i.e. notified date), the declarants did not acquire or hold any agricultural land in excess of the ceiling limit. The declarants acquired non-agricultural lands, which are

> sheet rock hilly areas, which were neither used nor capable of being used for the purposes of agriculture or for purpose ancillary thereto. The declarants or its predecessors in title have applied for conversion of the said lands under Section 61 of the AP (TA) Land Revenue Regulation, 1317F to keep the records straight and by way of abundant caution."

(ii) The Para 2 of the objections to verification reports were traversed by the Authorized Officer on behalf of the State in para 5 of his reply, but there is no denial as to the above factual position pleaded by the declarants. The Authorised Officer only raised legal contentions with regard to the application of the conversions under the Land Revenue Act. Hence, the fact that the subject lands are not capable of being cultivated and hence, not "lands" within the meaning of the Section 3 (j) of the Act, is not in dispute.

(iii) As evident from para 2 of the reply of the Authorised Officer, there is no dispute with regard to the fact that subject Lands were converted under Section 61 of the LR Act.

(iv) The District Collector on behalf of himself, LRT, Authorised Officer and the Government filed Counter affidavit in W.P.No.10623/1998 and admitted that the lands of Film city were not agricultural lands and not capable of being cultivated and they were already converted as non-agricultural lands.

(v) The conversion orders issued by District Collector, RR District under Section 61 of the Land Revenue Act show that they were issued on the basis of Report from the Revenue Divisional Officer, RR East division, who constitutes the LRT under the Act. It is significant that the orders set out the recommendations of the Revenue Divisional Officer as under:

"The Revenue Divisional Officer, Ranga Reddy, East Division in his letter has reported that the subject land belonging to the petitioner is classified as dry Patta not attracted by the provisions of the following Acts:

(1) AP Land Reform (COAH) Act, 1973
(2) AP Assigned Lands (Prohibition of Transfers) Act, 1977
(3) AP (TA) Tenancy and Agricultural Lands Act, 1950
(4) AP (TA Abolition of Inams Act, 1955 and Recommended to consider the request of the petitioner to accord permission for conversion of the above land."

(vi) When the sale deeds were executed in favour of the declarants, there was reference to the Collector under the Stamp Act under section 47 A of the said Act, to determine the market value of the lands. After enquiry under the said provision, the Collector under the Stamp Act, in his proceedings No.401/47-A/92 dated 30.9.1992 and proceedings No. 506/47-A/94 dated 4.7.1995 that the lands in question were filled with boulders and hillocks.

(vii) The lands were developed into Ramoji Film City, which is recognized in all Government records in proceedings, including the official functions, in which the heads of the state, Governments and officers participated. (Pleaded in para 12 and 13 of the objections filed by the declarants and not denied in para 12 of the reply filed with the Authorised Officer).

(viii) The declarants have joined together to acquire non-agricultural lands for the purpose of developing an integrated complex with a view to achieve economies of scale, by creating infrastructure to their respective businesses like, media, making and telecasting of TV programmers, Film making, Tourism, Hotels, etc., in the name of Ramoji Film City (Pleaded in para 10 of the objections filed by the declarants and not denied in para 11 of the reply filed with the Authorised Officer).

(ix) The Ramoji Film City was thrown to public visit about a decade back (of the initiation of the proceedings by the LRT) and has become biggest tourist attraction with no time, attracting lakhs of visitors across the globe. It has created tremendous potential for tourism in the State of Andhra Pradesh, particularly Hyderabad. The Government and Government organisations, like APSRTC, AP Tourist Development Corporation and Tourist Corporation of India ply buses and the official records and maps and transactions of HUDA, R&B Department of the State Government and other public bodies bear evidence of the Ramoji Film City. The commercial tax Department also has been assessing and collecting commercial taxes from different establishments functioning in the Ramoji Film City. The establishments belonging to the declarants and group companies have been contributing crores of rupees towards service tax, income tax etc. (Pleaded in para 10 of the objections filed by the declarants and not denied in para 11 of the reply filed with the Authorised Officer).

(x) The declarants did not hold any land as on the notified date and they acquired lands from time to time, subsequent to the notified date and therefore it is the specific date of their acquisition, which is to be treated as specified date for the purposes of the Act, and the acquisition was over a period of time.

(xi) The District Collector filed Counter Affidavit on oath, on behalf of the State, District Collector, LRT and the Authorised Officer in WP No.10623/1998 before this court, categorically stating as under:

> *"It is true that the then Special Tahasildar, issued a letter No.AO/4/93 dated 25.11.1992 to Usha Kiran Movies (P) Ltd., and the Usha Kiran Movies has relied on 8.12.1993 stating that the land* ***purchased by them was after conversion of land use to non-agricultural*** *and as such no need to file declaration. Subsequently, the Mandal Revenue Officer, Hayathnagar Mandal, vide Proceedings bearing No. D.Dis.B/3247/92 dated 11.9.1992 issued notices under Section 3 of the A.P. Nala Act, 1943 to M/s.Usha Kiran Movies (P) Ltd., preferred an appeal under Section 5 (1) of the A.P. Nala Act contending that the population of Anajpur is less than 10,000 as per 1991 Census. The Mandal Revenue Officer, after enquiry passed orders dated 20.7.1993 vide D.Dis.No.B/3247/92* ***levying special assessment under Rule 71 of the A.P. (TA) Land Revenue Rules, 1951*** *on the lands bearing Sy.No.282 to 300 of Anajpur Village, admeasuring Ac.428.15 Cents at the rate of Rs.5/- per acre. Usha Kiran Movies Ltd.,* ***paid Special assessment upto date****.* ***Therefore the entire land covered by Sy.No.282 to 300 is non-agriculture in nature and is not attracted by the Land Ceiling Act****." (emphasis supplied).*

8. **Points for consideration in these CRPs:**

(1) Whether the subject lands attract provisions of the Act?

(2) Whether the conversion orders issued by the District Collector under Section 61 of the Land Revenue Act are not valid?

(3) Whether the Appellate Tribunal is justified in remanding the matter?

(4) Whether the memo filed before the LRT was in order?

9. **Relevant Statutory Provisions**:

Before examining the aforesaid points for consideration, it is apt to examine the provisions of the Act, which is material in which are relied on by both the parties:

Telangana Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 :

Section 3 (c) **Ceiling area** ‘means the extent of land 3 [specified in Section 4 or Section 4-A] to be the ceiling area;

Section 3 (j) ***'land'*** means land which is used or is capable of being used for purposes of agriculture, or for purposes ancillary thereto, including horticulture, forest land, pasture land, waste land, plantation and tope; and includes land deemed to be agricultural land under this Act;

Explanation I. - Where any land is held under ryotwari settlement it shall, unless the contrary is proved, be deemed to be land under this Act;

Explanation II. - *'land'* shall not include the land appurtenant to a building;

Section 3 (m) ***'notified date'*** means the date notified under subsection (3) of section 1;

Section 3 (r) ***'specified date'*** means-

(i) in the case of a declaration required to be filed under Section 8, the notified date; and

(ii) in the case of a declaration required to be filed under Section 18, the date of acquisition, usufructuary mortgage, lease, marriage, adoption or alteration in the classification of the land referred to therein, as the case may be;

Section 5. Standard holding for different classes of lands and computation. –

(1) For the purposes of this Act, land shall be classified as set out in the First Schedule. The extent of land which shall constitute a standard holding for the class of lands specified in column (1) of the Table below shall be as specified against it in column (2) thereof:

Provided that-

(i) *******;

(ii)*******;

(iii) in the case of any wet land irrigated by a Government source of irrigation classified as Class V in the settlement or revenue accounts of the Government, excluding a source fed by a project, river, nala or channel in the Andhra area; and in the case of wet land irrigated by similar source notified by the Government in this behalf in the

Telangana area, the extent of standard holding shall be increased by sixteen and one-fourth per centum;

(iv)******;

(v) in the case of any land in the Telangana area situated in any tract in respect of which the settlement operations were conducted by an agency other than the Government, if the land falls within Class A, Class B, Class C, Class D, or Class E of the Table below the ceiling area shall be computed as if the land fell within Class B, Class C, Class D, Class E or Class F of the said Table respectively and if the land falls within Class G, Class H, Class I or Class J, the ceiling area shall be computed as if such land fell within Class H, Class I, Class J or Class K respectively;

vi. *******;

2. ******;

3. ******,

4. ******;

5. ******;

6. ******;

Section 7. Special provision in respect of certain transfers etc., already made. –

(1) Where on or after the 24th January, 1971 but before the notified date, any person has transferred whether by way of sale, gift, usufructuary mortgage, exchange, settlement, surrender or in any other manner whatsoever, any land held by him or created a trust of any land held by him, then the burden of proving that such transfer or creation of trust has not been effected in anticipation of, and with a view to avoiding or defeating the objects of any law relating to a reduction in the ceiling on agricultural holdings, shall be on such person, and where he has not so, proved, such transfer or creation of trust, shall be disregarded for the purpose of the computation of the ceiling area of such person.

(2) Notwithstanding anything in sub-section (1), any alienation made by way of sale, lease for a period exceeding six years, gift, exchange, usufructuary mortgage or otherwise, any partition effected or trust created of a holding or any part thereof, or any such transaction effected in execution of a decree or order of a civil court or of any award or order of any other authority, on or after the 2nd May, 1972 and before the notified date, in contravention of the provisions of [the

Andhra Pradesh Agricultural Lands (Prohibition of Alienation) Act, 1972 (13 of 1972)] shall be null and void.

(3) Where at any time within a period of five years before the notified date, any person has converted any agricultural land held by him into a non-agricultural land, then the land so converted shall be deemed to be agricultural land on the notified date for the purposes of this Act.

(4) Where on or after the 24th January, 1971 but before the notified date,-

(a) any declaration of dissolution of marriage has been made by a court on an application made on or after the 24th January, 1971; or

(b) any other dissolution of marriage in accordance with any law or custom has taken place, then the land held by each spouse immediately before the date of such dissolution shall, for the purpose of this Act, be deemed to be land held on the notified date by the family unit of which they were members immediately before such dissolution.

(5) Where on or after the 24th January, 1971 but before the notified date, any person has been given in adoption, then the land held by such person immediately before the date of such adoption shall, for the purposes of this Act, be deemed to be held on the notified date by the

family unit of which he was a member immediately before such adoption.

(6) In every case referred to in sub-section (4) or sub-section (5), the computation of the ceiling area shall first be made in respect of the family unit referred to in the said sub-section, and after the surrender of the land held in excess of the ceiling area by such family unit, the remaining land held by such divorced spouse or adopted person, as the case may be, shall be included in the holding of such divorced spouse or adopted person, whether as an individual or as a member of a family unit of which such spouse or person has become a member.

(7) If any question arises,-

(a) whether any transfer or creation of a trust effected on or after the 24th January, 1971 had been effected in anticipation of, and with a view to avoiding or defeating the objects of, any law relating to a reduction in the ceiling on agricultural holdings;

(b) whether any alienation made, partition effected or trust created on or after the 2nd May, 1972 is null and void;

(c) whether any conversion of agricultural land into non-agricultural land had taken place within a period of five years before the notified date;

(d) whether any dissolution of a marriage had taken place on or after the 24th January, 1971 either on an application made on or after the said date, or in accordance with any law or custom;

(e) whether any person had been given in adoption on or after the 24th January, 1971;

such question shall be determined by the Tribunal, after giving an opportunity of being heard to the affected parties, and its decision thereon shall, subject to an appeal and a revision under this Act, be final.

(8) If the Tribunal decides that any transfer or creation of trust had been effected in anticipation of, and with a view to avoiding or defeating the objects of, any law relating to a reduction in the ceiling on agricultural holdings or that any alienation made or partition effected or trust created is null and void and if as a result of such transfer, alienation or creation of trust, the holding of the person or the family unit, that remains on the notified date does not exceed the extent of land that he or the family unit is liable to surrender then, the Tribunal shall treat the entire holding thus left over as the extent of land to be surrendered under the provisions of this Act by the person or the family unit, as the case may be:

Provided that the balance of extent of land that remains liable to be surrendered by the person or family unit shall, subject to such rules as may be prescribed, be surrendered by the alienee who is in possession of such holding by virtue of any transaction effected in contravention of the provisions of the Andhra Pradesh Agricultural Lands (Prohibition of Alienation) Act, 1972 (Act 13 of 1972).

Sec. 8. Declaration of holding. -

(1) Every person, whose holding on the notified date together with any land transferred by him on or of holding, after the 24th January, 1971 whether by way of sale, gift usufructuary mortgage, exchange, settlement surrender or in any other manner whatsoever, and any land in respect of which a trust has been created by him on or after the 24th January, 1971, exceeds the specified limit, shall, within thirty days from the notified date or within such extended period as the Government may notify in this behalf, furnish a declaration in respect of his holding together with such land, to the Tribunal within whose jurisdiction the whole or a major part of his holding is situate containing such particulars including those relating to lands held by him in any part of India outside the State, and in such form as may be prescribed.

Explanation I. - Where the land is held or is deemed to be held by a minor, lunatic, an idiot or other person subject to like disability, not being a member of the family unit, the declaration shall be furnished by the guardian, manager or other person in charge of the property of such person; and where the land is held or is deemed to be held by a company, firm, association or other corporate body, the declaration shall be furnished by any person competent to act for such company, firm, association or corporate body in this behalf.

Explanation II. - Where the land is held or is deemed to be held by a family unit, the declaration shall be furnished by a person in management of the property of such family unit and the declaration so furnished shall be binding on all the members of the family unit:

Provided that the Tribunal shall, in the event of a dispute as to the declaration furnished by the person in management, give to the other members of the family unit an opportunity of making their representation or of adducing evidence, if any, in respect of such declaration and shall consider such representations and evidence before determining the ceiling area under this Act.

Explanation III. - In this sub-section, specified limit means,-

(a) in the case of wet land-4.05 hectares (10 acres);

(b) in case of dry land-10.12 hectares (25 acres); and for the purpose of computing the specified limit in a case where the holding of any person includes both wet land and dry land, one hectare of wet land shall be deemed to be equal to two and half hectares of dry land.

(2) Without prejudice to the provisions of sub-section (1), the Tribunal shall have power to issue notice requiring any person holding land or residing within its jurisdiction who, it has reason to believe, holds or is deemed to hold land in excess of the ceiling area to furnish a declaration of his holding, or that of his family unit, under sub-section (1), within such period as may be specified in the notice not being less than fifteen days from the date of its communication, and such person shall furnish the declaration accordingly.

(3) If any person who is liable to furnish a declaration under sub-section (1) or sub-section (2) fails to furnish the declaration within the specified time, the Tribunal may obtain the necessary information in such manner as may be prescribed.

Sec. 9. Determination of ceiling area. –

The Tribunal shall on receipt of the declaration furnished or information obtained under Section 8, publish the same, and make an enquiry, in such manner as may be prescribed, and pass orders determining whether the person holds or is deemed to hold on the notified date an extent of land in excess of the ceiling area and if so, the extent of land so held in excess as on that date.

Explanation. - Save as otherwise provided in this Act, in the case of a family unit, the number of members of the family unit shall be reckoned with reference to the notified date.

Sec. 17. Prohibition of alienation of holding. –

(1) No person whose holding, and no member of a family unit, the holding of all the members of which in the aggregate, is in excess of the ceiling area as on the 24th January, 1971 or at any time thereafter, shall on or after the notified date, alienate his holding or any part thereof by way of sale, lease, gift, exchange, settlement, surrender, usufructuary mortgage or otherwise, or effect a partition thereof, or create a trust or convert an agricultural land into non-agricultural land, until he or the family unit, as the case may be, has furnished a declaration under Section 8, and the extent of land, if any, to be surrendered in respect of his holding or that of his family unit has been determined by the Tribunal and an order has been passed by the Revenue Divisional Officer under this Act taking possession of the land in excess of the ceiling area and a notification is published under Section 16; and any alienation made or partition effected or trust created in

contravention of this section shall be null and void and any conversion so made shall be disregarded.

(2) For the purposes of determining whether any transaction of the nature referred to in sub-section (1) in relation to a land situated in this State, took place on or after the notified date, the date on which the document relating to such transaction was registered shall, notwithstanding anything in Section 47 of the Registration Act, 1908, (Central Act 16 of 1908) be deemed to be the date on which the transaction took place, whether such document was registered within or outside the State.

(3) The provisions of sub-section (1) shall apply to any transaction, of the nature referred to therein in execution of a decree or order of a civil court or of any award or order of any other authority.

Sec. 18. Declaration of future acquisitions. –

[(1)] Where on or after the notified date there takes place –

(a) any acquisition in any manner whatsoever, usufructuary mortgage, or lease of any land; or

(b) any marriage or adoption; or

(c) any alteration in the classification of the land; and after such acquisition, usufructuary mortgage, lease, marriage, adoption or alteration, the total extent of land held by any person or by all the members of any family unit in the aggregate exceeds the ceiling area such person or family unit shall, within a period of sixty days from the date of such acquisition, usufructuary mortgage, lease, marriage, adoption or alteration, furnish a declaration of the holding of such person or family unit; and all the relevant provisions of this Act shall apply as if it was a declaration furnished under Section 8.

Explanation I. - For the purpose of this section, the number of members of a family unit shall be reckoned with reference to the date of such acquisition, usufructuary mortgage, lease, marriage, adoption or alteration, as the case may be.

Explanation II. - For the purpose of the application of the provisions of Sections 9 and 17, the expression ‘notified date' shall be construed as the date of acquisition, usufructuary mortgage, lease, marriage, adoption or alteration, as the case may be.

Explanation III. - For the removal of doubts, it is hereby clarified that no declaration under this section need be furnished where the total extent of land held by all the members of a family unit in the aggregate exceeds the ceiling area solely on account of any reduction in the number of members of the family unit.

Explanation IV. - Where a land surrendered by a family unit under this Act is land held by a joint family, it shall be open to the members of the family unit and other members of the joint family to partition the land remaining with such joint family after such surrender and if such family unit comes to hold land in excess of the ceiling area solely on account of such partition, such family unit shall not be required to furnish a fresh declaration under this section and the relevant provisions of this Act applicable to a family unit holding land in excess of the ceiling area shall not apply to such family unit.

***[Explanation V**.* - For the removal of doubts it is hereby clarified that when a land held by a limited owner reverts to the person having a vested interest in the remainder by virtue of sub-section (5-A) of Section 12 or otherwise, there shall be deemed to be an acquisition of such land by such person for the purposes of this section.

[(2) Where any land is acquired or taken on lease by a person solely for a non-agricultural purpose connected with or incidental to an industry, the Government may, after making such enquiry as they may deem fit, by order, exempt, subject to such conditions, if any, as may be specified in the order, such land from the provisions of subsection (1).

***Explanation**.* - For the purposes of this sub-section, the expression 'non-agricultural purpose' means a purpose which is not an agricultural purpose or a purpose ancillary thereto, including horticulture; and the expression 'industry' means any business, profession, trade, undertaking or manufacture.]

Sec. 28 Act to override other laws. –

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or any custom, usage or agreement or decree or order of a court, tribunal or authority.

First Schedule

(*See* section 5).

Classification of Lands.

1. Wet lands bearing the tarams or bhagannas in each of the settlement tracts or groups, as the case may be shall be classified into respective Classes A, B, C, D, E and F as shown in the table below:

Region	Settlement tract or group	Tarams or Bhagannas which fall under Class					
District		A.	B.	C.	D.	E.	F.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Second Schedule

[*See* section 15]

1*****

2*****

3*****

Explanation. - In this Act, *'land revenue'* means the land revenue as defined in clause (f) of section 2 of the Telangana Land Revenue (Enhancement) Act, 1967 (A.P. Act No.8 of 1967) or as determined under that Act together with additional land revenue as levied under that Act as on the notified date:

Provided that in the case of land registered as dry in the land revenue accounts but deemed to be wet land under this Act or vice versa the land revenue in respect of the land so deemed shall be the same as for similar wet or dry land in the vicinity as the case may be;

Provided further that in the case of any land in respect of which no land revenue is payable, the land revenue in respect of such land shall be the same as the land revenue payable for similar land in the vicinity.

The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974

Rule 2. Definitions: - In these Rules, unless the context otherwise requires:

(a) '*Act*' means the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Act 1 of 1973):

(b) '***declarants*'** means every person who is required to furnish a declaration under Section 8 or Section 18 of the Act:

(c) And (d) ******;

(e) '***Tahsildar*'** means a Tahsildar holding charge of taluk or a Deputy Tahsildar holding independent charge of a taluk or a sub-taluk and includes a Special Deputy Tahsildar appointed by the District Collector for purposes of these Rules.

Rule 15. Publication and verification of declarations: -

(1) The declaration furnished or information obtained under Section 8 or Section 18, as the case may be, shall be published in the following manner:-

(a) a copy of the declaration or information shall be kept in the office of the Tribunal for public inspection on any working day in the presence of an officer authorised in this behalf by the Tribunal; and

(b) the fact of the receipt of such declaration or information and its availability in the office of the Tribunal for public inspection shall be announced by beat of *tom tom* in all the villages in which the holding or any part thereof is situated.

(2) A public notice in Form IV containing the particulars of land and the person holding such land in respect of declaration, or information received shall be published by affixing a copy thereof on the notice boards of the office of the Tribunal in which the declaration has been filed and of the offices of Tahsildars and the Gram Panchayats within whose jurisdictions, the holding or part thereof is situated.

(3) A copy of the declaration shall be furnished by the Tribunal to the Officer authorised by the Government in this behalf.

(4) Every declaration furnished shall be referred by the Tribunal for local inspection and verification by the Tahsildar within whose jurisdiction the holding or any part thereof is situated.

(5) The Tahsildar to whom a declaration has been referred under sub-rule (4) shall make or cause to be made an inspection or verification as soon as may be practicable, and shall submit a full and complete report as to-

(a) the correctness of the statements made in the declaration;

(b) the taram or bhaganna which each land in the declaration bears or is deemed to bear;

(c) the correct classification and extent of standard holding of each land;

(d) the relative proportion of the extent of the land of each class to the extent of a standard holding of the appropriate class under which the land falls;

(e) the land revenue payable on each land; and

(f) such other particulars and information as would be useful to the Tribunal for arriving at a correct determination of the ceiling area and the extent of the land, if any, held in excess of the ceiling area.

(6) A copy of the report on its receipt by the Tribunal shall be furnished to the declarants and also the officer authorised by the Government in this behalf.

Rule 16. Nature of proceedings before the Tribunal: -

(1) All proceedings before the Revenue Divisional Officer, the District Collector, Tribunal or the Appellate Tribunal shall be summary and shall

be governed, as far as may be, by the provisions of the Code of Civil Procedure, 1908.

(2) to (11) ********;

Rule 19. Fixation of taram or bhaganna for a land for which no taram or bhaganna exists: -

(1) For fixing the taram or bhaganna in respect of a land for which no taram or bhaganna is recorded in the revenue or settlement records of the Government, or which bears a taram or bhaganna not shown in the Table under Clause 1 or Clause 2 of the First Schedule to the Act, the Tahsildar shall subject to confirmation by the Tribunal and after issue of a notice to the party affected, provisionally determine the taram or bhaganna having due regard to the taram or bhaganna of a similar land in the vicinity for which a taram or bhaganna has been specified in the said Table.

(2) For fixing a taram or bhaganna of a land deemed to be dry or wet under the Act, but is registered as wet or dry land in the land revenue accounts of the Government, the Tahsildar shall, subject to confirmation by the Tribunal, and after issue of a notice to the party affected, provisionally determine the same having due regard to the taram or bhaganna of a similar registered dry or wet land in the vicinity.

Telangana Land Revenue Act, 1317 F.

Sec. 50. Land revenue to be assessed according to use of land for various requirements. - Land revenue shall be assessed according to the various modes of use.

(a) Agricultural use.

(b) In addition to agricultural use any other use from which profit or advantage is derived.

When rate is assessed on any land for any one of the aforesaid purposes and the land is appropriated for any other purpose the rate thereof shall be altered and fixed again, although the term of subsisting settlement may not have expired.

If any land granted by the [Government] with remission of land revenue for any special purpose is appropriated to some other purpose against the intention of the grant, the land revenue thereof shall be recovered.

It shall be lawful for the [Collector], and in case a taluqa is under settlement, for the [Commissioner of Survey Settlement or Commissioner of Land Records] after giving a hearing to the land holder to prohibit its appropriation for any particular purpose and record reasons therefore and to summarily evict the holder who may have appropriated the said land to prohibited purpose.

Sec. 61. Occupant to be entitled to construct godowns and wells etc., or otherwise improve condition of land. –

[(1)] Every occupant shall be entitled [to construct or repair godowns or wells on land occupied by him or otherwise improve its condition] and shall not be entitled except with the written permission of the [Collector] to appropriate agricultural land to purposes other than agricultural. If no written reply for such permission is given by the [Collector] for three months from the date of presentation of the application, the application shall be deemed to have been granted. In every such case the [Collector], on receipt of the application, shall furnish a written acknowledgement thereof and without unnecessary delay communicate to him the sanction or refusal of the application, and the [Collector] at the time of granting such application, may, in addition to the new assessment payable under Section 50, if necessary, after recording reasons therefore introduce such conditions as he may have settled with the consent of the occupant.

[(2) No occupant of land shall be entitled to construct or repair any tank or kunta without the permission of the Government].

Sec. 62. **Procedure in case of agricultural land appropriated to non-agricultural purposes**. –

The [Collector] may take action under Section 57 against a pattadar or Shikmidar who has, without permission, appropriated agricultural land to non-agricultural purposes.

Sec. [89A. **Division of Survey numbers into new Survey numbers**. –

Notwithstanding anything contained in Section 79 and Section 89 or rules made thereunder, when any portion of cultivable land is permitted to be used under the provisions of Sections 61 and 62 for non-agricultural purposes or when any portion of land is specially set apart under Section 25 or when an assessment on any portion of the land is altered or levied under Section 50, separate survey numbers may, subject to the rules made by the Government under this Act in this behalf, be made of such portion.

Sec. 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, to carry out the purposes and objects of this Act and for the guidance of all persons in 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) to (g) *******;

(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) to (q) ******;

Andhra Pradesh (Telangana Area) Land Revenue Rules of 1951

Rule 70. No agricultural land can be diverted to any other purpose, without the permission of the Collector. –

Where a land has specifically been assigned for agricultural purpose and assessed as such, it shall not be put to any use to which, in the opinion of the Collector, it is apt to alter or undo the agricultural character the land.

Rule 71. Mode of assessment in the event of diversion of agricultural lands to non agricultural purposes. -

(1) In the event of diversion of dry agricultural lands to non-agricultural purposes, the following special assessment shall be levied –

(a) Rs.5 per acre in the case of lands situated in the villages other than the Tahsil or District Head quarters.

(b) Rs.8 per acre in the case of lands situated in the Tahsil Head quarters.

(c) Rs.12 per acre in the case of land situated in the District Head quarters:

Provided where such land is situated within the municipal limits of a village having a population of 15,000 or more, the Collector may levy an assessment of Rs.15 per acre.

(2) In the event of wet land being diverted to non-agricultural purposes the rate of special assessment shall be 11/4 times of wet assessment, if the land is situated in a village other than Tahsil or District Head quarters and 1 ½ times, if the land is situated in the Tahsil or District Headquarters.

Explanation –

(a) For the purpose of this Rule lands lying within six miles of the municipal limits of the cities of Hyderabad and Secunderabad shall be deemed to be lands situated in the District Headquarters.

(b) Where the area diverted to non-agricultural purpose has been demarcated by trenching or fencing or by raising a wall only such area shall be subject to special assessment. Where no such demarcation has been made, the whole survey number, of which the area, forms a part, shall be charged special assessment.

The Andhra Pradesh Land Revenue (Enhancement) Act, 1967

2. Definitions - In this Act, unless the context otherwise requires,-

(a) to (e) -xxxxxx

(f) “land revenue” means,- (1) in relation to the Andhra area, the standard assessment payable under the Andhra Pradesh (Andhra Area) Land Revenue assessments (Standardisation) Act, 1956;

(2) in relation to the Telangana area, the land revenue payable under the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Falsi (Act VII of 1317 F) or under any other law in force in that area, together with the special assessment payable under the Andhra Pradesh (Telangana Area) land (Special Assessment) Act, 1952 (Act XXXII) of 1952); and

[(3) in relation to section 2-A, all land revenue levied and collected at any time before the commencement of this Act and to be levied and collected after such commencement;]

10. **Analysis:**

The following legal position emerges from the examination of the aforesaid relevant provisions of law disclose:

(i) The Act applies to the 'land' which falls within the definition of Section 3(j).

(ii) The definition discloses clearly that only the following lands come within the meaning of the 'land', namely-

(a) Land which is used;

(b) Land capable of being used for the purpose of agriculture or Purposes ancillary thereto and

(c) Deemed to be agricultural land under the Act.

(d) Deemed 'land' under the Act.

(iii) The expression 'deemed land' under the Act is found only in Explanation I to Section 3(j), which raises a rebuttable presumption.

(iv) The expression, 'deemed agricultural land' is found in Section 7 (3) of the Act, to treat the land which was converted from agriculture to non-agricultural purposes 5 years before the notified date.

(v) If a person holds land in excess of the ceiling limit as on 'notified date', he is liable to file declaration under Section 8 (1) of the Act.

(vi) If any person acquires land in excess of the ceiling limit after the notified date, he is liable to file declaration as per Section 18 (1) of the Act.

(vii) Notified date is defined in Section 3 (m) of the Act, as the date of the commencement of the Act, which is 1.1.1975. Specified date is defined in Section 3 (r) of the Act. It contains two parts. The first part applies to the declaration required to be filed under Section 8, which is the notified date. The 2^{nd} part applies to the declaration required to be filed under Section 18, which is the date of acquisition, classification, and alteration etc., mentioned therein.

(viii) It is only the person who acquires 'land', within the meaning of the Section 3 (j) of the Act, who is liable file declaration under Section 8 or as the case may, be Section 18. A person who holds non-agricultural land of any extent, is not liable to file any such declaration under the Act, the reason being non-agricultural land is not governed by the Act.

(ix) Section 7 (1) raises a rebuttable presumption in respect of transfers made on or after 24.01.1971 but before the notified date, as made with a view to avoid defeat the objects of the law relating to ceiling of agricultural lands. Section 7 (2) makes any alienation, partition, transaction effected in execution of a decree or order of a civil court or of any award or order of any other authority on or after 2.05.1972 as null and void. Section 7 (3) deems any agricultural land converted into non-agricultural land at any time, within the period of 5 years before the notified date, as deemed agricultural. Thus, Section 7 applies only to the transactions made before the notified date.

(x) If any person holds the land in excess of the ceiling limit, he cannot alienate or convert agricultural land into non-agricultural land, till he filed such declaration and his ceiling limit is determined and he surrenders the land in excess of such ceiling limit, under Section 17. This prohibition is only in respect of “agricultural land” and not land as defined in Section 3 (j). The expression, “agricultural land” occurs only in Sections 7 and 17.

(xi) On receipt of the declaration furnished or information obtained under Section 8, the LRT shall publish the same, make an enquiry in such manner as may be prescribed and pass orders determining whether the person who holds or deemed to hold as on the notified date, any land in excess of ceiling area. The Tahsildar concerned has to file verification report in the prescribed form under Rules 4 and 5.

(xii) Section 5 of the Act read with Schedule I prescribes the ceiling limit for each class of land in different regions. Section 5 shows that for the Telangana area the classification and the ceiling area is relaxed over the limits fixed for Andhra area.

(xiii) The Schedule I of the Act shows land is classified into the categories on the basis of the taram or Bhagana, on the basis of which, the land revenue is assessed under the relevant law.

(xiv) The land revenue in Telangana is assessed under the provisions of the Land Revenue Act (as supplemented by The Andhra Pradesh Land Revenue (Enhancement) Act, 1967), which provides for different assessment for agricultural and non-agricultural land. It contains separate and elaborate provisions in respect of non-agricultural lands.

(xv) It is mandatory under 61 of the Land Revenue Act, to obtain prior permission of the Collector to the agricultural land for non-agricultural purposes. The section itself provides for deemed permission, if no written reply for such permission is given by the Collector for three months from the date of presentation of the application.

(xvi) Rule 16 (1) makes the provisions of Civil Procedure Code, 1909, applicable to the proceedings under the Act.

11. Consideration:

I. Point No.1:

Whether the subject lands attract provisions of the Act?

1. This question has to be answered entirely with reference to Section 3(j) of the Act. The nature of the land specifically pleaded by the declarants and has not been disputed by state.

2. However, the LRT did not go into the pleadings at all and did not conduct any enquiry. The LRT passed orders entirely on the assumed legal position, on the basis of Section 17 and 28 of the Act. The Appellate Tribunal has found that there is no dispute with the non-agricultural character of the subject lands.

3. The declarants heavily relied on the admissions in the pleadings and Order VII Rule 5 read with Rule 16 (1) of the Rules under the Act, Sections 58 and 31 of the Evidence Act and that the admissions in the pleadings operate as estoppel. Reliance is placed on the judgments of the Hon'ble Supreme Court in AIR 1996 SC 817 (para 14 @ page 822). In (2008) 8 SCC 236 (para 20 @ page 245), AIR 1964 SC 538 (para 11 at page 545), AIR 1996 SC 817 (para 14 at page 822), (2008) 8 SCC 236 (para 20 at page 245), AIR 1980 SC 1568 (para 4 at page 1571).

There is no dispute with regard to the legal position. Therefore, in view of the admissions, there can't be any dispute with regard to the non-agricultural character of the lands. They cannot be treated as lands within the meaning of the Act.

4. It is not the case of the State that the declarants' lands fall within the first category or that the lands are used for agriculture. It is also not the case of the State that the declarants' lands are capable of being used for the purpose of agriculture. As pointed out by the Appellate Tribunal, it is not even their case that the lands are deemed agricultural lands.

5. According to the State, the declarants' lands are included in the revenue records (para 3 of the reply filed by the Authorised Officer to the objections of the declarant). Obviously, this is governed by Explanation I of Section 3 (j) of the Act, which only raises a rebuttable presumption. When admittedly, the subject lands are unfit for cultivation and therefore not 'land' within the meaning of the Act, such presumption stands rebutted and the entries in the land records become irrelevant.

6. Apart from relying on the admissions in the pleadings, the declarants filed positive evidence showing the non-agricultural character

of the subject lands. They include the photographs of the lands in question along with the affidavit of the third party expert, who has transposed the village maps prepared and issued by the survey Department on the topo sheets prepared and issued by the Survey of India and pertaining to the subject lands after digitizing them and given his report to show that they are sheet rock lands. The expert evidence is based on the scanned certified copies of the village maps issued by the Survey, Settlement and Land Records Department, Topo-sheets of Survey of India, the villages and the computer output containing the information derived by the calculation, comparison, analysis and other processes in terms of Section 65-B of the Evidence Act. In view of Section 65-B (1), any information contained in an electronic record produced by a computer called computer output shall be deemed to be a document and shall be admissible without further proof or production of the original. These documents are not in dispute.

7. The declarants also filed the orders of the District Registrar in Proceedings No.401/47/A/92 dated 30.9.1992 and Proceedings No.576/47-A/94 dated 4.7.1995, which are contemporaneous proceedings of a Statutory Authority under the Stamp Act, at the time of acquisition, when there was no dispute. It is clearly held by the Authority that the lands in Survey Nos.273 to 276 are waste lands

covered by hillocks, rocks, boulders, Survey Nos.276 and 266 are partly with hillocks and rocks and that there is no water source and there was no cultivation taken place at any time.

8. As rightly pointed out by the learned counsel for the declarants, the village plans of the Survey, Settlement and Land Records Department of the State Government and the Topo-sheets of the Survey of India of the Central Government are Records and Acts of Sovereign Authority and therefore, are public documents and admissible under Section 74 of the Evidence and their certified copies are admissible in evidence and there is a presumption under Section 79 or as the case may be Section 81 (a) as to their genuineness and in view of Section 83, there is a presumption in favour of their accuracy.

9. The evidence produced by the declarants is not disputed. Further, as rightly pointed out by the learned counsel for the declarants, the fact that no taram or Bhagana was fixed in respect of the subject lands in Anajpur, as stated in the letter of the Deputy Collector and the Mandal Revenue Officer, Hayathnagar, bearing LR No. B/353/2007 dated 10.02.2007, also lends support to the case of the declarants that the lands were unfit for cultivation.

10. It is the finding of the LRT and the argument of the learned Government Pleader that the fact that the declarants applied for conversion of lands under Section 61 of the Land Revenue Act and it presupposes that they are agricultural lands. That is the sum and substance of the order of the LRT as well as the arguments of learned Government Pleader. It is explained by the declarants that the application was made only by way of abundant caution, as the lands are held under Ryotwari Patta. This aspect is not in dispute. Therefore, the contention of the learned government pleader cannot be accepted. Once, it is admitted that the lands are unfit for cultivation and not “land” within the meaning of the Act, this contention pales in to insignificance.

11. Further, as rightly argued by the learned counsel for the declarants, in view of the admitted fact that the lands are not capable of being used for agriculture, itself is sufficient to rebut the presumption. Hence, it is clear that the subject lands do not fall within the definition of ‘land’ under Section 3 (j) of the Act. Therefore, the Act has no application to the subject lands.

12. It has to be noted that what is deemed to be lands under the Act is explained in Explanation I, which says that unless contrary is proved, any land held under a Ryotwari settlement is deemed to be land under

Act. The word, ‘Ryotwari’ has not been defined under the Act. The Act does not deal with the settlement either. The settlement is for the assessment of the land revenue on agricultural lands. It is only the Land Revenue Act, which deals with the occupancy rights under Patta and the Ryotwari settlement. These aspects have been dealt with, in great detail by the constitutional bench of Hon’ble Supreme Court in the State of AP and another Vs. Nalla Raja Reddy and others reported in AIR 1967 SC 1458. It is observed in paragraphs 9, 12 and 13 of judgment as under:

“9. *Before we consider the said arguments it would be necessary to know briefly the nature and scope of the previous revenue settlement in Andhra and Telangana. After some experiments in the Madras State it was decided in 1863 that a general revision of assessment should be made based on accurate survey and classification of soils. This is known as Ryotwari Settlement. The Ryotwari Settlement was conducted in seven stages;*

(1) demarcation of boundaries, (2) survey, (3) inspection, (4) classification of soils, (5) assessment, (6) matters subsequent to assessment, and (7) records of settlement. The first two items were done by the Survey Department and the Items 3 to 7 by the Settlement Department. It will be enough for the purposes of these appeals if we describe briefly how this classification of soils was done and the

assessment made on that basis. Before proceeding to the detailed classification of soils in each village, there was a preliminary grouping of villages so as to bring together those which were similarly situated having regard to proximity to smarket, facility of communication and climate. Thereafter the soil was classified into "series", such as (1) Alluvial islands in rivers and permanently improved soils; (2) Regar or regada, the so-called 'black cotton soil,' (3) Red ferruginous soil;(4) Calcareous-chalk or lime and; (5) Arenaceous. Every soil of the said series was again divided into classes on the basis of the variety and physical situation, such as pure clay or half sand or more than 2/3rd sand etc. The classes were again divided into sorts such as good or bad or ordinary or worst. Briefly stated land was classified into series, series into classes, and classes into sorts. In the case of wet land in addition to the sorts, other distinctions were borne in mind in grading the soil such as (1) whether the land was close to the irrigation main channel and had good level and drainage, (2) whether the land was less favourably situated in these respects, (3) whether the land was imperfectly supplied with water; or whether the level was inconvenient, and drainage bad, and (4) whether the land was so situated that the water could not be let to flow on to it, but had to be raised by baling it out. After the said classification the next stage was to ascertain the amount *of crops each different class and sort of soil could produce. After deducting the cost of cultivation the net produce was valued in money and the said amount was divided into proper percentages, one such percentage fixed by the Rules would be the Government revenue. On the basis of this classification a table of class and sort called Taram, which would apply equally to several soils was drawn up. We have gathered the necessary particulars from Land Systems of British India by Baden Powell, Vol. 3.*

11. *The broad principles of Ryotwari system may be stated thus: (1) Under that system the soil itself is taxed and the assessment is fixed on the land; (2) Lands are classed into two general heads, namely, wet and dry, (3) The soils of similar grain values are bracketed together (in orders called "Tarams" each with its own rate of assessment; (4) The rates are further adjusted, in the case of dry lands, with reference to the nature and quality of water-supply. This system has been followed from time immemorial and had the general approval of the public. It has a scientific basis and throws equitable burden on the different classes of land.*

12. *The system followed in Telangana which formed part of the erstwhile Hyderabad State was as follows: The relative scales of soils in respect of classification was in annas or "annawari". The existing or the* *former rates were taken as the basis and were adjusted having regard to altered circumstances, the rise or fall of prices, increase in population, means of support and other advantages. No attempt was made to fix the assessment at a certain fraction of not assets for determining the money value of the produce of the field crop. But experiments were made by the Settlement Officers and with the results obtained therein the rates fixed were checked in order to ascertain what profit would be left to the cultivators.*

13. *It will be seen that both in Andhra as well as Telangana area under the Ryotwari system, the land revenue which was a share of the produce of the land commuted in money value varied according to the classification of soil based upon its productivity. Both in Andhra and Telangana areas under the Ryotwari system the soils of similar grain values were bracketed together in orders called "Tarams" or Bhagana and the rates were further adjusted in the dry land having regard to the grouping and in wet lands having regard to the water supply. But in both the cases, the quality and the grade of the soil divided in "Taram" or'Bhaganas' as the case may be, was the main basis for assessment."*

13. Several judgments laying down the principles for the purpose of determining whether a land is capable of being used as agricultural

land or not, were cited by the learned counsel for declarants, namely, (1) Gayatri Salt Works and another v. The Government of A.P. AIR 1975 AP 262, (2) Commissioner of Wealth-tax, A.P v. Officer-in-charge, AIR 1977 SC 113 (3) Officer-in-charge (Court of Wards) Paigah, Sir Vicar-ul-Umra, Hyderabad v. The Commissioner of Wealth – Tax, Andhra Pradesh, Hyderabad, AIR 1969 AP 345 (FB), (4) Smt. Sarifabibi Mohmed Ibrahim and others v. Commissioner of Income-tax, Gujarat AIR 1993 SC 2585 and (5) K.Kunhambu v. Smt. Chandramma and others, AIR 2004 SC 4599. In view of the admitted factual position as to the nature of the subject lands that they were not used nor capable of being used for agricultural purpose, this question does not fall for consideration. Hence, it is unnecessary to go in to the same.

14. For all the above reasons, it has to be held and is accordingly held that the Act has no application to the subject lands and the proceedings initiated by the LRT are without any jurisdiction. The Appellate Tribunal has rightly held that the lands are not agricultural lands. In that view of the matter, there was no justification for the Appellate Tribunal to remand the matter. This aspect is separately dealt with below.

II. Point No.2:

Whether the conversion orders issued by the District Collector under Section 61 of the Land Revenue Act are not valid?

15. It is the case of the declarant from the beginning as stated in their objections that since the lands are held under Ryotwari Patta, application for conversion under Section 61 of the Land Revenue Act was filed and conversion orders were obtained. Therefore, the permission of the District Collector was required to use the land for the purpose of other than agricultural. Once, the permission is accorded, the land subject to special assessment as non-agricultural land under Rule 71 of the Land Revenue Rules, 1951. It could no longer be treated or classified as agricultural land at all. It was not a 'land' under the Act, even before.

16. The details of the conversion proceedings/orders were given by the declarants in the annexures to their objections to the verification reports. They have filed these conversion orders and even summoned those orders from the office of the District Collector in their appeals, which form part of the record. At any rate, the conversion orders are not in dispute, which is an admitted fact. These conversion orders were obtained by the vendors before the sale to declarants and in some cases the declarants also obtained.

17. It is significant to note that the conversion orders were issued by the District Collector, on the recommendations of the Tahsildar/MRO

concerned and the RDO concerned, who constitutes the LRT itself. The order were extracted above. It is the grievance of the appellants that the Tahsildar/MRO sent verification reports, contrary to their recommendations and orders of the Collector and the LRT accepted them, ignoring its own recommendations and the Appellate Tribunal rightly held that the verification reports are illegal.

18. It is rightly contended by the declarants that these conversion orders operate as estoppel. The declarants acted upon the conversion orders and accordingly developed the lands into an integrated Film City, setting a world record and earning the certificate from the Guinness Book of World Records. Therefore, the state is estopped from denying the validity.

19. There is no dispute that Section 61 of the Land Revenue Act provides for permission for conversion and the Collector is the competent authority. Hence, the conversion orders are valid and competent.

20. As rightly pointed out by the Appellate Tribunal, the conversion orders are still valid and subsisting and binding on the Government and the affidavit filed by the District Collector on Oath, on behalf of the State, District Collector, LRT and the authorised officer in WP

No.10623/1998 also binds state. It is a statement of fact that was made and as held by the Hon'ble Supreme Court in Basant Singh Vs. Kishundhari Singh reported in AIR 1967 SC 341 in para-54 page 343, the admissions made in some other suit, also can be used against the party making such admissions.

21. The contention of the learned Government Pleader that there cannot be any estoppel against the statute cannot be countenanced. As already stated, it is only an admission with regard to a fact, which is still not in dispute, namely the non-agricultural character of the subject lands. It is an admission of fact. There is no concession made with regard to the provisions of the Act in the affidavit filed in WP No.10623/1998 and therefore the principle that there cannot be an estoppel against the statute, has no application.

22. The other contention of the learned Government Pleader is that the conversion orders are contrary to Section 17 of the Act. There is nothing in Section 17 of the Act, which prohibits the District Collector from granting permission under Section 61 of the Land Revenue Act. The legislature is presumed to know the existing law and if there is no bar from granting such permission and therefore, the proceedings

issued by the District Collector in exercise of statutory power under Section 61 of the Land Revenue Act, cannot be treated as illegal.

23. Further, as already pointed above, the expression used in Section 17 of the Act, with reference to conversion is not ‘land’ but, ‘agricultural land’. When the statute uses different expressions, they connote different meanings. Reliance is placed on Union of India and another v. Hansoli Devi and others, AIR 2002 SC 3240. The prohibition is not with regard to ‘land’, but with regard to ‘agricultural land’. Admittedly, the subject lands are non-agricultural lands and therefore the prohibition for conversion under Section 17 of the Act, has no application at all. Further, as rightly argued, there can’t be conversion of non-agricultural land into non-agricultural. Hence, argument that Section 17 of the Act renders the conversion orders as illegal, cannot be accepted. ***In Sarifabibi Mohmed Ibrahim v. CIT*, 1993 Supp (4) SCC 707 at page 712, it was held :**

12. *Whether a land is an agricultural land or not is essentially a question of fact. Several tests have been evolved in the decisions of this Court and the High Courts, but all of them are more in the nature of guidelines. The question has to be answered in each case having regard to the facts and circumstances of that case. There may be factors both* *for and against a particular point of view. The Court has to answer the question on a consideration of all of them — a process of evaluation. The inference has to be drawn on a cumulative consideration of all the relevant facts.*

23. Now, we may consider the various circumstances appearing for and against the appellants' case. The facts in their favour are: land being registered as agricultural land in the Revenue records; payment of land revenue in respect thereof till the year 1968-69; absence of any evidence that it was put to any non-agricultural use by the appellants; that the land was actually cultivated till and including the agricultural year 1964-65; that there were agricultural lands abutting the said land and that the appellants had no other source of income except the income from the said land. As against the above facts, the facts appearing against their case are: the land was situated within the municipal limits — it was situated at a distance of one kilometre from the Surat railway station; the land was not being cultivated from the year 1965-66 until it was sold in 1969, the appellants had entered into an agreement sale with a Housing Cooperative Society to sell the said land for an avowed non-agricultural purpose namely construction of houses; they had applied in June, 1968 and March, 1969 for permission to sell the said land for non-agricultural purposes under Section 63 of *the Bombay Tenancy and Agricultural Lands Act and obtained the same on April 22, 1969; soon after obtaining the said permission they executed sale-deeds in the following month i.e., in May, 1969; the land was sold at the rate of Rs.23 per sq.yd. and the purchaser-society commenced construction operations within three days of purchase. What is the inference that flows from a cumulative consideration of all the aforesaid contending facts? This question has to be answered keeping the criteria evolved in Begumpet Palace case [(1976) 3 SCC 864 : 1976 SCC (Tax) 411 : (1976) 105 ITR 133] set out hereinbefore.* ***In our opinion, the entering into the agreement to sell the land for housing purposes, the applying and obtaining the permission to sell the land for non-agricultural purposes under Section 63 of the Bombay Tenancy and Agricultural Lands Act and its sale soon thereafter and the fact that the land was not cultivated for a period of four years prior to its sale coupled with its location, the price at which it was sold do outweigh the circumstances appearing in favour of the appellants' case. The aforesaid facts do establish that the land was not an agricultural land when it was sold.*** *The appellants had no intention to bring it under cultivation at any time after 1965-66 — certainly not after they entered into the agreement to sell the same to a Housing Cooperative Society. Though a* *formal permission under Section 65 of the Land Revenue Code was not obtained by the appellants, yet their intention is clear from the fact of their application for permission to sell it for a non-agricultural purpose under Section 63 of the Bombay Tenancy and Agricultural Lands Act."(Emphasis Supplied)*

24. The other contention raised by the learned Government Pleader to assail the conversion orders is, by resort to non-obstante clause in Section 28 of the Act. As already pointed out above, the Land Reforms Act to declare such proceedings invalid. The Act does not provide for mode or manner of conversion. It is the Land Revenue Act, which provides for the machinery and procedure thereof. Therefore, there is no inconsistency between the two enactments and they operate in two different fields altogether.

25. As rightly argued on behalf of the declarants, no inconsistency pointed out either by the LRT or by the learned Government Pleader to invoke the non obstante clause. The non obstante clause does not operate as repeal of existing law, but is only a device to resolve the inconsistency if any, between two or more enactments, as held in AIR 1952 SC 369, 1995 (4) SCC 190, AIR 2002 SC 1340 (para 4 @ page 1345), AIR 1986 SC 1370 (para 63 @ 1402), AIR 2001 SC 1832 (para

18 @ 1842**)**. In the present case, there is no inconsistency between the enactments and hence, Section 28 of the Act, has no application.

26. The endeavour of the court shall be to sustain all those provisions and read them, harmoniously and not to cut down any provision. Reliance is placed on *A.G. Varadarajulu v. State of T.N.*, (1998) 4 SCC 231 at page 236 and *R.S. Raghunath v. State of Karnataka*, (1992) 1 SCC 335 : 1992 SCC (L&S) 286 : (1992) 19 ATC 507 at page 345, where the case law was reviewed.

27. In AIR 1998 SC 1388, arising out of Tamil Nadu Land Reforms Act, the effect of non-obstante clause appearing in Section 21-A thereof, was considered and it was held at para 16 and 17 as follows:

"16. It is well settled that while dealing with a non obstante clause under which the legislature wants to give overriding effect to a section, the Court must try to find out the extent to which the legislature had intended to give one provision overrding effect over another provision. Such intention of the legislature in this behalf is to be gathered from the enacting part of the section. In Aswini Kumar V. Arbinda Bose, AIR 1952 SC 369, Patanjali Sastri, J., observed: "The enacting part of a statute must, where it is clear, be taken to control the non-obstante clause where both cannot be read harmoniously". In Madhav Rao

Scindia V. Union of India, (1971) 1 SCC 85 (at 139): (AIR 1971 SC 530) Hidayatullah, CJ, observed that the non obstante clause is no doubt a very potent clause intended to exclude every consideration arising from other provisions of the same statute or other statute but "for that reason alone we must determine the scope" of that provisions strictly. ***When the section containing the said clause does not refer to any particular provisions which it intends to override but refers to the provisions of the statute generally, it is not permissible to hold that it excludes the whole Act and stands all alone by itself. "A search has, therefore, to be made with a view to determining which provision answers the description and which does not".***

17. It will be noticed that Section 21A refers specifically to Section 22 of the Act but with regard to other provisions of the Act, it is silent. It says that certain partitions and transfers are to be valid notwithstanding any other provision of the Act. Therefore, basically, Section 21A is intended to treat as valid such partitions or transfers as are mentioned in Section 21A even if such partitions or transfers would otherwise have been invalid. Now Section 3 (42) does not deal with invalidity of partition or transfers but deals with stridhana land. The subject matter of the enacting part of Section 21A does not have any connection with the subject-matter of Section 3 (42). Hence, it is clear that the non *obstante clause in Section 21A was not intended to override anything in Section 3 (42)."(Emphasis Supplied by me)*

28. The LRT and the learned Government Pleader relied on the object and reasons of the Act, to assail conversion orders. It is their contention that if the conversion is permitted, then all the lands can be converted into non-agricultural purposes and the objects of Act can be defeated. But, this is possible only if the lands can be converted unilaterally by the land owners. There is no scope for unilateral conversions by the owners either under the Act or under the Land Revenue Act. The conversions can be permitted only by the Collector under Section 61 of the Land Revenue Act and the Collector takes proper care that the provisions of law not violated. In fact, before the conversion orders issued by the Collector in respect of the subject lands, reports were called from the Revenue Divisional Officer, who is ex officio, the Chairman of the LRT. It is only on satisfaction that there was no such violation of not only the Act, but other relevant statutes, the permission was granted, as already noted. That is the reason why, both Section 7(3) and Section 17 (1) of the Act, prohibit voluntary conversions and not the conversions that are permitted by the competent authority. They purposely use the expression, 'agricultural land' in contra distinction to the expression 'land' in the rest of the statute.

29. When the provision of the statute is clear, one shall not assume or search for ambiguity, just because there is an non obstante clause. In *Union of India v. Hansoli Devi*, (2002) 7 SCC 273: 2002 SCC OnLine SC 858 at page 280, it is held:

9. *Before we embark upon an inquiry as to what would be the correct interpretation of Section 28-A, we think it appropriate to bear in mind certain basic principles of interpretation of a statute. The rule stated by Tindal, C.J. in Sussex Peerage case [(1844) 11 Cl & Fin 85 : 8 ER 1034] still holds the field. The aforesaid rule is to the effect : (ER p. 1057)*

"If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case, best declare the intention of the lawgiver."

It is a cardinal principle of construction of a statute that when the language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. In Kirkness v. John Hudson & Co. Ltd. [(1955) 2 All ER 345:1955

AC 696: (1955) 2 WLR 1135] Lord Reid pointed out as to what is the meaning of "ambiguous" and held that : (All ER p. 366 C-D)

"A provision is not ambiguous merely because it contains a word which in different contexts is capable of different meanings. It would be hard to find anywhere a sentence of any length which does not contain such a word. A provision is, in my judgment, ambiguous only if it contains a word or phrase which in that particular context is capable of having more than one meaning."

In *State of Maharashtra v. B.E. Billimoria*, (2003) 7 SCC 336 at page 347: 2003 SCC OnLine SC 858 , it is held in Paras 21 to 24, as under:

"21. *The only question which survives for our consideration is as to whether for the purpose of determination of ceiling area, the land over which the flats of the respondents situated at Bombay were required to be taken into consideration for the purpose of sub-section (9) of Section 4 of the Act. So far as those flats in Bombay are concerned, the respondents did not hold any vacant land appurtenant thereto. They were entitled, as a matter of right, to exclusively possess and own the structure alone. No land appurtenant to the said structure exclusively belongs to them.*

22. *The said* ***Act being an expropriatory legislation is required to be construed strictly.*** *[See DLF Qutab Enclave Complex Educational*

Charitable Trust v. State of Haryana [(2003) 5 SCC 622: (2003) 2 Scale 145] (Scale para 41).]

23. *In Bhavnagar University v. Palitana Sugar Mill (P) Ltd. [(2003) 2 SCC 111] this Court held: (SCC pp. 121 & 125, paras 27 & 40)*

"27. An owner of a property, subject to reasonable restrictions which may be imposed by the legislature, is entitled to enjoy the property in any manner he likes. A right to use a property in a particular manner or in other words a restriction imposed on user thereof except in the mode and manner laid down under the statute would not be presumed.

** * **

40. The statutory interdict of use and enjoyment of the property must be strictly construed. It is well settled that when a statutory authority is required to do a thing in a particular manner, the same must be done in that manner or not at all. The State and other authorities while acting under the said Act are only creature of statute. They must act within the four corners thereof."

25. The exclusionary clauses contained in the definition of "vacant land" must, therefore, receive a liberal construction."

(emphasis supplied)

30. Further, the finding of the LRT and the contention of the learned Government Pleader that after notified date, no conversions can be

permitted cannot be accepted. It is not as if Section 17 prohibits conversion of all agricultural lands. It applies only in certain situation contemplated therein. Further, it is only the voluntary conversions by the land owner is holding agricultural land in excess of ceiling limit, which are prohibited to convert agricultural land into non-agricultural land, till declaration, determination and surrender of the surplus land. As already stated, the competent authority under Section 61 of the Land Reforms Act, scrutinises which lands can be permitted to be converted. Further, freezing all the lands for Agriculture forever, is not the remotest object of the Act.

31. The observations of the Hon'ble Supreme Court in Ramji Sharma v. State of Bihar, (1996) 10 SCC 671 at page 674, arising under the Bihar Land Reforms Act, are illuminating and are apt to the present case. It is held as under:

"4. The question which is to be answered is as to whether the expression 'land' as defined in the Act will include not only the lands which are being used or capable of being used for agriculture or horticulture purposes but also lands within the urban areas meant for building purposes. It is well known that in and around the towns and urban areas at one point of time most

of the lands were being used for agriculture or horticulture purposes. With growth of population and development activities slowly-slowly such agricultural lands are converted to uses which are non-agricultural. Many colonies have been developed by the side of the old cities which at one point of time were agricultural fields and crops used to be grown. But with passage of time and cry for more plots of land for construction of buildings they lost their original character and purpose. It appears that the framers of the Act were quite conscious of this aspect of the matter, that is why while defining 'land' they laid much emphasis in respect of the nature of use such land was being put to by saying that it meant land which is used or capable of being used for agriculture or horticulture or the homestead of the landholder. It need not be pointed out that the sole object of the Act is to put ceiling on the lands held by landholders for agriculture or horticulture purposes and to declare the areas beyond the ceiling as surplus which shall vest in the State Government. In this background neither it can be assumed nor it can be held that the framers of the Act had in mind even the lands which are in the heart of the cities meant for construction of buildings. It is a matter of common

knowledge that even in areas which are completely urban in nature or even in a colony some plots are lying vacant as no constructions have been made over the same for one reason or the other including financial constraint. Till constructions are made they are being used for growing some crops or fruits. But can it be said that such plots which are meant for building purposes shall be deemed to be land within the meaning of Section 2(f) of the Act? According to us, the answer is in negative*. Whenever an application under sub-section (3) of Section 16 is filed, which is in respect of a land within the urban area, the authorities or the High Court concerned should first examine what is the primary object for which such land was being used or is capable of being used. If it is found that the land was being retained by the transferor or was being transferred to another person for a purpose and object which is not connected with agriculture then an application under sub-section (3) of Section 16 should not be entertained. On the other hand, if the authorities or the High Court are satisfied that the land which has been transferred is fully covered by the definition of land as given under Section 2(f) then provisions of the Act have to be applied for examining the question as to whether the applicant was entitled for retransfer in his favour from the transferee on the same terms and conditions. A Full*

Bench of the Patna High Court in the case of Fakir Mohd. v. Salahuddin [AIR 1975 Pat 119 : 1975 Pat LJR 1 : ILR (1974) 53 Pat 730] , presided over by N.L. Untwalia, C.J. (as he then was) examined the scope of the expression 'land' as defined in Section 2(f) of the Act. It was observed:

"The consensus of opinion — and, as I shall presently show, there is no conflict in any of the decisions — is that a parti piece of land belonging to a raiyat, an agriculturist, which is his homestead on which there is no dwelling house or any of the things as mentioned in the Explanation, is not a land covered by the Act. It has been further pointed out that a land fit for building purposes not connected with agriculture situated ordinarily and generally in town or bazaar areas, to which are applicable the provisions of the Transfer of Property Act, is not the homestead of a landholder to make it a land within the meaning of Section 2(f)." (Emphasis is in original)

We are in agreement with the view expressed in the aforesaid judgment of the Full Bench.

5. *So far the facts of the present case are concerned, the High Court has rejected the contention that the land in question can be held to be land within the meaning of Section 2(f) merely because in the Kathian*

Entry it had been recorded as Bhit land. The High Court in the impugned order has observed:

"It goes without saying that all the urban lands at some point of time or the other were rural in nature where agricultural operations were carried on. Therefore, mere description of the land as a Bhit land by the survey authorities would not be a conclusive proof that the land was agricultural in nature. The fast development and urbanisation of the town of Hajipur which has very recently been made a district, cannot be lost sight of. *Therefore, I would accept the second contention of Mr Krishna Prakash Sinha and hold that the pre-emptor has not succeeded in establishing his case that the disputed land was a land within the meaning of the provisions of the Act to which the provisions of Section 16(3) would apply."*

In view of the findings recorded by the High Court that the lands which have been transferred were in the town of Hajipur and in the urban area, the application filed under sub-section (3) of Section 16 has been rightly dismissed. Accordingly, the appeal fails and it is dismissed. There shall be no orders as to cost."

32. The principles laid down in the aforesaid judgments of the Hon'ble Supreme Court arising out of the statutes dealing with the ceiling on holdings, leave no room for the state to contend that in view of the objects of the Land Reforms Act, Sections 17 and 28 of the Act, shall be interpreted so widely, beyond the clear and unambiguous language of the said provisions, cannot be accepted.

33. In fact, it is brought on record in the present case that the villages in which the subject lands are situated, are notified under the Hyderabad Metropolitan Development Authority Act, 2008 and under the master plan the subject lands are reserved for, by issuing notifications under the said Act. There is no dispute with regard to these documents and at any rate as rightly contended on behalf of the declarants, these statutes and notifications made thereunder and published in the official Gazette held to be taken judicial notice by the Court under Section 56 and 57 of the Evidence Act. Hence, I.A.No.1 of 2022 is liable to be allowed and G.O. Ms.No.33 dated 24.01.2013 and the maps annexed thereto, be taken on record. I.A.No.1 of 2022 is accordingly allowed.

Point No. III:

Whether the Appellate Tribunal is justified in remanding the matter?

34. In view of its own findings by the Appellate Tribunal that the subject lands are not ‘land’ within the meaning of the Act, the proceedings under the Act, are without jurisdiction. There is no justification for the Appellate Tribunal for remanding the matter. All the additional documents are public documents, village maps, topo sheets of the survey of India, permissions for Conversions issued by the District Collector, counter affidavit filed in WP No.No.10623/1998, encumbrance certificates, and proceedings of the Collector under Section 47A of the Indian Stamp Act etc., the Appellate Tribunal allowed I.A. No.838 of 2011 for additional evidence and it became part of the record. These documents are not disputed and are part of the record of the government itself. In such case, no proof is required to mark them. In fact, the government is expected to produce all the documents in its possession and cannot withhold them.

35. Both parties assail the remand order. The LRT passed order only on it’s own interpretation of Section 17 and 28. The state entirely advanced legal arguments before the Appellate Tribunal, as is evident from the written arguments filed on behalf of the authorised officer, which is part of the record. The entire record of the both the Tribunals is received by this court for examination in these revisions at the time of hearing.

36. In view of the same, the matter could be decided on the basis of the record, admitted facts and documents. In fact, the appellate Tribunal rightly found that the subject lands are not 'land' within the meaning of the Act, which clinched the issue. Hence, remanding matter to the LRT which has no jurisdiction is illegal. This point is decided accordingly.

Point No. IV:

Whether the memo filed before the LRT was in order?

37. In view of the docket orders dated 30.7.2007 of the LRT, the memo was filed during the proceedings itself and not subsequently. This is sufficient compliance of the requirement of law as laid down by the Hon'ble Supreme Court to dispute to be raised in respect of the proceedings before any Court.*In State of Maharashtra v. Ramdas Shrinivas Nayak*, (1982) 2 SCC 463: 1982 SCC (Cri) 478 at page 467, it was held in Para 4 as under:

4. *When we drew the attention of the learned Attorney-General to the concession made before the High Court, Shri A.K. Sen, who appeared for the State of Maharashtra before the High Court and led the arguments for the respondents there and who appeared for Shri Antulay before us intervened and protested that he never made any such concession and invited us to peruse the written submissions made by* *him in the High Court. We are afraid that we cannot launch into an enquiry as to what transpired in the High Court. It is simply not done. Public policy bars us. Judicial decorum restrains us. Matters of judicial record are unquestionable. They are not open to doubt. Judges cannot be dragged into the arena. "Judgments cannot be treated as mere counters in the game of litigation." [Per Lord Atkinson in Somasundaram Chetty v. Subramanian Chetty, AIR 1926 PC 136: 99 IC 742] We are bound to accept the statement of the Judges recorded in their judgment, as to what transpired in court. We cannot allow the statement of the Judges to be contradicted by statements at the Bar or by affidavit and other evidence. If the Judges say in their judgment that something was done, said or admitted before them, that has to be the last word on the subject.* ***The principle is well-settled that statements of fact as to what transpired at the hearing, recorded in the judgment of the court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence. If a party thinks that the happenings in court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the minds of the Judges, to call the attention of the very Judges who have made the record to the fact that the statement made with regard to his***

conduct was a statement that had been made in error. [Per Lord Buckmaster in Madhu Sudan Chowdhri v. Chandrabati Chowdhrain, AIR 1917 PC 30: 42 IC 527] That is the only way to have the record corrected. *If no such step is taken, the matter must necessarily end there. Of course a party may resile and an appellate court may permit him in rare and appropriate cases to resile from a concession on the ground that the concession was made on a wrong appreciation of the law and had led to gross injustice; but, he may not call in question the very fact of making the concession as recorded in the judgment. (Emphasis supplied by me)*

38. In view of the above, the memos filed by the declarants on 30.7.2007 objecting to the procedure adopted by the LRT was proper and in order and the Appellate Tribunal is wrong in finding fault with the said memo. Whether there is such memo or not, it is the duty of the LRT to conduct the proceedings in accordance with law, particularly Rule 16 (1) of the Land Reforms Rules and could not have ignored the memo. At any rate, this question became academic, in view of the conclusions reached by the Appellate Tribunal itself.

39. Therefore, the CRP is filed by the declarants, namely CRPs No.2550, 2559, 2491, 2493, 2497, 2498 and 2499 of 2014 are liable to be allowed and accordingly allowed. The CRPs filed by the state, namely

CRP.Nos. 3253, 3224 and 3961 of 2013 and 2490, 2492, 2495 and 2496 of 2014 are liable to be dismissed and are accordingly dismissed. Parties shall bear their own costs.

Consequently, Miscellaneous applications if any, are closed.

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JUSTICE SAMBASIVA RAO NAIDU

Date: 09.12.2022
PLV