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APHC010551992018

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3333]
(Special Original Jurisdiction)

THURSDAY, THE 19th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 26122/2018

Between:

1. MD. SULEMAN, S/O. MOHAMMAD GOUSE, AGED ABOUT 78 YEARS, OCC. BUSINESS R/O. D.NO.8-13-69, KATTAVARI STREET, VYNCHIPET, VIJAYAWADA - 520001.

2. MOHAMMAD ANWARANUSSIA BEGUM (DIED), W/O. MD. SULEMAN, AGED ABOUT 70 YEARS, OCC. HOUSEWIFE, R/O. D.NO.8-13-69, KATTAVARI STREET, VYNCHIPET, VIJAYAWADA - 520001.

3. MOHAMMED RIYAZ, S/O MD. SULEMAN, AGED 59 YEARS, 8-14-26, KOPPULA VARI STREET, VYNCHIPET, VIJAYAWADA 520 001.

4. MUNVARUNNISA C/O MIR GHIASUDDIN, AGED 49 YEARS, 10-42/1, FLAT NO. 103,1ST FLOOR, AR RESIDENCY, FAROOQ NAGAR. KANURU, VIJAYAWADA (URBAN) - 520 007

5. MOHAMMAD ARIF C/O MD. SULEMAN, AGED 47 YEARS, 8-14-26-3, KOPPULA VARI VEEDHI, VYNCHIPETA, VIJAYAWADA (URBAN) -520 001.

6. MOHAMMAD RAHIMUNNISA,, W/O MOHAMMAD FAIZUDDIN AGED 46 YEARS, 8-14-26, KOPPULA VARI STREET, VYNCHIPETA, VIJAYAWADA (URBAN) -520 001

7. MOHAMMED KHADIR AHMED,, S/O. MD. SULEMAN, AGE 41 YEARS, 8-14-26-3, KOPPULA VARI VEEDHI, VYNCHIPETA, VIJAYAWADA (URBAN) - 520 001. PETITIONER NOS. 3 TO 7 ARE BROUGHT ON RECORD AS L.RS OF THE DECEASED 2ND PETITIONER AS PER THE COURT'S ORDER DT.29.10.2025 IN I.A.NO.01 OF 2025.

...PETITIONER(S)

AND

1. THE STATE OF ANDHRA PRADESH REP BY ITS PRINCIPAL SECRETARY, (REVENUE) UC - II SECRETARIAT BUILDINGS, HYDERABAD.

2. THE STATE OF ANDHRA PRADESH REP BY ITS PRINCIPAL SECRETARY, (REVENUE) UC - I SECRETARIAT BUILDINGS, HYDERABAD.

3. SPECIAL OFFICER AND COMPETENT AUTHORITY, URBAN LAND CEILING, VIJAYAWADA, KRISHNA DISTRICT, A.P.

4. THE COMMISSIONER AND INSPECTOR GENERAL OF, REGISTRATION AND STAMPS, ANDHRA PRADESH, HYDERABAD.

5. THE SUBREGISTRAR STAMPS AND REGISTRATION, VIJAYAWADA, KRISHNA DISTRICT, A.P.

6. DISTRICT COLLECTOR, KRISHNA DISTRICT, MACHLIPATNAM. ANDHRA PRADESH.

7. DISTRICT REVENUE OFFICER, KRISHNA DISTRICT, MACHILIPATNAM. ANDHRA PRADESH.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased toIssue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in including the property of the petitioners in Sy.No.40/P admeasuring 928.11 Sq. Meters, Situated in Machavaram Village, Vijayawada Corporation by issuing G.O. Ms.No.1400 dated 28.11.2008 U/s 22-A of the Indian Registration Act, 1908 by declaring the in-alienation condition in the G.O.Ms.No.1044 Revenue UC - I Department dated 11.10.1994 as inapplicable and to consequently quash G.O.Ms. No. 1400 dated 28.11.2008 as being illegal and unconstitutional by declaring that the petitioners are entitled to hold the property in Sy.No.40/P of an extent of 928.11 Sq. Meters of Machavaram village, Vijayawada Corporation free of all encumbrances in view of the fact that the Act of 1976 has been repealed as a result of which the conditions in G.O.Ms.No.1044 Revenue UC - I Department dated 11.10.1994 are non-est and unenforceable and pass

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased direct the respondents to permit registration of the property of petitioners in Sy.No.40/P of an extent of 928.11 Sq. Meters of Machavaram village, Vijayawada Corporation during the Pendency of this Writ Petition and pass

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to bring on record the proposed petitioners No.3 to 7 herein as LRs of deceased writ petitioner no. 2 in WP.No.26122 of 2018 and pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to grant leave to the petitioner henein/Respondent No.3 in the W.P.No.26122 of 2018 to file counter affidavit in the above Writ Petition and pass

IA NO: 2 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to permit the petitioner herein to amend the Main Prayer of the W.P No.26122 of 2018, by substituting the existing main prayer, with the below mentioned prayer INSTEAD OF It is therefore prayed that this Honble Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus de claring the action of the respondents in including the property of the petitioners in Sy.No.40/P admeasuring 928.11 Sq. Meters, Situated in Machavaram Village, Vijay awada Corporation by issuing G.O. Ms.No. 1400 dated 28.11.2008 U/s 22-A of the Indian Registration Act, 1908 by declaring the in-alienation condition in the G.O.Ms.No. 1044 Revenue UC-1 Department dated 11.10.1994 as inapplicable and to consequently quash G.O.Ms. No. 1400 dated 28.11.2008 as being illegal and un constitutional by declaring that the petitioners are entitled to hold the property in Sy.No.40/P of an extent of 928.11 Sq. Meters of Machavaram village, Vijayawada Corporation free of all encumbrances in view of the fact that the Act of 1976 has been repealed as a result of which the conditions in G.O.Ms.No.1044 Revenue UC -1 De partment dated 11.10.1994 are non-est and unenforceable and pass such other order or orders, that this Hon'ble Court may deem fit and proper in the circumstances of the case. AS It is therefore prayed that this Hon'ble Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus, (i) the action of the respondents in including the property of the petitioners in Sy.No.40/P admeasuring 928.11 Sq. Meters situated in Machavaram Village, Vijayawada Corporation by

issuing G.O.Ms.No.1400 Revenue (UC.I) Department dated 28.11.2008 U/s 22-A of the Registration Act, 1908 by declaring the in-alienation condition in G.O.Ms.No.1044 Revenue (UC.I) Department dated 11.10.1994 as inapplicable, (j) the endorsement bearing No. Rc.CC/A2/2804/84 dated 24.05.2018 issued by the 3rd respondent (Joint Collector & Competent Authority, Urban Land Ceiling, Vijayawada), purporting to reject the petitioners request for deletion of the subject land from the prohibitory list / regularisation of the land and to treat the land as ceiling surplus / Government land, as illegal, arbitrary, passed without proper service or communication to the petitioners, violative of Articles 14, 21 and 300-A of the Constitution of India, and void ab initio and (k) To consequently Quash G.O.Ms No 1400 dated 28.11.2008 as being illegal and unconstitutional by declaring that the petitioners are entitled to hold the property in Sy.No. 40/P of an extent of 928.11 Sq.meters of Machavaram Village, Vijayawada Corporation free of all encumbrances in view of the fact that the Act of 1976 has been repealed as a result of which the conditions in G.O.Ms No. 1044 Revenue UC-I Department dated 11.10.1994 are non-est and unenforceable. (l) And pass

Counsel for the Petitioner(S):

1. P SRI RAM

Counsel for the Respondent(S):

1. GP FOR REVENUE (AP)

The Court made the following:

ORDER:

1) Initially, the present Writ Petition came to be filed under Article 226 of the Constitution of India seeking the following relief:-

> "…. to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in including the property of the petitioners in Sy.No.40/P admeasuring 928.11 Sq.Meters, Situated in Machavaram Village, Vijayawada Corporation by issuing G.O.Ms.No.1400 dated 28.11.2008 U/s 22-A of the Indian Registration Act, 1908 by declaring the in-alienation condition in the G.O.Ms.No.1044 Revenue UC-I Department dated 11.10.1994 as inapplicable and to consequently quash G.O.Ms.No.1400 dated 28.11.2008 as being illegal and unconstitutional by declaring that the petitioners are entitled to hold the property in Sy.No.40/P of an extent of 928.11 Sq.Meters of Machavaram village, Vijayawada Corporation free of all encumbrances in view of the fact that the Act of 1976 has been repealed as a result of which the conditions in G.O.Ms.No.1044 Revenue UC-I Department dated 11.10.1994 are non-est and unenforceable and pass….."

2) Later, the prayer was amended vide order dated 19.11.2026 passed in I.A.No.2 of 2026, which is as follows:

"……to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus,

(a) the action of the respondents in including the property of the petitioners in Sy.No.40/P admeasuring 928.11 Sq. Meters situated in Machavaram Village, Vijayawada Corporation by issuing G.O.Ms.No.1400 Revenue (UC.I) Department dated 28.11.2008 U/s 22-A of the Registration Act, 1908 by declaring the in-alienation condition in G.O.Ms.No.1044 Revenue (UC.I) Department dated 11.10.1994 as inapplicable,

(b) the endorsement bearing No. Rc.CC/A2/2804/84 dated 24.05.2018 issued by the 3rd respondent (Joint Collector & Competent Authority, Urban Land Ceiling, Vijayawada), purporting to reject the petitioners request for deletion of the subject land from the prohibitory list/ regularisation of the land and to treat the land as ceiling surplus/ Government land, as illegal, arbitrary, passed without proper service or communication to the petitioners, violative of Articles 14, 21 and 300-A of the Constitution of India, and void ab initio and

(c) To consequently Quash G.O.Ms.No.1400 dated 28.11.2008 as being illegal and unconstitutional by declaring that the petitioners are entitled to hold the property in Sy.No.40/P of an extent of 928.11 Sq.meters of Machavaram Village, Vijayawada Corporation free of all encumbrances in view of the fact that the Act of 1976 has been repealed as a result of which the conditions in G.O.Ms No.1044 Revenue UC-I Department dated 11.10.1994 are non-est and unenforceable,

(d) and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case"

3) The brief facts of the case are as follows:

The petitioners obtained joint rights over the land of Ac.0.60 cents by way of gift deed from the mother-in-law of petitioner No.1, who is none other than the mother of the petitioner No.2 by virtue of document No.1414 of 1965 dated 22.04.1965, and since then they have been in continuous possession and enjoyment of the said land. Since the land is within the urban agglomeration of Vijayawada, the property of an extent of 928.11 Sq.Mtrs was declared as surplus land under the Urban Land (Ceiling and Regulation) Act 1976. Since the property is a low lying property and that petitioner No.1 is a handicapped person by birth besides the fact that his wife i.e. petitioner No.2 herein is a heart patient, they made an application to the Government of Andhra Pradesh for grant of exemption of an extent of 928.11 Sq. Meters. The Government after careful consideration, exercised its power under Section 20 (1) (B) of the Urban Land (Ceiling 86 Regulation) Act, 33 of 1976 issued G.O.Ms.No.l044, dated 11.10.1994 granting exemption subject to the condition that it is for retention and not for sale.

4) While so, the Government of Andhra Pradesh adopted the repeal Act, 1999 with effect from 27.03.2008. In view of the same, any embargo on the holding of the property in terms of Urban Land (Ceiling and Regulation) Act is no longer applicable. Accordingly, for the livelihood as well as to redeem loans and encumbrances, the petitioners wanted to dispose of some portion of said property. Thereupon, they realized that this property has been notified by respondent Nos.1 and 2 as Government property and has been included in the list under Section 22 (A) of the Indian Registration

Act, as a result of which, respondent No.4 herein is not permitting registration. Therefore, they made a representation to the District Registrar and also to the respondent Nos.1 and 2. However, the respondents have not taken any action.

5) It is further stated that once the Act 33 of 1976 is repealed, the repeal Act itself provide two contingencies. One of such is, whoever is holding possession will continue to hold the same unless possession is taken under Section 10 (6) of the Act 33 of 1976. In the present case, the possession is still with the petitioners and the matter has not gone up to 10 (6) of the Act 33 of 1976. Therefore, on this count, the petitioners are entitled to hold the land without any encumbrances. Thus, the petitioners are entitled to hold and dispose of the property as absolute owners of the same. Even otherwise, since the land was exempted and the petitioners were holding the same till the Act 33 of 1976 was in force, the condition of non-alienation would only operate till the repeal of the Act. Once the Act is repealed, the condition imposed in G.O.Ms.No.1044 dated 11.10.1994 has no bearing. In that view of the matter also, the subject land is free from all encumbrances. The action of the respondents in including the land of the petitioners in the list of prohibited properties notified under Section 22 (A) of the Indian Registration Act is ex-facie illegal. Hence, it is imperative that the respondents should delete the land from the list and permit registration of the property as it is violative of Article 300-A of the Constitution of India, which is being arbitrary and illegal under Articles 14 and 21 of the Constitution of India.

6) It is further submitted that under similar circumstances in Writ Petition No.26474 of 2009 this Court, by order dated 24.08.2011 clearly held that, when the principal Act of 1976 itself has been repealed, the conditions imposed under the principal act are un-enforceable and are non-est in the eyes of law. Therefore, action of the respondents in issuing G.O.Ms.No.1400 dated 28.11.2008 U/s 22-A prohibiting registration is wholly illegal and contrary to the principle laid down in W.P.No.26474 of 2009 as the conditions imposed vide G.O.Ms.No.1044, dated 11.10.1994 have now become unenforceable and non-est in the eyes of law.

7) It is the further case of the petitioners that they have earlier filed Writ Petition No.35601 of 2014 seeking to declare the action of the respondents in including the property of the petitioners in Sy.No.40/P admeasuring 928.11 Sq.Meters Situated in Machavaram Village Vijayawada Corporation by issuing G.O.Ms.No.1400 dated 28.11.2008 Under Section 22A of the Indian Registration Act, 1908 by declaring the in-alienation condition in the G.O.Ms.No.1044 Revenue (UC I) Department dated 11.10.1994 as inapplicable and to consequently quash G.O.Ms.No.1400 dated 28.11.2008 as being illegal and unconstitutional. On 02.03.2016, the Hon'ble Division Bench of this Court disposed off the said Writ Petition No.35601 of 2014, the operative portion of which is as follows:

> "In the circumstances, we are satisfied that this writ petition can be conveniently disposed of by the following order:
>
> "It is open to the petitioners to make an application/representation to the concerned authority, as observed in sub-para (tx) of paragraph 36 of the Full Bench judgment within a period of two weeks from today for deletion of their land from the notification prohibiting alienation thereof as

contemplated under Section 22-A of the Act. If the petitioners make application/representation, as aforementioned, the concerned authority may deal with the same on merits in accordance with law and in the light of the observations made by this Court in the aforementioned Full Bench judgment and pass order within six weeks from the date of presentation of the representation. All contentions of the petitioners are kept open."

8) In pursuance of the observations made by the Hon'ble Division Bench of this Court in W.P.No.35601 of 2014, the petitioners submitted representations on 16.03.2016 and 05.07.2016 to respondent No.1 herein, however, no action has been taken on the said representations. On one day, some personnel from the revenue office came to their property surprisingly, which is protected by a compound wall with a gate, and put up a cloth banner stating that the subject property is a Government property. The contention of the respondents that the land is vested in the government and that it is a government land is factually incorrect and legally untenable as the petitioners are in continuous possession and enjoyment of the property and the Repeal Act would enable the petitioners to hold the property free from encumbrances and the petitioners are entitled to hold the property as a private property. Consequently the notification under Section 22 (A) of the Act is illegal. Hence, the writ petition.

9) Respondent No.5 – The Sub-Registrar filed counter affidavit contending that the District Registrar, Vijayawada East (FAC) vide Endorsement No.Gl/902/2018, dated 14.5.2018 communicated revised list of prohibited properties under Section 22-A of Registration Act, 1908 furnished by the District Collector, Krishna District vide File No.REV-ESECOLAS(REP)/6/2015-TAH(SUPDT-E)-KCO, dated _.4.2018, wherein the subject land i.e. property situated

in Sy.No.40 P of Machavaram (Revenue Ward No. 16, Block-9 NTS No.40/2), Vijayawada Urban, Krishna district is included in the said list of prohibited properties. As per the instructions contained in the said proceedings, no registration in respect of survey numbers, which are mentioned in the said list should be entertained by the Registration Department. As long as the said list is in vogue, the respondents are not in a position to entertain any registration or creation of any interest in respect of the subject land, which is being prohibited for registration. Further, the petitioners have not presented any document before for registration relating to the subject property. Without submitting any document for registration, the petitioners have approached this Court and filed the above Writ Petition. If the petitioners present the document before this respondent, this respondent will receive the said document and process the same in accordance with the provisions of Registration Act, 1908. Unless the list communicated by the authorities prohibiting registration of the lands is rescinded, the respondents are not in a position to entertain any document relating to the subject land and requested to dismiss the writ petition.

10) Respondent No.3 – Joint Collector and Competent Authority filed counter contending that the subject property admeasuring an extent of 928.11 Sq. Meters in N.T.S.No.40/2 of Machavaram Village, Vijayawada Central Mandal, was duly declared as ceiling surplus land under Section 8(4) of Urban Land Ceiling Act, 1976 in C.C.No.2804 of 1984 after allowing 1500 Sq. Mtrs as retainable land. Pursuant thereto, after completion of all statutory formalities, the subject property was taken by Government under Section 10(6) of the Act on 23.01.2006 by conducting a Panchanama, and it has

been kept under safe guard of the Tahsildar, Vijayawada Central Mandal. Thus the subject property became Government Land and it has been under the possession of the Government and it is not the private land and the Petitioners have no subsisting right, title or interest therein.

11) The State in exercise of powers conferred under sub section (1) of Section 22A of the Registration Act, 1908 issued G.O.Ms.No.1400 Revenue (UC.I) Department, dated 28.11.2008, Prohibiting the Registration of Government Lands in Machavaram Village, Vijayawada, Krishna District. The present writ petition is filed challenging the inclusion of the subject property in N.T.S.No. 40/2, Machavaram village in the prohibited property list under G.O.Ms.No.1400 dated 28.11.2008 and contending that the in-alienation condition imposed under G.O.Ms.No.1044 dated 11.10.1994 is inapplicable consequent upon the repeal of the 1976 Act. The said contention is wholly unsustainable. Once possession of the surplus land was taken under section 10(6) of the Act prior to repeal, the vesting of the land in the Government became final and absolute and the repeal of the Act in the year 2008 does not revive or restore any right infavour of the petitioners. The action of issuance of G.O.Ms.No.1400/2008 and inclusion of the property under prohibited registration under Section 22-A of the Registration Act is lawful and justified, requested to dismiss the writ petition.

12) When the matter came up for admission on 26.07.2018, this Court passed the following interim order:

> "The parties are directed to maintain *status quo*, in all aspects for a period of eight weeks from today."

13) Learned counsel for the petitioners would contend that the petitioners acquired the subject property admeasuring 928.11 Sq. Meters in Sy.No.40/P of Machavaram Village, Vijayawada, under a registered gift deed bearing Document No.1414 of 1965, dated 22.04.1965, and have been in continuous possession and enjoyment of the same. The Government, by virtue of G.O.Ms.No.1044, dated 11.10.1994, granted exemption in respect of the subject land under Section 20(1)(b) of the Urban Land (Ceiling and Regulation) Act, 1976, subject to the condition that the land should be retained and not to be sold. However, after the repeal of the said Act with effect from 27.03.2008, the condition of non-alienation imposed under the aforesaid G.O. ceased to have been in force.

14) Learned counsel for the petitioners would further contend that the possession of the subject property was never taken by the Government in accordance with Section 10 (6) of the Urban Land Ceiling Act, 1976, and the petitioners continued to remain in possession even after the repeal of the Act. Further, in W.P.No.35601 of 2014, by order dated 02.03.2016, permitted the petitioners to approach the competent authority for deletion of the subject land from the prohibited properties list, and accordingly, the petitioners submitted representations dated 16.03.2016 and 05.07.2016. However, the respondents failed to take appropriate action on the said representations. The endorsement dated 24.05.2018 rejecting their request is illegal and arbitrary. Reliance is also placed on the order passed by this Court in "***Surender Raj Jaiswal and another vs. The Principal Secretary to***

Government, Revenue, (U.C.III), Department and another[1]", wherein this Court while dealing with the similar question as to whether permission is necessary to change use the land covered under the exemption proceedings for other purposes, a coordinate bench of this court while was at Hyderabad, after extracting Sections 3 and 4 of the Repeal Act 15/99, held thus:

> "From a perusal of the aforesaid provisions under Section 3 and 4 of the Urban Land (Ceiling and Regulation) Repeal Act of 1999, it is clear that the orders granting exemption under sub-section (1) of Section 20 of the principal Act are saved. It is also clear from a perusal of the provisions under Section 3(1)(c) of the Repealing Act that repeal of the principal Act shall not affect any payments made to the State Government as a condition for granting exemption under sub-section (1) of Section 20 of the principal Act. But, at the same time, the provision under sub-section (2) of Section 20 is not saved. Section 20(1) of the principal Act empowers the Government to exempt any land subject to certain conditions, but under sub-section (2) of Section 20 of the principal Act, the Government was empowered to withdraw such exemption in cases where conditions are violated. A harmonious reading of the provisions under Sections 20(1) and 20(2) of the principal Act, coupled with Section 3 of the Repealing Act, makes it clear that the order granting exemption is saved only with a view to avoid repayment of any amounts collected by the State Government, while granting exemptions. When the principal Act itself is repealed on the ground that it has failed to achieve the objective expected of it, it is not open for the 1st respondent-Government to refuse permission in the instant case, only on the ground that the conditions imposed in the order granting exemption shall continue to operate. In the absence of any saving clause, saving sub-section (2) of Section 20 of the principal Act, even in cases where conditions are violated, Government is not empowered to withdraw the exemptions granting under Section 20(1) of the principal Act, after coming into force of the Urban Land (Ceiling Regulations) Repeal Act, 1999. In the absence of such power, and further, in view of the Repealing Act itself, the conditions imposed in the order granting exemption, have become

[1] Order of the High Court of Andhra Pradesh dated 24.08.2011 passed in W.P.No.26474 of 2009

unenforceable and are non-est. In the absence of initiation of proceedings or withdrawal of exemption granted under Section 20(1) of the principal Act before the enforcement of the Urban Land (Ceiling and Regulation) Repeal Act, 1999, the land, which is exempted, will become a free-hold land, and hence, the stand of the respondents that even after coming into force of the of the Repealing Act,1999, the conditions imposed in the order granting exemption under Section 20(1) of the principal Act shall continue to operate, cannot be accepted. The said interpretation will run contra to the every objection of the Urban Land (Ceiling and Regulation) Repeal Act,1999. Said view also gains support from the other provisions of the Repealing Act, particularly Section 4, which states that all proceedings relating to any order made or purported to be made under the principle Act, pending immediately before the commencement of the Urban Land (Ceiling and Regulation) Repeal Act of 1999, shall stand abate, except in cases where possession is taken by the State Government or any person duly authorized by the State Government on behalf of the competent authority. Having regard to the provisions under Section 20(1) and (2) of the Urban Land (Ceiling and Regulation) Act, 1976 and the provisions under Section 3 and 4 of the Urban Land (Ceiling and Regulation) Repeal Act,1999, it is to be held that in cases where the vacant land is exempted under Section 20 of the principal Act and where such exemption is not withdrawn before the enforcement of the Repealing Act,1999, such land will become the free-hold land irrespective of any conditions with regard to usage of the exempted land. As held above, as the land in question has become the free-hold land in view of the Repealing Act,1999, there appears no reason or justification for not granting permission to use the land covered by exemption proceedings, for the purpose of multiplex theatre-cum-shopping complex. In a strict sense, no such permission is necessary, but, when the competent authority under the Greater Hyderabad Municipal Corporation Act has not received the application, petitioner had to approach the Government, and as permission is denied by misconstruing the various provisions of the Repealing Act,1999, the impugned order is liable to be set aside."

15) In the case covered under the decision referred to supra, when the petitioners therein sought permission of the authorities to change use of the land covered under the exemption from Cinema hall to Multiplex Theatre-cum-shopping complex, the same was

denied by the authorities by issuing a memo. The said memo with the observations referred above was set aside by coordinate bench of this Court holding that after coming into force of the Repealing Act,1999, the said land would become a free-hold land and as such no permission whatsoever is required for changing use of the land.

16) In the instant case, as stated supra, it is contended by the respondents that by virtue of G.O.Ms.No.1044 Revenue (UC.I) Department dated 11.10.1994, the subject land held by the petitioners was exempted from the provisions of chapter-III of the Urban Land (Ceiling and Regulation) Act, 1976 and permitted the petitioner to retain the same, but not for sale, the operative portion of the said G.O. is as follows:

> "Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 (Central Act 33 of 1976) the Governor of Andhra Pradesh exempts from the provisions of chapter-III of the said Act, the land measuring 928.11 Sq.Mtrs in R.S.No.40/P Machavaram of Vijayawada Urban Agglomeration held by Sri Md.Suleman for retention and not for sale."

17) In view of the observations made by a coordinate bench of this Court (referred supra), as the land became a free hold land in view of the provisions of the Repealing Act, the conditions imposed vide G.O.Ms.No.1044 dated 11.10.1994 cannot be enforced. Hence, the inclusion of the subject property in the prohibited properties list is illegal and requested to allow the writ petition.

18) Learned Assistant Government Pleader for Revenue appearing for respondents would contend that the subject property admeasuring 928.11 Sq. Meters in N.T.S.No.40/2 of Machavaram Village was duly declared as surplus land under Section 8(4) of the Urban Land (Ceiling and Regulation) Act, 1976, in C.C.No.2804 of 1984, after allowing an extent of 1500 Sq. Meters as retainable land to the petitioners. It is further contended that after following the prescribed procedure and completing all statutory formalities, the Government took possession of the subject property under Section 10(6) of the said Act on 23.01.2006 by conducting a panchanama, and the land was thereafter kept under the custody of the Tahsildar, Vijayawada Central Mandal, therefore, the repeal of the Urban Land (Ceiling and Regulation) Act, 1976, in the year 2008, would not have the effect of restoring or reviving the rights of the petitioners over the land. Thus, the subject property had vested in the Government much prior to the repeal of the Act, and the petitioners have no subsisting right, title or interest over the same.

19) Learned Assistant Government Pleader appearing for respondents would further contend that the Government, in exercise of its powers under Section 22-A(1) of the Registration Act, 1908, issued G.O.Ms.No.1400, Revenue (UC-I) Department, dated 28.11.2008, prohibiting registration of Government lands, and as the subject property was rightly included in the prohibited properties list, the petitioners are not entitled to seek deletion of the subject property from the prohibited properties list or to question the validity of the aforesaid G.O., and requested to dismiss the writ petition.

20) It is not in dispute that the petitioners acquired rights over the subject property under a registered gift deed bearing Document No.1414 of 1965, dated 22.04.1965. It is also evident from the material on record that the Government, by issuing G.O.Ms.No.1044, dated 11.10.1994, granted exemption in respect of the subject land under Section 20(1)(b) of the Urban Land (Ceiling and Regulation) Act, 1976, subject to the condition that the land should be retained and not alienated. Thus, the petitioners' claim over the subject property originated much prior to the proceedings initiated under the Urban Land Ceiling Act. It is contended by the petitioners that they are in continuous possession of subject land and the possession of the subject land was never taken over by the Government in accordance with the procedure contemplated under Section 10(6) of the Urban Land (Ceiling and Regulation) Act, 1976. On the other hand, the specific stand of the respondents is that possession of the subject land was taken over on 23.01.2006 by conducting a panchanama and that the land was thereafter kept under the custody of the Tahsildar, Vijayawada Central Mandal.

21) In this regard, it is relevant to refer to the provisions of the Urban Land (Ceiling and Regulation) Repeal Act, 1999, which was adopted by the State of Andhra Pradesh with effect from 27.03.2008. Section 3 of the Repeal Act provides for certain savings notwithstanding the repeal of the principal Act. In particular, Section 3(1)(a) protects the vesting of vacant land under sub-section (3) of Section 10 of the principal Act, where possession of such land has been taken over by the State Government. However, where possession of the surplus land has not been taken over by the State

Government, the proceedings relating thereto would stand abated in terms of Section 4 of the Repeal Act.

22) Therefore, only on the ground that the subject land was declared as surplus under the provisions of the repealed Act, the respondents cannot contend that the land had vested in the Government. To claim the land, the respondents are required to establish that the possession of the subject land was actually taken over by following the procedure prescribed under the Act before its repeal. Without establishing the possession, the respondents cannot claim that the rights of the petitioners stood extinguished merely on the basis of the declaration made under Section 8(4) of the repealed Act.

23) In the present case, though the respondents have asserted that possession was taken over on 23.01.2006 by conducting a panchanama, such assertion has to be examined in the light of the statutory requirements and the material placed on record. A mere reference to a panchanama or a statement that the land was kept under the custody of the Tahsildar would not, by itself, dispense with the requirement of establishing that possession was actually taken over in accordance with the procedure contemplated under Section 10(6) of the Act.

24) Further, as per the material on record, G.O.Ms.No.1044 Revenue (UC.I) Department dated 11.10.1994 was issued permitting the petitioner to retain the subject land admeasuring 928.11 Sq.Mtrs in R.S.No.40/P Machavaram of Vijayawada. Further, G.O.Ms.No.1400 Revenue (UC.I) Department dated 28.11.2008 was

issued prohibiting the registration of subject property stating the same was included in the prohibited properties list notified under Section 22A of the Registration Act, 1908. Along with the counter, the respondents filed true copy of the panchanama dated 23.01.2006 attested by Superintendent, Joint Collector and Competent Authority, Urban Land Ceilings, Vijayawada, wherein it is stated that the possession of the subject property was taken over by the Government.

25) On perusal of the same, it is evident that the said panchanama was signed by 5 witnesses, but there is no name, designation and signature of scribe to show that who has scribed the said panchanama. Further, when the Government permitted the petitioner to retain subject land by virtue of G.O.Ms.No.1044 dated 11.10.1994, the question of taking possession of the same as recorded in the panchanama dated 23.01.2006 does not arise. Moreover, in the absence of signature of the scribe on the alleged panchanama dated 23.01.2006 and by virtue of exemption granted to the petitioner vide G.O.Ms.No.1044 dated 11.10.1994, the taking over possession of the land by the respondents under alleged panchanama dated 23.01.2006 is highly doubtful. More particularly, when the petitioners specifically dispute the taking over of possession and assert that they are in continuous possession and enjoyment of the property, the respondents are required to establish that they have taken possession of the subject land by placing convincing material on record, but no such record is placed before this Court to establish the same.

26) Further, the petitioners have specifically contended that a compound wall was constructed around the subject property and that they are in continuous possession and enjoyment over the same. Therefore, the respondents cannot merely rely upon the proceedings said to have been undertaken under the repealed Act without establishing the actual taking over of possession in accordance with law. In the absence of satisfactory proof of such taking over, the benefit of the provisions of the Repeal Act cannot be denied to the petitioners.

27) It is also relevant to note that the petitioners had earlier approached this Court by filing W.P.No.35601 of 2014, which was disposed of by order dated 02.03.2016, granting liberty to them to submit an application/representation before the competent authority seeking deletion of the subject land from the prohibited properties list. This Court had further directed the competent authority to consider such representation on merits, in accordance with law and in the light of the observations made in the Full Bench judgment referred to therein. Pursuant thereto, the petitioners submitted representations dated 16.03.2016 and 05.07.2016. Thus, the petitioners had pursued the remedy indicated by this Court. However, the request of the petitioners came to be rejected by endorsement dated 24.05.2018.

28) When this Court had specifically granted liberty to the petitioners to approach the competent authority and had directed the authority to consider their claim on merits, it was incumbent upon the competent authority to examine the relevant facts, particularly the question as to whether possession of the subject land was actually

taken over prior to the repeal of the Act. The competent authority was also required to consider the effect of the Repeal Act on the rights claimed by the petitioners. A mechanical rejection of the request, without properly examining these material aspects, cannot be sustained.

29) Another important aspect which requires consideration is that the subject property was granted exemption under G.O.Ms.No.1044, dated 11.10.1994, subject to the condition of non-alienation. The petitioners contend that, consequent upon the repeal of the Urban Land (Ceiling and Regulation) Act, 1976, the condition imposed under the said Government Order cannot be continued indefinitely. In this regard, it is necessary to distinguish between the statutory consequences of repeal and the consequences flowing from the actual vesting of land in the Government before such repeal. If possession had not been taken over in accordance with law before the repeal, the respondents cannot continue to impose restrictions on the petitioners' rights merely by relying upon the proceedings under the repealed enactment. The respondents are, therefore, required to establish an independent legal basis for continuing the prohibition against alienation of the subject property.

30) The inclusion of any property in the prohibited properties list notified under Section 22-A of the Registration Act, 1908, cannot be sustained merely on the basis of an administrative communication or an earlier entry in the revenue records. Such inclusion must have a valid legal foundation. When the very basis of the respondents' claim that the subject property vested in the Government is seriously disputed, and the statutory requirements for taking over possession

have not been satisfactorily established, the inclusion of the subject property in the prohibited properties list is nothing but unwarranted interference with the rights of the petitioners over the property.

31) The right to property is guaranteed under Article 300-A of the Constitution of India. No person can be deprived of his property except by authority of law. Therefore, unless the respondents establish that the subject property had validly vested in the Government by following the procedure prescribed under the Urban Land (Ceiling and Regulation) Act, 1976, the petitioners cannot be deprived of their property rights merely by including the property in the prohibited properties list.

32) In view of the aforesaid discussion, this Court is of the considered opinion that the respondents have not established any ground or reason to continue the subject property in the prohibited properties list under Section 22-A of the Registration Act, 1908. The impugned endorsement dated 24.05.2018, rejecting the request of the petitioners without properly considering the effect of the Repeal Act, is liable to be interfered with. Consequently, the inclusion of the subject property in the prohibited properties list, insofar as it relates to the petitioners' land, cannot be sustained.

33) Accordingly, the Writ Petition is allowed, setting aside the endorsement bearing No.Rc.CC/A2/2804/84, dated 24.05.2018, issued by respondent No.3, insofar as it relates to the subject property. The respondents are directed to delete the subject property admeasuring 928.11 Sq. Meters in Sy.No.40/P (N.T.S.No.40/2) of Machavaram Village, Vijayawada, from the prohibited properties list

notified under Section 22-A of the Registration Act, 1908. There shall be no order as to costs.

34) Pending miscellaneous applications, if any, shall stand closed.

JUSTICE V.SUJATHA

19.11.2026
Ksp

Whether the order is :
Reasoned - Yes
Reportable - No