
(2001) 09 AP CK 0011

In the Andhra Pradesh High Court

Case No : Rev. WAMP No. 2687 of 2000 in WA No. 435 of 1999

Director of Settlements, Hyd. and others

APPELLANT

Vs

Neerupaka Rama Krishna

RESPONDENT

Date of Decision : 13-09-2001

Acts Referred:

Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 — Section 11, 12, 13, 20A, 5(2)
Civil Procedure Code, 1908 (CPC) — Section 11, 151
Constitution of India, 1950 — Article 226
Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14

Citation : (2001) 5 ALD 828

Hon'ble Judges : S.B. Sinha, C.J.; V.V.S. Rao, J

Bench : Division Bench

Advocate : Government Pleader for Revenue, for the Appellant; Mr. A. Rangacharyulu, for the Respondent

Final Decision : Allowed

Judgement

V.V.S. Rao, J.—This is an application seeking review of the judgment of this Court dated 24-3-1999 in WA No. 435 of 1999. By the said judgment, a Division Bench of this Court upheld the judgment of the learned single Judge dated 18-11-1998 in WP No. 6453 of 1998. Reliance was placed on earlier order of this Court in WP No. 10773 of 1996 in which it was directed that the petitioners herein shall issue pattadar pass books to the respondents herein. In these matters, the parties herein will be referred to by their status in WP No. 6453 of 1998, out of which WA No. 435 of 1999 arose.

2. The first respondent, namely, Director of Settlements, issued a show-cause notice to the writ petitioner bearing PP.No. 5/98 H2 dated 28-2-1998 to show-cause as to why the patta granted to the petitioner should not be held irregular and liable for cancellation. It is stated in the impugned show-cause notice that the land admeasuring Acs.0.48 in Venkatagiri Village of Venkatagiri Mandal comprising in RS No. 227/10 is classified as grazing ground poramboke in the

settlement record. The same became patta land of Sri Neerupaka Ramaiah, by means of fraudulent ryotwari patta purported to have been granted by the Additional Assistant Settlement Officer in SR.No. 324/11(a)/60 dated 27-5-1962 which was also subject-matter of writ petition being WP No. 10773 of 1996. The first respondent proposed to exercise suo motu revisional powers u/s 5(2) of the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (hereinafter called "the Act") in respect of the order purported to have been passed by the Settlement Officer which is a spurious/ bogus order. The show-cause notice mentioned the following reasons.

1. Patta was granted on the basis of the claim and documents filed without examining the pre-abolition records and verifying whether the suit land is ryoti/ non-ryoti, whether the claimant or his vendor was in physical occupation and enjoyment of the land prior to 1-7-1945.

2. Cist receipts alone are not sufficient to hold that the grantee is eligible for ryotwari patta unless they are occupied with any recorded evidence of the estate regime.

3. No documentary evidence of the pre-abolition account was produced in support of the claim, in the absence of which the genuineness of the Cist receipts and other documents are not free from doubt.

3. The learned single Judge by judgment dated 18-11-1998 allowed the writ petition holding that the validity of the order of the Settlement Officer dated 27-5-1962 was upheld in WP No. 10773 of 1996, that pursuant thereto the Mandal Revenue Officer, Venkatagiri, has implemented the order dated 27-5-1962 by making necessary changes in the revenue record, that the order of this Court in WP No. 10773 of 1996 has become final and that there is no justification for exercise of suo motu revision powers by the first respondent.

4. The respondents assailed the finding of the learned single Judge contending that the earlier order of this Court in WP No. 10773 of 1996 does not operate as res judicata as direction was issued directing the officials only to issue pattadar pass books and it has no bearing on the order issued by the Settlement Officer on 27-5-1962. But, the Division Bench rejected the same holding that the State had not raised any ground as to the validity of the order of the Settlement Officer and therefore it was quintessential to give finding in favour of the writ petitioner that he has right to have the pass book in view of order dated 27-5-1962. This review petition was filed on 19-1-2000 with delay of 258 days. We condoned the delay having regard to the principles laid down by the Supreme Court in N. Balakrishnan Vs. M. Krishnamurthy, . The matter was heard at length on 13-8-2001 finally with the consent of both the learned Counsel.

5. The learned Advocate-General appearing for respondents submits that the Division Bench was not correct in holding that the petitioners did not raise objection about the validity of the order of the Settlement Officer dated 27-5-1962, that the finding of the Court that earlier order in WP No. 10773 of

1996 operates as respectively *judicata* is incorrect, that the Court ought not to have interfered with the impugned show-cause notice dated 28-2-1998 having regard to the settled principles of law and that the order dated 27-5-1962 is spurious and was obtained by fraud and the writ petitioner cannot be allowed to have any advantage out of it. It is his further submission that the observations of the learned single Judge to the effect that after long lapse of thirty two years *suo motu* powers cannot be exercised is erroneous having regard to the fact that the writ petitioner himself approached the authorities for implementing pattas in 1996 and that in any event the provisions of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 cannot control the proceedings under the Estates Abolition Act. He also submits that Director of Settlements obtained opinion of A.P. Forensic Science Laboratory (APFSL) which opined that patta under the Act dated 27-5-1962 is forged one and that the Settlement Officer who is alleged to have signed the patta did not in fact sign the same.

6. The learned Advocate-General placed reliance on various judgments of the Supreme Court in support of his contention that the order dated 27-5-1962 is vitiated by fraud and the writ petitioner cannot be allowed to retain the advantage, if any, derived out of it. He placed reliance on the judgments of the Supreme Court in *Indian Bank Vs. M/s. Satyam Fibres (India) Pvt. Ltd.*, , *Ramachandra Ganpat Shinde and another Vs. State of Maharashtra and others*, , *S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. and others*, and *United India Insurance Co. Ltd. Vs. Rajendra Singh and Others*, . Placing reliance on *State of Andhra Pradesh v. P. Bharathi* 1999 (1) APLJ 98 (SN), he submits that when the patta itself is forged the earlier judgment does not operate as *res judicata*.

7. Sri E. Manohar, learned senior Counsel appearing for the writ petitioner made submissions to the following effect. The grand-father of the writ petitioner was in possession of ryoti land in RS No. 275/9 admeasuring an extent of Acs.0.48 cents situated in Venkatagiri Estate Village since a long time and paid rents regularly to Venkatagiri Estate and to the Government. The writ petitioner's grand-father filed a petition claiming ryotwari patta for the said land before the Additional Assistant Settlement Officer, who on enquiry, granted ryotwari patta on 27-5-1962 u/s 11(a) of the Act in his favour. The said patta/order was not implemented. All the same by order dated 30-5-1996 the Joint Collector passed an order holding that the order dated 27-5-1962 is not a valid one. The writ petitioner filed WP No. 10773 of 1996 before this Court. This Court allowed the writ petition holding that the order dated 27-5-1962 is valid and directed the authorities to implement the same in revenue records. In obedience to the same, Mandal Revenue Officer, Venkatagiri implemented the order. In spite of this, the Director of Settlements issued a show-cause notice dated 28-2-1998. Questioning the same WP No. 6453 of 1998 was filed before this Court. The same was allowed on 18-11-1998 and aggrieved by the same the authorities filed Writ Appeal No. 435 of 1999. This Court dismissed the same on 24-3-1999. There is no fraud on the part of writ petitioner and impugned show-cause notice

is unsustainable.

8. Adverting the question of forgery and fraud, the learned senior Counsel submits that the then Assistant Settlement Officer M.P. Luke has passed various orders granting pattas, that the writ petitioner forwarded all these orders, including the order passed in favour of Ramaiah to Sri C.S.R. Murthy, handwriting expert who opined vide his report dated 5-5-2001 that the signatures of M.P. Luke on various orders tally with the signature of M.P. Luke in order dated 27-5-1962. While sending the documents to APFSL, the Government officials have not sent all the documents for comparison and therefore those reports are not reliable. He also submits that the issue must be held to have settled and became final by virtue of the order dated 16-8-1996 in WP No. 10773 of 1996 and it is not permissible for the officials to issue show-cause notice for cancellation of the patta.

9. The short question in this review petition is whether the order of this Court in WA No. 435 of 1999 dated 24-3-1999 requires review on the ground that the same suffers from error apparent on the face of the record? If the answer to this is in the affirmative, whether the judgment of the learned single Judge in WP No. 6453 of 1998 suffer from any error?

10. Incidentally a question would also arise whether subsequent discovery of fraud by the officials is itself a ground for interfering with the order of the learned single Judge in WP No. 6453 of 1998 dated 18-11-1998.

The Dynamics of Fraud:

11. Judgment of the Supreme Court in Satyam Fibres case, Ramchandra Shinde "s case, and Chengalvaraya Naidu"s case (supra) show that a judgment or a decree obtained by playing fraud is non est in the eye of law. Any order of either superior Court or inferior Court can be challenged in collateral proceedings in any Court subsequently. Further, a person seeking order under law is entitled to disclose all the material before the authority. Such a failure to place before the authority necessary material and a person who got advantage on the basis of falsehood must be nonsuited. Any order obtained by fraud cannot be allowed to stand. As held by the Supreme Court in United India Insurance Company case (supra) this Court exercising jurisdiction under Article 226 of the Constitution of India notwithstanding any alternative remedy is bound to ignore an order obtained by fraud and correct an error caused by fraud. In this context, we may quote the observations of the Supreme Court in Satyama Fibres case (supra):

The judiciary in India also possesses inherent power, specially u/s 151 CPC to recall its judgment or order if it is obtained by fraud on Court. In the case of fraud on a party to the suit or proceedings, the Court may direct the affected party to file a separate suit for setting aside the decree obtained by fraud. Inherent power are powers, which are resident in all Courts, especially of superior jurisdiction. These powers spring not from legislation but from the nature and the constructions of the Tribunals or Courts themselves so as to

enable them to maintain their dignity, secure obedience to its process and rules, protect its officers from indignity and wrong and to punish unseemly behaviour. This power is necessary for the orderly administration of the Court's business.... Since fraud affects the solemnity, regularly and orderliness of the proceedings of the Court and also amounts to an abuse of the process of Court, the Courts have been held to have inherent power to set aside an order obtained by fraud practised upon that Court.

12. In Ramchandra Shinde's case (supra) it was held that an order obtained as a result of fraud and collusion even in the absence of such plea, can be gone into and an order of such nature must suffer invalidation. Review Petition, Writ Appeal and merits of the case;

13. The above principles are not disputed by the learned Counsel for writ petitioner. However Sri E. Manohar submits that there was no fraud played by the grand-father of the writ petitioner. In any event, he submits that, the order passed by this Court in WP No. 10773 of 1996 has become final and that the respondents having failed to raise any ground of fraud, cannot be permitted to raise the same at the belated stage in exercise of powers u/s 5(2) of the Act.

14. The original record has been produced before us. We have perused the same. The "statement of porambores and all unoccupied lands" shows that land in S.No. 227/10 (old No. 227/9) admeasuring Acs.048 of Venkatagiri Estate, is described as Government poramboke land. In fact the earlier statements of poramboke lands show that S.No. 227/9 as burial ground. The revenue accounts (No. 2 adangals) from 1952-53, 1953-54, 1954-55, 1956-57, 1958, 1983-84, 1985-86, 1986-87, 1988-89, 1990-91, 1991-92, 1992-93, 1993-94, 1999-2000 show that S.No. 227/9 admeasuring Acs.0.4S is described as Anadhinam (not in occupation of anybody) and S.No. 227/10 admeasuring Acs.0.11 is shown as burial ground. The record also discloses that the District Revenue Officer, Nellore by proceedings dated 14-2-1974 considered the application of Executive Officer, Gram Panchayat, Venkatagiri and ordered for alienation of an extent of Acs.0.48 in S.No. 227/10 of Venkatagiri Village and Acs.0.30 in S.No. 220/3 of Ammavaripeta Village to Gram Panchayat, Venkatagiri for construction of bus stand. It is reasonable to draw inference that if patta granted in 1962 was true, it was not necessary for the revenue officials to alienate the land in question for construction of bus stand.

15. The revenue records produced before us fully support the contention of the learned Advocate-General that the land comprised in S.No,227/10 was never the land in respect of which patta could be granted under the Act. Be it noted that u/s 11 of the Act every ryot in the estate shall be entitled to ryotwari patta in respect of ryoti land. Similarly, u/s 12 landlord shall be entitled to ryotwari patta in respect of private land belonging to Zamindar if the same is under cultivation. The grant of patta either under Sections 11, 12 or 13, however subject to provisions of Section 13(b) of the Act which reads as under.

13(b). (i) All lands which were properly included, or which ought to have been properly included, in the holding of a ryot and which have been acquired by the landholder, by inheritance or succession under a will, provided that the landholder has cultivated such lands himself, by his own servants or by hired labour, with his own or hired stock, in the ordinary course of husbandry, from the date of such acquisition or the 1st day of July, 1945, whichever is later and has been in direct and continuous possession of such lands from such later date;

(ii) all lands which were properly included, or which ought to have been properly included in the holding of a ryot and which have been acquired by the landholder by purchase, exchange or gift, including purchase at a sale for arrears of rent, provided that the landholder has cultivated such lands himself, by his own servants or by hired labour, with his own or hired stock, in the ordinary course of husbandry from the 1st day of July, 1945 and has been in direct and continuous possession of such lands from that date;

(iii) all lands (not being (i) lanka lands, (ii) lands of the description specified in Section 3, clause (16), sub-clauses (a), (b) and (c) of the Estate land Act, or (iii) forest lands which have been abandoned or relinquished by a ryot, or which have never been in the occupation of a ryot, provided that the landholder has cultivated such lands himself, by his own servants or hired labour, with his own or hired stock, in the ordinary course of husbandry, from the 1st day of July, 1945 and has been in direct and continuous possession of such lands from that date.

16. Therefore, under the Act grant of patta u/s 11 is prohibited in respect of the land which is classified as grazing/ poramboke land and land which is not under cultivation. In the alleged patta order dated 27-5-1962 alleged to have been issued by the Settlement Officer a reference is made to poimosh adangals for Faslis 1339-45 in support of the contention that old patta land was in possession of the grand-father of the petitioner (Neerupaka Ramaiah). After perusing the record, it is not possible to say that there is any justification for issue of the order dated 27-5-1962.

17. The next circumstance to disprove the case is as follows: The father of the writ petitioner addressed a letter on 4-10-1993 and 28-12-1994 to the District Collector, Nellore requesting for a copy of settlement patta. The Joint Collector, by proceedings dated 4-1-1995 addressed a letter to the father of the writ petitioner rejecting the request for supplying certified copy of the patta. In the said proceedings dated 4-1-1995 it was observed.

(1) When the petitioner was having original copy of the order of the Additional Settlement Officer, Nellore, the need for applying for a public copy for the same order in the year 1993.

(2) Even if the petitioner is having original copy of the order of Additional Assistant Settlement Officer, Nellore, his failure to get the orders implemented for over 32 years needs proper explanation.

(3) In 1962, the Nellore District was under the administrative control of the Settlement Officer, Nellore only, but a copy of the order was marked to Settlement Officer, Visakhapatnam. The reasons for such action are not forthcoming on record.

18. The original record placed before us would show that every question raised by the Joint Collector is a genuine question and no valid objection thereto can be taken. After the Joint Collector rejected the request for supply of copy of patta, father of the petitioner made applications on 13-2-1996, 1-3-1996 and 2-4-1996 through a lawyer requesting for implementation of patta said to have been issued to the grand-father of the petitioner. While referring to the earlier order dated 4-1-1995, the Joint Collector rejected the request for implementation. Challenging the said order, the petitioner filed WP No. 10773 of 1996.

19. The petitioner in the said writ petition prayed this Court for a direction to the Joint Collector, Nellore, and Mandal Revenue Officer, Venkatagiri to issue ryotwari pattadar pass book in the name of the petitioner, after declaring the proceedings of the Joint Collector dated 30-5-1996 as illegal, arbitrary and violative of Article 14 of the Constitution of India. In the affidavit accompanying Writ Petition No. 10773 of 1996, the petitioner, inter alia, contended that his grand-father was issued patta by Venkatagiri Samsthanam on 20-4-1936 for the land in S.Nos.227/9 and 227/10 and that after the Act came into force, the Assistant Settlement Officer, Nellore, issued patta on 27-5-1962 alleged by based on the evidence, record including the patta issued by Venkatagiri Samsthanam. The writ petition was opposed by the officials by filing counter-affidavit. It was contended that patta alleged to have been obtained by grandfather of the petitioner is not valid patta, that the said patta is not final until and unless it is implemented in the revenue records and verified with reference to the state and nature of the land.

20. By judgment dated 16-8-1996 this Court allowed the writ petition directing the Joint Collector and Mandal Revenue officer to implement the patta issued in favour of N. Ramaiah. The learned single Judge while allowing the writ petition observed as under.

It is significant to notice that the pattadar and his son were making representations right from 1962 and because of the apathy of the authorities in the respondents' office, the delay occurred in implementation of the patta. Again, it is observed that a copy was marked to the Settlement Officer, Visakhapatnam, which was irregular. If there is any irregularity in doing so the authorities should have enquired into it. But, it cannot be a ground to invalidate an order validly passed and which has become final. There was no explanation why the order was not challenged by the respondents in appeal. Whatever it may be, a right conferred upon the petitioner on the strength of a patta, cannot be negated on mere suspicion.

21. The matter again went before the authorities, when as noticed above the

authorities issued a show-cause notice dated 28-2-1998 calling upon the petitioner to show-cause as to why patta cannot be cancelled. The same show-cause notice was subject matter of WP No. 6345 of 1998 which was filed praying to restrain the first respondent from proceeding further pursuant to impugned suo motu show-cause notice.

22. The main grievance of the petitioner was that after lapse of 35 years, the Director cannot invoke the powers u/s 5(2) of the Act on the ground that the patta is a spurious/bogus one. The Government sought to justify the impugned show-cause notice inter alia stating that on verification it was found that the alleged patta dated 27-5-1962 was in respect of the land which is grazing ground poramboke and therefore spurious and bogus one and that the notice u/s 5(2) is valid. The Government also contended that:

It is submitted that prima facie the fair adangals reveal that the land is classified as grazing poramboke and therefore the action has been initiated. It is submitted that the record also discloses that since the survey settlement authorities have wrongly classified the schedule land as poramboke, the then Settlement Officer, Nellore in D.Disposal.B1/126/60 dated 20-11-1960 had changed the classification of land. On the basis of it, the Additional Assistant Settlement Officer granted ryotwari patta. For change of classification, the Settlement Officer is not a competent authority. The Settlement Officer in his order had stated that the land was classified as grazing ground poramboke which comes under communal land, for change of communal land, the permission of Collector u/s 20A is required. As such the Settlement Officer had no power to convert the land into Assessed Waste. Therefore, the grant of ryotwari patta by the Settlement Officer was invalid. It is submitted that the order of the Settlement Officer revealed that the suit land was grazing ground poramboke which is a communal land and it is non-ryoti in nature. There was no documentary evidence in the pre-abolition records in support of the claim to prove the genuineness, that the writ petitioner's grand-father was a pattadar.

23. In view of the stand taken by the Government in the counter-affidavit in WP No. 6453 of 1998 we must hold that the judgment of the Division Bench under review certainly suffers an error on the face of the record, in that, the Division Bench observed that State has not raised any objection that the order dated 27-5-1962 is not valid one. We are justified, therefore, to set aside the order of the Division Bench in WA No. 435 of 1999 dated 24-3-1999.

24. The next question to be considered is whether the judgment of the learned single Judge dated 18-11-1998 in WP No. 6453 of 1998 is sustainable. We are of the considered opinion that the judgment of the learned single Judge in WP No. 6453 of 1998 is not sustainable for three reasons.

i. Writ Petition against show-cause notice:

25. At the stage of show-cause notice, the jurisdiction under Article 226 of the Constitution of India is not attracted. The exercise of power of judicial review is

in respect of "decision" brought before the Court. At the stage of show-cause notice the quasi-judicial authority or administrative authority is yet to take a "decision" and therefore in exercise of power under Article 226 of the Constitution of India at the stage of show-cause notice is generally, opposed to the doctrine of judicial review. If every show-cause notice is interdicted by this Court, a citizen may be deprived of other remedies under law, for a finding of fact as well as finding of law given by this Court binds all authorities in the State. On the other hand, if the quasi judicial authority is allowed to make a decision pursuant to a show-cause notice, the citizen who is aggrieved as well as this Court would be in a more better position by reason of a situation that quasi judicial authority or administrative authority must have appreciated and evaluated the facts of the case and given appropriate findings.

26. The principle that a writ petition is not ordinarily maintainable against show-cause notice is axiomatic. If any authority is required we may refer to two judgments. In *State of Uttar Pradesh Vs. Brahm Datt Sharma and Another*, , the Supreme Court observed:

The High Court was not justified in quashing the show-cause notice. When a show-cause notice is issued to a Government servant under a statutory provision calling upon him to show-cause, ordinarily the Government servant must place his case before the authority concerned by showing cause and the Courts should be reluctant to interfere with the notice at that stage unless the notice is shown to have been issued palpably without any authority of law. The purpose of issuing show-cause notice is to afford opportunity of hearing to the Government servant and once cause is shown it is open to the Government to consider the matter in the light of the facts and submissions placed by the Government servant and only thereafter a final decision in the matter could be taken. Interference by the Court before that stage would be premature. The High Court in our opinion ought not to have interfered with the show-cause notice.

27. In *Special Officer, Urban Land Ceilings, Nampally, Hyderabad and others Vs. M. Vijayalakshmi and others*, , a Division Bench of this Court after referring to the judgment of Calcutta High Court in *ITC Ltd v. Union of India* AIR 1989 Cat. 294 held:

It is rather pertinent to note that scope of judicial reviewability in a situation like the present one is extremely limited and the High Court would be rather slow and loath to intervene at this stage of proceedings since the authority ought to be given a free hand and a full play in the matter of enquiring into the circumstances which promoted the authority concerned to issue the show- cause notice. It is in this context, the observations of a learned single Judge of the Calcutta High Court in the case of *ITC Ltd v. Union of India* seem to be rather apposite wherein the teamed single Judge observed that ordinarily, a writ is not maintainable against a show-cause notice in as much as, when a show-cause notice is issued, the party gets an opportunity to place his case before the authority concerned and there are elaborate proceedings by way of an appeal

and/or revision against such order passed in such proceeding.....

ii. Res Judicata does not apply:

28. In WP No. 10773 of 1996 the challenge was to an order dated 30-5-1996 by which the request of the petitioner for implementation of the patta and issue of ryotwari pattadar passbook was rejected. The question whether patta itself is spurious/ bogus and vitiated by fraud was not the issue. In any event, we have extracted the observations of the learned single Judge in the judgment in WP No. 10773 of 1996 wherein it was observed that, it is always open to the authorities to have the matter enquired into. To our mind applying the principles of res judicata in the factual context was ex facie improper. In any event, a decision/ determination/order obtained by playing fraud is a nullity and doctrine of res judicala will have no application to a non est decision.

iii. Delay in Exercising Revisional Power:

29. The Act is a welfare legislation. It is intended to acquire the rights of landholders in estates and other settlements, to divest them with all rights and vest all rights in cultivable lands in ryots in accordance with the principles laid down therein. Any violation of the provisions of the Act in granting of patta would amount to fraud on the statutes. So as to dispel any such criticism that in the case of implementation of the Act unscrupulous persons were given patta, the legislature has reserved the power to revise any orders, acts or proceedings of the Assistant Settlement Officer in the Directorate. Such exercise of revisional power u/s 5(2) of the Act is not subject to law of limitation. It is well settled that in the absence of any provision prescribing limitation, the authorities have to exercise power within a reasonable time.

30. In *The State of Gujarat Vs. Patil Raghav Natha and Others*, , the provisions of Section 65 of Bombay Land Revenue Code conferring power of revision on the Commissioner came for consideration. A Division Bench of the Supreme Court laid down as under:

The question arises whether the Commissioner can revise an order made u/s 65 at any time. It is true that there is no period of limitation prescribed u/s 211, but it seems to us plain that this power must be exercised in reasonable time and the length of the reasonable time must be determined by the facts of the case and the nature of the order which is being revised..... it seems to us that Section 65 itself indicates the length of the reasonable time within which the Commissioner must act u/s 211. u/s 65 of the Code if the Collector does not inform the applicant of his decision on the application within a period of three months the permission applied for shall be deemed to have been granted. This section shows that a period of three months is considered ample for the Collector to make up his mind and beyond that the Legislature thinks that the matter is so urgent that permission shall be deemed to have been granted. Reading Sections 211 and 65 together it seems to us that the Commissioner must exercise his revisional powers within a few months of the order of the Collector. This is reasonable time

because after the grant of the permission for building purposes the occupant is likely to spend money on starting building operations at least within a few months from the date of the permission.

31, In *M/s. Hindustan Times Ltd, v. Union of India* AIR 1998 SC 688, in the context of Constitutional validity of Section 14-B of Employees Provident Funds and Miscellaneous Provisions Act, 1952 the Supreme Court considered the same question again. After referring to *Raghav Natha's case (supra)*, and *Ram Chand and Others Vs. Union of India (UOI) and Others*, , the Supreme Court observed that the principle in *Raghav Natha's case (supra)* cannot be made applicable to cases where there is breach of trust. It was further held:

The reason is that while in the above cases decided by this Court the exercise of powers by the authority at a very belated stage was likely to result in the deprivation of property which rightly and lawfully belonged to the person concerned, the position u/s 14-B of the Act of an employer is totally different. The employer who has defaulted in making over the contributions to the Trust Fund had, on the other hand, the use of monies which did not belong to him at all. Such a situation cannot be compared to the above line of cases which involve prolonged suspense in regard to deprivation of property. In fact, in cases u/s 14-B if the Regional Provident Fund Commissioner had made computations earlier and sent a demand immediately after the amounts fell due, the defaulter would not have been able to use these monies for his own purposes or for his business. In our opinion, it does not lie in the mouth of such a person to say that by reason of delay in the exercise of powers u/s 14-B, he has suffered loss. On the other hand, the defaulter has obviously had the benefit of the "boon of delay" which "is so dear to debtors", as pointed out by the Privy Council in AIR 1932 165 (Privy Council) . In that case, it was observed that equitable considerations were out of place in matters of limitation and the strict grammatical construction alone was the guide.....

32. Therefore, we must hold that the three grounds on which the writ petition was allowed are unsustainable. We accordingly set aside the judgment of the learned single Judge in WP No. 6453 of 1998. We allow the writ appeal giving liberty to the writ petitioner to file an explanation to the show-cause notice PP.No. 5/98/H2 dated 28-2-1998 issued by the Director of Settlement to Government of Andhra Pradesh within a period of four weeks from today and produce necessary evidence. On such explanation being filed, the Director of Settlement shall consider and dispose of the matter expeditiously. We make it clear that we have only recorded prima facie conclusions and it is open to the Director of Settlements to arrive at independent conclusions.

33. The Rev. WAMP No. 2687 of 2000 and WA No. 435 of 1999 are accordingly allowed without any order as to costs.