

(1999) 12 AP CK 0018

In the Andhra Pradesh High Court

Case No : Writ Petition No. 8411 of 1992 and Batch

Kothuru Babu Surendra Kumar (died) and others APPELLANT

Vs

Special Officer and Competent Authority, ULC, Vijayawada RESPONDENT
and others

Date of Decision : 27-12-1999

Acts Referred:

Constitution of India, 1950 — Article 252, 300
Transfer of Property Act, 1882 — Section 3, 33, 70
Urban Land (Ceiling and Regulation) Act, 1976 — Section 10, 19, 2(0), 26, 27
Urban Land (Ceiling and Regulation) Rules, 1976 — Rule 5(2)

Citation : (2000) 4 ALD 596 : (2000) 4 ALT 694

Hon'ble Judges : A. Gopal Reddy, J

Bench : Single Bench

Advocate : Mr. T.S. Harinath, for the Appellant; Government Pleader, for Revenue and Mr. P.M. Gopal Rao, for the Respondent

Judgement

1. In this Batch of writ petitions, the question of law and facts are identical and therefore, I am disposing of them by a common order.

2. In all the writ petitions filed the petitioners prayed to call for the records in CC No.B4.2728/82 on the file of the first respondent and to issue a writ of mandamus declaring the impugned orders dated 12-4-1990 of the second respondent and the consequential orders of the first respondent dated 19-2-1991 issued u/s 10(1) and 10(3) of the Urban Land (Ceiling and Regulation) Act, 1976 (Central Act 33 of 1976) (for short "the Act") by the first respondent; and notice dated 28-2-1992 issued u/s 10(5) of the Act, as null and void insofar as the petitioners' lands are concerned.

3. The facts, in nutshell in WP No. 14986 of 1992, are that the petitioner is the owner of the land to an extent of Ac.0-13 cents (625 square yards) out of Ac.01-67 cents in RS. No. 143/2 of Patamata village, which was purchased by his late father under a registered sale deed dated 16-10-1966 from the fourth

respondent-Smt. Garikapati Thulsamma and her daughter-Annapurnamma; and ever since his father was in possession and after demise of his father, he was in possession of the property. The remaining extent of Ac. 1.54 cents which is an agricultural lands, was purchased by Marris Stella College Employees Co-operative Building Society, Vijayawada by a registered sale deed dated 14-3-1978. The said society also acquired some other land adjacent to the same and made application to the Gram Panchayat for conversion of use of the land into house plots and for approval of lay out, including the lands of the petitioner in WP No.14986 of 1992. The said proposals were forwarded to the Director of Town planning, Hyderabad, who approved the lay out vide sanction order dated 28-10-1978 in LP No.319 of 1978 as revised in LR. No.121 of 1978. After sanctioning the lay out, the society made the land into plots by laying roads etc. Due to the same, an extent of about 151 yards belongs to the petitioner in WP No.14986 of 1992 was affected in road and the remaining extent is only 475 square yards.

4. The petitioners in WP No.8411 of 1992; WP No.9224 of 1992; WP No.10450 of 1992 purchased the house plots to an extent between 600 Sq. yards and 700 Sq. yards each under registered sale deeds dated 7-5-1979 from Maris Stella College Employees Co-operative Housing Society, Vijayawada, (for short "the society") who is the fourth respondent in the writ petitions except in WP No.14986 of 1992 and some of them also paid development charges and betterment charges and got the building plans approved by the Vijayawada Municipal Corporation in the year 1990. While so, Smt. Garikapati Tulasamma filed a statement u/s 6(1) of the Act showing Ac.0-03 cents equivalent to 121 Sq. meters of vacant land situated in Patamata Village, in which, she mentioned with regard to item No.2 that Ac. 1.54 cents of land equivalent to 3116 Sq. meters situated in RS. No.143/2 of Patamata village is an agricultural land situated outside the municipal limits of Vijayawada and she sold the same to the Society in the year 1978 as agricultural land. In CCNo.B.4/CC/2728/82 draft statement dated: 20-11-1985 as per Section 8(1) and 8(3) of the Act was issued, in which, Smt. Tulsamma was declared as surplus land holder of 1500 Sq. meters by treating the agricultural land to an extent of Ac.1.54 cents as vancant land which was sold to the Society. Smt. Tulsamma filed objections in the year 1984. Thereafter, the first respondent issued an order u/s 8(4) of the Act on 28-5-1984 stating that the declarant is entitled to have an extent of 1500 Sq. meters and she has to surrender 1837.11 Sq. meters of land as excess land. Smt. Tulsamma filed an appeal before the appellate authority; and the appellate authority, by order dated 19-2-1991 in proceedings Rc.CC.B4.2728/82 allowed the appeal remitting the matter to the competent authority for re-determination of the excess land after considering the existence of the building measuring 12! Sq. meters in RS. No. 143/2 of Patamata village; and whether she is entitled for appurtenant land and additional appurtenant land thereto. After remand, the competent authority, by proceedings dated 19-2-1991 passed an order declaring that the declarant is liable to surrender 1616.11 Sq. meters of land to the Government. Thereafter, a

revised statement u/s 9 of the Act was issued and notification u/s 10(1) and 10(3) of the Act was published in the Andhra Pradesh Gazette No.256 dated 19-9-1991 Part-II Extraordinary; and notice u/s 10(5) of the Act was also published in A.P. Gazette No.8, dated 10-1-1992 Part II Extraordinary. At this stage, the petitioners filed the present writ petitions.

5. The petitioners contended that in the proceedings issued by the first respondent are violative of the mandatory provisions of the Act. As the authorities have failed to serve notice of the draft statement prepared u/s 8(1) of the Act on the petitioners as per Rule 5(2)(a)(ii) of the Urban Land Ceiling Rules (for short "the Rule"). In spite of the declarant stating in her declaration that this land was sold to the Society, the competent authority has not issued any notice either to the Society or to the petitioners and in the absence of such notice, all the proceedings, including the statement u/s 8(4) and Section 9 of the Act are void ab initio and are liable to be set aside.

6. The petitioner in WP No.14986 of 1992 further contended that the petitioner's late father purchased 625 Sq. yards in the year 1966 itself and the same was also not the subject matter of declaration filed by Smt. Tulsamma and the said land cannot be included in the holding of the declarant and the authorities are not justified in saying that they have taken possession of the above property, which is not the subject matter of CC No.2728/82. The petitioners in other writ petitions contended that the lands, on the date, when the Act came into force i.e., 17-2-1976, are admittedly the agricultural lands and the Society, which has purchased the said land, as an agricultural land, basing upon the certificate issued u/s 20 of the Act by the competent authority. Hence the same cannot be treated as vacant land held by the declarant. The provisions of the Act does not apply to the agricultural lands and there is no prohibition with regard to the sale and purchase of agricultural land within the limits of urban agglomeration. The land, which is re-classified as an agricultural land, cannot be held as a vacant land under the provisions of the Act in view of Section 2(q)(1) of the Act. Therefore, the petitioners pray that the so called taking over possession and surrender of land by Smt. Tulsamma be declared as void ab initio. Under the guise of the same, the petitioners, who have not constructed the houses over the plots, were deprived of the land without due process of law.

7. In response to the above, the first respondent filed a detailed counter admitting the purchase of the property by the father of the petitioner in WP No.14986 of 1992 in the year 1966; and also the remaining extent of Ac. 1-54 cents of land by the Society on 14-3-1978. It is also admitted that after purchase of the above land by the Society, the Society along with adjacent land owners applied for a lay out and the said lay out was sanctioned and approved in the year 1978. But it is contended that Smt. Tulsamma w/o. Subbaiah filed a declaration in the year 1982 and basing upon the said declaration, she was declared as surplus land holder measuring 1837.11 Sq. meters after excluding the ceiling limit of 1500 Sq. meters by proceedings dated 28-05-1984. At the

time of survey, there was some clerical mistake in computing the area held by the declarant and the same was rectified and the declarant was asked to surrender the land in an extent of 1737.11 Sq. meters in RS No.143/2 of Patamata village by proceedings dated 15-6-1984. The declarant, aggrieved by the same, filed an appeal before the Commissioner, Land Reforms and Urban Land Ceilings, Andhra Pradesh, Hyderabad, who granted stay of all further proceedings not to go beyond Section 10(2) of the Act. Meanwhile, notification u/s 10(1) of the Act was also published in the Andhra Pradesh Gazettee on 8-9-1984 and thereafter the Commissioner allowed the appeal observing that the declarant cannot plead her ignorance for conversion of land of an extent of 3116.11 Sq. meters of agricultural land sold to the Society, since she is fully aware of the purpose for which the purchasers are buying the land and, therefore, the site is vacant land utilised for building purposes and it cannot be treated as an agricultural land. Therefore, the Special Officer and the competent authority, ULC, has rightly computed the extent sold to the holding of the declarant Smt. Tulsamma, and the said order has become final and after the remand, the declarant was declared surplus land holder to the extent of 1616.11 Sq. meters and was asked to surrender the same by notice dated 14-3-1992; and possession of the same was taken on 30-4-1992 from Smt. Tulsamma, the declarant. The petitioners, who have failed to make any objection pursuant to the notification u/s 10(1) of the Act, filing the writ petitions is only an after thought. Once possession of the land was taken, the same cannot be set aside as the petitioners have failed to avail the opportunity. Apart from the same, Smt. Tulsamma is not supposed to sell away the land based on the certificate issued u/s 2(o) of the Act to the society for conversion of the land into non-agricultural use and the petitioners in WP No.8411 of 1992; WP No.9224 of 1992; WP No. 10450 of 1992 are not supposed to convert the agricultural land as vacant land as a house site plot. Therefore, the transaction took place between the declarant and the vendor of the petitioners is not valid one in view of the amended provisions in Government Memo No.767/ UCI/81, dated 28-05-1983, in which, the provisions in Government Memo No.1623/ UCI/80-1, dated 23-2-1981 were withdrawn and so the conversion of agricultural land into house site plots, even by the Society is not valid and the entire sales in favour of the petitioners are not valid and they cannot derive any right out of the said void sales.

8. Mr. P.M. Gopal Rao, learned Counsel for some of the writ petitioners submitted that admittedly, the petitioner in WP No.14986 of 1992 is the owner of the land only to an extent of 625 Sq. yards, which he bequeathed from his late father, who purchased the same on 16-10-1966, much prior to the Act coming into force. Except the above house plots, they are not owning any other vacant land within the urban agglomeration. The declarant also has not shown the same in her declaration. But under the garb of treating the remaining land as vacant land, they have taken possession part of this property, which is not the subject matter of CC No.B.4 2728/82 the same is arbitrary and illegal and is violative of Article 300A of the Constitution of India. The petitioner cannot be deprived of

right to property without due process of law and without due notice.

9. Coming to the various plots purchased by the petitioners in the remaining three writ petitions, he submits that admittedly, the entire land was an agricultural land as on the date when ULC Act came into force i.e., 17-2-1976. The society, which purchased this land by a registered sale deed dated 14-3-1978, applied to the Gram Panchayat for sanctioning of the lay out and the lay out was approved and sanctioned only on 28-10-1978. In view of Section 6(I) (II) of the Act, the land will become vacant land only on the date when a lay out was sanctioned; and thus the relevant date for filing declaration u/s 6 of the Act is only 28-10-1978. In view of Section 19 of the Act, the Chapter (3) is not applicable to any vacant land held by a co-operative society in view of Section 19(I) to (V). Therefore, the society is not under an obligation to file a declaration under the provisions of the Act. When the declarant in her declaration clearly stated that the land to an extent of Ac.1-54 cents in RS No.143/2 of Patamata village, in which, she got half share, was sold to the society. No notice whatsoever was given either to the society or to the petitioners who purchased the land from the society before the preparation of statement u/s 8(4) and (9) of the Act. Rule 5 contemplates that the draft statement shall be served together with the notice referred to in sub-section (3) of Section 8 of the Act, not only on the holder of the vacant land, but also on other persons, who have or likely to have any claim or interest in the ownership or possession of the vacant land. Therefore, the entire proceedings, including the statement u/s 8(4) of the Act, final statement u/s 9 of the Act and the consequential notification u/s 10 of the Act are liable to be quashed, as the same were issued in clear violation of the mandatory provisions.

10. He also further contended that before issuing final statement u/s 8(4) of the Act or u/s 9 of the Act, no notice was ever issued to the society and in the absence of issuing such notice, the entire proceedings are liable to be set aside. Section 8(3) of the Act also mandates that draft statement shall be served in such manner as may be prescribed on the person concerned. Rule 5 prescribes the manner of the service of notice on the person concerned. So without issuing the individual notice to any of the petitioners, the authorities are not justified in treating the said land as vacant land held by Smt. C. Tulsamma. Once Smt. Tulsamma sold the land by registered sale deed in favour of the society in the year 1978, including the said land in the declaration and treating it as a vacant land, and the alleged taking of possession of the land, amounts to setting aside the valid sale deeds, which is not contemplated under the Act. In view of explanation I to III to Section 3 of the Transfer of Property Act and Section 70(c) of the said Act, the Government, which is acquiring the property or in part, shall be deemed to have notice of instrument with regard to the registration of the sale in favour of the petitioners. Therefore, without issuing such notice to the petitioners, the respondents cannot declare the land as vacant land and make attract the provisions of the Act. He also contended that the petitioners are not parties to the proceedings and hence they cannot file an appeal u/s 33 of the Act

and prays for allowing the writ petitions.

In support of his contentions, he relied upon the following decisions of the High Courts and Supreme Court.

(1) Y.S.RKrishnaiah v.Spl. Officer Urban Land Ceiling 1989 (1) ALT 48 .

(2) M/s. L.S. & Co. v. State of A.P. 1995 (2) APLJ 325 .

(3) State of Punjab (Now Haryana) and Others Vs. Amar Singh and Another, .

11. Mr. T.S. Harinath, learned Counsel appearing for the petitioners in WP No.8411 of 1992 and WP No. 10450 of 1992 adopted the arguments of Mr. P.M. Gopal Rao, learned Counsel for the petitioners appearing in other writ petitions. He contended that without satisfying the land as vacant land and which part the respondents have taken possession of the property belongs to the petitioner, without issuing any notice the same has to be set aside and he also relied on the judgement of this Court rendered in WP No.6855 of 1984 dated 26-8-1988.

12. The learned Assistant Government Pleader Mr. Durga Reddy strenuously contended that the entire sales in favour of the petitioners in WP No.8411 of 1992; WP No.9224 of 1992 and WP No. 10450 of 1992 are void ab initio and on the date when Smt. Tulsamma sold the land to the society itself shows the purpose for which it was sold only to use the land as a non-agricultural purpose and the petitioners, who have failed to file any objections pursuant to the general notification u/s 10(1) of the Act are precluded to challenge the notification issued under Sections 8(4) and Section 9 of the Act. The possession was also taken on 30-4-1992 after issuing final notification u/s 10(5) of the Act. If the petitioners are aggrieved by the same, they can file appeal u/s 33 of the Act before the Commissioner and can agitate the same. In the appeal filed by Smt. Tulsamma, the Commissioner, in his order dated 12-04-1990 with the view and finding of the Special Officer and Competent Authority recorded as follows:

"The main contention of the declarant is that she sold the land to the co-operative building society as agricultural lands and she is not responsible for any act committed by the Co-operative society to convert the land into non-agricultural purposes. The very fact that she has sold this land to the co-operative House Building Society denotes that it is the land for usage as house sites by converting it into non-agricultural purpose. The declarant is fully aware of the purpose for which the prospective purchasers are purchasing this land. It is therefore deemed that this site was a vacant land utilised for building purposes and hence the contention of the declarant that it should be treated as an agricultural land cannot be accepted and it is included in her holding."

The said order has become final. After the said order, the competent authority passed a revised order u/s 8(4) of the Act on 19-2-1991 and issued final notifications u/s 10(1); 10(3) and 10(5) of the Act. Therefore, it is not open for the petitioners to challenge the consequential proceedings issued pursuant to the order passed by the Commissioner dated 12-4-1990. He also contended that the

purchase of the land by the Society is illegal and void because the intention of the society is to acquire the land and after obtaining the lay out, sell it to the members of the society; when the society converted the land into house plots and the society has not filed any declaration, as contemplated u/s 6 of the Act, hence the entire transaction that took place between the society and the members is void. Once the society has not chosen to question the orders and the petitioners, who are claiming through the society, cannot challenge the same. In support of his contention, he relied upon the following decisions of the High Courts and the Supreme Court.

(4) Smt. Sarifabibi Mohmed Ibrahim and others Vs. Commissioner of Income Tax, Gujarat,

(5) S. Sulakshna Bai Vs. State of A.P. and Others,

13. It is not in dispute that the land in WP No. 14986 of 1992 is not the subject matter of the declaration in CC No.2728 of 1982. The said land was not included in the declarant's holding. Learned Assistant Government Pleader fairly conceded that taking possession of the land under the garb of excess vacant land which is not the subject matter of final notification is impermissible. In view of the same, the land which is not the subject matter of CC No.2728 of 1982, cannot be taken possession of by the authorities under the guise of excess vacant land. Hence WPNo.14986 of 1992 is liable to be allowed.

14. So far as the WP No.8411 of 1992; WP No.9224 of 1992 and WP No.I0450 of 1992 are concerned, it has to be seen that all the petitioners in the above writ petitions have acquired the land through the society and the society purchased the agricultural land to an extent of Ac. 1-54 cents by a registered sale deed dated 14-3-1978. After the purchase the society made an application to the Gram Panchayat for conversion of the land into a non-agricultural purpose and for sanctioning of the lay out. Section 3 of the Act prohibits holding of excess vacant land on and from the commencement of the Act, more than the ceiling limit in the territories to which the Act applies. The Act is made applicable in the State of Andhra Pradesh from 17-2-1976. Explanation 2 of Section 6 of the Act reads as follows:

If the competent authority is of opinion that:

(a) in any State to which this Act applies in the first instance, any person held on or after the 17th day of February, 1975 and before the commencement of this Act, or holds at such commencement; or

(b) in any State which adopts this Act under clause (1) of Article 252 of the Constitution, any person holds at the commencement of this Act.

Vacant land in excess of ceiling limit then, notwithstanding anything contained in subsection (1), it may serve a notice upon such requiring him to file, within such period as may be specified in the notice, the statement referred to sub-Section (1).

15. Admittedly, the land has become the vacant land only once the lay out is sanctioned by the Gram Panchayat or when it is converted into non-agricultural purposes i.e., 28-10-1978. Section 19 of the Act says that Chapter-3 is not applicable to certain vacant lands.

16. Section 19 of the Act reads as follows :

"19. Chapter not to apply to certain vacant lands :-(1) Subject to the provisions of sub-section (2), nothing in this Chapter shall apply to any vacant land held by :--

".....

(v) any co-operative society being a land mortgage bank or housing co-operative society, registered or deemed to be registered under any law relating to co-operative societies for the time being in force:

Provided that the exemption under this clause, in relating to a land mortgage bank, shall not apply to any vacant land held by it or otherwise than in satisfaction of its duties."

17. In the present case, the date of commencement of the Act so far as survey No. 143/2 measuring Ac.1-54 cents of land is concerned, it is only on 28-10-1978, Once the date of commencement of the Act is 28-10-1978; and on the said date if the land is held by a society, the entire Chapter III is not applicable to the above vacant land even assuming that if the land is converted into a non-agricultural purpose by the society. That is the purport of Chapter III. Therefore, the contention of the learned Government Pleader that the purchase of agricultural land by the society with an intention to develop it into a vacant land and sell it to its members for the purpose of housing, will attract the provisions of the Act, cannot be accepted. The land will become vacant land only on the date when it was converted as such. Once the society has no obligation to file a declaration u/s 6 of the Act, there is no bar for the society to sell the said land to its members. Therefore, it is difficult to accept that the entire transaction between the society and its members is void and the contention of the learned Government Pleader in this regard is rejected.

18. Coming to the facts of the present cases that though Smt. Tulsamma filed a declaration in the year 1982 and she has clearly stated in her statement that this land i.e., Ac. 1-54 cents which is an agricultural land, she sold to the society and no notice as contemplated u/s 8(3) of the Act and Rule 5 of the Rules were ever issued either to the society or to its members. This Court in Y.S.R. Krishnaiah v. Spl. Officer, Urban Land Ceiling, 1989 (1) ALT 48, held that only the person, who filed the declaration u/s 6 of the Act, is a person aggrieved within the meaning of Section 33(1) of the Act and he alone can prefer an appeal; and this Court further held that issuance and service of notice as contemplated under sub-section (2) of Rule 5 of the Rules is mandatory. Therefore, the statement prepared u/s 10 of the Act without following the mandatory requirement under

Rule 5(2) is clearly invalid and illegal. In the above case, when the appellate order itself mentions that the authorities have prior knowledge that the declarant has major son and they have not issued any notice, Under those circumstances, the order u/s 10(3) and u/s 8(4) of the Act are quashed.

19. Similarly, this Court in *M/s, L.S. & Co. v. State of A.P.* 1995 (2) APLJ 325 considered the issue of draft statement and final statement u/s 8(4) and Section 9 of the Act and the effect of Rule 5 of the Rules and while considering the same, this Court held as follows:

"....The scheme of the Act contemplates issuance of notice and hearing of objections of the persons furnishing the statements and all other interested persons. The Act gives such protection to all the concerned at every stage of the proceedings. After all any decision of the Special Officer and Competent Authority under the provisions of the said Act are fraught with serious consequences in respect of the urban property. Rights in immovable properties cannot be allowed to be adjudicated by the quasi-judicial authorities like the Special Officer and Competent Authority in a casual and perfunctory manner. The scheme of the Act and particularly Sections 8 and 9 of the Act and the rules framed thereunder would show that the procedure to be adopted by the Special Officer and competent authority is to be reasonable and fair. The scheme of the Act ensures an elaborate hearing by the Special Officer and competent authority in adjudication of the statements filed by the persons holding the vacant land. Any deviation in this regard would have to be viewed very seriously".

20. In the above case, notice to all the interested persons was not issued. This Court quashed all consequential proceedings, including one u/s 10(1) and 10(3) of the Act.

21. In *State of Punjab (Now Haryana) and Others Vs. Amar Singh and Another*, , the Apex Court held that any person, who is not party to the proceedings, does not have a right of appeal, except with the leave of the Court. In view of the law laid down by this Court in *Y.S.R. Krishnaiah's case* (supra) the right of appeal is not available to a third party and held that only the declarant can file appeal, but not by any other person.

22. In WP No.6855 of 1984 dated 26-8-1988, this Court held that without notice taking action is void. While holding so, this Court quashed the notification issued u/s 8(4) of the Act, as the same was issued without issuing notice to the major son of the declarant.

23. In *The Ayodhyanagar Co-op. Housing Society Ltd, Hyd v. The Govt. of A.P. Rep. by its Principal Secretary to Government Revenue Dept,, Hyd,, and others* 1996 (2) LS 77 this Court held that the land purchased by the society in Hyderabad to an extent of Acs.25-00 was converted from recreation zone to residential zone cannot be treated as vacant land u/s 2(q) of the Act.

24. In *Smt. Sarifabibi Mohmed Ibrahim and others Vs. Commissioner of Income*

Tax, Gujarat, (supra), the Apex Court considered the entry in the revenue records for exemption of assessee from capital gains for sale of agricultural lands. The learned Government Pleader following the said judgment laid much emphasis stating that the sale of agricultural land to the society is ceased to be an agricultural land. In view of the special enactment, in my considered opinion, the same cannot be applied to the facts of the present case.

25. In *S. Sulakshna Bai Vs. State of A.P. and Others*, , this Court held that the land ceases to be an agricultural land when once its user is changed into house sites and it assumes the character of vacant land even though it was certified to be agricultural land on the date of commencement of the Act. In the above case, this Court considered about the owner himself converting the lands into plots and sold the same to various purchasers. In those circumstances, this Court held that it becomes the vacant land in the hands of owner. But this Court has not considered the effect of conversion of land by the society. The facts in the above case are different and are not applicable to the facts in the present case.

26. Lastly, the learned Government Pleader made a feeble submission that this Court in WP No.6512 of 1983 dated 7-10-1983 observed that the housing society proposes to execute register sale deeds in favour of its members or other persons in the shape of plots as part of lay out, whether sanctioned or not sanctioned, it would immediately attract the same vice. He also contended that in view of the alternative remedy available u/s 33 of the Urban Land Ceiling Act, the petitioners can file an appeal and it is for the appellate authority can go into the facts and decide the issue. In the above case, this Court was considering the instructions issued under the Urban Land Ceiling Regulation Act to the registration authorities .not to register the lands. While deciding whether the said instructions are valid or not, this Court held that basing on the certificate issued u/s 2(o) of the Act, the owners, who selling small plots measuring 300 Sq. yards and the same were refused by the registering authorities validly refused by the registering authorities in view of the bar imposed under Sections 26 and 27 of the Act. The said facts are not applicable to the facts of the present case.

27. Equally the contention of the learned Government Pleader that the writ petitioners can file an appeal cannot be accepted for the reason that the writ petitions were admittedly filed as long as in 1992 and they were pending for more than seven years. As the facts were not in dispute driving the petitioners to avail the alternative remedy at this distance of time cannot be justified and judicial propriety demands that cases should be disposed of as expeditiously as possible. Admittedly, there is no right of appeal conferred on the third parties unless they seek leave of the Court as held by this Court in *Y.S.R. Krishnaiah v. Spl Officer, Urban Land Ceiling 1989 (1) ALT 48* and in *State of Punjab (Now Haryana) and Others Vs. Amar Singh and Another*, , hence the contention of the learned Government Pleader that the writ petitioners can file an appeal is hereby rejected.

28. What is culled out from the above discussion is that the competent authority

who has finalised the statement u/s 8(4) of the Act and final statement u/s 9 and notification issued u/s 10(1), 10(3) and Section 10(5) of the Act failed to follow the mandatory provisions by issuing notice to the persons likely to be affected viz., the petitioners, who are purchasers of the above lands and it is also within their knowledge; and the records also reveal that Smt Tulsamma, the 4th and 5th respondent in the writ petitions admitted that she has no interest in the above lands as she has sold the same to the society and the same was also discussed by the competent authority in his earliest proceedings dated 28-5-1984. In view of the same non-issuance of notice and its service upon the interested persons is fatal and the entire proceedings and the final statement u/s 8(4) of the Act; and the proceedings of the second respondent dated 12-4-1990 and the consequential orders of the first respondent u/s 8(4) and Section 9 of the Act dated 9-2-1991 and the notification issued u/s 10(1); 10(3) and 10(5) of the Act are all of no consequences and consequently they are declared as non est. The writ petitions are accordingly allowed. There shall be no order as to costs.