
(2003) 07 AP CK 0095

In the Andhra Pradesh High Court

Case No : WA No's. 1504 and 1572 of 1997, 10 of 1998 and 125 of 2000

Lambadi Pedda Bhadraru and Others

APPELLANT

Vs

Mohd. Ali Hussain and Others

RESPONDENT

Date of Decision : 04-07-2003

Acts Referred:

Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 9
Constitution of India, 1950 — Article 226

Citation : (2003) 4 ALD 673 : (2003) 4 ALT 611

Hon'ble Judges : C.V. Ramulu, J;B. Sudershan Reddy, J

Bench : Division Bench

Advocate : A.G., S. Venkat Reddy for P. Srinivas Reddy and A.V. Krishna Koundinya, Shaik Khasim Saheb, K. Mahipathi Rao, Y. Rama Rao and K. Raghuv eer Reddy, Government Pleader for Revenue and V. Venkataramana, for the Appellant; C.P. Sarathy, Govt. Pleader for Revenue, for the Respondent

Judgement

B. Sudershan Reddy, J.—These writ appeals may be disposed of by a common judgment since they are directed against the judgment dated 9-12-1997 rendered by a learned Single Judge of this Court in W.P. Nos. 17020 of 1994 and 1461 of 1995 separately, whereunder the very proceedings of the Joint Collector, Medak District at Sanga Reddy dated 22-6-1994 were quashed at the instance of different parties.

Introduction:

2. Shorn of all the avoidable details the simple question that falls for consideration in this batch of writ appeals relates to the validity of the order passed by the Joint Collector, Additional District Magistrate, Medak District at Sanga Reddy dated 22-6-1994 whereunder directions have been issued to the Mandal Revenue Officer, Patancheru "to re-write the records and maintain records as was prevailing prior to making entries in favour of the decree holders in O.S.No. 3 of 1970".

3. The learned Single Judge allowed the writ petitions filed by the respondents-

writ petitioners and accordingly quashed the said proceedings of the Joint Collector. Hence these writ appeals.

4. In order to consider as to whether the judgment of the learned Single Judge suffers from any infirmity requiring our interference, it may be just and necessary to notice the relevant facts leading to filing of the writ petitions as well as writ appeals.

Factual matrix:

5. The origin of the claim of the respondents-writ petitioners is based upon a lease deed alleged to have been executed by the then Tahsildar Garbi Taluk of Atraf-i-Baldia District. The lands are situated in Ailapur Village. That huge extent of land admeasuring 496 bigas and 13 barns (equivalent to Ac. 369.05 guntas) alleged to have been granted on lease by the Tahsildar on 10th Farwardi 1312 Fasli in favour of one Shaik Imam Ali, the then Mansabdar, Treasuries Department of Nizam's Government. The said lease is stated to be for a period of 56 years. The said land, at the time of grant of lease, was banjar land. The said Shaik Imam AH after obtaining the lease, mortgaged the whole of Ailapur village to one Marke Palli Yellaiah for a period of ten years for Rs. 10,000/-, Thereafter, in the year 1342 Fasli, the said Shaik Imam Ali executed another mortgage in favour of Hakim Mustafa Hussain for a sum of Rs. 15,000/-. The said mortgage deed is dated 21st Azur, 1342 Fasli. Thereafter, the said Shaik Imam Ali in his capacity as leaseholder sold away the entire village of Ailapur in favour of Mohd Mustafa Hussain vide registered deed No. 24 of 1343 Fasli on 12-1-1343 Fasli for a consideration of Rs. 30,000/-. The said sale deed does not specify and indicate the actual extent of land sold under it. But it specifies the neighbouring villages as the boundaries within which the land sold is stated to be situated.

6. Be that as it may, after the death of Shaik Imam Ali, his wife and sons have raised various objections with regard to sale of the said lands in favour of Hakim Mustafa Hussain. It is the case of Hakim Mustafa Hussain that after a prolonged litigation the sale was held to be valid by the then Sarf-e-khas Committee as early as in 1350 Fasli. Thereafter, the order of Sarf-e-khas Committee was implemented. The predecessor-in-title of the respondents-writ petitioners i.e. Hakim Mustafa Hussain was declared to be in possession of the lands in question by the Tahsildar vide letter No. 620, dated 28-6-1353 Fasli. This fact, of course, is seriously disputed and put in issue.

7. It was contended by the State that the operative portion of the order purported to have been passed by the Sarf-e-khas Committee is manipulated. In reality, the appeal preferred challenging the validity of the sale was allowed setting aside the very sale itself. It is also the case of the State that the Minister Sarfe-e-khas in his order dated 14th Khurdad, 1349 Fasli (1939 AD) has pointed out several irregularities committed by the then Tahsildar at the time of granting lease itself in favour of Shaik Imam AH. Aggrieved by the orders of the Minister

Sarf-e-khas, Hakim Mustafa Hussain filed an appeal before the Sarf-e-khas Committee (Moziz Committee) and the Moziz Committee dismissed the said appeal vide orders dated 26th Bahaman, 1350 Fasli. Precisely for the said reason, the said Hakim Mustafa Hussain filed a review petition dated 25th Ardibehist, 1350 Fasli before the Moziz Committee against its earlier orders dated 26th Bahaman, 1350 Fasli, in which the orders of Moziz Committee, both in law and on facts, were challenged. The said review was also dismissed by the Moziz Committee Sarf-e-khas on 11th Meher, 1352 Fasli. The simple case of the State is that Hakim Mustafa Hussain would not have filed any review petition had the Moziz Committee allowed his appeal as contended by him. The very fact that the review petition was filed itself would clinchingly establish that the appeal preferred by Hakim Mustafa Hussain was dismissed. It is the case of the State that the orders of Sarf-e-khas Committee were against both the lessee and the subsequent purchasers. Various instances are pointed out in support of the case of the State that the predecessor-in-title of the respondents-writ petitioners manipulated and concocted the order passed by the Committee by altering its last pages. We do not propose to go into in detail and make any observations in this regard.

8. It is the case of the respondents-writ petitioners that after the death of Hakim Mustafa Hussain in the year 1958, his legal representatives filed a petition for effecting the mutation of their names in the revenue records before the then Tahsildar, Sangareddy. The legal representatives of the original lessee Shaik Imam Ali have filed their objections before the Tahsildar. The Tahsildar rejected the objections as they were the same objections, which were raised before the Sarf-e-khas Committee and accordingly ordered the mutation of patta in the name of legal representatives of Hakim Mustafa Hussain. Aggrieved thereby, the legal representatives of Shaik Imam Ali preferred an appeal before the Revenue Divisional Officer and the same was dismissed confirming the orders of the Tahsildar. The revision preferred before the Additional Collector u/s 15(2) of the Hyderabad Record of Rights in Land Regulation, 1358 Fasli was also dismissed.

9. The legal representatives of the lessee, Viz., Shaik Imam Ali filed W.P.No. 823 of 1965 in this Court challenging the said order of the Additional Collector passed in the revision and this Court by its order dated 5-3-1968 allowed the said writ petition declaring "that the Tribunals went wrong in directing the entry to be made without conducting an enquiry into the various disputes raised by the parties, I, therefore, set aside the order of the Collector. I would direct the Tahsildar to keep these petitions pending till the matter is finally decided by a Civil Court. If the claim petition ultimately proves to be fruitless it could be open to either of the parties to approach the Civil Court to get their question in regard to title decided. The Tahsildar will make entries in the light of the final decision of the Civil Court."

10. It is the case of the respondents-writ petitioners that in pursuance of the directions of this Court in the said writ petition, the legal representatives of

Hakim Mustafa Hussain have filed O.S. No. 3 of 1970 on the file of the learned Additional District Judge, Medak at Sanga Reddy against the legal representatives of Shaik Imam Ali seeking declaration of title and also recovery of possession. The said suit was decreed on 26-2-1973. The sons of Shaik Imam Ali filed an appeal in A.S.No. 506 of 1973 in this Court. That, according to the State, the said appeal was disposed of in terms of the compromise entered by and between the parties, whereas according to the respondents-writ petitioners the said appeal was disposed of after contest though there was a partial compromise between some of the parties.

11. A close reading of the decree and judgment rendered by a Division Bench of this Court in A.S.No. 506 of 1973 reveals that there has been a compromise only between the appellants and one of the respondents i.e., respondent No. 3 therein alone and the appeal was accordingly decreed in terms of the compromise between the appellants and respondent No. 3 therein by orders of the Court dated 19-2-1974 in CMP No. 894 of 1974 and between the appellants and respondents 6 to 15 as per the orders of the Court dated 10-9-1976 in CMP No. 7952 of 1976. We do not want to make any further comment about the same in these proceedings.

12. The legal representatives of Hakim Mustafa Hussain filed a petition dated 9-9-1981 before the Joint Collector, Medak at Sanga Reddy for mutation and implementation of the judgment and decree made in O.S.No. 3 of 1970, dated 20-6-1979 in the record of rights. The Joint Collector passed order dated 19-5-1982 to the following effect:

"The Additional District Judge, Medak has accepted the title of Mohd Vilayath Hussain, s/o. Mohd. Raza Hussain and others over S.Nos. 1 to 220 measuring 1263 acres situated at Ailapur Village of Sangareddy Taluq, Medak District and has fixed their shares in detail.

The Counsel for the above persons submitted a petition for rectification of the Sethwar of the village as per judgment of the Court.

The case has been heard. It is ordered to implement the decision of the Court and to issue the supplementary Sethwar accordingly."

13. Thereafter, pursuant to the orders of the Joint Collector dated 19-5-1982 entries were made in the revenue records incorporating the names of legal representatives of Hakim Mustafa Hussain in all the revenue records and it appears that even a supplementary Sethwar was accordingly issued. In the meanwhile, some of the lands were sold in favour of petitioner No. 1 in W.P. No. 17020 of 1994 and also some others.

14. It is at that stage, one M.A. Mukheem filed a public interest litigation in this Court levelling serious allegations that the Government lands in Ailapur Village were being converted as patta lands without any authority of law. A representation was made by one Vittal Reddy, the then local M.L.A., to the Chief

Minister.

15. It is under those circumstances, the Joint Collector having invoked his jurisdiction u/s 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short "the ROR Act") suo motu set the law in motion for making an appropriate enquiry with regard to the entries made in the record of rights including the revenue records in respect of the huge extent of land situated at Ailapur Village. Necessary notices were accordingly ordered to be issued to all the parties including the persons in actual possession of the lands, who also raised several objections for altering and modifying the entries in the revenue records. Some material appears to have been placed before the Joint Collector to the effect that entries even in respect of huge extent of Government land were also changed duly incorporating the names of the legal representatives of Hakim Mustafa Hussain. The Joint Collector having perused the records found that the compromise decree, or for that matter the decree, obtained by the parties does not bind the Government and the entries in the revenue records cannot be changed on the strength of such decrees adversely affecting the right, title and interest of the Government in Government lands. The Joint Collector found that the implementation of the decree obtained by the parties and consequent change in the records is vitiated by many procedural errors. The Joint Collector found that the entire village was sold for some nominal consideration by lessee in favour of a private individual, which included vast extent of Government land. The Joint Collector also found that the vast extent of land in respect of which entries are changed is in possession, occupation and enjoyment of the villagers and the entries made pursuant to the said decree adversely affected their rights. The Joint Collector further found that none of the contesting parties in the said suit were ever in possession of the lands at any point of time as the same is evident from the entries made in the records prior to their alteration by the authorities pursuant to the decree obtained by Shaik Imam Ali and others.

Contentions in the writ petitions before the learned Single Judge:

16. The respondents-writ petitioners filed W.P.Nos. 17020 of 1994 and 1461 of 1995, out of which these writ appeals arise, challenging the said order dated 22-6-1994 passed by the Joint Collector in purported exercise of the power conferred u/s 9 of the ROR Act. It was mainly contended that u/s 9 of the ROR Act, the Joint Collector can call and examine only the order passed or proceedings taken by any recording authority or an appellate authority to satisfy himself as to the regularity of such record, order or proceeding or the correctness, legality or propriety of any decision passed or order made therein and may pass orders amending, modifying, annulling or reversing such order or proceeding if it appears to him that it is just and necessary to do so. The Joint Collector cannot revise or review any earlier order passed by the same authority in exercise of the very power u/s 9 of the ROR Act. It was also contended that the suo motu revision cannot be exercised after an inordinate delay of more than twelve years and if at all can be exercised within a reasonable time. It was

further contended that the Joint Collector cannot go beyond the decree granted by a competent Court of Civil jurisdiction as held by this Court in *Meer Ahmed Ali Khan v. Momen Begum* (1970 (2) APLJ 43). It was also urged that since there was already a direction of the High Court to implement the Civil Court decree to which he was a party, the impugned order amounts to refusal to obey the order of the High Court.

17. It was contended on behalf of the State that the decree obtained by the parties behind the back of the Government does not bind the Government and the entries in the revenue records could not have been changed deleting the name of the Government from the record. It was also urged that the entries made in record of rights would not confer any title by themselves upon the persons in whose favour such entries are made and the Government cannot be precluded from asserting its right, title and interest in the lands.

18. It was urged on behalf of the appellants herein (contesting respondents in the writ petitions) that the order obtained behind their back and the consequent changes in the revenue records adversely effected their right and the entries in the record of rights could not have been changed without putting them on notice.

Findings by learned Single Judge:

19. The learned Judge surprisingly went into the questions of title and accordingly declared that the Government has no interest in the lands and the lands never belonged to the Government at any point of time. The learned Judge accordingly declared that the impugned order is unwarranted on merits. It is further held that it is without jurisdiction because it purports to review the order dated 19-5-1982 passed by the Joint Collector. Even if any such power was available, the same could be exercised only within a reasonable period and in the instant case the power was exercised after a lapse of more than 12 years, and therefore, the power exercised cannot be held to have been exercised within a reasonable time.

Submissions:

20. The learned Advocate-General appearing on behalf of the appellants in W.A.Nos. 10 of 1998 and 125 of 2000 bitterly criticized the judgment rendered by the learned Judge of this Court. It was contended by the learned Advocate General that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot undertake to resolve the disputed questions of fact, in particular the questions relating to right, title and interest in immovable properties. The learned Judge, according to the learned Advocate-General, committed a serious and incurable error in holding that the Government has no title to the lands in question. The learned Advocate-General further submitted that the impugned order passed by the Joint Collector does not amount to reviewing his own earlier order passed in the year 1982 whereunder directions have been issued to implement the decree of the Civil Court. The Joint Collector merely recalled his own order. It is a rectification of mistake committed by the

same authority. The learned Advocate-General submitted that when an authority commits a mistake and seeks to rectify the same, it would amount to neither review nor revision. There is no time limit for rectification of a mistake or cancellation of a void order. The authority or the Tribunal has inherent power to recall such orders. The learned Advocate-General also contended that the order of the Joint Collector dated 19-5-1982 is a void order and it can simply be ignored. It can be erased from the records at any time.

21. Sri S. Venkat Reddy, learned Senior Counsel appearing on behalf of the respondents-writ petitioners, more or less, reiterated the submissions that were made before the learned Single Judge. The learned Senior Counsel contended that the impugned order passed by the Joint Collector suffers from incurable legal infirmities and jurisdictional errors. The Joint Collector can neither reopen nor review his own order. No order can be presumed to be void unless the same is put in issue and set aside by the competent Court of jurisdiction. The power, if any, vested in the Joint Collector u/s 9 of the ROR Act is required to be exercised within a reasonable period and at any rate such power cannot be exercised to unsettle the settled rights. The learned Senior Counsel contended that the decree obtained by the predecessor-in-title of the respondents-writ petitioners is not a compromise decree as is evident from the decree and judgment of this Court made in A.S. No. 506 of 1973, dated 21-10-1976, In the earlier proceedings, the Joint Collector merely directed the implementation of the decree of the Civil Court in the revenue records as well as in record of rights in terms of the orders made by this Court in W.P.No. 823 of 1965.

22. The learned Advocate-General in reply submitted that the subsequent facts gathered by the revenue authorities reveal the fraud played and perpetrated by the predecessor-in-title of the respondents-writ petitioners. The predecessors-in-title of the respondents-writ petitioners have gone to the extent of mutilating and interpolating the records and quasi-judicial orders passed by the authorities. The operative portion of the order passed by the Moziz Committee has been manipulated, as is evident from the fact of filing of review petition by the same persons who claim to have succeeded in the appeal. The leaseholder, under no circumstances, could have conveyed any better title to the purchaser by selling away the lands, which included the Government lands. The sum and substance of the submission of the learned Advocate-General is that the fraud vitiates the whole of the proceedings right from its inception and the rights of the respondents-writ petitioners, if any, are required to be established now in accordance with law. The entries in the revenue records could not have been changed deleting the names of the persons who are in actual possession and enjoyment of the land without putting them on notice. It was also contended by the learned Advocate-General that the ROR Act itself has no application in respect of the Government lands. The name of the Government from the revenue records could not have been erased by substituting the name of the predecessor-in-title of the respondents-writ petitioners under the grab of implementing the so-called decree obtained by the predecessor-in-title of the respondents-writ

petitioners.

23. We have given our anxious consideration to the rival submissions and scrutinised the complete records placed before us for our perusal.

Relevant Legislation:

24. The ROR Act underwent several amendments, which are comprehensive in their nature. The Andhra Pradesh (Telangana Area) Record of Rights in Land Regulation, 1358 Fasli provided for the preparation and maintenance of Record of Rights in the Telangana area of the State. Prior to the enactment of ROR Act (Act 26 of 1971) there has been no corresponding enactment providing for such statutory record of rights applicable to the Andhra area of the State. The Government have decided that a scheme for preparation and maintenance of record of rights should be implemented in the Andhra area of the State also. Accordingly it was proposed to enact fresh legislation applicable throughout the State for the preparation and maintenance of Record of Rights, repealing the said Regulation. Provisions are accordingly made to deem the Record of Rights duly prepared and maintained for the villages under the said Regulation as the Record of Rights for the village. Effectuated individuals are given an opportunity to apply to the authorised officer for rectification of any entry so made in the records.

25. According to the definition contained in Section 2(9) of the ROR Act, "record of rights" means records prepared and maintained under the provisions, or for the purposes of this Act.

26. Section 3 of the ROR Act deals with preparation and updating of record of rights in all lands. That after commencement of the Act in any area, there shall be, prepared and brought up-to-date from time to time by the recording authority in such manner, and thereafter maintained in such form as may be prescribed, a record of rights in all lands in every village in that area and such record of rights shall contain the following particulars, namely:

(a) the names of all persons who are owners, pattadars, mortgagees, occupants or tenants of lands;

(b) the nature and extent of the respective rights or interest of such persons and the conditions or liabilities if any, attaching thereto;

(c) the rent, revenue or other amount, if any, payable by, or to any of such persons;

(d) such other particulars as may be prescribed.

27. Sub-section (3) of Section 3 of the ROR Act says that any person affected by an entry in such record of rights may, within a period of one year from date of the notification referred to in sub-section (2), apply, for rectification of the entry to such officer as may be prescribed. The said officer may, after such inquiry as may be prescribed, give his decision on such application and direct the rectification of the record of rights in accordance with such decision which shall,

subject to the provisions of Section 9, be final.

28. Section 4 of the ROR Act provides for intimation of acquisition of rights. It says that any person acquiring by succession, survivorship, inheritance, partition, Government patta, decree of a Court or otherwise any right as owner, pattadar, mortgagee, occupant or tenant of a land and any person acquiring any right as occupant of a land by any other method shall intimate in writing his acquisition of such right, to the Mandal Revenue Officer within ninety days from the date of such acquisition.

29. That prior to the amendment of Section 4 by A.P. Act 9 of 1994, acquisition of rights under the decree of a Court was not specifically mentioned, but acquisition of rights by succession, survivorship, etc., or otherwise any right as owner, pattadar, mortgagee, etc., was mentioned. The expression "otherwise" includes acquisition of rights under decree of a Court. The rights acquired under the decree of a Court even under the un-amended provision constituted the basis for amendment and updating the record of rights.

30. Section 5 of the ROR Act mandates that on receipt of such intimation of the fact of acquisition of any right referred to in Section 4, the Mandal Revenue Officer shall determine as to whether, and if so in what manner, the record of rights may be amended in consequence therefore and shall carryout the amendment in the record of rights in accordance with such determination. It further provides that no order refusing to make an amendment in accordance with the intimation shall be passed unless the person making such intimation has been given an opportunity of making his representation in that behalf.

31. Sub-section (3) of Section 5 of the" ROR Act mandates that the recording authority shall, before carrying out any amendment in the record of rights, issue a notice in writing to all persons whose names are entered in the record of rights and who are interested in or affected by the amendment and to any other persons whom he has reason to believe to be interested therein or affected thereby to show-cause within the period specified therein as to why the amendment should not be carried out. Every order passed under this section is required to be communicated to the person concerned. Every order of the recording authority either making an amendment in the record of rights or refusing to make such an amendment is final subject to the appeal provided to the Revenue Divisional Officer and the decision of the appellate authority thus made is subject to the provisions of Section 9 of the Act. The Mandal Revenue Officer is empowered to correct the clerical errors, if any, in the Pass Books.

32. Section 6 declares that every entry in record of rights shall be presumed to be true until the contrary is proved or until it is otherwise amended in accordance with the provisions of the Act.

33. Section 9, which is relevant for our purpose, is as follows:

9. Revision :--The Collector may either suo motu or on an application made to

him, call for and examine the record of any Recording Authority, Mandal Revenue Officer or Revenue Divisional Officer under Sections 3,5, 5-A or 5-B, in respect of any record of rights prepared or maintained to satisfy himself as to the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof and if it appears to the Collector that any such decision, order or proceedings should be modified, annulled or reversed or remitted for reconsideration, he may pass orders accordingly:

Provided that no such order adversely affecting any person shall be passed under this section unless he had an opportunity of making a representation.

34. It is also necessary to have a look at Section 10, which deals with the powers of the Recording Authority for the purposes of holding an enquiry under the Act:

10. Powers of recording :--(1) A recording authority or an appellate authority or any other officer shall, for the purpose of holding any enquiry under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) when trying a suit in respect of the following matter namely:

(a) Summoning and enforcing the attendance of any person and examining him on oath;

(b) Requiring the discovery and production of documents; and

(c) Any other matter which may be prescribed.

(2) The provisions of Section 5 and Sections 12 to 24 of the Limitation Act, 1963, shall apply for the purposes of extension and computation of the periods prescribed in Sections 3(3), 4(1), 5(5) and 5-A and 5-B of this Act.

35. Section 12 declares that nothing in this Act shall apply to the lands belonging to the State Government or Central Government.

36. Section 13 repeals the Andhra Pradesh (Telangana Area) Record of Rights in Land Regulation, 1358 Fasli and all Standing Orders and any other provisions of law relating to the record of rights of land as in force in the State.

The Court's view - Scope and nature of proceedings under ROR Act:

37. The rules framed under the Act prescribe an elaborate procedure for preparation of record of rights and updating of the record of rights. It provides for a detailed enquiry and a public notice apart from the notice to the individual persons whose names are already found in the record of rights, and no updating or amendment deleting names of such persons whose names are already found in the record of rights is permissible without providing an opportunity of being heard to them.

38. A bare reading of the provisions of the ROR Act and the rules framed thereunder makes it abundantly clear that the recording authority, appellate authority and revisional authority are conferred with the power and jurisdiction

to resolve and decide the disputes relating to the amendment and updating the record of rights. The provisions of the ROR Act and the rules visualise the nature of disputes that may arise in the process of updating and modification of the record of rights. The provisions mandate that whenever an application is received intimating acquisition of rights and seeking amendment of the record of rights all persons whose names are entered in the record of rights and who are interested in and affected by the amendment are required to be put on notice as to why the amendment should not be carried out. The statute not only confers the substantial right of appeal and revision upon the aggrieved and interested persons, but also prescribes and structures the power of the authorities under the Act and the manner of exercise thereof. It necessarily involves resolution of rival claims.

39. The recording authority and the appellate authority or any other officer for the purpose of holding any enquiry under the Act are clothed with the same powers as are vested in the Civil Court under the Code of Civil Procedure, 1908 when trying a suit in respect of summoning and enforcing the attendance of any person and examining him on oath: requiring the discovery and production of documents, etc. The statutory functions, thus, entrusted to the authorities under the Act are of judicial character. The authorities are required to hold enquiry and sitting and make decisions in relation to the proceedings brought before them for which purpose they are empowered to summon the witnesses and administer the oaths. The performance of functions entrusted to the authorities under the Act terminates any order that has the conclusive effect. The said orders are binding and conclusive inasmuch as they have the force of law without the need for confirmation or adoption by any other authority. Those orders cannot be impeached indirectly in collateral proceedings. The authorities under the Act are duty bound to act judicially in conformity with the natural justice. There cannot be any doubt whatsoever that the functions performed by the authorities under the provisions of the ROR Act are quasi-judicial in nature. The conferment of procedural as well as substantive rights upon the individuals in relation to modification and updating of record of rights in accordance with the provisions of the ROR Act empowering the authorities to alter the preexisting rights undoubtedly suggests the nature of functions discharged by them as quasi-judicial nature.

40. A Division Bench of this Court, to which one of us is a member (B. Sudershan Reddy, J.), in *Union of India (UOI) and Others Vs. Vasavi Cooperative Housing Society Limited and Others*, , after reviewing the entire case law and the relevant provisions relating to preparation of record of rights observed:

"A careful analysis of the decisions referred to hereinabove of this Court as well as of the Apex Court would make it clear that the entries made in the record of rights carry with them a very great evidentiary value, provided the record of rights is prepared and maintained under the provisions of the relevant statutes or the regulations, as the case may be, and further provided that the entries

therein are made after holding public enquiries. Sometimes, they constitute the only evidence available in order to establish one's title to the lands. The entries made in Columns 1 to 19 of the pahani patrikas shall be deemed to be the record of rights prepared and maintained by a public servant in discharge of his official duties."

41. Such is the evidentiary value of the entries made in the record of rights. The process of making entries in the record of rights involves adjudication, and the decision making process itself is structured by the statutory provisions and the rules made thereunder.

Scope and extent of revisional power:

42. In this background, we shall proceed to consider the question as to whether the revisional authority in purported exercise of power u/s 9 of the ROR Act is entitled to go into the regularity, correctness, legality or propriety of any decision taken by itself.

43. A plain reading of Section 9 of the ROR Act referred to hereinabove suggests that the Collector is conferred with the jurisdiction, either *sito motu* or on an application made to him, to call for and examine the record of any Recording Authority. Mandal Revenue Officer or Revenue Divisional Officer in respect of any record of rights prepared or maintained for the purpose of satisfying himself as to the regularity of such record, order or proceeding or the correctness of any decision passed or order made therein by any Recording Authority, Revenue Divisional Officer etc. It is a plain and simple revisional jurisdiction conferred upon the Collector to call for the records of the authorities subordinate to him and correct the irregularities, illegalities or improprieties of any decision taken by such authorities. In such view of the matter, we have no doubt whatsoever in our mind to hold that the Collector is not entitled to call for his own record and exercise the *suo motu* revisional jurisdiction vested in him u/s 9 of the ROR Act.

Whether the revisional authority can review its own orders or reopen the proceedings, and if so when and on what grounds?

44. The next question that falls for consideration is as to whether the Collector is entitled to recall his own order in order to rectify the mistakes, if any, crept into it or on the ground that the order suffers from an error apparent on the face of the record so as to constitute any ground for reviewing the same?

45. It is very well settled that once the statutory authority or the Tribunal of a limited jurisdiction has announced its decision, it has, as a general rule, no power to reconsider it or to reopen the case. This applies equally where one of the parties later discovers fresh evidence, which might well alter the decision. But there is an exceptional power to reopen the case where the Tribunal's or authority's decision is the result of fraud played by any of the parties for which purpose the plea of fraud must be specifically stated and proved. The Tribunals of limited jurisdiction or quasi-judicial authorities discharging the functions under

the provisions of an enactment exercise only such power as is vested in them under the provisions of the Act under which they discharge their statutory powers. It is a different matter that even the Tribunals and authorities of a limited jurisdiction may have the incidental power to correct the arithmetical and clerical errors which do not amount to reopening or reviewing the proceedings.

46. The learned Advocate-General, however, placed reliance upon the judgments of the Supreme Court in 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, ; Indian Bank Vs. M/s. Satyam Fibres (India) Pvt. Ltd., , Common Cause, A Registered Society Vs. Union of India and Others, , and United India Insurance Co. Ltd. Vs. Rajendra Singh and Others, , in support of his submission that a Court or Tribunal or any quasi-judicial authority has inherent power to recall its judgment or order if it found to be obtained by fraud or forgery as the fraud amounts to abuse of process of the Court or Tribunal, as the case may be. There cannot be any dispute with the proposition that every Court or Tribunal or quasi-judicial authority has inherent power to recall its judgment or order found to be obtained by fraud/ forgery.

47. In Ramchandra G. Shinde (supra), the Supreme Court observed that the order passed by the High Court under Article 226 is a judicial order exercising its constituent power but when its process is abused and an order of minutes obtained by consent hedged with collusion and fraud on the Court and when the facts were brought to the notice of the High Court, it is the High Court alone or on appeal the Supreme Court which is to correct such an order.

48. In S.P. Chengalvaraya Naidu (supra), the Apex Court observed that a judgment or decree obtained by playing fraud on the Court is a nullity and non est in the eyes of law. Such a judgment/decreed - by the first Court or by the highest Court - has to be treated as a nullity by every Court, whether superior or inferior. It can be challenged in any Court even in collateral proceedings.

49. In Common Cause (supra), the Supreme Court rectified its own mistake and in that context observed:

"The powers of this Court under Article 32 and that of the High Court under Article 226 are plenary powers and are not fettered by any legal constraints. If the Court, in exercise of these powers has itself committed a mistake, it has the plenary power to correct its own mistake."

50. We fail to appreciate as to how the said judgment renders any assistance whatsoever to the submission made by the learned Advocate-General. There cannot be any dispute whatsoever as to the plenary nature of power of this Court under Article 226 of the Constitution of India or the power of the Supreme Court under Article 32 of the Constitution of India to correct its own mistake.

51. In United India Insurance Co. Ltd., (supra), the Supreme Court observed, "No Court or Tribunal can be regarded as powerless to recall its own order if it is

convinced that the order was wangled through fraud or misrepresentation of such a dimension as would affect the very basis of the claims"

52. In the said case, awards of compensation were obtained by claimants from the Motor Accidents Claims Tribunal by practising fraud. The Insurance Company paid amounts awarded to the claimants, but subsequently when it realised the fraud played upon it, moved the Tribunal with petitions purportedly under Sections 151, 152 and 153 of the CPC for recalling of the awards. The Tribunal dismissed the petitions on the ground of want of power to review its own awards. The High Court also dismissed the writ petitions filed by the Insurance Company keeping it open for the Insurance Company to resort to any other remedy that may be available in law. The Supreme Court held that both the Tribunal and High Court erred in refusing to go into the matter since no other remedy was available to the Insurance Company. It is under those circumstances, the Supreme Court observed that "no Court or Tribunal can be regarded as powerless to recall its own order if it is convinced that the order was obtained by playing fraud or misrepresentation of such a dimension which would affect the very basis of the claim".

53. None of the judgments, upon which reliance is placed by the learned Advocate-General, supports the proposition canvassed by him that the Tribunal or quasi-judicial authority, as the case may be, is entitled to recall its own order and rectify the mistakes at any point of time. The decisions referred to hereinabove laid down the law declaring that fraud unravels everything and the Courts or Tribunals, as the case may be, are not powerless to recall their own orders on being satisfied that orders are obtained by playing fraud. We shall deal with this aspect of the matter a little later.

54. The submission made by the learned Advocate-General that in the instant case the impugned order of the Joint Collector amounts to recalling and rectification of the mistake crept into the earlier order dated 19-5-1982 is totally unacceptable for more than one reason. The Joint Collector himself does not say that it is a case of rectification of any mistake. The Joint Collector proceeded to exercise his revisoinal jurisdiction conferred u/s 9 of ROR Act as if it was being exercised for the first time to correct the mistake of any recording or appellate authority under the provisions of the Act.

55. The Joint Collector mainly proceeded on the ground that the entries in the record of rights were altered, changed and modified based upon a compromise decree to which the Government is not a party resulting in prejudice to the claim of the Government in respect of its own lands. The earlier order of the same authority is sought to be reviewed in its entirety on a newly found substantial ground. It is not a case of any simple correction or rectification of any mistake in the order, but it is a substantial review of the order. Therefore, it is not a simple case of any rectification of mistake.

56. For the aforesaid reasons, we find no merit in the contention urged by the

learned Advocate-General.

Void and voidable order:

57. However, it was contended by the learned Advocate-General that the order dated 19-5-1982 of the Joint Collector is a void order and, therefore, it is a nullity and to be ignored. In the instant case, it is totally unnecessary to go into dichotomy of void and voidable acts behind whom lurk "terminological and conceptual problems of excruciating complexity", See : Amnon Rubinstein, Jurisdiction and Illegality (1963).

58. The distinction between void and voidable decisions is now obsolete; the House of Lords having written its obituary in *Baddington v. British Transport Police* (1999) AC 143.

59. Lord Radcliff in a well-known passage in *Smith v. East Elloe Rural District Council* (1956) 1 All ER 855 at page 871, observed:

"An order, even if not made in good faith, is still an act capable of legal consequences. It bears no brand of invalidity on its forehead. Unless the necessary proceedings are taken at law to establish the cause of invalidity and to get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders." (Emphasis is of ours)

60. There is a useful discussion on the topic "Nullity and Voidness" in ADMINISTRATIVE LAW - Eighth Edition by Sir William Wade and Christopher Forsyth, as under:

"An act or order which is ultra vires is a nullity, utterly without existence or effect in law. That is the meaning of "void," the term most commonly used.. "there are no degrees of nullity" and that errors such as bad faith, wrong grounds and breach of natural justice all necessarily involve excess of jurisdiction and therefore nullity..... The Court may hold that the act or order is invalid, but may refuse relief to the applicant because of his lack of standing, because he does not deserve a discretionary remedy, because he has waived his rights, or for some other legal reason. In any such case the "void" order remains effective and, must be accepted as if it was valid. It seems also that an order may be void for one purpose and valid for another: and that it may be void against one person but valid against another. A common case where an order, however void, becomes valid for practical purposes is where a statutory time limit expires after which its validity cannot be questioned. The statute does not say that the void order shall be valid; but by cutting off legal remedies it produces that result. As Lord Diplock said of a compulsory purchase order alleged to be made in bad faith but challenged after the expiry of the limitation period, the order "had legal effect notwithstanding its potential invalidity." (See: *Hoffmann La Roche v. Secretary of State* (1974) 2 All ER 1128). (Emphasis is of ours).

61. It is unnecessary to recall the various judgments pronounced in this regard as the law is very clear that even a void order continues in de facto operation

and the same can be ignored by an aggrieved person at his own risk and peril. Even such void orders continue to hold the field and have the effect in law like all other lawful orders until the same is set aside in a properly instituted proceedings at the instance of an aggrieved person.

62. In *State of Kerala Vs. M.K. Kunhikannan Nambiar Manjeri Manikoth, Naduvil (dead) and others*, , the Supreme Court observed:

"The word "void" has a relative rather than an absolute meaning. It only conveys the idea that the order is invalid or illegal. It can be avoided. There are degrees of invalidity, depending upon the gravity of the infirmity, as to whether it is fundamental or otherwise....."

63. In the instant case, the order dated 10-5-1982 passed by the Joint Collector remained un-impeached for a period of more than 12 years till he himself had undertaken to set aside the same and pass the impugned order dated 22-6-1994. In these proceedings it is not permissible for us to declare the order passed by the Joint Collector dated 19-5-1982, which remained in operation for a period of more than 12 years, as void. Therefore, we are not inclined to accept the submission made by the learned Advocate-General that this Court would not interfere and issue any writ in exercise of its equity jurisdiction to set aside even an illegal order if it results in resurrection of another illegal order. We cannot presume the order dated 19-5-1982 is an illegal and void one.

Consequences of playing fraud:

64. Whether an order obtained by fraud can be recalled at any time? The next formidable submission made by the learned Advocate-General is that any order obtained by playing fraud on the Court or the Tribunal, as the case may be, is a nullity and non-est in the eve of law.

65. It is submitted that it can be challenged in any Court even in collateral proceedings.

66. "Fraud avoids all judicial acts, ecclesiastical or temporal" observed Chief Justice Edward Coke of England about three centuries ago. The parties are not left without any legal remedy when a party to a judgment or order later discovers that such judgment or order was obtained by fraud.

67. Denning LJ has said: "No judgment of a Court, no order of a Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything. (See: *Lazarus Estates Ltd. v. Beasley* (1956) 1 QB 702).

68. In *Indian Bank* (supra), the Supreme Court had an occasion to consider the question as to the power of the authorities, be they constitutional, statutory or administrative, (and particularly those who have to decide a lis) to recall their judgments or orders if they are obtained by fraud, and observed:

"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 powers are powers which are resident in all Courts, especially of superior jurisdiction. These powers spring not from legislation but from the nature and the constitution 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, regularity 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. Similarly, where the Court is misled by a party or the Court itself commits a mistake which prejudices a party, the Court has the inherent power to recall its order. (See: Benoy Krishna Mukerjee v. Mohanlal Goenka (AIR 1950 WB287); Gajanand Sha and Others Vs. Dayanand Thakur, ; AIR 1947 236 (Nagpur) Devendra Nath Sarkar v. Ram Rachpal Singh (ILR (1926) Luck 341); Saiyed Mohd, Raza v. Ram Saroop (ILR (1929) Luck 562; Bankey Behari Lal v. Abdul Rahman (ILR (1932) Luck 350); Lekshmi Amma Chacki Amma v. Mammen Mammen (1955 KLT 459). The Court has also the inherent power to set aside a sale brought about by fraud practised upon the Court (Ishwar Mahton v. Sitaram Kumar (AIR 1954 Pat 450) or to set aside the order recording compromise obtained by fraud. Bindeshwari Pd. Chaudhary Vs. Debendra Pd. Singh and Others, ; Tara Bai v. V.S. Kriahnaswamy Rao (AIR 1985 Kant 270.)"

69. It is further observed by the Supreme Court that the authorities, be they constitutional, statutory or administrative, (and particularly those who have to decide a lis) possess the power to recall their judgments or orders if they are obtained by fraud as fraud and justice never dwell together (*Fraus et jus nunquam cohabitant*). It has been repeatedly said that fraud and deceit defend or excuse no man (*Fraus et dolus nemini patrocinari debent*).

70. In our opinion, public interest demands recalling of orders obtained by parties by playing fraud upon Courts. The Court, Tribunal, quasi-judicial bodies and other authorities have clear and definite power to recall and set aside such orders obtained by playing fraud. Silence and indifference on the part of the Courts and authorities result in perpetuating fraud. Judicial process gets sullied resulting not only in miscarriage of justice but also in erosion of public faith and confidence in the system of administration of justice. It is the duty of all entrusted with judicial power to keep streams of judicial process pure and free from pollution.

71. But, in the instant case, we are required to notice that the Joint Collector while passing the impugned order dated 22-6-1994 did not recall or set aside the earlier order dated 19-5-1982 on the ground of any fraud. The parties were never put on notice that the order dated 19-5-1982 has been obtained by playing

fraud upon the authorities concerned. There is no mention of any allegation of fraud or misrepresentation against any individual. There is neither any allegation nor finding of any fraud. We would not have interfered with the impugned order passed by the Joint Collector had he recalled or set-aside the order dated 19-5-1982 on the ground of any fraud. It is too fundamental to restate the law that fraud unravels everything.

72. But it is equally well settled that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise.

73. Bose, J., in *Commissioner of Police, Bombay Vs. Gordhandas Bhanji, .*, in *Commissioner of Police, Bombay Vs. Gordhandas Bhanji, ,* observed:

"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

74. The same principle is reiterated in *Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, , Krishna Iyer,)* observed:

"Orders are not like old wine becoming better as they grow older."

75. Therefore, we cannot ourselves take the averments made in the additional affidavit into consideration and supplement the reasons for sustaining the impugned order passed by the Joint Collector. That an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out.

76. However, the learned Advocate-General placed before us the additional affidavit filed in the writ appeals giving the instances and details of fraud alleged to have been played by the predecessor-in-title of the respondents-writ petitioners and perpetuated by the actions and deeds of the respondents-writ petitioners. The learned Advocate-General laid great emphasis upon the alleged acts of the interested persons in even manipulating and changing the operative portion of the quasi-judicial order passed by the Moziz Committee. We do not propose to express any opinion and go into the said allegation of fraud and its perpetuation by the respondents-writ petitioners, as it is not possible to make any detailed and roving enquiry into those allegations of fraud in this summary proceeding. That apart, we cannot supplement the reasons and additional factual basis in order to save the impugned order passed by the Joint Collector. The order has to stand or fall on its own. But, at the same time, we cannot ignore the claim of the Government with regard to huge extent of land and the claim of

number of villagers who claim to be in actual cultivation of the lands and effected by the orders passed by the Joint Collector dated 19-5-1982. None of them were put on notice. Admittedly, the dispute was between the legal representatives of lessee on one hand and the purchasers from him on the other hand. The Government never had any opportunity to stake its claim with regard to its own lands. We are surprised to know that the lessee had sold the entire village itself, which may normally include communal, poramboke, gautan and unoccupied lands.

77. Be it as it may, allegations of fraud cannot remain uninvestigated. Public interest requires a detailed and unbiased enquiry into such allegations.

78. The Privy Council in *Satish Chandra Chatterji v. Kumar Satish Kantha Roy* AIR 1923 PC 73, laid down as under:

"Charges of fraud and collusion like those contained in the plaint in this case must, no doubt, be proved by those who make them - proved by established facts or inferences legitimately drawn from those facts taken together as a whole. Suspensions and surmises and conjecture are not permissible substitutes for those facts or those inferences, but that by no means requires that every puzzling artifice or contrivance resorted to by one accused of fraud must necessarily be completely unravelled and cleared up and made plain before a verdict can be properly found against him. If this were not so, many a clever and dextrous knave would escape."

79. In our considered opinion, the above principle will apply not only to the Courts of law but also to the statutory authorities, which, like the recording authority, appellate authority or revisional authority under the ROR Act, are conferred with the power to record evidence by applying certain provisions of the CPC including the power to enforce the attendance of witnesses and to receive evidence and affidavits. The recording authority and other authorities under the provisions of ROR Act are conferred with power to decide the disputes by following the prescribed procedure and invoking the power u/s 10 of the ROR Act read with the relevant rules framed thereunder. The Recording Authority, appellate authority as well as the revisional authority have jurisdiction not only to examine a witness on oath, but also to require the discovery and production of documents, etc., in order to decide the issues that arise for consideration before them.

80. Thus, we have no doubt in our mind that the revisional authority is entitled to make an enquiry into the allegations of fraud and collusion like those contained in the additional affidavit placed before us by the learned Advocate-General. The additional material, whose details are mentioned in the additional affidavit, is alleged to have been unearthed after disposal of the writ petitions. It is thus clear that this material was evidently not in possession and available to the revisional authority when the law was set in motion for setting aside the entries made in the record of rights pursuant to the order dated 19-5-1982. This

Court being not only a Court of law but also a Court of equity cannot shut its eyes and ignore the contents of the affidavit and material containing serious allegations of fraud and terminate the proceedings once for all by quashing the impugned order of the Joint Collector. The authorities cannot be deprived of their jurisdiction to go into the allegations of fraud and decide the matter afresh in accordance with law.

81. The Supreme Court in *United India Insurance Co. Ltd.*, (supra) observed:

"No Court or Tribunal can be regarded as powerless to recall its own order if it is convinced that the order was wangled through fraud or misrepresentation of such a dimension as would affect the very basis of the claim." (Emphasis is of ours).

82. For the aforesaid reasons, we are inclined to leave the matter open for the competent authority to make an enquiry into the allegations of fraud for which purpose the authority is clothed with the jurisdiction to record evidence and require the discovery and production of documents etc. It shall be open for the Joint Collector to record the evidence of the parties in order to enable the Government to plead and establish the fraud and misrepresentation.

Tide disputes in proceedings under Article 226 of the Constitution of India

83. We are in complete agreement with the submission made by the learned Advocate-General that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot go into the intricate questions relating to property rights. The learned Single Judge relying upon an order purported to have been passed by the then acting Tahsildar, practically declared the title of the respondents-writ petitioners and their predecessor-in-title in respect of the lands in question. Such a course is not permissible in law. A regular suit is the appropriate remedy for settlement of disputes relating to the property rights. The remedy under Article 226 of the Constitution of India, which is a summary in nature, is not available for such purposes. It is dangerous to grant declaration of title in respect of immovable properties in a proceeding under Article 226 of the Constitution of India, for which remedies under general law are available. Disputed questions relating to title cannot be satisfactorily gone into or adjudicated in a writ petition. (See for the proposition: *Mohan Pandey and Another Vs. Smt. Usha Rani Rajgaria and Others*, , *State of Rajasthan Vs. Bhawani Singh and others*, , and *New Satgram Engineering Works and Another Vs. Union of India (UOI) and Others*, .)

84. We find no difficulty to set aside that portion of the judgment of the learned Single Judge whereunder the learned Judge declared that the Government has no title in respect of the lands in question.

Conclusions:

85. For the aforesaid reasons we dispose of the writ appeals in the following manner;

(a) the judgment of the learned Single Judge declaring that the Government has no title in respect of the lands in question is set aside. The learned Judge ought not to have gone into the intricate questions relating to the title of the parties in respect of the lands in question. We grant leave to the parties to obtain such declaration of title even as against the Government if they so intend. The State also shall be at liberty to proceed against the persons in possession without any lawful entitlement and recover the possession if they have already lost the same;

(b) the entries made subsequent to the order dated 19-5-1982 of the Joint Collector by themselves neither confer nor take away the title of either the Government or the parties in any manner whatsoever;

(c) the Joint Collector has no jurisdiction to revise his own order in exercise of revisional power conferred u/s 9 of ROR Act. Further, he has no jurisdiction to review or reopen or recall his own order except on the ground of the earlier order being vitiated on account of any fraud played and perpetuated by any of the parties to the proceedings;

(d) the impugned order passed by the Joint Collector dated 22-6-1994 is void and without jurisdiction;

(e) The judgment rendered by the learned Single Judge to this extent is confirmed.

86. We, however, make it clear that it shall be open to the Joint Collector to initiate fresh proceedings on the strength of the allegations and material now unearthed and on such lawful grounds as may be available but only after putting all the parties on proper notice. It shall also be open to the Joint Collector to make an appropriate enquiry into the matter in order to decide as to whether the earlier order dated 19-5-1982 is vitiated by any fraud and misrepresentation. It shall always be open to the Joint Collector to set aside the order dated 19-5-1982 if the same is vitiated by any fraud played by any of the parties to the proceedings.

87. The parties and all other interested persons are entitled to file their objections/ explanation whenever such steps are initiated by the Joint Collector to make enquiry into the allegations of fraud.

88. Having regard to the nature of the dispute and involvement of public interest, we consider it appropriate to direct the parties not to alienate or encumber the lands in any manner whatsoever or part away with the possession of the lands or any portion thereof during the pendency of the proceedings, if any, to be initiated by the Joint Collector provided the legal proceedings are set in motion within a period of three months from the date of receipt of a copy of this judgment.

89. For the view we have taken, we have not expressed our opinion with regard to various allegations of fraud and misrepresentation since they can always be gone into by the Joint Collector in order to unravel as to whether the earlier order dated 19-5-1982 was obtained by playing fraud and misrepresentation.

90. The Joint Collector shall be at liberty to make an appropriate enquiry and record his own findings uninfluenced by the findings, if any, recorded by the learned Single Judge in the judgment dated 9-12-1997 made in W.P. Nos. 17020 of 1994 and 1461 of 1995.

91. The impugned judgment rendered by the learned Single Judge in both the writ petitions shall accordingly stand modified to the extent indicated above.

92. The writ appeals are accordingly disposed of. No order as to costs.