
(2008) 07 AP CK 0052

In the Andhra Pradesh High Court

Case No : Writ Petition No. 20104 of 2005

Prathap Jungle Resorts Private Limited and Others

APPELLANT

Vs

Joint Collector and Another

RESPONDENT

Date of Decision : 02-07-2008

Acts Referred:

Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 — Section 166(B)
Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 — Section 50B, 50B(4)
Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 12, 7, 9

Citation : (2008) 4 ALT 794

Hon'ble Judges : Goda Raghuram, J

Bench : Single Bench

Advocate : C.V. Bhaskar Reddy, R. Raghunandan, K. Ramakrishna Reddy for B. Mahender Reddy, C. Sudesh Anand and D. Prakash Reddy for D.B. Reddy, for the Appellant; Government Pleader for Revenue and A.G., for the Respondent

Final Decision : Allowed

Judgement

Goda Raghuram, J.—Heard Sri K. Ramakrishna Reddy, the learned Senior Counsel instructed by Sri B. Mahendra Reddy for the petitioner in W.P. No. 23830 of 2005, Sri D. Prakash Reddy, the learned Senior Counsel instructed by Sri D.B. Reddy for the petitioners in W.P. No. 20104 of 2005, other learned Counsel for the petitioners in the other writ petitions and the learned Advocate General for the respondents in the several writ petitions.

2. The petitioners assail the order of the Joint Collector, Ranga Reddy district-first respondent, in Case No. D-5/2658/01 dated 25-08-2005 whereby the second respondent-the Mandal Revenue Officer, Rajendra Nagar was directed to rectify the entries u/s 166(B) of the A.P. (Telangana Area) Land Revenue Act, 1317 Fasli.

3. The petitioners claim to be owners and to be in possession of specified extents of land in distinct portions of survey Nos. 65/1 to 65/33 of Khanapur village, Rajendranagar Mandal, Ranga Reddy district. They claim to have purchased the

property under registered sale deeds from their predecessors in title.

4. The 2nd respondent appears to have addressed a letter dated 15-05-2001 to the District Collector, Ranga Reddy District stating that wrong entries were recorded in respect of certain extents of land and sought appropriate action. Thereupon the Joint Collector, Ranga Reddy District issued notices proposing an enquiry u/s 9 of the Andhra Pradesh Rights in Land and Pattedar Passbooks Act, 1971 (for short "the 1971 Act"). Some of the notices were served on the predecessors in title of the petitioners and wherever the Joint Collector considered that notices could not be served, it is claimed that the notices were pasted on or near the lands in question. In some instances (as in the case of petitioners in W.P. No. 20104 of 2005), having come to learn of initiation of proceedings u/s 9 of the 1971 Act, the petitioners got themselves impleaded and participated in the proceedings u/s 9 of the 1971 Act. The Joint Collector entertained the complaint of the 2nd respondent; declared the lands described in the Revenue Records as survey Nos. 65/1 to 65/33 as belonging to the Government; directed the 2nd respondent to rectify the entries, u/s 166(B) of the Andhra Pradesh (T.A.) Land Revenue Act, 1317-F (for short "the APLR Act"); and to record them as "Kharij Khatha Sarkari". The petitioners are aggrieved thereby and thus the writ petitions. The petitioners claim uninterrupted title, ownership and open and transparent possession of the lands for over sixty years.

5. In W.P. No. 23830 of 2005 the petitioner claims to be the owner, to be possession of and cultivating the land of an extent of Ac.25-00 in survey No. 67/17 of Khanapur village for over fifty years and to having purchased the property from the pattedar one Jaffar Mirza under a registered sale deed dated 07-04-1977 registered on the file of Sub-Registrar, Hyderabad West. This petitioner claims that this property was mutated in his name under the provisions of the 1971 Act.

6. The order impugned is common to all the writ petitions. The core challenge in the writ petition is projected by Sri Ramakrishna Reddy and Sri D. Prakash Reddy learned senior counsel on three principal grounds (a) that the Joint Collector was not competent to exercise power u/s 9 of the 1971 Act when it is the case of the State that the land belongs to the Government, since the provisions of the 1971 Act are inapplicable to Government lands qua Section 12 of the said Act; (b) that the Joint Collector could not have exercised power either u/s 9 of the 1971 Act or Section 166(B) of the APLR Act to direct deletion of entries in the revenue records after a long lapse of time (in this case asserted to be sixty years or more) and; (c) that the impugned order of the Joint Collector is invalid for recording reasons for the decision based on factual conclusions which were not put to the petitioners or any other affected parties in the notices issued while initiating proceedings u/s 9 of the 1971 Act, thereby depriving the petitioners of reasonable participatory opportunity in the decision making process.

7. The first respondent issued a notice dated 18-05-2001 to some of the addresses intimating that the 2nd respondent had in a letter dated 15-05-2001

reported that as per the Sethwar of Khanapur village for 1322-F (corresponding to 1911) the lands in survey Nos. 65,66 and 67 of the village in an extent of Ac.5-30 guntas; Ac. 3-38 guntas and Ac. 7-17 guntas are classified as "Poramboke Sarkari"; that this description had been altered illegally without orders of the competent authority, in the Khasara Pahani for the year 1954-55 and subsequent pahanies; that at present the pahanis reflect the wrong entries and bear the names of certain specified pattedars; that in the circumstances the matter had been taken up u/s 9 of the 1971 Act for correction of the entries in respect of Government lands bearing survey Nos. 65, 66 and 67; and the case was scheduled for hearing on 11-06-2001 at the specified time and the addressees of the notice may appear before the 1st respondent to defend their interest along with documentary evidence, failing which the matter would be determined ex-parte on the basis of material available on record.

8. Some of the petitioners responded having received the notices, some who did not receive the notices but came to learn of the proceedings got impleaded and filed objections, while the other petitioners complain that no notices were received. According to the respondents in some cases the notices were affixed on the lands in question as the addresses could not be located. The petitioners in W.P. No. 20104 of 2005 had lodged objections having been impleaded as respondent Nos. 27 to 29 in the proceedings before the 1st respondent. These petitioners objected to the 1st respondent's initiation of proceedings, also on the ground that the 1st respondent had no authority or revisional jurisdiction as earlier the 1st respondent himself had dismissed a similar application by an order bearing file No. D5/5648/2003 dated 04-05-2004. One Moulavasi Harijana Society (for short the Harijana Society) had complained to the 1st respondent by an application u/s 9 of the 1971 Act that pattas were illegally granted by the Revenue Divisional Officer, Chevella and the Mandal Revenue Officer, Rajendranagar (to the petitioners in W.P. No. 20104 of 2005 and four others) in an extent of Ac.11-20 guntas in survey No. 65/16 of Khanapur village. The - Harijana Society had contended that the land in question was Government land which had been occupied by members of the petitioning society for long, was being cultivated by its members and therefore patta passbooks ought not to have been granted to the respondents therein. The 1st respondent by an order dated 04-05-2004 rejected the claim of the Harijana Society on a conclusion that the Harijana Society failed to produce any documentary evidence to establish that the land in question is Government land or that its members were in occupation and possession of the land.

9. In view of such earlier determination by the 1st respondent, the petitioners (in W.P. No. 20104 of 2005) object to the exercise of jurisdiction by the Joint Collector u/s 9 of the 1971 Act on the ground that the same authority had earlier held that the Harijana Society had failed to establish that these lands are Government lands; having so determined in that case, was not entitled to revisit or review the said conclusion, in a fresh exercise of power u/s 9 of the 1971 Act.

10. By the impugned order, the 1st respondent entertained and allowed the complaint of the 2nd respondent, purporting to exercise power u/s 9 of the 1971 Act and directed the 2nd respondent to rectify the entries u/s 166(B) of the APLR Act by recording the lands in survey No. 65 as Kharij Khatha Sarkari". The copy or the substance of the complaint of 2nd respondent was not communicated to any of the petitioners or to any of the addresses of notices either.

11. In the impugned order however the Joint Collector records that the 2nd respondent had reported that on verification of the Khasara Pahani it is disclosed that the village Patwari had created illegal entries inter alia in survey No. 65 recording the same as "survey Nos. 65/1 to 65/33 for an extent of Ac.547-27 guntas and had also created another survey number as 297 admeasuring Ac.350-00 guntas and thereby had increased the total area of Khanapur village to Ac. 1906-29 guntas as against the actual area of Ac. 958-17 guntas; and that the village Patwari had recorded patta entries erroneously to an extent of Ac.156-17 guntas in survey No. 65 by creating sub-survey numbers 65/1 to 65/33. The impugned order also states that one Sri T. N. Rajiv had filed writ petition (W.P. No. 20388 of 2004) in the High Court complaining (in respect of survey Nos. 65/1 to 65/33 of the village) that constructions in these lands adversely impact the water body around Osmansagar; that this Court by an interim direction dated 05-11-2004 had directed the respondents No. 1 to 4 therein to ensure that no construction activity is allowed in the said survey numbers; and that the said writ petitioner (T.N. Rajiv) had alleged in his writ petition that the Patwari of the village had illegally created survey Nos. 65/1 to 65/33 for survey No. 65.

12. The impugned order substantially relies on facts obtained from the 2nd respondent's report and from the writ petition said to have been filed by one T.N. Rajiv. The 1st respondent held (insofar as the land in survey Nos. 65/1 to 65/33), that the objectors failed to establish how the lands which never belonged to any Pattadar since the day of settlement, could become patta lands of the village; that in view of a judgment of the Supreme Court, on no account can ecological features such as water bodies and tanks be permitted to be degraded or destroyed by anybody; that in the settlement, the area in question was left out from the records for these reasons; and that no claim of the objectors can be "staked". The 1st respondent, consequently directed the 2nd respondent to rectify the entries (in the Revenue records).

13. The 1st respondent has filed a counter affidavit (common to all the writ petitions). The substantive defence as per the averments in the counter affidavit, to the extent they are at variance from either the notices issued or the impugned order passed, may be noted. According to the counter, on verification of the original records as well as other revenue records, it was noticed that there are no survey Nos. 65/1 to 65/33. Survey No. 65 comprised of only Ac.05-30 guntas. The disputed land is adjacent to Osmansagar (a major water body supplying drinking water to the twin cities of Hyderabad and Secunderabad) and is of an

extent of 547.27 guntas for which no survey number was assigned at any point of time and part of it is under submergence of the Osmansagar tank. At some earlier point in time the village Patwari had interpolated the records and created survey Nos. 65/1 to 65/33 and had recorded entries showing certain individuals as possessors or purchasers, to an extent of Ac.156-17 guntas out of the total extent of Ac.547.27 guntas. The counter also asserts that "fraud" was committed by the "then Patwari" during 1941 and on the basis of the entries then made, similar entries were reflected in the Kasara Pahanies. Noticing such deviant entries the process of enquiry u/s 9 of the 1971 Act was set in motion pursuant to a complaint dated 15-05-2001 of the 2nd respondent, is the broad case of the respondents.

14. Responding to the specific objections lodged by the petitioners in W.P. No. 20104 of 2005 regarding the jurisdiction of the 1st respondent in view of the earlier orders passed in a case pertaining to the complaint by the Harijana Society, the 1st respondent's counter at paragraph No. 5 asserts that the Harijan Society's complaint was confined to survey No. 65/16 whereas the present proceedings is as regards the total extent of lands in survey Nos. 65/1 to 65/33. Since the revenue record disclosed the names of the writ petitioners (in W.P. No. 20104 of 2005), the earlier order dated 04-05-2004 was passed sustaining their possession as against the speculative claims of the Harijana Society. Such determination does not exclude nor impair the jurisdiction of the 1st respondent u/s 9 of the 1971 Act, to deal with the entire extent of land in survey Nos. 65/1 to 65/33, is the generic defence on this aspect of the matter.

15. Some of the petitioners contend that the impugned order directing deletion of the lands in question as "Kharij Khata Sarkari" is erroneous as Kharij Khata" in revenue parlance and usage means deletion from "Khata"(account) in certain exigencies either due to relinquishment of the land by the pattedar or on account of the land having been auctioned by the Government for nonpayment of land revenue by the pattedar, justifying alteration of the classification of the land. Responding to this plea, the common counter affidavit asserts (paragraph No. 11) that what the impugned order intended was to declare that the lands are Government lands and not much more should be read into the direction in the impugned order that the lands should be recorded as "Kharij Khata Sarkari". What was intended is only that the lands should now be classified as Government lands.

16. In the revision proceedings before the first respondent on behalf of some of the petitioners herein, written submissions were filed. In these submissions it was inter alia contended that the lands under dispute originally belonged to one Rafid Mirza to an extent of Ac.50-00. The name of Rafid Mirza was also entered in the revenue records against the said lands specifically in the Khasra pahani for the year 1954-55 and the pahanies for the subsequent years, showing him as pattedar as well as to be in possession with regard to the lands in survey No. 65. The sub-division of the lands in survey No. 65 had taken place in 1951 and the

pahanies from the said period disclose that survey No. 65 had been subdivided into 33 subdivisions as Sy. No. 65/1 to 65/33. The petitioners claim to have been in possession of the lands having duly purchased these from earlier owners through registered sale deeds. The vendors of the petitioners had purchased the lands in question from the original pattedar through registered sale deeds and had also obtained patta passbooks issued by the Mandal Revenue Officer, Rajendranagar. Copies of the patta passbooks were also filed before the first respondent in the Revision proceedings. It was also asserted in the written submissions that the petitioners had applied for and obtained mutations of their names in the revenue records in respect of the lands and that copies of these documents were also filed. Further, the second respondent - the Mandal Revenue Officer, Rajendranagar had ordered mutation of the names of the petitioners after conducting due enquiry and after notice to the general public and calling for objections. Assailing the report of the second respondent, which triggered the proceedings by the first respondent, the petitioners contended that the second respondent had erred in taking into consideration only the Khasara pahani for the year 1954-55. He failed to note that pahanies right from 1941 which disclose private ownership and possession of the lands in question, continuously and without interruption.

17. From the order impugned dated 25-08-2005 it is apparent that the first respondent had initiated proceedings in purported exercise of power u/s 9 of 1971 Act proposing correction of entries in respect of survey No. 65/1 to 65/33 of Khanapur village, Rajendranagar mandal, Ranga Reddy district. The proceedings were initiated on a report dated 15-05-2001 of the second respondent - the Mandal Revenue Officer, Rajendranagar mandal (the second respondent) addressed the District Collector, Ranga Reddy district. The show cause notice dated 18-05-2001 drawn up the first respondent had merely set out that the second respondent by his letter dated 15-05-2001 had reported that as per sethwar of Khanapur village for 1322-F (1911/12) survey Nos. 65, 66 and 67 are classified as Poramboke Sarkari; that the classification of the lands in the above survey numbers was illegally altered without orders of the competent authority in the Khasra pahani for the year 1954-55 and subsequent pahanies; that as per the current pahani the wrong entries had been recorded; and that in the circumstances the matter is taken up for enquiry u/s 9 of the 1971 Act.

18. In the impugned order however the first respondent records additional reasons for the decision viz., that the second respondent had informed that unsurveyed area of a total extent of 547-00 which did not actually form part of the village (Khanapur) but was left apart for the expanse of the water body known as Osman Sagar was over the years mischievously recorded as patta belonging to certain individuals (for an extent of Ac.158-00). The first respondent also refers to the decision of the Supreme Court in Hinchlal Tiwari's case to the effect that no person should be permitted to subject water bodies and tanks to degradation and exploitation. The first respondent also referred to W.P. No. 20388 of 2004 filed by one T.N. Rajiv in the Andhra Pradesh High Court

claiming illegal subdivision of survey No. 65 into 65/1 to 65/33 (Khanapur village), that the petitioner -T.N. Rajiv had pleaded that the Patwary had illegally created the above subdivisions.

19. Neither the fact that the total extent of Ac.547-00 was left unsurveyed, that survey No. 65 consists of only Ac.5-30 guntas as per setwar or original settlement record and is classified as "Porambok"; nor the allegation that "the then patwary" had illegally interpolated subdivisions of survey No. 65 into 65/1 to 65/33, was ever indicated in the show cause notice dated 18-05-2001 issued by the second respondent. The first respondent however in the impugned order records conclusions on the basis of these alleged facts. The impugned order directs the second respondent "to rectify the entries u/s 166-B of the APLR Act; "by restoring them as Kharij Khata Sarkari".

20. It requires to be noticed that if it is the case of the State as is apparent that the lands (in survey No. 65) are Government lands, the provisions of the 1971 Act are inapplicable as the provisions of this Act are inapplicable to Government lands, vide Section 12 of the 1971 Act. Since the initiation of the proceedings u/s 9 of the 1971 Act is on the basis of an assumption by the second respondent that the lands are Government lands, power u/s 9 of the 1971 Act could not have been invoked and the first respondent had no power, authority or jurisdiction to have passed an order u/s 9 of the 1971 Act.

21. The learned Advocate General appearing for the State has submitted, a submission supplemented by Sri A. Satyaprasad, the learned special Government Pleader, that the first respondent appears to have been confused as to the appropriate source of power and the appropriate provision of law.

22. The direction in the impugned order is also vague. By the impugned order, the first respondent directed the second respondent - The Mandal Revenue Officer, Rajendranagar to rectify the entries. If the first respondent intended by this directive that Khasara pahani should be amended/corrected it is clear that he had no jurisdiction to pass such an order u/s 9 of the 1971 Act.

23. On behalf of the State, the impugned order is sought to be justified on the ground that power is available u/s 166-B of the APLR Act and that a mere erroneous reference in the impugned order that it is u/s 7 of the 1971 Act would not invalidate the exercise of power, if power is otherwise available.

24. The first respondent had filed a counter affidavit in which it is claimed (to the extent relevant and material) that there are no survey Nos. 65/1 to 65/33 as per the original records and survey No. 65 comprises only Ac.05-30 guntas. This land is adjacent to Osman Sagar and there was other land of an extent of Ac.547-27 guntas for which no survey number was assigned at any point of time. Part of this extent is under submergence of Osmansagar tank. The first respondent's counter additionally asserts that "the then patwary" interpolated the revenue records for creating survey Nos. 65/1 to 65/33 and had recorded some entries of individuals in an extent of Ac.156-17 guntas out of the unsurveyed extent of

Ac.547-27 guntas. The then patwary during 1941 had y committed this fraud and on the said basis entries were also made in the khasra pahanies. This counter affidavit by implication admits the issuance of pattedar passbooks but seeks to explain it away by pleading that these were issued on the basis of entries made in the revenue records and once the entries in the revenue records are found to be incorrect, those have no relevancy and the patedar passbooks cannot fertilize legitimacy. According to this counter as per the original setwar of 1322-F, the land is recorded as "sarkari poramboke".

25. From the averments in the counter affidavit of the first respondent which seeks to set out new facts (not set out either in the show cause notice dated 18-05-2001 or the impugned order dated 25-08-2005), it is nevertheless admitted that at least since 1954-55, much before the provisions of the 1971 Act became operational, the relevant khasra pahanies had recorded the subdivision of the land in survey No. 65 and the ownership and possession of pattedars.

26. In Ibrahimpatnam Taluk Vyavasaya Collie Sangham Vs. K. Suresh Reddy and Others, the issue as to the scope of the suo motu revisional power u/s 50-B(4) of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short "the 1950 Act") fell for consideration. The concrete question that fell for the consideration before the Supreme Court was whether the Collector could exercise suo motu power u/s 50-B(4) of the 1950 Act at any time or the power is required to be exercised within a reasonable time. The relevant facts matrix on which the issue fell for consideration by the Supreme Court was that various sale deeds were executed by owners of land in favour of several persons on plain paper and possession was delivered to the vendees. The vendees filed applications u/s 50-B of the 1950 Act for validation of the sales. The concerned Tahasildar issued validation certificates. These certificates were challenged in appeals filed by the Tahasildar and the Authorized Officer (Land reforms) before the Joint Collector of the District. The appeals were dismissed in 1988. Thereafter the Joint Collector issued notices purporting to exercise suo moto power u/s 50-B(4) of the 1950 Act, to the vendors and vendees to show cause why the validation certificates issued in 1984 or earlier should not be cancelled. After considering the objections filed thereto, the Joint Collector set aside the validation certificates, in 1989. Against the same, some persons filed Revisions and others Writ Petitions, before the High Court. A learned single Judge of the High Court allowed the writ petitions on the ground that the suo motu power of revision should have been exercised within a reasonable period though the statutory provision does not impose any time limit for such an exercise. Against the orders of the learned single Judge, the Vyavasaya Coolie Sangham, the appellant before the Supreme Court (which got itself impleaded in the writ petition) preferred Writ Appeals. A Division Bench of the High Court concurred with the learned single Judge and dismissed the appeals. The Supreme Court concurred with the conclusions recorded by the learned single Judge as affirmed by the Division Bench of this Court, that the exercise of suo motu power after 14 or 15 years is ipso facto unreasonable and that the exercise of suo motu power

with unexplained delay would arbitrarily unsettle settled fact situations and expectations.

27. A Division Bench of this Court by the judgment dated 30-10-1998 in W.P. No. 27622 of 1998 and C.C. No. 1540 of 1998 came to consider the exercise of suo motu revisional power u/s 166-B of the APLR Act, the very provision invoked by the State (in the instant case) to justify the impugned order. The learned Division Bench held that the order impugned therein dated 27-07-1998 passed by the District Collector, Ranga Reddy District (purporting to initiate action u/s 166-B of the APLR Act 1317 read with Section 9 of the 1971 Act and directing the Mandal Revenue Officer to delete the names of pattedars from the pattedar column and possessor's column of the pahanies and restore the classification of the lands as Sarkari poramboke), is invalid inter alia as suo motu jurisdiction ought not to have been exercised after a considerable and unexplained delay of nearly 56 years. In coming to the conclusion that exercise of suo motu power must be within a reasonable time, the learned Division Bench relied on earlier decisions vide Smt. P. Mangamma and Others Vs. The Women's Co-operative Housing Society Ltd. and Others, ; Gudepu Sailoo and Others Vs. Government of Andhra Pradesh and Others, ; Laxminarayana and another Vs. Joint Collector, Khammam and Another, .

28. In Vallabhdas Pallod and Ors. v. The Municipal Council, Zaheerabad and Ors. W.A. No. 674 of 2004 and Batch, dated 13-4-2005 (D.B.), in W.A. No. 674 of 2004 and batch, another learned Division Bench of this Court by the judgment dated 13-04-2005 had set aside an order dated 07-04-2000 of the Joint Collector, Zaheerabad, Medak district. The order of the Joint Collector was in purported exercise of revisional power u/s 9 of the 1971 Act directed against an order of the Tahasildar, Zaheerabad Taluk in proceedings dated 03-04-1981 regarding entries in the Record of Rights, under the provisions of the 1971 Act. There was also a spate of complicated and competing claims and litigations in respect of the land in survey Nos. 145 and 146 within Zaheerabad Municipal limits. In setting aside the suo motu revisional exercise by the Joint Collector (under Section 9 of the 1971 Act), the learned Division Bench of this Court held that the order of the Tahasildar, Zaheerabad dated 03-04-1981 had recorded the entries after due notice to the concerned persons including the Municipality against which no appeal was preferred. This Court held that though Section 9 of the 1971 Act ipso facto imposes no period of limitation for exercise of revisional power, it is well settled that suo motu power of revision must be exercised within a reasonable time. Since the power was sought to be exercised by the Joint Collector after a long lapse of more than 14 years since the disposal of the appeal/revision by the Tahasildar and in fact 19 years had passed by the time of impugned order dated 07-04-2000; there was no convincing explanation as to why the authority had waited for such a long time and in the absence of any allegation of any fraud played by the writ petitioners in obtaining the orders of the Tahasildar dated 03-04-1981, the exercise of suo motu revisional power was unjustified, held this Court.

29. In *Ibrahimpatnam Taluk Vyavasaya Coolie Sangham v. K. Suresh Reddy and Ors.* 1996 (2) An.W.R. 511 (D.B.) a Division Bench of this Court had reiterated the principle that if power is conferred on an authority to exercise suo motu revisional power, without setting out a time limit within which the power is to be exercised, the jurisdiction is of necessity required to be invoked within a reasonable time, though such reasonable time may vary according to the facts of the case. The absence of prescription of any limitation period for exercise of suo motu power does not authorize the authority vested with the power to invoke it after a lapse of any length of time, since exercise of an administrative or quasi judicial power is necessarily linked to the concept of rule of law and exercise of a power after a long lapse of time is prima facie arbitrary. This is a well settled principle - vide *The State of Gujarat Vs. Patil Raghav Natha and Others*, ; *Hindusthan Times v. Union of India* AIR 1988 SC 688; *Mansaram Vs. S.P. Pathak and Others*, ; and *Ram Chand and Others Vs. Union of India (UOI) and Others*, .

30. In the facts and circumstances of the case, in the light of the long catena of binding and persuasive precedential authority, in the considered view of this Court, the exercise of suo motu revisional power by the first respondent whether u/s 9 of the 1971 Act or Section 166-B of APLR Act is unsustainable.

31. The petitioners claim to be in continuous possession of various extents of lands in survey No. 65/1 to 65/33 of Khanapur village, Rajendranagar mandal for over six to eight decades including by their predecessors in title; that mutation of their names in the revenue records have also been effected by the competent authorities after following the due process under the provisions of the 1971 Act; that possession and occupation of the lands is also reflected continuously and uninterruptedly in the pahanies since 1954; and that their possession and occupation is open and to the visible notice of the State. The learned Counsel for the petitioners also contend that if proceedings had been initiated before a Civil Court of competent jurisdiction by the State, the petitioners would have urged an alternative defence of adverse possession and therefore ownership of the lands in question.

32. In any view of the matter, in the considered view of this Court, exercise of suo motu revisional power by a quasi judicial authority whether under the provisions of the 1971 Act or the APLR Act appears unsustainable in the totality of the facts and circumstances of the case. If the State seeks to claim ownership of lands then a duly constituted judicial authority, whether the Civil Court of competent jurisdiction or any other Tribunal if appropriate, would have the jurisdiction to go into complex questions of fact, ownership and title. Such process must be taken recourse to. The sketchy and ipse dixit impugned order of the first respondent illustrates the inappropriateness of the exercise of revisional jurisdiction by the first respondent.

33. For the aforesaid reasons, the writ petitions are allowed. The impugned order of the first respondent bearing case No. D-5/26,58/01 dated 25-08-2005 is quashed.

34. The circumstances of the case however there shall be no order as to costs.