
(1984) 04 AP CK 0012

In the Andhra Pradesh High Court

Case No : C.C.C. Appeal No's. 179 of 1982, 181 and 182 of 1983

State of Andhra Pradesh and Others

APPELLANT

Vs

P. Ram Shah and Others

RESPONDENT

Date of Decision : 27-04-1984

Acts Referred:

Advocates Fees Rules, 1952 — Rule 4
Andhra Pradesh Law Officers (Recruitment, Conditions of Service and Remuneration)
Rules, 1967 — Rule 33, 36

Citation : AIR 1986 AP 258

Hon'ble Judges : Jeevan Reddy, J; Jagannadha Rao, J

Bench : Division Bench

Advocate : Government Pleader for Food and Agriculture, for the Appellant; M.S.K. Sastry, S. Ayyanna Pantula, Deshmukh and Uday Kumar Joshi, for the Respondent

Judgement

Jeevan Reddy, J.—O. S. No. 1 of 1969 on the file of the Chief Judge's Court, City Civil Court, Hyderabad, at Secunderabad was instituted, in forma pauperis, by Smt. Nasreen Banu and others for declaration of their title and possession of 503 Acres 36 Guntas of land comprised in Mallepalli locality, Hyderabad City or, in the alternative, for compensation in a sum of Rs. 85,35,660/-. Defendants 1 and 2 to the suit were (1) Government of Andhra Pradesh represented by the Chief Secretary to the Government, Hyderabad, and (ii) Collector, Hyderabad. At that time, Sri. M. S. Rajalingam (respondent in CCCA No. 181/83 and plaintiff in O. S. No. 1071/82) was working as the Government Pleader in that Court. He filed the appearance on behalf of defendants 1 and 2 in the suit, and filed written statement on their behalf. He was appearing in the suit up to the stage when issues were framed. Thereafter, he ceased to be the Government Pleader. In his place, Sri. B. S. Palnitkar was appointed as the Government Pleader, and he was appeared on behalf of defendants 1 and 2. He conducted the trial in the suit. Before the suit was taken up for final arguments. Sri B. S. Palnitkar died (his legal representatives are respondents in CCCA No. 182/83 - plaintiffs in O. S. No.

793/82), and Sri P. Ramshah (respondent in CCCA No. 179/82 - Plaintiff in O. S. 1016/80) was appointed as the Government Pleader. Sri P. Ramshah not only addressed the final arguments in the suit, but also conducted a part of the trial after it was re-opened. The suit was ultimately dismissed with costs. As per the decree prepared by the Court, the plaintiffs were directed to pay a sum of Rs. 8,55,866/- to defendants 1 and 2 by way of costs. This amount represented the Pleader's (fees) calculated as per the Advocates Fees Rules.

2. After the suit was disposed of Sri. P. Ramshah obtained a copy of the judgment and decree in the suit, and sent it to the Collector, Hyderabad District along with his letter (Ex. A-6). In this letter, Sri P. Ramshah mentioned that three Governments Pleaders, namely (i) Sri. M. S. Rajalingam, (ii) Sri. B. S. Palnitkar, and (iii) himself, had appeared in the suit and that, as per the normal practice, Sri M. S. Rajalingam is entitled to half the fee, while Sri. B. S. Palnitkar and himself are entitled to 1/4 each. He requested the Collector to sanction and pay him the one-fourth amount of Rs. 8,55,866/- towards the fee. Since no action was taken by the Collector and his fee was not sanctioned, Mr. Ramshah wrote another letter (Ex. A-12) reminding the Collector of his claim and requesting him to immediately sanction his fee. He was being told by the Collector from time to time that the matter is under consideration of the appropriate authorities. On 12-8-1979 Mr. Ramshah issued a notice under S. 80 P. C. (A-27) claiming 1/4 of the said amount, and intimating the government that he would file a suit for recovery of the said amount after the expiry of two months from the said notice. On 3-8-1980 Mr. Ramshah filed O. S. 1016/80 for recovery of a sum of Rs. 2,38,735-36 Ps. He impleaded the State of Andhra Pradesh, represented by the Chief Secretary, and State of Andhra Pradesh represented by the Secretary to Government, Revenue Department, as defendants 1 and 2 respectively. The Collector, Hyderabad District, was impleaded as the 3rd respondent; Sri. M. S. Rajalingam was impleaded as the 4th defendant, and the legal-representatives of late Sri B. S. Palnitkar as defendants 5 to 9. Defendants 1 to 3 contested the suit. Their defence was that, O. S. 71/1969 was a speculative suit filed in forma pauperis and that, the Government has not recorded anything towards costs awarded to it in that suit. It was submitted that Sri. P. Ramshah did not put in his own efforts to argue the case, but merely adopted the arguments of the learned Advocate-General, put forward in a similar suit, O. S. No. 27/1963, disposed of earlier, and that, having regard to the quantum of work done, the Collector has recommended the sanction of a sum of Rs. 1,06,958.24 Ps., to Sri M. S. Rajalingam and Rs. 53,479-12 Ps, each to Sri B. S. Palnitkar and Sri P. Ramshah. It was contended that , under R. 36 of the Law Officers' Rules the Government has a discretion to reduce the fees in appropriate cases and that, before the Government could take a decision in the matter, the plaintiff has rushed to the Court. The 4th defendant and defendants 5 to 9 filed written statements supporting the plaintiff's case. They also requested the Court to pass a decree in their favour for one-half and one-fourth respectively of the suit costs awarded in O. S. 71/1969. They expressed their readiness to pay the appropriate Court-fees

in case such a decree is passed.

3. The learned VI Addl. Judge, City Civil Court, Hyderabad, decreed by Sri. P. Ramshah's suit. He agreed that under R. 36 of the Law Officer's Rules, the Government does have the power to reduce the fees; but, applying guideline No. 1 contained in the said Rule, the learned Judge held that the plaintiff, Sri. P. Ramshah, is entitled to 1/4 of the total fees as claimed by him. The learned Judge observed further that, the fact that O. S. 71/1969 was a pauper suit or that the Government could not recover anything from the plaintiffs in that suit by way of costs, is irrelevant on the question of fee payable to the plaintiffs. He was of the opinion that, there was nothing to show that the said suit was a speculative one. Reference was made to R. 38 of the Bar Council of India Rules, 1975, which prohibits an advocate from accepting less than the fee tarable (sic) under the Rules, when the client is able to pay the same. He awarded interest @ 6% per annum on the suit amount, as well as the suit costs to the plaintiff. So far as the claim of defendants 4 to 9 was concerned, the learned VI Addl. Judge observed that no relief can be granted to them in this suit and that, their only remedy may be to file separate suits of their own. CCCA. No. 179/82 is preferred by the State against the judgment and decree in Sri. P. Ramshah's suit.

4. On 24-4-1982, the legal representatives of Sri B. S. Palnitkar instituted O. S. 793/82, claiming an amount of Rs. 2,12,966/- with costs and interest. On 9-8-1982, Sri M. S. Rajalingam filed O. S. No. 1071/82 claiming a sum of Rs. 4,27,933/- with costs and interest. By his judgment and decree dt. 28-2-1983 the learned VI Addl. Judge, City Civil Court, Hyderabad decreed both the suits as prayed for CCCA. Nos. 182/83 and 181/1983 respectively are preferred by the State.

5. Pending the suits filed by the legal representatives of Sri. B. S. Palnitkar and Sri. M. S. Rajalingam, the Government issued in G. O. Rt. No. 1555, dt. 18-9-1982. The G. O., recites that, under R. 36 of the Andhra Pradesh Law Officer's (Recruitment, Conditions of Service and Remuneration) Rules 1967 (hereinafter referred to as the "L. O. Rules"), the Government sanctions a sum of Rs. 1,60,437-36 Ps., towards fees to Sri. M. S. Rajalingam and to Sri. B. S. Palnitkar. Two-third of the said amount was given to Sri. M. S. Rajalingam on the ground that he appeared for the Government at two stages of the suit, viz, up to the preparation of the written-statement and up to the framing of issues, while Sri. B. S. Palnitkar appeared during one stage only, viz, up to the stage of trial. Para 4 of the G. O., states further that the payment of fees to late Sri. B. S. Palnitkar is subject to the decision of the City Civil Court in O. S. No. 793/81 filed by Smt. Sumathi B. Palnitkar and others. Obviously, when this G. O., was issued, the Government was not aware of O. S. 1071/82 filed by Sri. M. S. Rajalingam, which was instituted only a few days earlier to the G. O.

6. In these appeals, it is contended by Sri. N. Subba Reddi, the learned Government Pleader appearing for the appellants, that the Court below erred in decreeing the plaintiff's suits. Having rightly held that under R. 36, the

Government does have the power to reduce the fees in appropriate cases, the learned Counsel contended, the Court below erred in applying guideline No. 1 contained in Rule 36 as applicable to the plaintiffs. The said guideline is totally inapplicable to the plaintiffs. Counsel contended that O. S. 71/1969 was a pauper suit, and a speculative one; that the Government has not been able to recover a single pie from the plaintiffs in the suit, who are paupers, that, having regard to the work done and the time taken by the Government Pleader's in the said suit, the fee sanctioned by the Government in G. O. Rt. No. 1555 is perfectly just and proper and that, even though the said G. O., does not refer to Sri P. Ramshah, he is entitled to the same fee as Sri. B. S. Palnitkar, according to the principle underlying it.

7. On the other hand, it is contended by Sri M. S. K. Sastri Sri Ayyanna Pantulu and Sri D. M. Deshmukh, learned counsel for the respondents-plaintiffs, that the basis upon which the Court below has decreed the suits, is perfectly valid and just and that, there is no material to show that O. S. No. 71/1969 was a speculative suit. According to their submission, the fact that the Government could not recover anything from the plaintiffs in that suit is of no relevance in the matter of sanction of fees to the plaintiffs. According to them, guideline No. 1 contained in R. 36 clearly applied to the full fees awarded by the decree in O. S. 71/1969. Counsel raised a further contention that the discretion of the Government, if any, under R. 36 should be exercised within a reasonable time. R. 47 of the L. O. Rules says that the competent authority should settle the claims of Law Officers ordinarily within a month of the receipt of fee-bills and that, in this case, even though a period of several years had elapsed, the Government had not settled the fee-claims. It is contended that the plaintiffs have submitted their claims for fees within a few months of the disposal of O. S. 71/1969, and yet neither the authorities competent to settle the fees, nor the Government issue G. O. Rt. No. 1555, on 18-9-1982. By this date, the suit filed by Sri. P. Ramshah was already decreed (on 28-12-1981), and the legal representatives of Sri. B. S. Palnitkar, and Sri. M. S. Rajalingam had also filed their own suits. So far as the Mr. P. Ramshah is concerned, it is contended that there is no G. O., at all so far issued, reducing his fee under R. 36. Accordingly, it is contended, that power or discretion under R. 36 cannot be exercised to override or supersede the decree of the Civil Court in Sri. Ramshah's suit. A further contention is urged by Sri Ayyanna Pantulu, counsel for Sri. M. S. Rajalingam, that, since Sri. M. S. Rajalingam was appointed as a Government Pleader prior to the coming into force of the Law Officer's Rules, 1967, R. 36 cannot be invoked against him.

8. The Law Officers Rules, 1967 were made and issued by the Governor of Andhra Pradesh in exercise of the powers conferred upon him by the proviso to Art. 309 of the Constitution "in supersession of all previous Orders on the subject". The Rules regulate the "recruitment, conditions of Service and Remuneration of Law Officers of the Government of Andhra Pradesh other than the Advocate-General". Rule 1 (3) states that the said Rules shall apply to all Law

Officers to the Government of Andhra Pradesh. They came into force with effect from 31-8-1967. O. S. No. 71/1969 was instituted subsequent to the coming into force of these Rules, Sri M. S. Ramalingam filed his appearance on behalf of defendants 1 and 2 in the said suit only after the coming into force of these Rules. These Rules, therefore, clearly apply to Sri M. S. Rajalingam as well, notwithstanding the fact that he was appointed as a Government Pleader prior to the coming into force of the said Rules. Once these Rules came into force, they apply to all Government Pleaders, whether appointed prior to the enforcement of the said Rules, or subsequent thereto. Moreover, O. S. 71/1969 was filed, and Sri. M. S. Rajalingam filed his appearance for defendants 1 and 2, after the coming into force of these Rules. Therefore, the Rules regulating the remuneration of Law Officers contained in the said Rules, do apply to Sri M. S. Rajalingam as well. So far as the other plaintiffs are concerned there is no dispute that these Rules do apply to them.

9. Part V of the L. O. Rules deals with remuneration payable to Law Officers. R. 30, in so far as it is relevant, reads as follows :-

"30. Fees payable to Government Pleaders, Additional Government Pleaders and the Assistant Government Pleaders in Courts subordinate to the High Court :-

The fees payable to the Government Pleaders, the Additional Government Pleaders and the Assistant Government Pleaders in Courts subordinate to the High Court, shall be as follows :-

(1) in all civil suits, appeals or proceedings, including those relating to execution proceedings :-

(i) the fees which the Court fixed or if such fees is considered to be too high, any smaller amount, as the government may in their discretion, determine in accordance with the provision made in R. 36 irrespective of the fact whether the costs, including fees are recoverable by the Government from the other party or not;

(ii) the regulation fees or any smaller amount as the Government may in their discretion determine in accordance with the provisions made in R. 36, if no fees is fixed by the Court....."

Rule 36, which is of crucial reference in these appeals, reads thus :-

"36. Discretion of the Government to reduce the fees normally payable to Government Pleaders and the manner of such reduction;

The Government shall, if the fees fixed by the Court or the regulation fees, as the case may be, is considered to be too high, have the discretion to reduce such fees, irrespective of whether or not costs are coverable to Government, and pay such smaller amount as may be determined in each case on the basis of the work done and the time taken by the Government Pleader and in accordance with the principles which are given hereunder purely as a working guide :

(1) the fees fixed by the Court as recoverable by the Government from the other party may ordinarily be allowed;

(2) A reasonable fees may be allowed when the Court awards only proportionate costs as recoverable by the Government from the other party or when a case is decided either in favour of the Government (without any costs being recoverable) or against the Government."

10. A reading of these two Rules makes it clear that the Government Pleader shall be paid in all civil suits, the fees which the Court fixes, or the regulation fees, as the case may be. However, this is subject to the power of the Government under R. 36. Rule 36 applies both where the fee is fixed by the Court, and where the fee is regulated by the Advocate Fees Rules. Rule 36 expressly says that, where the Government considers that the fee fixed by the Court, or the regulation fees, as the case may be, is too high, it shall have the discretion to reduce such fees and pay such smaller amount as may be determined by it in each case "on the basis of the word done and the time taken by the Government Pleader". Rule 36 also sets out two principles purely as a working guide. According to guideline No. 1, where the fee is fixed by the Court as recoverable by the Government from the other party, it shall ordinarily be allowed. Guideline No. 2 contemplates three situations viz (a) where the Court has awarded only proportionate costs as recoverable by the Government from the other party; (b) where the case is decided in favour of the Government, but without costs; and (c) where the case is decided against the Government. In all these three situations contemplated by guideline No. 2 the Government may fix a reasonable fee.

11. The question is, whether the Court below was right in holding that guideline No. 1 is applicable to the plaintiffs-respondents herein and therefore they are entitled to the full fees awarded under the decree ? The contention of the learned Government Pleader for the State is that guideline No. 1 applies only in cases where the fee is fixed by the Court, as distinct from the cases where the fee is regulated by the Rules (regulation fees), whereas the contention of the counsel for the respondents is that, since the decree passed by the Court has fixed the amount recoverable by the State and since that amount represents the fees payable by the Government to its Law Officers, it is a case where the fee is fixed by the Court as recoverable by the Government from the other party, as contemplated by guide-line No. 1 and hence, the said fees must be allowed. For answering this question, it is necessary to first notice the Advocates Fees Rules.

12. The Advocates Fees Rules having been made by the High Court of Andhra Pradesh under S. 27 of the Legal Practitioner Act, 1879, have statutory effect. Part I of these Rules deals with subordinate Court. A perusal of Rr. 4 to 8 makes it clear that the two concepts viz, fees fixed by the Court, and regulation fees, are two distinct concepts, dealt with in separate Rules. Rules 7 and 8 expressly provide situations where the Court has to fix the advocate" fees, and very often a certain minimum and a certain maximum is prescribed within which the Court

has to fix the fee. In ordinary suits for money and recovery of Immovable properties., Rule 4 prescribes the fee payable to the advocate according to the value. The percentage of fees payable varies according to the slab prescribed in R. 4. In suits for money and/or Immovable property there is no occasion for the Court fixing the fees payable to the advocates. The advocate's fee is regulated by R. 4, and can be called "regulation fees". The question of fixation of the fee by the Court arises only in suits or other proceedings referred to in Rr. 7 and 8. It is clear that, when Rr. 30 and 36 of the L. O. Rules used the expressions "fees fixed by the Court" and the "regulation fees", they clearly referred to the said concepts prevailing under the Advocates Fees Rules. The power to reduce the fees conferred upon the Government by R. 36 of the L. O. Rules, is available in both the cases, but guideline No. 1 says that in the case of fees fixed by the Court as recoverable by the Government from the other party, the Government shall ordinarily sanction the said fee, even while exercising its discretion under R. 36. Guideline No. 1 does not apply where the fee of the advocate is not fixed by the Court but is regulated by R. 4 viz., in the case of "regulation fees". This would be clearer if one refers to the opening words in R. 36, i.e. "the Government shall, if the fees fixed by the Court or the regulation fees, as the case may be, is considered to be too high, have the discretion to reduce such fees....."Sub-cl (i) and (ii) and Cl. (1) of R. 30 also use the same expressions, and must be understood in the same manner. For this reason, we are unable to agree that guideline No. 1 contained in Rule 36 applies to the plaintiffs. O. S. 71/1969 was not a suit of the nature falling in Rule 7 or Rule 8. It was suit for recovery of possession of Immovable property, or in the alternative, for recovery of money by way of compensation. The four reliefs asked for in the suit, as set out in the decree (Ex. A-1), in CCCA 181 of 1983, read as follows :-

"Claim for :- (1) To direct the defendants to deliver possession of the suit property to the plaintiffs after dismantling the buildings erected on part of the suit land.

(2) In the alternative directing the defendants to pay compensation to the plaintiffs at the rate of Rs. 35/- per square yard with interest thereon at 9% per annum for the portion of the suit property on which construction was effected and delivery of the possession of vacant portion of the suit property.

(3) To award mesne profits and damages for use and occupation by defendants.

(4) To award costs of the suit against the defendants....."

13. O. S. 71/1969 was, therefore, a suit clearly falling under R. 4 of the Advocates Fees Rules, in which case the advocate's fee is not fixed by the Court, but is regulated by R. 4, referred to as "regulation fees" in Rr. 30 and 36 of the L. O. Rules. The contention of the learned counsel for the respondents-plaintiffs is that, inasmuch as the decree. Ex. A-1 directs that the Government is entitled to recover a sum of Rs. 8,55,866/- from the plaintiffs therein towards costs of the suit, it is a case of fixation of the fees by the Court, as contemplated by guideline

No. 1 in R. 36 of the L. O. Rules. It is not possible to agree. Neither the Judgment in O. S. 71/1969, nor the decree fixed the fee payable to the advocate, or the advocates, appearing for defendants 1 and 2 in the suit. The decree merely provides that the plaintiffs shall pay a sum of Rs. 8,55,866/- to defendants 1 and 2 on account of costs of the suit. It is true that the said amount represents the pleader's fee of the defendants 1 and 2, but that is the fee calculated as per R. 4 of the Advocates Fees Rules, and, not a fee fixed by the Court. In other words, the said amount is calculated as per R. 4 which regulates the fees in suits for Immovable property/money, and therefore, "regulation fees". According to the Respondents' contention would make the words "regulation fees" in R. 36 and sub-cl (ii) in R. 30 (1) superfluous; there would be no case falling in that category.

14. In this context, it would be relevant to refer to R. 95 of the Civil Rules of Practice. It reads as follows :-

"95. Production of certificate of receipt of fee except in certain cases :

Unless the Court otherwise orders, and except in the case of an advocate or pleader; appearing on behalf of the Government or of a public servant whose defence is undertaken by the Government, or of the Agent of the Court of Wards, no fee shall in any case be entered as recoverable in a decree or order except on production of a certificate, signed by the advocate or pleader that he has received such fee.

Explanation :- The fact of a promissory note or other agreement to pay the fee having been given or made by the client, does not entitle the advocate or pleader to certify that he has received the fee".

According to this Rule, ordinarily an advocate has to certify the fees received by him, within seven days of the delivery of judgment and that, fees shall be included in determining the cost of that particular party. If the advocate certifies as having received the fees over and above the regulation fees, or the fee fixed by the Court, the whole of it shall not be allowed, but only that mount which is permitted by R. 4, or fixed by the Court under Rr. 7 and 8 of the Advocates Fees Rules, as the case may be. But, if the advocate certifies as having received an amount less than the regulation fees, or the fee fixed by the Court, as the case may be, that amount alone shall be included in assessing the costs of that party. R. 95 of the Civil Rules of Practice, however, creates an exception in the case of Government Pleaders. It exempts them from filing a Fee Certificate, which means that, even though the Government Pleader does not file a Fee Certificate certifying the fees received by him, the Court shall yet include the Government Pleader's fee in assessing/determining the costs of the Government. In view of R. 95, therefore, the Court had no other alternative but to include the regulation fees of the Government-Pleader while determining the costs of the Government in the decree in O. S. 71/1969. It actually did so. But, by no stretch of imagination can that fee be called the fee fixed by the Court, within the meaning

of R. 36 and R. 30 of the L. O. Rules. It is a case of mere calculation of the fee as per R. 4, and not a case of fixation of fee by the Court, as in the case of Rr. 7 and 8 of the Advocates Fees Rules.

15. We are, therefore, of the opinion that guideline No. 1 set out in R. 36 of the L. O. Rules has no application to the plaintiffs herein, and the Court below was in error in applying the said guideline and holding that the plaintiffs inter se are entitled to the full fees mentioned in the decree. Ex. A1. Once we hold that guideline No. 1 is inapplicable, guideline No. 2 is admittedly applicable to the plaintiffs-the determination of the fee is governed by the main limb of R. 36. Under the main limb, the Government has the discretion to reduce the fees having regard to the work done and the time taken by the Government Pleader. Mr. M. S. Rajalingam filed the written statement in that suit and also appeared for the defendants up to the stage when issues were framed; Mr. B. S. Palnitkar appeared at the stage of trial, and Mr. P. Ramshah addressed the arguments in the suit, and also appeared for the defendants when the case was re-opened, one or two witnesses examined, and a couple of documents marked. The suit was a pauper suit. A similar suit was already dismissed. The Government says, it has not been able to recover a single pie from the plaintiffs in O. S. 71/1969, and in view of the fact that the said suit was instituted in forma pauperis, this plea to the Government ought to be true. There is no material before us to show how many witnesses were examined by the plaintiffs and by the defendants in that suit. Having regard to the work done by the plaintiffs herein and the time taken by them in defending the said suit, the Government fixed their fees. There is no material to show that the fee fixed by the Government is unreasonable. Firstly, it is not possible for this Court to determine what is the proper fees payable by the Government to its counsel, or how it should be allocated between the three counsel (plaintiffs-respondents herein). This Court can only say - if proper material is placed before it - whether the discretion of the Government has been exercised reasonably, or not. If this Court comes to the conclusion that the exercise of discretion by the Government is not reasonable, it has to remit the matter back to the Government for re-determination of the fee under R. 36; but, as stated above, no material has been placed before us by the plaintiffs to show that the fee determined by the Government as payable to Sri M. S. Rajalingam and to Sri B. S. Palnitkar, and by necessary implication, to Sri P. Ramshah, it unreasonable or unreasonably low, having regard to the work done by them, or the time spent by them over that suit. It may be presumed that the Collector, who must have been in the immediate control of the case and must be expected to be aware of the work done and the time taken by the Government Pleader in that suit, recommended the amount which he thought was reasonable. The Government has accepted the Collector's recommendation. On the material before the Court, there is no ground to believe that they have not acted fairly. The Government has divided the suit into four stages and allocated the fee payable among these four stages equally. The four stages are : (i) up to the filing of the written statement; (ii) up to the framing of issues, (iii) up to (and

including) the stage of trial; and (iv) the final arguments. The reasonableness, correctness or the propriety of this division of the suit into four stages has not been questioned by any of the plaintiffs, at any stage. Indeed, even in his earliest letter (Ex. A6) Mr. P. Ramshah has referred to this allocation and claimed 1/4 for himself, saying that Mr. M. S. Rajalingam is entitled to half the fees and Mr. B. S. Palnitkar to one-fourth thereof. The present suits have also been instituted accepting the same basis.

16. The question then arises, whether the exercise of discretion by the Government under Rule 36, after a lapse of six years, should be held to be bad, and on that account should G. O. Rt. No. 1555 be declared to be void and unenforceable, and further whether we should grant a declaration that the Government, which has not so far issued any G. O., in the case of Sri P. Ramshah, is precluded from issuing any such G. O. Hereinafter ?

17. There can be little dispute about the proposition that though R. 36 does not fix a time-limit within which the Government should exercise its power of reducing the fee, such power has to be exercised within a reasonable period. Indeed, R. 47 of the L. O. Rules says that the authorities competent to sanction the fees to Law Officers should settle the fee claims ordinarily within the month of the date of receipt of the fee bills. Though R. 47 may not in terms, apply to the power of the Government under R. 36, it cannot be denied that the power of the Government under R. 36 should be exercised without undue delay. In *The State of Gujarat Vs. Patil Raghav Natha and Others*, , it has been held by the Supreme Court that the power of revision under S. 211 of the Bombay Land Revenue Code should be exercised within a reasonable period, i.e., "within a few months" of the passing of the order sought to be revised. Though Section 211 did not itself provide any period of limitation, such a limitation was imported because of the fact that, once the Collector grants the permission, the occupant is likely to spend money on starting building operations at least within a few months from the date of the permission, and if the power of revision vested in the Commissioner is exercised after a long period of time and the Collector's order granting permission is set aside, the person concerned would suffer grave prejudice. Similarly, it was held by one of us (Jeevan Reddy, J) in *P. Appalamurthy and Others Vs. State of Andhra Pradesh and Others*, that, the Land Acquisition Officer must pass his award without undue delay, and with reasonable promptitude. It was held that, in the present day when the prices are on the rise and inflation is a constant reality, the delay of several years in passing the award is unreasonable. This was so held because, according to S. 23 of the Land Acquisition Act, the person interested in the land is entitled to the market-value prevailing on the date of the notification under S. 4, and on inordinate delay in passing the award would result in grave prejudice to the persons interested. The several decisions on the subject have been reviewed by a Bench of this Court in *Kodanda Rao v. Govt of Andhra Pradesh*, 1981 2 A P LT 280 where the exercise of revisional power after a lapse of 12 to 13 years was held to be bad, and struck down. The reasoning behind the decision is that, once

an order granting patta becomes final, certain rights come to vest in the person concerned and he is also likely to spend money and effort in improving and developing the land. Therefore, if the patta is sought to be cancelled, such a power should be exercised within a reasonable time, so as to avoid any undue prejudice to the person concerned.

18. Applying the principle of the above decisions, we do not find it possible to say that, in this case, the delay in issuing G. O., Rt. No. 1555 dt. 18-9-1982, is fatal. It cannot be said that this delay has resulted in any grave prejudice, or tends to disturb vested rights. The authority competent to sanction the fees of the Government Pleaders in subordinate Courts, is the Collector. This is not a case where the Collector or other authority competent to sanction the fees, has sanctioned the same, and that is sought to be interfered with or revised/reduced by the Government under R. 36. In this case, the authority competent to sanction the fees was himself of the opinion that this a case where the full regulation fees cannot be granted and accordingly, sent the matter up to the Government. Even the Commissioner for Land Revenue appears to have agreed with the Collector. There is thus no room for importing or applying the principle of the aforesaid decisions. The fees now sanctioned under G. O. Rt. No. 1555 cannot itself be said to be inconsiderable; indeed, it appears to be generous. For filing the written statement and for appearing at the time of framing of the issues, one counsel has been granted Rs. 1,06,958.12 ps, and the counsel who addressed the arguments, has been granted a like sum. We are, therefore, of the opinion that, in the facts and circumstances of this case, it would not be proper or advisable to strike down G. O. Rt. 1555 on the ground of delay. As we have indicated above, even though the G. O., does not expressly refer to Sri. P. Ramshah, the principle underlying it clearly applies to him as well, and he too would be entitled only to a sum of Rs. 53,479.12 Ps. The G. O., does not expressly refer to Sri P Ramshah because, by the date of the G. O., he had already obtained a decree which was being appealed against.

19. On the question of delay, Mr. N. Subba Reddi relies upon the decision of the Supreme Court in Bombay Gas Co. Ltd. Vs. Gopal Bhiva and Others, , where it has been held that the laches, if any, in preferring the claim for wages under S. 33C(2) of the Industrial Disputes Act cannot constitute a valid ground for rejecting the claim. As we have indicated earlier, the real test is one of prejudice that is likely to result on account of the delayed exercise of the power. In this case, we are satisfied that the delay cannot be treated as a ground either for striking down G. O. Rt. No. 1555, or for holding that the principle thereof does not apply to Sri. P. Ramshah.

20. For the above reasons, the appeals are allowed in part, the decrees passed by the lower Court are set aside, and the claims of the plaintiffs are decreed as follows :-

(a) In O. S. 1016/1980 there shall be a decree in sum of Rs. 53,479.12 ps., with interest at the rate of 6% per annum from 12-8-1979 (the date of Ex. A27), till

the date of realisation. If the plaintiff has received any amount in excess of the said figure, whether in pursuance of the interim orders of this Court or otherwise, he shall be liable to refund the said amount with like interest from the date of receipt of the money, till it is reimbursed.

(b) In O. S. No. 1071/1982, there shall be a decree in a sum of Rs. 1,06,958.24 Ps., with interest at the rate of 6% per annum, from 4-12-1980 (the date of notice under S. 80, CPC) till realisation.

(c) In O.S.No.793/1982, there shall be a decree in a sum of Rs. 53,479.12 Ps., with interest at the rate of 6% per annum with effect from 3-6-1981 (the date of notice under S. 80, C. P. C i.e Ex. A1), till the date of realisation.

If the plaintiffs in O. S. 1071/82 and O. S. 793/82 have also withdrawn any excess amount, such excess amount shall be liable to be refunded, with interest at the same rate, as is directed in the case of O. S. 1016/80.

Having regard to the facts and circumstances of these cases, we direct the parties to bear their own costs, both here and in the Court below.

21. Order accordingly.