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In the Andhra Pradesh High Court

Case No : Writ Petition No''s. 4026 and 4991 of 1990

Uppari Muthamma and Others — APPELLANT

Vs

Special Tribunal, under A.P. Land Grabbing (Prohibition) Act and Others — RESPONDENT

Date of Decision : 11-07-1997

Acts Referred:

Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 — Section 38E, 47, 50B, 98
Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 — Section 4, 5
Transfer of Property Act, 1882 — Section 43, 53A
Urban Land (Ceiling and Regulation) Act, 1976 — Section 6

Citation : (1997) 6 ALT 481 : (1997) 2 APLJ 439

Hon'ble Judges : N.Y. Hanumanthappa, J;B.V. Rangaraju, J

Bench : Division Bench

Advocate : M.V. Durgaprasad, for the Appellant; G.P. for Revenue for Respondent No. 1 and Krovvidi Narasimham, for the Respondent

Final Decision : Allowed

Judgement

N.Y. Hanumanthappa, J.—These two writ petitions are directed against the order and decree dated 05-03-1990 in L.G.C.No. 32/89 on the file of the Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad.

2. Since the question involved in both the writ petitions is one and the same they are disposed of by a common order.

3. Respondents 1 to 10 in the Land Grabbing Case No. 32/89 are the petitioners in W.P.No. 4991/90. Respondent No. 11 in LGC No. 32/89 is the petitioner in W.P.No. 4026/90. All the applicants in the said Land Grabbing Case are the respondent Nos. 2 to 6 in both the writ petitions. The 11th respondent in the land grabbing case had acted as G.P.A. Holder of respondents 1 to 10. The applicants who are respondents herein filed the said land grabbing case alleging that the petitioners herein are the land grabbers. After discussing the evidence

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both oral and documentary, the Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad, hereinafter referred to as the ''Special Court'', allowed the case holding the petitioners 1 to 10 in W.P.No. 4991/90 and the petitioner in W.P.No. 4026/90, being the G.P.A. Holder of the petitioners in W.P.No. 4991/90, as land grabbers and ordered registration of a criminal case against them. Aggrieved by this order, the petitioners and their G.P.A. Holder have filed these two separate writ petitions.

4. Originally W.P.No. 4991/90 was filed by petitioners 1 to 10. During the pendency of this writ petition, petitioner Nos. 3 and 7 died. Hence, the legal representatives of the 3rd petitioner are impleaded as Petitioner Nos. 11 to 18 and the legal representatives of the 7th petitioner are impleaded as petitioner Nos. 19 to 21 as per the orders of this Court dt. 17-4-1997 in W.P.M.P. No. 9440/97. Some third parties are also added in the writ petitions as respondents 7 to 16.

5. For purpose of convenience, the reference of the parties is mentioned in the writ petitions as arrayed in the Land Grabbing Case.

6. The facts that led to the filing of the Land Grabbing Case in brief are as follows:- Late Uppari Ramaiah, husband of the 1st respondent and father of respondents 2 to 10 was the protected tenant of Kaneez Patima Begum in respect of the land covered by S. Nos. 65 to 74 of Yousufguda village and he purchased an extent of Ac. 14.06 guntas of land from her covered by the same survey numbers under a registered sale deed dated 1-5-1961 for a sum of Rs. 13,000/- . A certificate was also obtained by him from the Revenue Divisional Officer, Hyderabad (West) u/s 38-E of the Tenancy Act, 1950. Prior to the sale transaction, the said Ramaiah had sold an extent of 20,086 Sq. yards of land from out of Ac. 14.06 guntas to one Mr. Riasat Ali under a registered sale deed dt: 8-2-1961 who in turn sold an extent of 8,866 Sq. yards from out of the total extent of 20,086 Sq. yards to Smt. P. Neelakanteswaramma, the 1st applicant, and to one Chandra Ramalingaiah under a registered sale deed dated 21-11-1961. Smt. Muthamma, the wife of Uppari Ramaiah, 1st respondent, is the witness to the said sale deeds. Subsequently, the said Chandra Ramalingaiah died and his share in the disputed land devolved on his legal heirs who are applicants 2 to 5. It is the further case of the applicants that mutation was also made in the revenue records in the name of Chandra Ramalingaiah and Neelakanteswaramma. Ever since, they were in possession and enjoyment of the disputed land. On 22-7-1975, the respondents 2 and 3 namely Neelakanteswaramma and Chandra Suryamba, wife of Chandra Ramalingaiah, entered into an agreement of sale with Bhagyalakshmi Co-operative Housing Society. Though exemption was granted to them for alienating the land u/s 7 (2) of the A.P. Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972 under G.O. Rt. No. 3591, dated 1-12-1975 and G.O. Ms. No. 189, Dt. 17-1-1976, they could not execute the sale deed in favour of the said housing society in view of the restriction imposed under the Urban Land Ceiling Act. The respondents

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filed declarations u/s 6 (1) of the Land Ceiling Act including the land in question. The Special Officer and Competent Authority passed an order u/s 8 (4) of the Act and thereafter the respondents applied for exemption u/s 20 (1) of the Urban Land Ceiling Act under G.O. Ms. No. 136, which is pending before the Government. This is also the subject matter of the SLP pending before the Supreme Court to which the said Bhagyalakshmi Co-operative Housing Society is a party. It is alleged by the respondents that the petitioners 1 to 10 (Respondents 1 to 10 in Original Proceedings) in Writ Petition No. 4991/90 executed three General Powers of Attorney in favour of one N. Srinivasa Rao who is the petitioner in W.P.No. 4026/90, suppressing the real facts and authorising him to sell the land in question and execute sale deeds. In pursuance of the said G.P.A., the said Srinivasa Rao executed several sale deeds in favour of third parties in respect of the disputed land. It is further stated that the petitioners/ original respondents in both the writ petitions have no manner of right, title or interest whatsoever in the land in question and the activities of the petitioners/ original respondents in selling the land amount to an attempt to grab the land which is still in possession and enjoyment of the respondents. Hence they sought a relief to declare the petitioners/original respondents as land grabbers and convict them under Sections. 4 and 5 of the A.P. Land Grabbing (Prohibition) Act, 1982.

7. The respondents 1 to 10 urged before the Special Court that the lands in question were tenanted lands. Admittedly Smt. Kaneeza Fathima Begum was the landlord and Uppari Ramaiah was her protected tenant for an extent of Ac. 14.06 guntas. It was their case that they have constituted a Hindu Joint Family and late Ramaiah and themselves had cultivated the land jointly and in the year 1980 they got the landmutated in their names and paid land revenue due to the Government. They contended that they sold some portion of the land referred to above to some third parties even during the life time of their later father Ramaiah, but they never sold any land to the respondents at any point of time. They denied the purchase of the disputed land by the respondents under the alleged sale deed dt. 21-11-1961 from Riyasat Ali. They also denied the alleged sale of 20,086 Sq. yards by their late father Ramaiah to Riyasat Ali under the sale deed dt. 8-2-1961. They further contended that the alleged sale deeds are all stage managed documents and obtained by fraud and they are not binding on them. They alleged that taking advantage of the innocence and illiteracy and blindness of their late father Uppari Ramaiah, the said Mir Riyasat Ali got executed the said sale deed for a sum of Rs. 9000/- in terms of square yards instead of acres and guntas in order to avoid permission for alienation u/s 47 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 and also without taking their consent who are the members of Hindu Joint Family. They submitted that the above land is an agricultural land. They submitted that the alleged sale, if any, by Riyasat Ali to Neelakanteswaramma and Chandra Ramalingaiah is hit by Section 47 of the said Act. They also submitted that after the death of late Uppari Ramaiah, they got the S.Nos. 65, 66, 68 and 69 mutated

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in their names as heirs in the year 1980 and they have filed the documents namely Faisala Patti for the year 1980-81, Pahani Patrikas for the years 1979-80, Pahani for the year 1980-81 before the Special Court showing their possession over the disputed land. They urged that the respondents being rich and influential, when tried to interfere, with their possession, they filed O.S.No. 926/81 on the file of the 4th Additional Judge, City Civil Court, Hyderabad and O.S. No. 104/82 on the file of the Principal Sub-Court, Rangareddy District, which are pending. The applicants having suffered some orders in the above proceedings, rushed to the Special Court to declare the Respondents 1 to 10 as land-grabbers which is illegal, unlawful. They urged that the revenue receipts and other documents filed by the respondents are to give some colour of possession over the disputed land and they are all false and fabricated documents. They also contended that the application filed by the applicants as time bared.

8. The case of Respondent No. 11 was that he is the General Power of Attorney Holder of the legal heirs of late Ramaiah and he has acted on behalf of his principals and did the acts only in accordance with his lawful authority and as such he cannot be treated as a land grabber and whatever he has done was with a bona fide intention and to protect the interests of his principals and their property and he will be put to serious loss if he is prosecuted.

9. Before the Special Court, the respondents-applicants examined one Y. Venkateswara Rao, the G.P.A. holder of the 1st respondent and got marked as many as 47 documents as Exs.A-1 to A-47 on their behalf. On behalf of the petitioners-respondents, R.Ws. 1 to 6 were examined and Exs.B-1 to B-20 were marked.

10. The Special Court framed the following points for consideration:-

(1) Whether the petitioners are the owners of the application schedule property?

(2) If so, whether the respondents are not land grabbers?

(3) Whether the sale deed in favour of the applicants is invalid for want of permission u/s 47 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act?

(4) Whether the sale deed executed by the father of R-2 to R-10 (i.e., late Uppari Ramaiah) valid?

(5) Whether the petition is barred by limitation?

(6) Whether the petition is not maintainable?

(7) To what relief?

11. After considering the evidence both oral and documentary, the Special Court held all the points in favour of the applicants and against the petitioners-Respondents in these writ petitions holding that the petitioners-Respondents

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herein are land grabbers within the meaning of A.P. Land Grabbing (Prohibition) Act, 1982 and consequently ordered registration of a criminal case against them. Against this order and decree the petitioners-Respondents filed the present writ petitions.

12. The reasonings adopted by the Special Court for reaching such a conclusion are as follows:- The respondents did not deny the execution of Exs.A-3 sale deed dt. 8-2-1961 by Ramaiah in favour of Mir Riyasat Ali for an extent of 20,086 Sq. yards in S.Nos. 66, 68 and 69 of Yousufguda Village. On the same day Uppari Ramaiah also executed another sale deed in favour of third person in respect of the land covered by S. Nos. 73 and 74 which are portions by the sale deed Ex.A-3. Though the said sale deed Ex.A-3 was not placed before the Court a reference was made in Ex.B-9, registration of the sale deed executed by Uppari Ramaiah. On 21-11-1961, Uppari Ramaiah sold the land covered by S. Nos. 70 and 71 to Riyasat Ali and Koyya Satyanarayana under another sale deed. Under Ex.A-5, dt. 21-11-1961, Riyasat Ali sold half share out of the total extent of 20,083 Sq. yards to Chandra Ramalingaiah and also sold the remaining half share to Y. Ranganayakamma under Ex.A-6 who in turn gifted the land to her son Ravi Kumar and who in turn formed the layout into house sites and obtained permission and sold sites to various third parties. The respondents having accepted Ex.A-6, it is not open for them to deny Ex.A-3 because the lands under Ex.A-6 are covered by Ex.A-3. With regard to the contention of the respondents that Uppari Ramaiah was blind and the 11th Respondent obtained his signatures on some blank papers and made use of them in the capacity of General Power of Attorney. The Special Court rejected the said evidence and observed that had Uppari Ramaiah was blind he would not have cultivated the land himself with the help of coolies. It is further observed that in the suits namely O.S. No. 926/81 on the file of IV Additional Judge, City Civil Court, Hyderabad and O.S. No. 4142/80 on the file of the IX Assistant Judge filed for permanent injunction and in the interlocutory applications filed for temporary injunction by the respondents 1 to 10 against the applicant No. 1 and Chandra Ramaiah, they never mentioned that Late Uppari Ramaiah was blind.

13. With regard to the contention of the respondents 1 to 10 that the property in question was a joint family property and Uppari Ramaiah had no right to alienate it without their consent, the Special Court observed that there is no evidence to show that the property in question was acquired by Uppari Ramaiah with the funds of the joint family. The Manager of Joint Hindu Family can alienate the joint family property including the shares of his sons either for family necessity or to discharge antecedent debts. If it is alienated for the said purpose the sale though voidable does not become void until the same is set aside by a competent Court and in the instant case, the respondents did not take any steps to get the sale set aside. Hence it cannot be said that the sale is void. It is also observed from the evidence it does not appear that Uppari Ramaiah purchased the scheduled property under Ex.A-1 in exercise of his rights u/s 38-E of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short A.P. (TA) TAL Act as a tenant,

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but it appears that he purchased the property in question and other properties in his independent capacity but not as a tenant. It is further observed by the Special Court that Ex.A-2 Certificate is subsequent to Ex.A-1 sale deed dt. 1-5-1961 by which time Uppari Ramaiah already became entitled to the lands in question as an independent person and entitled to sell the same in his independent capacity and, thus, Ex.A-2 became otoise.

14. Meeting the contention of the respondents 1 to 10 that Uppari Ramaiah cannot convey valid title to Riyasat Ali as he had no right or interest over the property in question on the date of Ex.A-3, i.e., 8-2-1961 as he purchased the same under Ex.A-1 on 1-5-1961, the Special Court observed that Section 43 of the Transfer of Property Act applies to the case of the applicants and the principle of feeding of grant by estoppel applies to the case on hand, because there was erroneous representation by Uppari Ramaiah to Riyasat Ali about his title over the property and his right to alienate the same.

15. The Special Court agreed that no validation certificate was obtained in the instant case u/s 50-B of AP (TA) TAL Act validating Exs.A-3 and A-5. However, held that when no such validation certificate was obtained, the respondents should have taken steps u/s 98 of the AP (TA) TAL Act to evict Mir Riyasat Ali and the applicants. Also in its view, Section 47 of the AP (TA) TAL Act has no application as the lands were non- agricultural lands on the date of the application. Thus, permission u/s 47 to alienate was not required. To reach such a conclusion one more reason given by the Special Court is that in respect of other sale deeds executed by late Uppari Ramaiah no permission u/s 47 was obtained. As far as the possession over the property is concerned, the Special Court opined that the applicants are in possession of the land relying on Ex. A-7 Town Survey Register and the findings of the Civil Courts and the High Court in other proceedings. Exs.A-20 to A-27 are the land revenue receipts. As far as mutation of the names of the respondents 1 to 10 is concerned, the Special Court took a view of the same as not valid. So also the view of the Special Court with regard to the entries made in Phaisala Pahani for the years 1979-80 and 1980 to 1982. Exs.B-13 and B-14 and Pahani for the year 1980-81, Ex.B-16, as unreliable documents. The Special Court felt that not paying cist till 1981 is one more circumstance which goes against the respondents 1 to 11. According to the Special Court, if respondents 1 to 10 were really in possession of the disputed property, they should have filed declaration u/s 10 of Urban Land (Ceiling and Regulation) Act. Putting up structures by respondents 1 to 10 cannot be accepted. The Special Court found throughout that the applicants are in possession of the property. The sale deeds Exs.A-3 and A-5 are valid and the same are not barred by time. Ultimately, the Special Court allowed the claim of the applicants holding the respondents 1 to 11 are land grabbers within the meaning of Section 4 and Section 5 of the A.P. Land Grabbing (Prohibition) Act (for short ''APLG (P) Act'')- Aggrieved by which respondents 1 to 11 filed the present two writ petitions.

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16. The learned Counsel for the respondents 1 to 10 and 11 criticised the judgment and decree of the Special Court on several grounds. According to him, the Special Court committed a mistake in reaching the conclusion that Exs.A-1 to A-3 are valid and enforceable without noticing the fact that on the date of Exs.A-1 and A-3 neither Uppari Ramaiah nor the landlord had any right to alienate. When the land in question was a tenanted one its alienation in the absence of permission of Tahsildar as required u/s 47 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, was invalid and the finding that Uppari Ramaiah had become entitled to alienate the land in his independent capacity before issuing of Ex. A-2, certificate u/s 38-E is quite incorrect and unsustainable.

17. It is further contended that the Special Court committed a mistake in reaching the conclusion that the respondents 2 to 10 admitted in their evidence as to the sale transaction between Uppari Ramaiah and others. It also went wrong in not accepting the stand of the respondents that Uppari Ramaiah was blind, illiterate and innocent and the General Power of Attorney Holder, the 11th respondent, obtained his signatures on blank papers and the same was made use of to deprive his right. It is further contended that in the absence of proper pleading the finding of the Special Court that there was erroneous representation on the part of Riyasat Ali and that Uppari Ramaiah while selling the property was entitled to sell it to others is incorrect. Section 43 of the Transfer of Property Act does not apply to the transaction in question again incorrect finding. The Special Court committed a mistake in not properly understanding the effect of Sections 6, 43 and 53A of the Transfer of Property Act and Section 47 and Section 50B which was inserted after deletion of Section 47 of AP (TA) TAL Act, 1950. The Special Court found that Section 47 of A.P. (TA) TAL Act has no application to the schedule property as it was not an agricultural land but it was a non-agricultural land as mentioned in Exs.A-3 and A-5 observing that all the parties were treating the property as urban property situated within the municipal corporation limits and the same was not an agricultural land and as such permission u/s 47 was not required. If the land in question was an agricultural, land, the parties would not have mentioned the area in Square Yards instead of acres and guntas. The Special Court committed a mistake in holding that throughout the applicants are in possession of the schedule property placing reliance on some of the documents which were xerox copies while ignoring the documents produced by the respondents. The interpretation of the word ''land grabbing etc., by the Special Court is quite incorrect. To support their contention, the respondents relied on some of the authorities which will be referred to later.

18. The case of the 11th respondent who is petitioner in W.P.No.4026/90 is that he never sold the schedule property to any one. If any property was sold by him it was other than the schedule property. He never committed an act of land grabbing. Yet he has been dragged on to the proceedings unnecessarily.

19. It is the case of the additional respondents 7 to 16 in the writ petitions who

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were impleaded during the pendency of the writ petitions, that the respondents 1 to 10 entered into an agreement on 27-1-1982 agreeing to sell Ac. 1.31 guntas and 88 Sq. yards of land (8700 Sq. yards) situated in S.Nos. 66, 68 and 69 of Yousufguda village, Golconda Mandal, Hyderabad to M/s Godavari Co-operative House Building Society. Under the said agreement, the society was put in possession of the schedule land on the same day. Subsequently, the said society on 28-5-1984 assigned the said agreement in favour of these additional respondents. Ever since they are in possession and uninterrupted possession of the schedule land. The applicants are aware that these respondents are having interest in the schedule property, but without impleading them they are attempting to grab the land. They were not aware of the pendency of the land grabbing case till recently. The averments made by these additional respondents are affirmed by one Uppari Eswaraiah, who is one of the legal heirs of late Uppari Ramaiah, by filing a counter-affidavit wherein he stated that they had agreed to sell an extent of 8.700 Sq. yards of land situate in S. Nos. 66, 68 and 69 for Rs. 3,04,500/- to the Godavari Co.op. House Building Society and subsequently with their consent the said society assigned the land to these respondents and issued nomination letters in their favour. They were paid one lakh on the date of the said agreement and the balance of sale consideration of Rs. 7,59,000/- has to be paid at the time of execution of the sale deed to them or their nominees. Except this, the respondents 1 to 10 did not enter into any agreement of sale in respect of the schedule property nor encumbered the schedule land in any manner. It is further averred that on 10-9-1996, 2nd respondent and respondents 4 to 6 and 8 to 21 executed a memorandum confirming the said agreement of sale on 27-1-1982 and the assignment and the nomination dt: 28-5-1984 in favour of these additional respondents ant it was done with their consent.

20. On the other hand, the learned Counsel for the applicants contend that the order of the Special Court is a well considered one. It took into consideration the entire evidence made available and evaluated it properly and reached a just conclusion, that the land in question once upon a time was a tenanted land and on the date of alienation by Uppari Ramaiah to Riyasat Ali and from him to the applicants, it had lost its agriculture character and became an urban land as it is situated in the municipal limits. The respondents did not produce any acceptable evidence to prove that they were in possession of the land. On the other hand, the evidence given by the applicants proved beyond doubt that from the date of purchase, they are in possession whereas respondents 1 to 11 attempted to grab the land. Even though the land in question was a tenented one and purchased under Ex.A-1 whereas permission u/s 38-E was granted to Uppari Ramaiah under Ex.A-2 subsequent to Ex.A-1, still the transaction is valid as Section 43 of Transfer of Property Act will go to the aid of the applicants. Because Riyasat Ali purchased under erroneous representation and, thus, they are protected by feeding the grant by estoppel. In view of Section 43 of the Transfer of Property Act, failure to obtain permission u/s 47 of the A.P. (TA) TAL Act will not make the sale a void one. Neither the sale was void nor the respondents were ever in

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possession of the schedule property. But they were trying to grab the land. The oral evidence given falsifies the documentary evidence. The respondents 1 to 11 committed an act to grab the land and, thus, they are liable to be punished under Sections 4 and 5 of the A.P. Land Grabbing (Prohibition) Act.

21. From the above discussion, the following points arise for consideration in these writ petitions:

(1) Whether Exs.A-1 and A-3 sale deeds are valid?

(2) If Section 47 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 is not complied with, whether Section 43 of Transfer of Property Act will go to the aid of the applicants?

(3) Whether the respondents 1 to 11 are land grabbers?

22. Both sides tried to take shelter under some of the provisions of several Acts particularly Transfer of Property Act, A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950, Urban Land (Ceiling and Regulation) Act, 1976 and A.P. Land Grabbing (Prohibition) Act, 1982. The learned Counsel for the applicants placed reliance on Sections 6, 43 and 53-A of the Transfer of Property Act and contended that the purchase of the schedule land by the applicants a valid one. Section 6 of the Transfer of Property Act deals with the property which may be transferred and it reads as follows:-

"Property of any kind may be transferred, except as otherwise provided by this Act or by any other law for the time being in force."

Sub.Section (d) of Section 6 reads as follows:-

"An interest in property restricted in its enjoyment to the owner personally cannot be transferred by him."

Section 43 and other sub-sections envisage that any assignment or transfer or alienation of property forbidden by law or which defeats the provisions of an Act is forbidden and such transfer is invalid one. Further both the transferor and the transferee shall be competent to transfer (sic.) (Section 43) of the Transfer of Property Act reads as follows:-

"Where a person fraudulently or erroneously represents that he is authorised to transfer certain Immovable property and professes to transfer such property for consideration, such transfer shall, at the option of the transferee, operate on any interest which the transferor may acquire in such property at any time during which the contract of transfer subsists."

The said section mandates that the Court cannot under the guise of Section 43 uphold a transfer forbidden by law. Feeding of grant by estoppel comes into play when there is erroneous representation by the transferor to the transferee and subsequent to transfer the limited right of the transferor enlarged by fraudulent subsequent legal confirment validating such an act of transfer. This Section 43

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will not apply where the transfer is invalid as being forbidden by law or contrary to public policy. From this it follows that there can be no estoppel against an Act of the Legislature. Thus, no equities can arise out of a transaction that is forbidden on grounds of public policy. The principle of feeding the grant by estoppel has no application when the contract of assignment refers to property which has been expressly rendered inalienable by the Legislature.

23. Section 53-A (sic. 50) of the Transfer of Property Act reads as follows:-

"Every transfer of immovable property made with intent to defeat or delay the creditors of the transferor shall be viodable at the option of any creditor so defeated or delayed."

From this section it is clear that to invoke the Section 47 of T.A.Act (sic. Section 43 of T.P. Act) there shall be fraudulent representation.

24. The Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 deals with agriculture, agriculturist, necessity to obtain permission for alienation, etc. Its object is to regulate the alienation of the land. Section 2 (a) of the Act defines agriculture as follows:-

""Agriculture" with its grammatical variations and cognate expressions includes:-

(i) horticulture,

(ii) the raising of crops, grass or garden produce;

(iii) dairy farming;

(iv) poultry farming and stock breedings and

(v) grazing.

Section 2 (b) defines agriculturist as follows:-

""Agriculturist" means a person who cultivates lands personally."

Section 2(c) defines agricultural lands as follows:-

""Agricultural land" means land which is used or is capable of being used for agriculture (or reserved for growing forests) and includes:-

(i) fallow land,

(ii) the sites of farm buildings appurtenant to agricultural land, and

(iii) the sites of dwelling houses occupied by agricultural labourers or artisans and land appurtenant to such dwelling houses.

Section 2 (j) defines the land as follows:-

"'Land'' means agricultural land whether alienated or unalienated; and includes land used for purpose sub-servient to agriculture and all benefits arising out of such land and things thereon attached to the earth, or permanently fastened to

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anything attached to the earth."

Section 2 (o) defines permanent alienation as follows:-

"''permanent alienation'' includes any sale, exchange or gift and any transfer of a right of occupancy or of the patta of a holding but does not include any disposition by will."

Section 2 (r) defines protected tenant as follows:-

"''Protected tenant'' means a person who is deemed to be a protected tenant under the provisions of Sections 34 to 37."

Section 37-A deals with the persons holding lands as tenants at the commencement of the Hyderabad Tenancy and Agricultural Lands (Amendment) Act, 1955 to be deemed to be protected tenants.

25. Section 38-D deals with the procedure when land holder intends to sell the land to a protected tenant which reads as follows:-

"If the landholder at any time intends to sell the land held by the protected tenant, he shall give a notice in writing of his intention to such protected tenant and offer to sell the land to him. In case the protected tenant intends to purchase the land he shall intimate in writing his readiness to do so within (six months) from the date of the receipt of such notice. If there is any dispute about the reasonable price payable by the protected tenant for the land, the provisions of sub-sections (3) to (8) of Section 38 shall apply mutatis mutandis."

Section 38-E deals with the ownership of a land held by the protected tenants to stand transferred to them from a notified date, which reads as follows:-

"Notwithstanding anything in this chapter or any law for the time being in force or any custom, usage, decree, contract or grant to the contrary, the Government may, by notification in the Official Gazette, declare in respect of any area and from such date as may be specified therein that ownership of all lands held by protected tenants which they are entitled to purchase from their landholders in such area under any provision of this chapter shall subject to the provisions of sub-section (7) of Section 38 of the Act stand transferred to and vest in the protected tenants holding them and from such date the protected tenants "shall be deemed to be the full owners of such lands."

Section 38-E (2) reads as follows:-

"A certificate in the prescribed form declaring him to be owner shall be issued by the Tribunal to every such protected tenant and notice of such issue shall simultaneously be issued to the landholder. Such certificate shall be conclusive evidence of the protected tenant having become the owner of the land with effect from the date of the certificate as against the landholder and all other persons having any interest therein"

Section 40 deals with the right of protected tenant as heritable. Section 47

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before its deletion dealt with the necessity to obtain permission if the protected tenant wants to alienate the property which reads as follows:-

"Notwithstanding anything contained in any other law for the time being in force or in any decree or order of a Court, no permanent alienation and no other transfer of agricultural land shall be valid unless it has been made with the previous sanction of the Tahsildar."

Section 48-A restricts alienation of lands acquired by the protected tenants within a particular period which reads as follows:

"In case of a permanent alienation or transfer by a protected tenant of any land in respect of which he has acquired the right of ownership u/s 38 or Section 38-D or Section 38-E at the reasonable price determined by the Tribunal and more than 8 years have not elapsed since the date of such acquisition, the Tahsildar may take over the land on payment to the protected tenant as compensation a sum equivalent to the reasonable price so determined."

Section 50-B deals with the validation of certain alienations and other transfers of agricultural lands which reads as follows:-

"Notwithstanding anything in this Chapter, where any alienation or other transfer of agricultural land took place-

(a) on or after the 10th June, 1950, but before the date of coming into force of the A.P. Ceiling on Agricultural Holdings Act, 1961 and where possession of such land was given to the alienee or transferee before such date of coming into force; and

(b) on or after the coming into force of the A.P. Ceiling on Agricultural Holdings Act, 1961, but before the date of commencement of the A.P. (Telangana Area) Tenancy and Agricultural Lands (3rd Amendment) Act, 1969 and where possession of such land was given to the alienee or transferee before commencement of such alienation or transfer is not inconsistent with the provisions of the A.P. Ceiling on Agricultural Holdings Act, 1961;

the alienee or transferee may, within such period as may be prescribed, apply to the Tahsildar for a certificate declaring that such alienation or transfer is valid."

Section 98 deals with the summary eviction where a person is in unauthorised occupation or in wrongful possession of any land which reads as follows:-

"Any person unauthorisedly occupying or wrongfully in possession of any land-

(a) the transfer of which either by the Act or parties or by the operation of law is invalid under the provisions of this Act, or

(b) the management of which has been assumed under the said provisions, or

(c) to the use and occupation of which he is not entitled under the said provisions,

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may, if the said provisions do not provide for the eviction of such person, be summarily evicted by the Collector."

26. The object of Urban Land (Ceiling and Regulation) Act, 1976 is to impose a ceiling on vacant land, regulate construction of buildings on such land and matters and thus to prevent concentration of urban land in the hands of a few persons and speculation and profiteering therein and with a view to bring about equitable distribution of land to subserve the common good.

27. Section 2 (o) defines urban land as follows:

"(i) any land situated within the limits of an urban agglomeration and referred to as such in the master plan; or

(ii) in a case where there is no master plan or where the master plan does not refer to any land as urban land, any land within the limits of an urban agglomeration and situated in any area included within the local limits of a municipality (by whatever name called), a notified area committee, a town area committee, a city and town committee, a small town committee, a cantonment board or a panchayat, but does not include any such land which is mainly used for the purpose of agriculture."

Section 2 (A) defines agriculture as follows:-

"''agriculture'' includes horticulture, but does not include-

(i) raising of grass,

(ii) dairy farming,

(iii) poultry farming

(iv) breeding of live stock, and

(v) such cultivation, or the growing of such plant, as may be prescribed.

They further deal with the ceiling limit, transfer of vacant land and its effect, necessity to file statement whether the holding is more than the ceiling limit and acquisition of vacant land in excess of ceiling limit.

28. The object of A.P. Land Grabbing (Prohibition) Act, 1982, is to prevent organisation of certain lawless persons operating individually and in groups to grab either by force, or by deceit or otherwise lands belonging to the Government, a local authority, a religious or charitable institution or endowment, including wakf or any other private person.

29. Section 2 and sub-section (d) of the Land Grabbing (Prohibition) Act defines land grabber as follows:-

"''land grabber'' means a person or a group of persons who commits land grabbing and includes any person who gives financial aid to any person for taking illegal possession of lands or for construction of unauthorised structures thereon,

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who collects or attempts to collect from any occupiers of such lands rent, compensation and other charges by criminal intimidation, or who abets the doing of any of the above mentioned acts, and also includes the successors in interest."

30. Section 2 (e) defines land grabbing as follows:-

"''land grabbing'' means every activity of grabbing of any land (whether belonging to the government, a local authority, a religious or charitable institution or endowment including wakf, or any other private person) by a person or group of persons, without any lawful entitlement and with a view to illegally taking possession of such lands, or enter into or create illegal tenancies or lease and licence agreements or any other illegal agreements in respect of such lands, or to construct unauthorised structures thereon for sale or hire, or give such lands to any person on rental or lease and licence basis for construction, or use and occupation of unauthorised structures and the term "to grab land" shall be construed accordingly."

Thus, grabbing has to be understood as to grasp or seize suddenly and eagerly to appropriate unscrupulously. There shall be an act of taking possession or entering into the land.

31. Section 3 declares land grabbing as unlawful which reads as follows:-

"Land grabbing in any form is hereby declared unlawful; and any activity connected with or arising out of land grabbing shall be an offence punishable under this Act."

32. Section 4 prohibits land grabbing which reads as follows:-

"(1) No person shall commit or cause to be committed land grabbing.

(2) Any person who on or after the commencement of this Act, continues to be in occupation, otherwise than as a lawful tenant, of a grabbed land belonging to the Government, local authority, religious or charitable institution or endowment including a wakf, or other private person, shall be guilty of an offence under this Act.

(3) Whoever contravenes the provisions of sub-section (1) or sub-section (2) shall on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to five years, and with fine which may extend to five thousand rupees."

33. Section 5 deals with the penalty for other offences in connection with land grabbing which reads as follows:-

"Whoever, with a view to grabbing land in contravention of the provisions of this Act or in connection with any such land grabbing-

(a) sells or allots, or offers, or advertises for sale or allotment, or has in his possession for the purpose of sale or allotment any land grabbed;

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(b) instigates or incites any person to commit land grabbing;

(c) uses any land grabbed or causes or permits knowingly to be used for purposes, connected with sale or allotment; or

(d) causes or procures or attempts to procure any person to do any of the abovementioned acts, shall on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine which may extend to five thousand rupees."

34. The effect of Sections 6, 43 and 53A of the Transfer of Property Act and other provisions of A.P. (Telangana Area) Tenancy and Agricultural Lands Act referred to above was considered by this Court and other Courts including the Supreme Court. The Courts laid down the principles as follows:-

35. In Hattikudur Narain Rao and Others Vs. Andar Sayad Abbas Sahib, the Madras High Court held as follows:-

"In the absence of any allegation or proof to the effect that in taking the lease the lessee believed in good faith and after due inquiry the erroneous representation regarding the title to the land made by the lessor, the lessee is not entitled to rely upon the principle embodied in Section 43 of Transfer of Property Act."

36. In AIR 1928 262 (Nagpur) the Nagapur High Court held that where transfer void cannot be validated by recourse to ordinary doctrine of estoppel.

37. In Annada Mohan Roy Vs. Gour Mohan Mallik, the Calcutta High Court explaining the scope of principle of feeding the grant by estoppel held as follows:-

"Principle of feeding the grant by estoppel plainly has no application where the contract of assignment refers to property which has been expressly rendered inalienable by the legislature."

38. The Nagpur High Court in the judgment rej. orted in the case (2) referred supra took the similar view.

39. Again the High Court of Madras in Adhilakshmi Ammal Vs. T. Nallasivan Pillai (died) and Others, took the similar view as follows:-

"Section 43 applies only when a party in possession of special knowledge makes an incorrect representation to another party to the contract, whereby the other party is induced to enter into the contract and the person making the representation gets the benefit of it."

40. In the case of The Jumma Masjid, Mercara Vs. Kodimaniandra Deviah, the Supreme Court while interpreting the scope of Section 6 and Section 43 of the Transfer of Property Act observed that Section 43 has no application when the transferor does not possess title. The relevant portion is extracted hereunder:

"that where a person transfers property representing that he has a present

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interest therein, whereas he has, in fact, only a spes succession is, the transferee is entitled to the benefit of Section 43 of the Transfer of Property Act, 1882, if he has taken the transfer for consideration and on the faith of the representation.

that apart from the exception in favour of transferees for consideration in good faith and without notice of the rights under the prior transfer Section 43 of the Transfer of Property Act is absolute and unqualified in its operation. It applies to all transfers which fulfil the conditions prescribed therein, and it makes no difference in its application whether the defect of title in the transferor arises by reason of his having no interest in the property, or of his interest there in being that of an expectant heir. The section deals with transfers which fail for want of title in the transferor and not want of capacity in him at the time of transfer. It embodies a rule of estoppel and enacts that a person who makes a representation shall not be heard to allege the contrary as against a person who acts on the representation. It is immaterial whether the transferor acts bona fide or fraudulently in making the representation. It is only material to find out whether in fact the transferee has been misled. In view of the specific provision of Section 43 the principle of estoppel against a statute does not apply to transfers prohibited by Section 6(a) of the Act. The two provisions operate in different fields and under different conditions. There is no necessary conflict between them, and the ambit of one cannot be cut down by reference to the other. Section 6(a) enacts a rule of substantive law, while Section 43 enacts a rule of estoppel which is one of evidence."

41. In Ram Pyare Vs. Ram Narain and Others, the Supreme Court held that feeding of grant by estoppel will be attracted where transfer takes place under erroneous representation and not otherwise.

42. In the case of Pothuganti Chandramma v. Chepuri Sambaiah 1988 (1) ALT 360, the A.P. High Court held that Section 53-A of the T.P. Act can be used as a shield and not as a sword. The relevant portion is extracted hereunder:-

"Once the agreement stood merged with the execution of the sale deed and the sale deed is declared to be void the contract of sale does not get revived and it does not have any independent existence. Once the contract is found to be void, concession obtained under the contract of sale also becomes unlawful. The statutory right to possession u/s 53-A can be used by the transferee only as a shield and not as a sword."

43. In Mahipat Missir and Others Vs. Ganpat Sah and Others, " the Patna High Court while dealing with Section 43 of the T.P. Act held as follows:-

"A transferee from a sole co-parcener in a joint Hindu family consisting of himself and a widow having an interest in the joint family properties under the Hindu Women''s Right to Property Act can take the aid of Section 43 of T.P. Act in respect of the widow''s interest after her death provided he proves that the transferor co-parcener erroneously resented (sic. represented) that he was authorised to transfer the widow''s interest. But if no case of such representation

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is either made out in the pleadings or in the evidence on record, and further it could not be said in the circumstances that the transferee was ignorant of the correct legal position, there could be no question of erroneous representation by the co-parcener so as to enable the transferee to invoke the said Section 43."

44. In Manchegowda and Others Vs. State of Karnataka and Others, " the Supreme Court while dealing with Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act (2 of 1979) held that the transfer of land prohibited under the Act is void.

45. While interpreting some of the provisions of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 particularly in effecting of transfers of land by a protected tenant without prior permission of Tahsildar, the Courts held such sales are void. In the case of Syed Jalal and Others Vs. Tarrgopal Ram Reddy and Others, " this High Court explaining the meaning of tenancy held that any transfer without prior permission of the Tahsildar is void. It is further held that unless patta is mutated in the name of vendee any sale is not completely efficacious. The relevant portions are extracted hereunder:-

"A contract of sale followed by possession under the general law, would, subject to the fulfilment of the requirements of Section 53-A of the Transfer of Property Act, have enabled a person in possession to use it as a shield to defend his possession. But having regard to the provisions of Section 47 read with Section 98, no right to possession capable of being upheld under the special enactment can be conferred by means of a permanent alienation or other transfer, unless the prior permission of the Tahsildar is obtained."

"A mere sale or conveyance effected in accordance with the general law, viz., by a written instrument duly stamped and registered if it is Immovable property of more than Rs. 100/- value by itself, in so far as agricultural land is concerned is not completely efficacious until the patta is mutated in the name of the vendee."

46. In Meram Pocham and Another Vs. The Agent to the State Government, (Collector), District Adilabad and Others, " this Court explaining the sale without permission of Tahsildar and effect of Section 53-A of the T.P. Act held as follows:-

"that possession given to the petitioners in pursuance of the contracts of sale, without obtaining previous sanction of the Tahsildar u/s 47, Hyderabad Tenancy Act was unlawful and Section 53-A of T.P. Act would not safeguard that possession."

47. In "Ushanna v. Sambu Gond"1985 (3) APLJ 32 this Court held that in the absence of obtaining prior permission or obtaining validation certificate the transaction will be invalid and unlawful. The relevant portions are extracted hereunder:-

"By Act 12 of 1989, Section 47, and its allied sections, viz., Sections 48, 50 and 50-A were omitted. Sub-section (1) of Section 50-B was suitably amended and introduced. Section 50-B in the present form empowering the Tahsildar to

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validate the sales made on and from June 10, 1950 upto specified date and was extended from time to time upto March 31, 1972, under sub-section (1) thereof. Under sub-section (2) the Tahsildar shall hold an enquiry as contemplated therein and shall issue a certificate, declaring the alienation or transfer as valid."

"Though Section 47 was deleted, the invalid transfers which had taken place from 1950 to 1969 could be validated with the aid of proceedings u/s 50-B and thereby the invalidity could be cured. Section 50-B was introduced with a definite purpose to save the invalid transactions that have taken place between June 10, 1950 to March 18, 1969 and the time was extended finally upto March 31,1972. If the transferee or alienee did not avail himself of this opportunity of getting his alienation and possession validated u/s 50-B, he should suffer the consequences since the transfer and delivery of possession in his favour remained invalid and unlawful. After March 31, 1972, there is no possibility of validating all the invalid transactions that took place preceding that date. Therefore there is no in defeasible title or right created in favour of the alienees before December 1, 1963 on which date 1959 Regulation came to be applied to the Telangana Region and by operation of Section 3 of the Regulation, the sales are void. The contract of sale and the unauthorised and illegal possession of the land are null and void and the protection of Section 53-A of the T.P. Act is not available."

48. In "P. Ramachandra Reddy v. Abdul Aziz", this Court held any sale without permission u/s 47 of Hyderabad Tenancy and Agricultural Lands Act, is void.

49. From the above, the facts not in dispute are that on the date of Exs.A-1 and A-3 no certificate was issued to Uppari Ramaiah, the protected (sic) u/s 38-E of the AP (TA) TAL Act, 1950 and any transfer by him was hit by Section 47 of the Act. Section 47 prohibits any transfer without the permission. To attract Section 43 of T.P. Act there should have been allegation or proof to the effect that while purchasing the applicants believed in good faith and after due enquiry the erroneous representation regarding title to the property by the transferor Uppari Ramaiah. But such an allegation is absent. The principle of feeding the grant by estoppel cannot be made applicable to the transaction in question as such a transaction expressly rendered in-alienable by law. Feeding of grant by estoppel will arise when there is fradulent or erroneous representation to the transferee but no such act is proved in the case. After the transfer, to get a right on such transferred property, the transferee shall get such transfers validated. Such validation is absent in the instant case. Further the transfer to be efficacious the patta shall be mutated in the name of transferee. But both these requirements are absent in this case. On the other hand the transferor or his heirs became owners the moment certificate u/s 38-E is granted to the protected tenant. Since, the transaction relied upon by applicants was illegal, their possession if any is unauthorised and protection u/s 53-A of T.P. Act not available. The voluminous evidence is adduced on both sides. But any amount of evidence will not help those who have purchased the property which is forbidden by law. As on the date of either Ex.A-1 or A-3 the sale of land in question was forbidden.

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Subsequent to Exs.A-1 and A-3 the transferee did not comply with the mandatory requirement as contemplated u/s 50-B of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950. Non-compliance of mandatory requirements rendered the entire sale transaction void and illegal. Any basis on such illegal transaction was impermissible and did not confer any right on such transferees. In our view, the Special Court without taking into consideration the effect of some of the provisions of Transfer of Property Act and the Tenancy Act referred to above and the decisions cited supra on the said provisions blindly assumed that the transaction of sale made by Uppari Ramaiah in favour of Mir Riasat Ali, in turn to the applicants and others as valid. Such a finding is not only erroneous but also contrary to the well established principles of law. Regarding possession also the finding of the Special Court is based on the one sided material. Had the Special Court taken into consideration some of the documents produced by the respondents and xerox copies by the applicants dispassionately the finding would have been different. By brushing aside the documents like land revenue receipts produced by the respondents 1 to 10 it went on suspecting the statements of the respondents made before the Court. Even if it is assumed that there was a transfer, but in view of the legal position, the same was illegal and unlawful. The Special Court failed to notice that in case of any transfer of tenanted land which is forbidden by Tenancy Act, the tenant is entitled for its restoration and action of summary eviction should have been ordered as contemplated u/s 98 of the said Act. Mere filing of declarations u/s 6 of the Urban Land (Ceiling and Regulation) Act, 1976 is not conclusive proof as to the ownership of the property by the declarant.

50. The Special Court should have noticed that the two sale deeds dt. 8-2-1961 and 1-5-1961 were prior to obtaining the certificate u/s 38-E by Uppari Ramaiah. As he obtained the certificate only on 5-9-1961, the Special Court should have held that the sale deeds are not valid. To make any claim on the basis of such sale deeds is of no use as the persons who claimed ownership did not derive any title. From the date of certificate issued u/s 38-E of the Tenancy Act, Uppari Ramaiah continued in possession as a person lawfully entitled and after his death his legal heirs are in possession. As on the date of purchase by Riyasat Ali, Uppari Ramaiah was only a protected tenant and he could not have sold the schedule land. The finding of the Special Court that the applicants are in possession of the land right from 1961 basing on xerox copies in the absence of any Pahanis or village records in proof of their possession is quite incorrect. Its finding that the schedule land is not an agricultural land is quite incorrect. If the Special Court had taken into consideration the fact of entries in Pahanis and other village records produced by the writ petitioners- respondents 1 to 10 and the averments in the complaint lodged by the applicants before the police describing the land as an agricultural land, the finding would have been that the land was an agricultural one and writ petitioners were in possession of the same. The question of filing declaration under Urban Land Ceiling Act will arise only when the holding of the individual is more than the ceiling limit. Whereas in the

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instant case filing of declaration did not arise as the holding of each of the legal heir of late Uppari Ramaiah was less than the ceiling limit. The finding of the Special Court that the 11th respondent, the petitioner in WP No. 4026/90 sold the lands to Riyasat Ali and from him the applicants is quite incorrect. The lands purchased by the respondents 12 to 17 in the writ petitions have nothing to do with the schedule land. No material was placed by the applicants to prove that they have perfected their title by adverse possession. If really they were in possession of the schedule land, there was no necessity for them to make an alternative plea of adverse possession. The records disclose that at no point of time they were in possession of the schedule land. Even otherwise their possession if any is unlawful one as the sale deeds under which they sought to claim their right are void. Applying of the principles envisaged u/s 43 of the Transfer of Property Act in the absence of pleading by the parties is quite incorrect. The Special Court failed to notice that the house bearing No. 8-3-216/ A is situated in an area of 500 Sq. yards and the same has nothing to do with the house bearing No. 8-3-216 as both the premises are quite different.

51. To attract the provisions under Sections 4 and 5 of the Land Grabbing (Prohibition) Act, first it shall be established that there is an attempt by a person to take possession of land illegally. Further such a person shall continue to be in occupation otherwise than as a lawful tenant of a grabbed land which belongs to the State, Authority or persons indicated in the said sections. The Special Court before holding the respondents 1 to 11 as land grabbers and ordering punishment under Sections 4 and 5 of the Act, it should have noticed first whether the land belongs to the applicants and the respondents were attempting to grab the land unlawfully or they were illegally continuining in occupation of such land. No such material was there to reach such a conclusion. Hence to hold that the respondents 1 to 11 as land grabbers is quite illegal. On the other hand respondents 1 to 10 were in lawful possession of the property throughout till 27-1-1982 on which date they entered into an agreement with the Godavari Co. op. House Building Society to alienate the said land, who in turn assigned the said land on 28-5-1984 to respondents 7 to 16 (sic), who came in possession and enjoyment of the same by deriving right and interest under persons who were lawfully entitled to be either in possession or alienate the same. If the material available is examined in the light of some of the statutes referred to above and their interpretation by the Courts, the irresistable conclusion will be that the respondents 1 to 10 who, in fact, were in possession of the schedule land lawfully till the land was assigned to respondents 7 to 16 (sic). The applicants had no right to prohibit the transaction if any between the respondents 1 to 10 and other persons including Godavari Co-operative House Building Society and their assignees namely respondents 7 to 16 (sic). As far as the 11th respondent before the Special Court who is the petitioner in W.P. No. 4026 / 90 is concerned, according to himself that he acted for and on behalf of the legal heirs of late Uppari Ramaiah. Any transaction which he made relates to the property other than the schedule property. He had no desire or plan to

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commit an act to grab the land belonging to others. In the circumstances he acted as a power of Attorney which made him to transfer certain properties. How he had to make such transfers has been explained by him in the writ petition and the same not disputed by the applicants by filing counter. Sections 4 and 5 of the A.P. Land Grabbing (Prohibition) Act, 1982 has no application as against the 11th respondent.

52. In our view the sales made at Exs.A-1 and A-3 are not valid as they are hit by Section 47 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950. In the absence of validation certificate, transfers if any in favour of others including the applicants, did not confer any right or title on them.

53. Section 43 of the Transfer of Property Act will not help the transferee who gets the transfer in the absence of prior permission or sanction of the Tahsildar u/s 47 of the Tenancy Act to alienate the land. In the absence of erroneous representation Section 43 of the T.P. Act will not make the sale of tenanted land valid.

54. Respondents 1 to 11 are not the land grabbers.

55. Having observed all the three points in favour of the present writ petitioners, we have to hold that the order of the Special Court is an illegal one. Hence these two writ petitions are allowed and the order and decree of the Special Court, Hyderabad passed in L.G.C. No. 32/89, dt. 5-3-1990 is quashed. In the circumstances there is no order as to costs.

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