
Danunjaya Rao Vs Joint Collector

Civil Revision Petition No. 5588 Of 2011, 2647 Of 2013, 1372 Of 2015

Court: High Court For The State Of Telangana:: At Hyderabad

Date of Decision: Sept. 24, 2021

Acts Referred:

A.P. Telangana Area (Tenancy & Agricultural Lands) Act, 1950 & Section 2(f), 4, 15, 29, 38, 38D, 38E, 91, 91(3) & Code Of Civil Procedure, 1908 & Section 115

Hon'ble Judges: T.Amarnath Goud, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

1. The subject matter involved in all the three revisions is one and the same and, ultimately, the challenge in the revisions is to the order of the

Revenue Divisional Officer, Mahabubnagar, dated 02.03.2010, in file No.K/576/2009, which is eventually confirmed by the orders of the Joint

Collector in Appeal Case No.F1/08/2012 in File No.F1/5282/2012, Dated 27.4.2013. In view of the fact that the facts of the cases, contentions,

submissions and the principal issues that fall for consideration are one and the same and as the issues are interlinked and as the finding on the point

involved in one revision will have a bearing on the point involved in the other revisions, submissions of the learned counsel for both the sides in all the

revision petitions are heard together and hence, all these revisions are being disposed of by this common order.

2. C.R.P.No.2647 of 2013, under Section 91 of the A.P. Telangana Area (Tenancy & Agricultural Lands) Act, 1950, (hereinafter, & Act of

1950 & Act) is filed by the petitioner-Dhanunjaya Rao, having been aggrieved of the order, dated 27.04.2013, in Appeal Case No.F1/08/2012 in File

No.F1/5282/2012 on the file of the Joint Collector, Mahabubnagar, i.e., the 1st respondent herein in confirming the orders of the Revenue Divisional

Officer, Mahabubnagar, dated 02.03.2010 in file No.K/576/2009

3. C.R.P.No.1372 of 2015, under Section 91 of Act of 1950, is filed by the unsuccessful appellants, namely, Laxminarayana and Gopal, assailing the

order, dated 12.08.2011, passed in Case No.F1/IA-3/2010 in File No.F1/2000/2010 on the file of the Joint Collector, Mahabubnagar, whereby, while

dismissing the said appeal, the Joint Collector, Mahabubnagar in confirming the order dated 02.03.2010 in file No.K/576/2009 of Revenue Divisional

Officer, Mahabubnagar.

4. C.R.P.No.5588 of 2011, under Section 91 of Act of 1950, is filed by M/s. Gayatri Educational Society assailing the order, dated 12.08.2010 in file

No.F1/IA-07.2010 of the Joint Collector, Mahabubnagar, in confirming the order of the Revenue Divisional Officer, Mahabubnagar, dated 02.03.2010

in File No.K/576/2009.

5. C.R.P.Nos.1372 of 2015 and 5588 of 2011 are filed by the subsequent purchasers from the landlords of the subject land; and, in the said two

revision petitions, the challenge is to the same order passed by the Joint Collector, Mahabubnagar, in the aforesaid appeal. Whereas in

CRP.No.2647 of 2013, the challenge is to the order, dated 27.04.2013, of the very same Joint Collector, Mahabubnagar, passed in Appeal Case

No.F1/08/2012 in File No.F1/5282/2012. The said appeal was filed having been aggrieved of the Memo No.K/7722/2012, dated 26.10.2012, of the

Revenue Divisional Officer, Mahabubnagar, rejecting the claim of the appellant/revision petitioner in C.R.P.No.2647 of 2013, i.e., Dhanunjaya Rao, to

consider the review petition filed against the order, dated 02.03.2010, in File No.K/576/2009, of the Revenue Divisional Officer, Mahabubnagar, with

respect to confirmation of ownership rights in respect of land in Sy.Nos.251/2 of an extent of Ac.30.00 situated within the limits of Seripally (V) of

Bhoothpur (M).

6. This Court by order dated 25.10.2017, allowed the Civil Revision Petitions by setting aside the orders impugned holding inter alia that the order

dated 02.03.2010 of the Revenue Divisional Officer in case No.K/579/2009, which was passed against the respondents who are dead is a nullity.

7. Challenging the order dated 25.10.2017 passed by the High Court of Judicature at Hyderabad for the State of Telangana and Andhra Pradesh in the

above Civil Revision Petitions, Kavarampeta Venkataiah and others, protected tenants have filed Civil Appeal Nos.147 & 149 of 2021 and the

Hon'ble Supreme Court by order dated 21.01.2021 allowed the appeals and remanded the same to this Court to decide the matter afresh.

8. The facts of the case are that the Additional Revenue Divisional Officer (LR) issued 38-E certificate under A.P. (TA) Agricultural Lands Act,

1950 in Sy.No.251/2 (Ac.30.00 guntas) and 251/11 (Ac.11.13 guntas), total extent of Ac.41.13 guntas, situated within the limits of Bhoothpur Village

and Mandal in favour of K.Chinnaiah, protected tenant vide proceedings No.A9/43-44/1974 after holding that the land holders Smt.Suguna Bai W/o

Venkat Rao and Sri Sheshagiri Rao are having more than two family holdings.

9. Aggrieved by the said order, the land holders filed an appeal before the Joint Collector, Mahabubnagar. The Joint Collector, Mahabubnagar vide

order No.B7.LA-205/1976 remanded the case for denovo enquiry. The Revenue Divisional Officer, Mahabubnagar passed orders vide file

No.K/3737/1983, dated 27.03.1985 stating that the protected tenant Kavarampeta Chinnaiah is eligible for 38-E certificate.

10. Again the landlord preferred an appeal No.B7/20/1985 and the Joint Collector vide order dated 05.04.1989 remanded the case to the Revenue

Divisional Officer, Mahabubnagar and he observed that the landlords are having Ac.127.25 guntas and Ac.119.24 guntas, which is more than two

family holdings. The Revenue Divisional Officer, Mahabubnagar held that the landlords are having Ac.127.25 guntas on the notified date which is

more than two family holdings, hence Kavarampeta Chinnaiah protected tenant is eligible to get 38-E certificate and ordered for issue of 38-E

certificate in respect of Sy/No.251/2 (Ac.30.00 guntas) and 251/11 (Ac.11.13 guntas) total extent of Ac.41.13 guntas, situated within the limits of

Bhoothpur Village and Mandal in favour of legal heirs of late Kavarampeta Chinnaiah.

11. Heard Sri D.Prakash Reddy, learned senior counsel appearing for Sri L.Prabhakar Reddy, learned counsel for the petitioners in C.R.P.No.2647 of

2013; Sri V.Hari Haran, learned counsel for the petitioners in C.R.P.No.5588 of 2011 and Sri M.Damodar Reddy, learned counsel for the petitioners

in C.R.P.No.1372 of 2015. This Court also heard the arguments of Sri N.Vasudeva Reddy, Sri V.Manohar Rao, Sri K.Muralidhar Reddy and

Government Pleader for Arbitration for the respondents.

12. It is the case of the petitioners in C.R.P.No.2647 of 2013 that they are landlords and protected tenants are not entitled for grant of 38-E certificate

in view of the fact that the pattedars namely Smt. Suguna Bai and late Seshagiri Rao were holding land to an extent of Ac.119.24 guntas and

Ac.127.24 respectively after deleting Ac.30.00 and Ac.11.13 guntas covered by section 38-E, their holdings will be less than two family holdings as on

1.01.1973, as such protected tenants are not entitled for grant of section 38-E certificate.

13. It is the case of the petitioners in C.R.P.No.5588 of 2011 and C.R.P.No.1372 of 2015 that they are bonafide purchasers of land from landlords

and they are in possession. They are lawful owners and their rights and title cannot be deprived in view of Section 38-E certificates of protected

tenants.

14(A). Object of the Act:- It is stated that it is expedient to amend the law regulating the relations of land holders and tenants of agricultural land and

alienation of such land. It is also further stated that it is also expedient to enable land holders to prevent the excessive sub-division of agricultural

holdings to empower Government to assume in certain circumstances the management of agricultural lands, to provide for the registration of Co-

operative farms and to make further provision for matters incidental to the aforesaid purposes.

14(B). Section 2(f) "landlord" means the owner of a holding or part thereof who is entitled to evict the cultivating tenant from such holding or part,

and includes the heirs, assignees, legal representatives of such owner, or person deriving rights through him.

(r) "Protected Tenant" means a person who is deemed to be a protected tenant under the provisions of this Act.

(cc) "Basic Holding" means a holding the area of which is equal to one-third of the area of the family holding determined under Section 4 for the

local area concerned.

(h) "Family Holding" means a holding the area of which is equal to the area determined for any class of land under Section 4 as the area of a

family holding for the class of land of which the holding consists in the local area in which it is situate.

(j) "Land" means agricultural land whether alienated or unalienated; and includes land used for purposes subservient to agriculture and all benefits

arising out of such land and things thereon attached to the earth, or permanently fastened to anything attached to the earth;

14(C) Section 4:- Determination of area of Family

Holdings:- (1) Subject to and in accordance with the provisions of this section the Government shall determine in the manner prescribed for all or any

class of land in any local area, the area of a family holding which a family of five persons including the agriculturist himself, cultivates personally

according to local conditions and practices and with such assistance as is customary in agricultural operations and which area, will yield annually a

produce the value of which, after deducting fifty per cent, therefrom as cost of cultivation, is Rs. 800 according to the price levels prevailing at the

time of determination.

(2) The Government shall determine the extent of land which shall be regarded as a family holding for each class in each kind of soil in all the local

areas which may be determined for the area to which this Act extends subject to the limits specified below, shall notify in the Official Gazette the local

areas and the extents so determined not later than six months from the date on which the Hyderabad Tenancy and Agricultural Lands (Amendment)

Act, 1954, comes into force and shall lay a copy of the Notification before the Legislature if it is in session, and if it is not in session when it next

reassembles.

14(D). Section 38 - Right of protected tenant to purchase land: (1) Notwithstanding anything to the contrary in any law, usage or contract, and subject

to the provisions of sub-section (7), a protected tenant shall at any time after the commencement of the Hyderabad Tenancy and Agricultural Lands

(Amendment) Act, 1954, be entitled to purchase the land-holder's interest in the land held by the former as a protected tenant.

(2) A protected tenant who desires to exercise the right conferred by sub-section (1) shall make an offer to the landholder stating the price which he is

prepared to pay for the land-holder's interest in the land up to fifteen times for dry lands or eight times for wet lands irrigated by wells and six times

of wet lands irrigated by other sources, of the rent payable by him, and where he is not entitled to purchase the whole of the land, the portion thereof

which he is entitled to purchase.

(3) If the land-holder refuses or fails to accept the offer and to execute a sale-deed within three months from the date of the offer, the protected

tenant may apply to the Tribunal for the determination of the reasonable price of the land.

(4) On receipt of an application under sub-section (3) the Tribunal shall give notice to the applicant and the landholder and to all persons who appear to

the Tribunal to be interested, of the date, time and place, at which the Tribunal will enquire into the application and shall determine the reasonable price

of the land-holder's interests in the land not exceeding the maximum multiple of rent provided in sub-section (2) in conformity with such rules as

may be prescribed:

Provided that where in the opinion of the Tribunal the reasonable price determined under this sub-section, does not sufficiently recompense the land-

holder for the value of the improvements made by him, such as sinking a well, it shall be competent for the Tribunal, after taking into account the value

of the contribution of the protected tenant towards the improvements, if any, to add such further sum as it considers adequate to the price so

determined.

(5) The protected tenant shall deposit with the Tribunal the amount of the price determined under sub-section (4):

(a) either in a lumpsum within the period fixed by the Tribunal, or

(b) in such instalments not exceeding sixteen and at such intervals during a period not exceeding eight years and on or before such dates as may be

fixed by the Tribunal in each case:

Provided that whenever land revenue due on the land is suspended or remitted by the Government, any instalment of the reasonable price payable on

such land by the protected tenant shall be similarly postponed:

Provided further that when the reasonable price fixed by the Tribunal is payable in instalments, the protected tenant shall in addition to the instalments

be liable for the payment of the land revenue due to the Government on the land till all the instalments are paid.

(6) (a) On deposit or recovery of the entire amount of the reasonable price being made, the Tribunal shall issue a certificate in the prescribed form to

the protected tenant declaring him to be the purchaser of the land and such certificate shall be conclusive evidence of the sale as against the

landholder and all persons interested therein and the Tribunal shall also direct that the reasonable price deposited or recovered shall be paid to the

land-holder:

Provided that if the application of the protected tenant relates to an Inam, the Tribunal shall not issue such certificate unless previous sanction of

Government has been obtained therefor.

(b) If a protected tenant is permitted to pay the reasonable price in instalments under the provisions of subsection (5), interest at the rate of three per

cent, per annum shall be payable by him in respect of the balance of the price due and if he commits default in respect of any instalment the same

may be recovered by the Government as arrears of land revenue.

(c) Every instalment deposited by or recovered from the protected tenant, shall be paid by the Tribunal to the landholder.

(d) If the protected tenant fails to pay the entire amount of the reasonable price within the period fixed under sub-section (5), or the same is not

recovered from him, the purchase by the protected tenant shall not be effective and he shall forfeit the right of purchase of the land, and the amount

paid by him towards the reasonable price shall be refunded to him with interest at three per cent, per annum together with land revenue paid by him if

any after deducting therefrom the rent due from him for the period:

Provided that if the amount of reasonable price in respect of which the protected tenant has committed default, does not exceed one-fourth of the

price fixed by the Tribunal under sub-section (5), the right of purchase of the protected tenant shall not be forfeited and the Tribunal shall cause the

balance of reasonable price to be recovered as arrears of land revenue and paid to the landholder.

(7) The right of a protected tenant under this section to purchase from his landholder the land held by him as a protected tenant shall be subject to the

following conditions, namely:

(a) If the protected tenant does not hold any land as a landholder the purchase of the land held by him as a protected tenant shall be limited to the

extent of the area of a family holding for the local area concerned.

(b) If the protected tenant holds any land as a landholder, the purchase of the land held by him as a protected tenant shall be limited to such area as

along with other land held by him as a landholder will make the total area of land that will be held by him as a landholder equal to the area of a family

holding for the local area concerned.

Provided that the land remaining is more than the land which the protected tenant is entitled to purchase under this section, the first preference to

purchase the said land, at the prevailing market price in the local area, shall vest in the protected tenant:

Provided further that in the case of purchase by any person other than the protected tenant, the rights and interests of the said tenant in the lease land,

shall continue as before.

(c) The extent of the land remaining with the landholder after the purchase of the land by the protected tenant, whether to cultivate it personally or

otherwise, shall not be less than two times the area of a family holding for the local area concerned.

14(E). Section 38-E. Ownership of lands held by protected tenants to stand transferred to them from a notified date: (1)
Notwithstanding anything in

this Chapter or any law for the time being in force or any custom, usage, judgment, decree, contract or grant to the contrary, the Government may by

notification in the {Andhra Pradesh 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 condition laid down in sub-section (7) of Section 38, 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.

(2) A certificate in the prescribed form declaring him to be owner shall be issued by the Tribunal after holding such enquiry as may be prescribed, 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:

Provided that where the land, the ownership of which has been transferred to the protected tenant under subsection (1), is in the occupation of a

person other than the protected tenant or holder of the certificate issued under this sub-section, it shall be lawful for the Tahsildar to restore the

possession of the said land to the protected tenant or holder of the certificate, after giving notice of eviction to the occupant thereof, in the prescribed

manner.

14(F). Section 91. Revision:- Notwithstanding anything contained in this Act or any other law for the time being in force, an application for revision

shall lie to the High Court from any final order passed on appeal by the Collector or Board of Revenue on the following grounds:-

(a) that the original or appellate authority exercised a jurisdiction not vested in it by law, or

(b) that the original or appellate authority failed to exercise a jurisdiction so vested, or

(c) in following the procedure or passing the order, the original or appellate authority acted illegally or with material irregularity.

15. Originally one Late Venkat Rao @ Appa Rao and Seshagiri Rao are brothers and are the owners of agricultural lands. After their death

Smt.Suguna Bai W/o Venkat Rao filed the declarations and pursued the matter before the Revenue authorities in respect of her lands. Mr.Seshagiri

Rao died and his sons Dhanunjya Rao and Jaya Rao are looking after the issues in so far as their lands are concerned. Suddenly, Danunjaya Rao self

styled adoptive son of Venkat Rao and Suguna Bai filed the appeals. At another stage, Danunjaya Rao claimed that he is legal heir of Suguna Bai

after her demise and pursuing the litigation.

16. The protected tenants approached the Revenue Divisional Officer, Mahabubnagar, stating that the land-lords are having more than two family

holdings and requested him to grant 38-E certificate in their favour. It is not in dispute that in Mahabubnagar District, one family holding is Ac.54.00

guntas and two family holdings is Ac.108.00 guntas. In the event if there is any excess land more than two family holdings, in which case, the

protected tenant is entitled for one family holding.

17. In pursuance of the said principle, the Revenue Divisional Officer issued 38-E certificate in favour of the protected tenants to an extent of

Ac.41.00 guntas only i.e., Ac.30.00 + Ac.11.00 guntas (2 extents). The respondents in these Civil Revision Petitions are legal heirs of the protected

tenants. So, the order passed by the Revenue Divisional Officer, Mahabubnagar has been confirmed by the Joint Collector, Mahabubnagar in the

appeal filed by the landlords. Aggrieved by the said concurrent findings of the Revenue Divisional Officer and Joint Collector, Mahabubnagar, the

present Civil Revision Petitions have been filed.

18. There is no evidence on record to show that Danunjaya Rao is adoptive son of Venkat Rao and Smt. Suguna Bai. Further there is no record to say

that Danunjaya Rao has been duly authorized by Suguna Bai to pursue the litigation on behalf of her lands and also there is no lawful legal heir

certification in his favour obtained from competent Court of law.

19. To escape the attraction of Section 38-E certificate saying that there is no surplus land, the landlords have referred to one donation of Ac.25.00

land under Bhoodan and alienating Ac.10.00 guntas by way of sale deed and as a result the land is less than two family holdings. In this context, no

such documents (donation and sale deeds) are placed on record and no details are provided. Therefore, the version of Dhanunjaya Rao as an adoptive

son, legal heir and existence of donation deed and sale deeds cannot be believed.

20. All through the litigation at some places in documents it is seen that the name of Danunjaya Rao only is reflected and at some places both

Danunjaya Rao and Jaya Rao names are reflected as pursuing the litigation. The entire litigation is silent with regard to other legal heirs. In so far as

the share of Seghagiri Rao, father of Danunjaya Rao is concerned, there is no contest. In so far as the extent of Suguna Bai is concerned, they are

pursuing the present litigation.

21. In the said appeal filed against the rejection of the review petition, the revision petitioner reagitated the entire matter on merits including the pleas

which were sought to be raised by the original land holders in the capacity of adopted son of Suguna Bai. In such context, the Joint Collector

adjudicated on the merits of the pleas, and recorded the findings on all the issues and dismissed the appeal in Case No.F1/08/2012, File

No.F1/5282/2012, dated 27.4.2013, against which the present revision petition is filed by said Dhanunjaya Rao. That Jaya Rao who was another

claimant along with Dhanunjaya Rao in the Review, did not agitate the issue further. The order has become final as against him.

22. The petitioners in CRP Nos.5588 of 2011 and 1372 of 2015 are purchasers of the land in subject and the respondents are the legal heirs of the

protected tenants. Petitioners in C.R.P.No.5588 of 2011 purchased Ac.14.00 land from legal heirs of Suguna Bai in 1997 and mutation is done.

Petitioners in C.R.P.No.1372 of 2015 purchased Ac.5.00 land from legal heirs of Suguna Bai in 1997 and mutation was done and pass books are

issued. It is pertinent to note that Suguna Bai died in the year 1997. Insofar as the rights of petitioners/purchasers are concerned, they are to be tested

in the light of the lawful alienable rights of the landlords. Since the lawful rights are not established by Dhanunja Rao to pursue the litigation on behalf

of Suguna Bai, he cannot be called as her legal heir as no orders are obtained from the competent court of law in this regard. He has no right and title

upon the land and thus in the absence of alienable and ownership rights, he cannot transfer a better title to the petitioners/purchasers herein.

23. That the role of the purchasers only comes after their purchase. Prior to the purchase, the issue of rights vests with the protected tenant and

landlord has no locus.

Firstly after grant of Section 38E certificate the pattedar or any other person claiming through or under them will not have any right to deal with the

property inasmuch as they become owners.

Secondly the sale transaction is in contravention of Section 38-D of the Act and therefore, the purchasers have no locus standi.

24. There are specific issues framed by the Joint Collector in Case No.B7/20/1985 dated 05.04.1989 regarding the land holding by the landlords and

the land held by protected tenant and to examine the claim of others who are claimed as co-tenants. The Revenue Divisional Officer answered all the

issues stating that landlords are holding surplus land by relying on LRA 1348/76 dated 24.6.1978 filed by Suguna Bai who is said to be the self claimed

adoptive mother of the revision petitioner before the Land Reforms Appellate Tribunal at Mahabubnagar. Suguna Bai specifically mentioned that the

tenant is entitled for tenancy certificate under section 38E to an extent of Ac.30.00 in Sy.No.251/5 and Sy.No.251/11, Ac.11-13 Guntas, total

Ac.41.13 guntas of Seripally (v), Bhootpur Mandal, Mahabubnagar District.

25. It is pertinent to note that Suguna Bai filed declaration in File No.CC. M/2013/1975 in land reforms proceedings stating that she is alone in her

family unit and as per ceiling declaration and respondents as protected tenant over Sy.No.251/2 an extent of Ac.30.00 in Sy.No.251/11, Ac.11.13

guntas of Seripally (V) and sought for deletion of said extent from her holding. The said land was deleted from her holding and declared as non-surplus

landholder. Dhanunjaya Rao filed review petition in the capacity of son of late Seshagiri Rao and in the appeal against the Review order projected

himself as the adoptive son of late Suguna Bai and now contends in the revision petition as legal heir of Suguna Bai that late Seshagiri Rao who is

biological father, the review petitioner filed declaration in CC M/1617/1975, M/1618/1975 showing Dhanunjaya Rao i.e. revision petitioner in CRP

No.2647/2013, as his son and mentioned that Sy.No.251/11 admeasuring Ac.11.13 guntas held by protected tenant and sought for deletion and the said

proceeding has become final.

26. Once the statement made by Suguna Bai in LRA 1348/1976 dated 24.06.1978 that has become final, it is not open for the landlord to contest such

grant of protected tenancy and any subsequent purchasers in violation of the object of the Tenancy Act, would secure no legal right and no locus to

challenge the proceedings. Accordingly, the case of Mr.Dhanunjaya Rao also fails on the point of locus standi.

27. Under Section 91 of the Tenancy Act, which deals with revisions, the case of the petitioners if that is to be examined falls under Sub Section (3) of

Section 91, wherein, the orders passed by the Collector or Board of Revenue do not follow the procedure and acted illegally or with material

irregularity. In the present case, the petitioner Mr.Danunjaya Rao has not pointed out call for the intervention of revisional powers to hold that the

order of the Collector or the Revenue Divisional Officer has illegal and the same are attracted by the material irregularities. The contest of the other

petitioners as they are purchasers from the self styled legal heir Danunjaya Rao of late Suguna Bai cannot be appreciated since the vendor Danunjaya

Rao is having no right and title conferred by any competent authority or Court of law and thus, he cannot transfer a better title to his vendees who are

the petitioners in other Civil Revision Petitions.

28. The petitioners/purchasers being the pendente lite purchasers have no right to claim right over the land covered by the Tenancy and the said

transactions are void ab initio under section 38 D of Tenancy Act. The law laid down in Gadda Balaiah Vs. Joint Collector, Ranga Reddy District and

others (cited supra) is not disturbed by the Supreme Court as regards the principle pertaining to the right of the protected tenant and the absence of

locus standi of purchasers in violation of mandate in Section 38, the principle laid down in Bala Reddy Vs. Teegala Narayana Reddy & others are

followed from Kotaiah & another Vs. Property Association of the Baptist Churches (Pvt) Ltd (supra).

29. In the case of Kotaiah & another Vs. Property Association of the Baptist Churches (Pvt) Ltd AIR 1989 (SC 1753, the Hon'ble Apex Court

Court held:

"24. In Sum"

(i) The protected tenant has a right to become full owner of the lands in his possession. He becomes the owner when the Government issues a

notification under Section 38(E). We are told that the Government had issued such a notification on. October 1, 1973, relating to the District where the

lands in question are situated. It was about three years earlier to termination of the appellants' tenancy by the Association. If the appellants had a right

to become owners of the tenanted lands, the question of terminating their tenancy would not arise.

(ii) The protected tenant cannot be dispossessed illegally by the landlord or anybody else. If so dispossessed, the Tehsildar either suo motu or on

application must hold a summary inquiry, and direct that the land be restored to the protected tenant. That is the mandate of Section 38(E) and the

Explanation thereof.

(iii) The landlord by himself cannot dispossess the protected tenant even if the tenancy is terminated in accordance with the law. The landholder will

have to take recourse to Sec. 32. He must approach the Tahsildar to hold an enquiry and pass such order as he deems fit.

(iv) Section 38(D) prohibits the landholder from alienating the tenanted land to third parties. If the landholder intends to sell the land, he must give

notice in writing of his intention to the protected tenant. The first offer must be given to the protected tenant. It is only when the protected tenant does

not exercise the right to purchase, the landholder could sell the land to third parties. The alienation made in contravention of these provisions has no

legal effect. ¶

30. In Babu Prasad Kaikadi (dead) by LRs., Vs. Babu (dead) Through LRs. 2004 (1) SCC 681, the Apex Court held:-

¶6. Section 29 of the Act, as noticed hereinbefore, postulates taking over of possession by the landlord from the tenant only in accordance with

procedure prescribed therefor. In the event, the surrender made by the predecessor-in-interest of the appellant in favour of the respondent is found to

be invalid; the possession thereof obtained by the later pursuant to or in furtherance thereof shall also be invalid. In such an event, although the

landlord takes a physical possession of the land, the right to possess them same remains with the tenant. He could recover possession of the said land

in accordance with law. The said Act is a beneficent statute. It should be construed in favour of the tenant and against the landlord. The protection

given to the tenant in terms of the said Act must be given full effect. So construed, the expression 'possession' would also include right of possession.

The view which we have taken is fortified by the decisions of this Court in Ramchandra Keshav Adke (dead) by Lrs & Ors. v, Govind Joti Chavare

& Ors., [1975] 1 SCC 559; Bhagwant Pundalik & Anr. v. Kishan Ganpat Bharaskal & Ors., [1971] 1 SCC 15 and in Abdul Ajij Shaikh Jumma &

Anr. v. Dashrath Indas Nhavi & Ors., AIR (1987) SC 1626 and thus the consistent view had been that the surrender by the tenant for being legal

must be in conformity with the provisions contained in Sections 15 and 29 of the Act.

7. In Ram Chandra Keshav Adke (supra) the question arose for consideration was whether the alleged surrender by the tenant was valid. This Court

after interpreting Section 5 (3)(b) and Rule 2-A was of the view that the amendment was brought with a view to protecting the tenant on two fronts

against two types of danger - one against possible coercion, undue influence and trickery proceedings from the landlord and other against the tenant's

own ignorance, improvidence and attitude of helpless self- resignation stemming from his weaker position in the tenant-landlord relationship and,

therefore, Sections 15 and 29 are mandatory in nature and any departure from this would make the surrender invalid. It was also held that the

imperative language, the beneficent purpose and importance of these provisions for efficacious implementation of the general scheme of the Act; - all

unerringly lead to the conclusion that they were intended to be mandatory. Neglect of any of these statutory requisites would be fatal. Disobedience of

even one of these mandates would render the surrender invalid and ineffectual and the consequence of the violation of the mandatory provisions

namely Sections 15 and 29 would be that the surrender would be rendered non-est for the purpose of Section 5(3)(b) and Rule 2-A.Ã¢â€â€

31. In the case of Edukanti Kistamma (dead) through LRs., & others Vs. S.Venkata Reddy (dead) Through LRs., & others (2010) 1 SCC 756, the

HonÃ¢â€â€ble Apex Court has protected the rights and interest of protected tenants as follows:-

Ã¢â€â€16. In Kotaiah & Anr. vs. Property Association of the Baptist Churches (Pvt.) Ltd., AIR 1989 SC 1753, this Court considered the provisions of

the Act and explained the scheme as under (SCC pp.431-32, para 22):

22. In sum Ã¢â€â€.

(i) The protected tenant has a right to become full owner of the lands in his possession. He becomes the owner when the Government issues a

notification under Section 38-E. ...

(ii)The protected tenant cannot be dispossessed, illegally by the landlord or anybody else. If so dispossessed, the Tahsildar either suo motu or on

application must hold a summary inquiry, and direct that the land be restored to the protected tenant. That is the mandate of Section 38-E and the

Explanation thereof.

(iii) The landlord by himself cannot dispossess the protected tenant even if the tenancy is terminated in accordance with the law. The landholder will

have to take recourse to Sec.32. He must approach the Tahsildar to hold an enquiry and pass such order as he deems fit.

(iv) Section 38-D prohibits the landholder from alienating the tenanted land to third parties. If the landholder intends to sell the land, he must give notice

in writing of his intention to the protected tenant. The first offer must be given to the protected tenant. It is only when the protected tenant does not

exercise the right to purchase, the landholder could sell the land to third parties. The alienation made in contravention of these provisions has no legal

effect.

32. In the case of Bala Reddy Vs. Teegala Narayana Reddy & others (2016) 15 SCC 102, the HonÃ¢â€â€ble Apex Court held as follows:-

Ã¢â€â€“Section 38-D of the Act prescribes the procedure to be followed when land holder intends to sell the land held by a Protected Tenant.

Accordingly the land must first be offered by issuing a notice in writing to the Protected Tenant and it is only when the Protected Tenant does not

exercise the right of purchase in accordance with the procedure, that the land holder can sell such land to any other person. The effect of this

provision and non-compliance thereof was considered by this Court in Kotaiah v. Property Assn of Baptist Churches (PVT.) LTD2. and it was laid

down:-

Ã¢â€â€“(iv) Section 38-D prohibits the landholder from alienating the tenanted land to third parties. If the landholder intends to sell the land, he must give

notice in writing of his intention to the protected tenant. The first offer must be (1989) 3 SCC 424 given to the protected tenant. It is only when the

protected tenant does not exercise the right to purchase, the landholder could sell the land to third parties. The alienation made in contravention of

these provisions has no legal effect.

33. In the case of Gadda Balaiah Vs. Joint Collector, Ranga Reddy District & Others 2005 SCC (6) 417, K.R.Krishna Veni Vs. Joint Collector,

Hyderabad (2001) 10 SCC 665, the Hon'ble Apex Court held as follows:-

"15. For the aforesaid reasons, we do not think it was proper on the part of the High Court to interfere with the finding of the Joint Collector and to

remand the matter once again to the Joint Collector. The jurisdiction of the High Court under Section 91 is similar to the jurisdiction of the High Court

under Section 115 of the Code of Civil Procedure. Further, even going by the reasoning given by the High Court which looked into the records, there

was no case made out for a remand of the matter, if Komaraiah's name was not found in Part I or Part II.

34. The certificate issued under section 38-E 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. The protected tenant cannot be

dispossessed illegally by the landlord or anybody else. If so, dispossessed, he has a right to restoration of the possession. He can be dispossessed only

by taking recourse to the procedure prescribed under the Act.

35. There is a complete embargo on the right of the land holder to alienate the tenanted land to third party without giving an option to the tenant to

purchase the land. Any transfer of such land shall be void ab initio.

36. Undisputedly, the grant of a right or a permit/licence under any statutory provision requires determination of rights and entitlement of the parties.

Once such a right is determined, the issuance of the order on the basis of such determination remains a ministerial act.

37. The Tenancy Act, being the beneficial legislation requires interpretation to advance social and economic justice and enforce the constitutional

directives and not to deprive a person of his right to property. The statutory provisions should not be construed in favour of such deprivation.

Interpretation of a beneficial legislation with a narrow pedantic approach is not justified. In case, there is any doubt, the court should interpret a

beneficial legislation in favour of the beneficiaries and not otherwise as it would be against the legislative intent.

38. For the purpose of interpretation of statute, the Act is to be read in its entirety. The purport and object of the Act must be given its full effect by

applying the principles of purposive construction. The Court must be strong against any construction which tends to reduce a statute's utility. The

provisions of the statute must be construed so as to make it effective and operative and to further the ends of justice and not to frustrate the same.

The court has the duty to construe the statute to promote the object of the statute and serve the purpose for which it has been enacted and should not

efface its very purpose.

39. In view of the above discussion, the Civil Revision Petitions are liable to be dismissed. The entire alleged sale transactions are void and contrary to

law.

40. Accordingly, the Civil Revision Petitions are dismissed, confirming the (i) orders of the Joint Collector, Mahabubnagar in File No.F1/5282/2012,

Appeal Case No.F1/08/2012, dated 27.4.2013 and order of the Revenue Divisional Officer, Mahabubnagar in File No.K/576/2009, dated 02.03.2010;

(ii) orders of the Joint Collector, Mahabubnagar in File No.F1/IA-3/2010, Appeal Case No.F1/IA-07/2010, dated 12.08.2011 and order of the Revenue

Divisional Officer, Mahabubnagar in File No.K/576/2009, dated 02.03.2010.

No order as to costs. Miscellaneous petitions, if any, pending in this Civil Revision Petitions shall stand closed.