

(2010) 08 MP CK 0038

Madhya Pradesh High Court (Gwalior Bench)

Case No: Second Appeal No. 154 of 2001

Ranveer Singh and
Others

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision: Aug. 30, 2010

Acts Referred:

- Employees Provident Funds and Miscellaneous Provisions Act, 1952 - Section 14B
- Land Acquisition Act, 1894 - Section 11(6), 6
- Madhya Pradesh Land Revenue Code, 1959 - Section 1, 10, 100, 101, 108

Citation: AIR 2011 MP 27 : (2011) ILR (MP) 1 : (2010) 5 MPHT 137 : (2010) 3 MPJR 347 :
(2010) 4 MPLJ 178

Hon'ble Judges: Shyam Sunder Dwevedi, J; Abhay M. Naik, J; A.K.Shrivastava, J

Bench: Full Bench

Judgement

@JUDGMENTTAG-ORDER

A.K. Shrivastav, J.

On bare perusal of the order of reference dated 20-4-2010, we find that the learned Single Judge felt it necessary to refer the following question either to be decided by the Division Bench or Full Bench and, hence, referred the matter to Hon'ble the Chief Justice. Eventually, Hon'ble the Chief Justice referred the following question to answer by constituting this Full Bench. It would be germane to quote the question which has been referred to us :

Whether in the case wherein an individual is not put to suffer any irreparable loss, exercise of suo motu powers after any length of period is justifiable in law, more so, for protection of Govt. land or public interest ?

Indeed, the question which has been referred to this Full Bench is in two parts; the first part pertains to an individual who is not put to irreparable loss and the second

part is that what should be the justifiable period within which suo motu powers should be exercised by the Revisional Authority.

We have heard Sarvshri Sanjay Kumar Mishra, A.K. Kaushik and Raghvendra Bhargava, learned Counsel for Appellants and Shri M.P.S. Raghuvanshi, learned Additional Advocate General and Shri Vivek Khedkar, learned Government Advocate for Respondent/State. Since the question referred to this Full Bench is of general importance and further because several cases would be affected and the Revisional Authority who would exercise suo motu powers shall also be guided, hence, we have also heard Sarvshri K.B. Chaturvedi, H.D. Gupta and S.B. Mishra, learned Senior Counsel. Sarvshri S.K. Bajpai, R.D. Sharma and Sameer Kumar Jain, learned Counsel has also addressed us.

Learned Counsel for the Appellants as well as learned amicus curiae have highlighted various provisions of M.P. Land Revenue Code, 1959 (hereinafter referred to as the Code), Land Acquisition Act, 1894 (in short the Acquisition Act), M.P. Ceiling on Agricultural Holdings Act, 1960 (for brevity the Ceiling Act) and other similar provisions enacted in other statutes and by focusing Section 50 of the Code, which speaks about the exercise of revisional power by the Board or Commissioner or/Settlement Commissioner or Collector or the Settlement Officer, have contended that the suo motu powers cannot be exercised at any point of time. In this context heavy reliance has been made on some decisions of Supreme Court they are [The State of Gujarat Vs. Patil Raghav Natha and Others](#), , [E.S.I.C. Vs. C.C. Santhakumar](#), and [Shri Santoshkumar Shivgonda Patil and Others Vs. Shri Balasaheb Tukaram Shevale and Others](#),

Shri H.D. Gupta, learned Senior Counsel, by inviting our attention to Section 57 of the Code particularly Sub-sections (2) and (3) has submitted that if dispute arises between the State Government and any person in respect of any right under Sub-section (1), such dispute shall be decided by the Sub Divisional Officer and has further submitted that Sub-section (3) provides remedy to any person aggrieved by any order passed under Sub-section (2) to institute a Civil Suit to contest the validity of that order within a period of one year from the date of such order and, hence, submitted that in order to surpass any order of Sub Divisional Officer and to get it somersaulted after the expiry of prescribed period of limitation of one year, revisional jurisdiction should not be exercised so that Sub-section (3) of Section 57 may not become otiose. Learned Senior Counsel has placed reliance on the decision of Supreme Court in [Ram Chand and Others Vs. Union of India \(UOI\) and Others](#), and also on the Single Bench decisions of this Court in State of M.P. and Anr. v. Board of Revenue and Ors. 2006 RN 167 and Kashiram v. Hariram and Ors. 2008 RN 99.

Shri K.B. Chaturvedi, learned Senior Counsel has also submitted that suo motu powers cannot be exercised after indefinite period. Learned Senior Counsel has placed heavy reliance on a Full Bench decision of this Court in Ushadevi and Ors. v.

State of M.P. and Ors. 1990 MPLJ 353 and has also placed reliance on the Division Bench decision of this Court in Rammulal and Ors. v. State of M.P. 1990 RN 407, wherein it has been held that the suo motu powers should be exercised within few months. Learned Senior Counsel by inviting our attention to Section 50 of the Code, which pertains to revisional power, has contended that since the Legislature has fixed 90 days to file revision application before the Revenue Board and 60 days when it is to be exercised by the Commissioner or/Settlement Commissioner or the Collector or the Settlement Officer and, therefore, looking to the scheme of this Section powers should not be exercised after more than 90 days from the date when it came into the knowledge of the Revisional Authority that illegality has been committed by any Revenue Officer subordinate to it.

Shri S.B. Mishra, learned Senior Counsel has also addressed us on the same proposition. Shri R.D. Sharma and Shri S.K. Bajpai, learned Counsel, have also submitted that it should not be exercised after lapse of several years and should be exercised within few months. Learned Counsel have placed reliance on Single Bench decisions of this Court in Hamir Singh v. State of M.P. and Ors. 1996 RN 80, Pratap Singh and Anr. v. State of M.P. 1997 RN 219, Sitaram v. State of M.P. and Ors. 1999 RN 82, Kashiram v. Hariram and Ors. 2008 RN 99 and the decision of Supreme Court in M.P. Housing Board v. Shiv Shankar Mandil and Ors. 2009 RN 1. Shri Sameer Kumar Jain, learned Counsel has also argued on the same line and has placed reliance on the decision of Supreme Court in Mohammad Kavi v. Fatmabai Ibrahim, 1998 (1) MPWN 26.

On the other hand, Shri M.P.S. Raghuvanshi, learned Additional Advocate General and Shri Vivek Khedkar, learned Government Advocate for Respondent/State, submitted that no upper limit should be fixed for exercising the suo motu powers of revision and it should be left for the authority to exercise the same looking to the facts and circumstances of each case. Learned State Counsel have placed reliance on the decision of Supreme Court in [Ibrahimpattanam Taluk Vyavasaya Collie Sangham Vs. K. Suresh Reddy and Others](#), [State of Punjab and Others Vs. Bhatinda District Coop. Milk P. Union Ltd.](#), [Mandal Revenue Officer Vs. Goundla Venkaiah and Another](#), [State of A.P. and Another Vs. T. Yadaqiri Reddy and Others](#). They have also placed reliance on Division Bench decisions of this Court in Murarilal and Ors. v. State of M.P. and Ors. 1994 MPLJ 378, Sarvan Kumar and Anr. v. State of M.P. and Anr. 2007 (1) MPLJ 60, [Mulayam Singh and Another Vs. Budhuwa Chamar and Others](#),

What should be the meaning of irreparable loss, Shri H.D. Gupta, learned Senior Counsel, submits that this term is having very wide connotation and cannot be restricted in any manner. While considering what should be the irreparable loss, several factors are required to be seen including labour put by the agriculturist for a considerable long period, the land which has been developed by him, construction of boundary wall or trenching the boundaries of the field, digging of well etc.

Learned Additional Advocate General, submits that irreparable loss would depend upon the facts and circumstances of each case.

Before dealing with the rival contentions put forth by learned Counsel for the parties as well as learned amicus curiae we think it apposite to go through the power of revision which is to be exercised by the Revisional Authority u/s 50 of the Code. This section highlights the revisional power conferred to the Board or Commissioner or/the Settlement Commissioner or the Collector or Settlement Officer and as per this Section, these authorities may at any time on its own motion or on an application made by any party for the purpose of satisfying itself as to legality or propriety of any order passed by or as to the regularity of the proceedings of any Revenue Officer subordinate to it may call and examine the record of any case pending or disposed of by such officer and may pass necessary orders as it thinks fit. For better understanding it would be condign to quote Section 50 of the Code, which reads thus :

Revision.-

(1) The Board or the Commissioner / or the Settlement Commissioner or the Collector or the Settlement Officer may at any time on its/his motion or on the application made by any party for the purpose of satisfying itself/himself as to legality or propriety of any order passed by or as to the regularity of the proceedings of any Revenue Officer subordinate to it/him call for, and examine the record of any case pending before, or disposed of by such officer, and may pass such order in reference there to as it/he thinks fit:

Provided that--

(i) no application for revision shall be entertained--

(a) against an order appealable under this Code ;

(b) against an order of the Settlement Commissioner u/s 210 ;

(c) against an order passed in revision by the Commissioner or / the Settlement Commissioner in respect of cases u/s 170-B, nor shall any such order be revised by the Board on its own motion ;

(ii) no such application shall be entertained unless presented within sixty days to the Commissioner or/the Settlement Commissioner or the Collector or the Settlement Officer, as the case may be, or within ninety days to the Board of Revenue from the date of the order and in computing the period aforesaid, time requisite for obtaining a copy of the said order shall be excluded;

(iii) no order shall be varied or reversed in revision unless notice has been served on the parties interested and opportunity given to them of being heard.

(2) Notwithstanding anything contained in Sub-section (1)--

(i) where proceedings in respect of any case have been commenced by the Board under Sub-section (1) no action shall be taken by the Commissioner or/the Settlement Commissioner or the Collector or the Settlement Officer in respect thereof;

(ii) where proceedings in respect of any case have been commenced by the Commissioner or/the Settlement Commissioner under Sub-section (1), no action shall be taken by the Collector or the Settlement Officer in respect thereof;

(iii) where proceedings in respect of any such case have been commenced by the Commissioner/Settlement Commissioner, Collector or Settlement Officer under Sub-section (1), the Board may either refrain from taking any action under this section in respect of such case until the final disposal of such proceedings by the Commissioner or / the Settlement Commissioner or the Collector or the Settlement Officer, as the case may be, or may withdraw such proceedings and pass such order as it may deem fit;

(iv) where proceedings in respect of any such case have been commenced by the Commissioner or/the Settlement Officer under Sub-section (1), the Commissioner or the Settlement Commissioner may either refrain from taking any action under this section in respect of such case until the final disposal of such proceedings by the Collector or the Settlement Officer, as the case may be, or may withdraw such proceedings and pass such order as it may deem fit.

Explanation: - For the purpose of this section all Revenue Officers shall be deemed to be subordinate to the Board.

We do not have any scintilla of doubt that the Revisional Authority mentioned in Section 50 of the Code may exercise suo motu power of revision at any time in order to satisfy itself about the legality or propriety of any order passed by any Revenue Officer subordinate to it or as to the regularity of the proceedings of any such officer and while exercising such powers the Revisional Authority may pass such order as it thinks fit. True, the Legislature has not fixed any upper limit of the period when this power should be exercised and section is totally silent in this regard, although period of limitation has been fixed by the Legislature when a revision application is filed by a party concerned. According to Clause (ii) of Sub-section (1) of Section 50 of the Code, an aggrieved party can file revision application within 60 days before the Commissioner or/the Settlement Commissioner or the Collector or Settlement Officer or within 90 days to the Board of Revenue excluding the requisite time for obtaining copy of the order against which revision is filed. But merely because the Legislature has not fixed an upper limit for exercising suo motu powers by the Revisional Authority, according to us, it will not confer unfettered right to the Revisional Authority to exercise this power at any moment of time according to his whims because it would amount to give a sword having no scabbard. Indeed, after having an order in favor of a litigant he must be permitted to live in peace with an

understanding that since the order passed in his favor has not been challenged for a considerable long period, now it cannot be challenged. His right, whatever he enjoys, may be on account of some illegal order in his favor should attain some finality so that his faith in the judicial system may not be ruined that although an order is in my favor, but it can be set aside at any moment of time even after passing of several years.

The Supreme Court in its key decision in *Patel Raghav Natha (supra)* has thrown sufficient light when the suo motu power of revision should be exercised. On going through this decision, we find that permission to raise building was granted in that case and after having obtained permission by the person, the building was erected the Supreme Court in those circumstances held that if after lapse of several years the suo motu powers are exercised, it would amount to jeopardizing the rights of such person. In Para 11, the Supreme Court held that the Commissioner cannot exercise powers conferred to it u/s 65 and 211 of the Bombay Land Revenue Code at any time and it should be exercised within a reasonable period and what should be the reasonable period, it would depend upon the facts and circumstances of each case. In Para 12 after analyzing powers conferred under Sections 65 and 211 of the said Bombay Land Revenue Code it was held by the Supreme Court that the Commissioner must exercise his revisional powers within few months from the date of granting permission because after the grant of permission of building purpose, the occupant may spent money in construction of the building.

Several decisions have been cited before us and we find that in some of the decisions the suo motu powers were exercised even after six years but in each and every decision it has been held by the Apex Court that what should be the reasonable period to exercise suo motu powers of revision will depend upon the facts and circumstances of each case. Hence, the question would rest on the pivot that what should be the upper limit of this reasonableness.

The Supreme Court in [Pune Municipal Corporation Vs. State of Maharashtra and Others](#), while considering the same provisions of Sections 65 and 211 of the Bombay Land Revenue Code and by taking into consideration its earlier key decision in *Patel Raghav Natha (supra)*, in Para 31 has held that in the facts and circumstances of the case the Revisional Authority was duty bound to take into account the length of delay, the intervening circumstances and subsequent events from 1977 to 1995 and to consider whether the powers should be exercised or not and it was held that no such exercise has been undertaken by the Revisional Authority and, hence, the order of Revisional Authority suffers from legal infirmity and is liable to be quashed.

Sub-section (1) of Section 257 of the Maharashtra Land Revenue Code, 1966 is more or less similar to Sub-section (1) of Section 50 of our Code and we quote both the provisions as under:

M.P. Land Revenue Code, 1959
Section 50(1)

Revision.-- (1) The Board or the Commissioner/or the Settlement Commissioner or the Collector or the Settlement Officer may at any time on its/his motion or on the application made by any party for the purpose of satisfying itself/himself as to legality or propriety of any order passed by or as to the regularity of the proceedings of any Revenue Officer subordinate to it/him call for, and examine the record of any case pending before, or disposed of by such officer, and may pass such order in reference thereto as it/he thinks fit:

Provided that--

(i) no application for revision shall be entertained--

(a) against an order appealable under this Code;

(b) against an order of the Settlement Commissioner u/s 210;

(c) against an order passed in revision by the Commissioner or/ the Settlement Commissioner in respect of cases u/s 170-B, nor shall any such order be revised by the Board on its own motion;

(ii) no such application shall be

Maharashtra Land Revenue Code,
1966 Section 257(1)

Power to State Government and of certain Revenue and Survey Officers to call for and examine records and proceedings of subordinate officers.-- (1) The State Government and any Revenue or Survey Officer, not inferior in rank to an Assistant or Deputy Collector or a Superintendent of Land Records, in their respective departments, may call for and examine the record of any inquiry or the proceedings of any subordinate Revenue or Survey Officer, for the purpose of satisfying itself or himself, as the case may be, as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.

entertained unless presented within sixty days to the Commissioner or/the Settlement Commissioner or the Collector or the Settlement Officer, as the case may be, or within ninety days to the Board of Revenue from the date of the order and in computing the period aforesaid, time requisite for obtaining a copy of the said order shall be excluded; (iii) no order shall be varied or reversed in revision unless notice has been served on the parties interested and opportunity given to them of being heard.

The Supreme Court in Santoshkumar Shivgonda Patil and Ors. (supra), while considering revisional power of Sub Divisional Officer u/s 257 of the Maharashtra Land Revenue Code ultimately held that the order which was not obtained by any fraudulence cannot be set aside after 17 years by exercising suo motu powers and, hence, is liable to be set aside and accordingly set aside the said order of the Revisional Authority. The Supreme Court further held that ordinarily the reasonable period within which such power is to be exercised should be not more than three years but of course only in the exceptional circumstances.

The Supreme Court in another decision in Mohammad Kavi (supra), while considering Section 84-C of the Bombay Tenancy and Agricultural Lands Act, 1948 also held that the suo motu powers should be exercised within a reasonable period and looking to the transfer which took place during intervening period in the year 1972 the suo motu powers exercised in September, 1973 was found to be unreasonable because by that time investments were made by the purchasers and the key decision of Patel Raghav Natha (supra), was placed reliance as well as another decision in Ram Chand and Ors. (supra), was also relied upon and the suo motu power which was exercised u/s 84-C of the said Act by Mamlatdar was quashed and set aside.

The Supreme Court in C.C. Santhakumar (supra), while considering its earlier decision in [M/s. Hindustan Times Limited Vs. Union of India and Others](#), which pertains to the power to recover the damages u/s 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, by putting emphasis that what should be the period of limitation in absence of any specific provision under the said Act, in Para 35 came to hold that a reasonable period would depend upon the factual circumstances of the case concerned and there cannot be any empirical

formula to determine that question. The Court/Authority considering the question whether the period is reasonable or not has to take into account the surrounding circumstances and relevant factors to decide that question. Again the key decision of Patel Raghav Natha (supra), was relied upon.

According to Advanced Law Lexicon by P. Ramanatha Aiyar, Third Edition, 2005, page 3971 reasonable time means as follows:-

"That is a reasonable time that preserves to each party the rights and advantages he possesses and protects each party from losses that he ought not to suffer."

"Reasonable time" is defined to be so much time as is necessary, under the circumstances, to do conveniently what the contract or duty requires should be done in a particular case.

It is proper to attempt any definition of the words "reasonable time", as applied to completion of a contract, the distinction given by Chief Baron Pollock may be suggested, namely, that a "reasonable time" means as soon as circumstances will permit.

In determining what is a reasonable time or an unreasonable time, regard is to be had to the nature of the instrument, the usage of trade or business, if any, with respect to such instruments, and the fact of the particular case.

A reasonable time, looking at all the circumstances of the case; a reasonable time under ordinary circumstances; as soon as circumstances will permit; so much time as is necessary under the circumstances, conveniently to do what the contract requires should be done; some more protracted space than "directly"; such length of time as may fairly, and properly, and reasonably be allowed or required, having regard to the nature of the act or duty and to the attending circumstances; all these convey more or less the same idea.

Reasonable time always depends on the circumstances of the case. (Kinney)

The meaning of "reasonable period" highlighted in Advanced Law Lexicon also finds place in Para 36 of the said decision of C.C. Santhakumar (supra), and in Para 38 the Supreme Court decided the appeals by giving certain directions. According to us, direction No. (3) is relevant in the present case which reads thus:-

(3) The ESI Court shall determine the quantum of contribution, if any, payable and consider the question as to whether demands were raised within a reasonable period of time or not after considering the question of prejudice, if any, for the delayed action taken by the Corporation.

(Emphasis supplied)

The Supreme Court has categorically held that the reasonable period should be computed after considering the question of prejudice, if any, for the delayed action

taken by the ESI Corporation. Hence, according to us, before action of suo motu power is required to be taken and any order is to be passed while exercising those powers, the prejudice part against a person against whom such power is to be exercised should also be taken into consideration and this part is one of the determining factor in order to come to a conclusion that suo motu powers should be exercised or not. We have already held hereinabove that within a reasonable time the suo motu powers should be exercised by the Revisional Authority and it is also very much necessary for another reason that the law never expect a settled thing, which had already taken place, may be by some illegal order, to get it altogether somersaulted or unsettled after long lapse of period and we may further add that the factum not to exercise such power in those circumstances is inherent in the authority exercising suo motu powers of revision.

In another decision of Supreme Court in Shiv Shankar Mandil and Ors. (supra), which has been placed reliance by Shri R.D. Sharma and Shri S.K. Bajpai, learned Counsel, it was argued before the Apex Court that Nistar rights or the grazing land cannot be transferred but when this point was confronted by putting a specific question by the Apex Court to the learned Counsel who was addressing before it, as to whether the Government could have leased out the grazing land independently without transferring it to the Industrial Department, such powers of leasing out was not disputed and thus the Supreme Court held that even the grazing land can be leased out though the said land is owned by the State Government. The question which was raised before the Supreme Court was also raised before learned Single Bench of this Court hearing the case of Shiv Shankar Mandil and Ors. (supra), but it was turned down by learned Single Bench in the like manner as it was not accepted by the Supreme Court and the order of learned Single Bench was affirmed by the Division Bench of this Court holding that power of review u/s 51 of the Code should be exercised within reasonable time and the key decision of Patel Raghav Natha (supra), was placed reliance. The Supreme Court affirmed the order of learned Single Bench which was affirmed by the Division Bench.

The Supreme Court in the case of Ram Chand and Ors. (supra), in Para 6 onwards by placing reliance on its earlier decisions mentioned in each paras between 6 to 9 ultimately in Para 16 while considering various provisions of the Acquisition Act and putting emphasis on Section 6 came to the conclusion that Statutory Authorities should perform their duties within a reasonable time and as such they are answerable to the Court why such duties have not been performed by them which has caused injury to claimants. The Supreme Court further held that by not questioning the validity of the acquisition proceedings for a long time since the declarations were made u/s 6, the relief of quashing acquisition proceedings has become inappropriate because in the meantime the lands notified have been developed and put to the public use.

In Ibrahimpatnam Taluk Vyavasaya Coolie Sangham (supra), the Supreme Court while considering the scope of Section 50B(4) of Andhra Pradesh (Telangana Area) Tenancy and Agricultural Land Act, 1950 has held that the suo motu power cannot be exercised after long delay of 13 to 15 years because of the fraudulent acts of the non-official Respondents and it should be exercised within reasonable time from the date of the coming into knowledge of the discovery of fraud. The Supreme Court in Para 19 has held that the suo motu power which was exercised by the Joint Collector after 13 to 15 years was not within reasonable period. The High Court of Andhra Pradesh set aside the order of SDO suo motu exercising powers after 13-15 years by cancelling the validation certificates given by Tehsildar. The Supreme Court in Paras 22 and 23 upheld the decision of learned Single Judge which was affirmed by the Division Bench of Andhra Pradesh High Court. But, in one matter, it was held that the fraud was played upon the Court in obtaining cancellation certificate and, hence, the SDO within the reasonable period from the date of the detection of the fraud set aside the cancellation certificate and, hence, held that the learned Single Bench of Andhra Pradesh High Court rightly upheld the action of SDO holding that suo motu powers were exercised within reasonable period. The order of learned Single Bench was affirmed by the Division Bench and the Apex Court affirmed the decisions of Single and Division Bench (See Paras 9, 29 and 30).

The decision of Mandal Revenue Officer (supra), placed reliance by learned Additional Advocate General is not relevant to answer the reference referred to us because in this decision when suo motu powers by the Revisional Authority should be exercised was not the point in issue.

In T. Yadagiri Reddy and Ors. (supra), again the Supreme Court is putting emphasis that what should be the reasonable time to exercise suo motu power and held that it would depend upon the facts and circumstances of each case and further held that when the rights of the parties have been crystallized on the basis of certificates having been issued 25 years ago, the suo motu powers should not be exercised.

The Division Bench of this Court in Rammulal and Ors. (supra), while considering various provisions of Ceiling Act and particularly Section 42, which speaks about the suo motu revision powers, has categorically held in Para 5 that in between the period when the suo motu powers were exercised transfer of the land took place and, therefore, on account of vesting of interest of other persons in the land, the suo motu powers should not have been exercised after eight years and it should be within the reasonable period and the Division Bench by defining the reasonable period held that it should be within few months. If we keep Section 42 of the Ceiling Act in juxtaposition to Section 50 of the Code and both the provisions are read conjointly, it can be inferred that both the provisions are akin to each other. For better understanding, we would like to quote Section 42 of the Ceiling Act, which reads thus :

Revision.-- The Board of Revenue or the Commissioner may on its/his motion or on the application by any party at any time for the purpose of satisfying itself/himself as to the legality or propriety of any order passed by or as to the regularity of the proceedings of any Competent Authority subordinate to it/him call for and examine the record of any case pending before or disposed of by such Competent Authority, and may pass such orders in reference thereto as it/he thinks fit:

Provided that it/he shall not vary or reverse any order unless notice has been served on the parties interested and opportunity given to them for being heard:

Provided further that no application for revision shall be entertained against an order against which an appeal is provided under this Act :

Provided also that the surplus land vested in the State Government shall not revert to the holder thereof as a consequence of remand of the case.

We have already quoted Section 50 of the Code hereinabove. On reading both the provisions conjointly, according to us, both these provisions are similar to each other, therefore, the analogy which has been taken by the Division Bench in the case of Rammulal and Ors. (supra), can also be adopted for the purpose of elucidating the scope of Section 50 of the Code.

The Full Bench of this Court in Ushadevi and Ors. (Supra), while considering the suo motu powers u/s 42 of the Ceiling Act vis-a-vis Section 50 of the Code in Paras 16, 17 and 18 has held that these powers should be exercised within the reasonable time. In Para 16, while placing reliance on certain decisions of the Supreme Court, the Full Bench has categorically held that the Courts are required to construe any particularly statutory provisions not only on its language and its setting because it is their inexorable duty to ensure that interpretation is not recognant to the scheme of the Act and not in derogation to the public policy or public interest relying the enactment.

In another decision Murarilal and Ors. (supra), Division Bench of this Court has held that the land was recorded in the name of deity but the mutation was made in the name of individual, as a result of which, the Collector initiated the proceedings as soon as the alleged mutation was brought in his knowledge and in those facts and circumstances it was held that exercise of suo motu revisional powers was within reasonable time. In this decision although the date of order of Naib Tehsildar mutating the name in the name of individual did not find place, but on going through Paras 2 and 3 of the order, we find that in the year 1985 an application was filed by individual to get the land mutated in his name. An appeal was filed on 16-10-1990 praying to the Collector to exercise suo motu powers on 20-12-1991 the order was passed by Collector setting aside the order of Naib Tehsildar and in these circumstances it was held by the Division Bench that the suo motu powers were exercised within the reasonable period by the Collector as soon as the illegality came in its knowledge. The Single Bench of this Court in Sarvan Kumar and Anr.

(supra), held in Para 24 that no limit has been prescribed for the exercise of suo motu powers to the Collector and such limit should depend upon the facts of each case, but no light has been thrown on the point that what should be the reasonable period.

The learned Single Bench of this Court in Kashiram (supra), in Para 10 has held that suo motu powers have been exercised after 13 to 14 years without assigning any specific reason for such exercise is not sustainable in law. In Hamir Singh (supra), the learned Single Bench of this Court by placing reliance on the decision of Supreme Court Patel Raghav Natha (supra) and Full Bench decision of this Court in Ushadevi and Ors. (supra), held that the suo motu powers cannot be exercised after six years. In Pratap Singh (supra), the Single Bench of this Court held that suo motu power after seven years without any explanation for delay cannot be exercised and the Division Bench decision of Rammulal and Ors. (supra) and that of Supreme Court in Patel Raghav Natha (supra), were relied upon. In the decision of Sitaram (supra), the learned Single Bench held that the Patta which was granted cannot be cancelled after ten years when the house has been built on the land granted on Patta and the same principle has been reiterated by another Single Bench of this Court in Ravi Narayan v. State of M.P. 2000 RN 161.

The purpose of quoting catena of decisions hereinabove is that the suo motu powers cannot be exercised by the Revisional Authority after the expiry of several years. It has been held in almost every decision that such powers should be exercised within the reasonable period and in the most of decisions it has been held that it should be exercised within few months. We are also of the view that the suo motu powers cannot be left at the whims and sweet will of the Revisional Authority to exercise whenever and wherever it wanted to exercise it. If this type of unfettered right to exercise such power is conferred to the authority u/s 50 of the Code, according to us, it would amount to giving a naked sword without any scabbard to such authority which will not be beneficial to the welfare of the society at large. Indeed, at least it should be within a reasonable period from the date of knowledge of the Revisional Authority exercising such powers u/s 50 of the Code in respect of the illegality or impropriety of any order which has been passed by the Revenue Officer subordinate to it or irregularity of processing of any such officer.

Section 50 of the Code speaks for itself and, according to us, in the Revisional Authority exercise of suo motu power is inherent. Such Revisional Authority is not required to be guided by any other Superior Officer or authority above him. This provision is totally an independent provision enabling the Revisional Authority to exercise suo motu powers in reasonable case and within reasonable time. Before us, various Clauses of M.P. Law and Legislative Affairs Department Manual have been shown and our attention has been invited to Chapter IV Clauses 83 and 84. Clause 83 speaks about the matters on which Principal Legal Remembrancer's advice may be sought and according to this Clause the advice of Principal Legal Remembrancer

may be sought on the following subjects:-

- (a) Interpretation of statutes, statutory rules, bye-laws, deeds,
- (b) Cases in which disputes have arisen or likely to arise between Government and other persons or action in the Court of law is threatened against Government,
- (c) Defamatory attacks on a Government servant.

But, Clause 84 speaks about the matters in which the Principal Legal Remembrancer's advice is not at all required and they are:-

- (a) points arising for decision in judicial or quasi-judicial proceedings before any Court or Tribunal or any officer empowered to exercise jurisdiction in such proceeding under a statute.
- (b) points arising before a Revenue Officer in the course of a revenue proceeding in which his order is subject to a revenue appeal.
- (c) points arising before a Government Officer acting as an arbitrator or umpire in any disputes.
- (d) hypothetical cases.
- (e) cases where the advice is for the benefit of a private individual or a local body.
- (f) ordinary departmental procedure of which the department itself has special knowledge.

(Emphasis supplied)

Looking to the powers given in Clauses (a) and (b), no legal advice of Principal Legal Remembrancer's is required and, therefore, if the Revisional Authority inclined to invoke suo motu revisional powers, he is not required to take any legal advice from the Principal Legal Remembrancer and he can act by exercising his powers conferred to it by the statute itself, viz., Section 50 of the Code.

If we visualize the entire Code, we find that different periods of limitation have been provided under the Code for different subjects according to the scheme of the subject enacted in a particular chapter which we are categorizing at a glance as under:

Chapters I, II and III

(i) Chapter I pertains to preliminaries and includes Sections 1 and 2 only. Chapter II pertains to Board of Revenue and this chapter contains Sections 3 to 10. Chapter III relates to Revenue Officers, their Classes and Powers and contains Sections 11 to 26. In these chapters no particular period of limitation is prescribed to do a particular thing.

Chapter IV

(ii) This Chapter pertains to "Procedure of Revenue Officers and Revenue Courts.

Under this chapter Section 35 speaks for hearing in absence of party and Sub-section (3) prescribes thirty days limitation from the date of order or knowledge to set aside the ex parte order passed by Revenue Officer or dismissing the case in default. The order which shall be passed under Sub-section (3) to Section 35 is subjected to appeal and in that regard Sub-section (4) is very much clear. Under this chapter the maximum period of limitation is thirty days.

Chapter V

(iii) This chapter is in respect of Appeal, Revision and Review. Indeed, the provision of revision including the exercise of suo motu power by the Revisional Authority is included in this chapter only.

Section 44, under this chapter, pertains to appeal and Appellate Authorities; Section 47 prescribes the limitation of appeal and under this section different periods of limitation have been prescribed to file appeal before different authorities subject to maximum period of ninety days. u/s 50(1) (ii) of the Code sixty days limitation has been prescribed for filing a revision to the Commissioner or the Settlement Commissioner or the Collector or the Settlement Officer and for the Board of Revenue it is ninety days from the date of the order. Under this chapter the maximum period of limitation is ninety days.

Chapter VI

(iv) This chapter throws light in respect of Land and Land Revenue.

Under this chapter Section 57 is having its own importance because Sub-section (3) to Section 57 gives right to a person aggrieved by any order passed under Sub-section (2) to institute a Civil Suit to contest the validity of the order within a period of one year from the date of such order. Under this chapter the maximum period is one year for filing the suit by any aggrieved party against which an order is passed u/s 57(2).

Chapter VII

(v) This chapter throws light on Revenue Survey and Settlement in Non-Urban Areas.

Under this chapter Section 83 pertains to introduction of settlement; Section 84 speaks about the remission of enhancement to Bhumiswami who relinquishes and Section 85 has been enacted to settle the term of settlement. According to Section 85, the term of settlement shall be fixed by the State Government and shall not be less than 30 years. Under this chapter the maximum period of limitation is 30 years.

Chapter VIII

(vi) This chapter is in respect of Assessment and Re- assessment of Land in Urban Areas.

According to Section 100, the Collector is empowered to assess plot at rate prescribed and Section 101 pertains to term of settlement and according to this provision, the assessment fixed u/s 100 shall remain in force for a period of 30 years or for such longer period as may elapse before re-assessment after that period and such period shall be deemed to be the term of settlement for all purposes. Under this chapter the maximum period of limitation is 30 years and even more.

Chapter IX

(vii) This chapter speaks for Land Records.

Under this chapter Section 116 has been enacted which is in respect of disputes regarding entry in Khasra or in any other land records. According to this Section, if any person is aggrieved by an entry made in the land records prepared u/s 114 in respect of matters other than those referred to in Section 108, he shall apply to the Tehsildar for its correction within one year of the date of such entry. Under this chapter the maximum period of limitation is one year.

Chapter X

(viii) This chapter pertains to Boundaries and Boundary Marks, Survey Marks.

Section 125 has been enacted to resolve the disputes regarding boundaries of villages, survey numbers and plot numbers. Section 126 speaks for ejectment of person's wrongfully in possession and under this Section the Tehsildar may after holding summary enquiry may eject any such person who is wrongfully in possession of any land which has been found not to appertain to his holding or to the holding of any person through or under whom he claims. Sub-section (2) gives right to such person who has been ejected to file a Civil Suit within one year from the date of ejectment. Under this chapter the maximum period of limitation is one year.

Chapter XI

(ix) This chapter has been enacted for Realization of Land Revenue.

(a) Under this chapter Section 143 has been enacted which speaks that there shall be a penalty for default of payment of land revenue and under this Section the penalty Clause may be invoked if the land revenue is not paid within one month after the prescribed date and the penalty would not be exceeding ten per cent of the amount not so paid.

(b) Under the same chapter Section 154-A has been substituted by M.P. Amendment Act 1 of 1971 and this provision is in respect of powers of Tehsildar to let out the holding in respect of which arrear is due or any other holding of the defaulter. Under this provision the Tehsildar may let out the holding on which arrear is due or any other holding belonging to the defaulter which is used for the purpose of agriculture to any person other than the defaulter for a period not exceeding 10

years commencing from the first day of agricultural year on such terms and conditions as the Collector may fix.

Under this chapter the maximum period is ten years.

Chapter XII

(x) This chapter is in respect of Tenure Holders.

(a) Under this chapter Section 165 is in respect to rights of transfer having overriding effect. Under Sub-section (6) to Section 165 there is restriction on transfer of the Bhumiswami right belonging to a tribe or other community without previous sanction of the Collector. Sub-section (6-b) is having non obstante Clause and overriding effect on the Limitation Act, 1963 and under this provision the Collector may on its own motion at any time or on an application made in this behalf within three years of such transaction in such form as may be prescribed, make an enquiry after giving reasonable opportunity of being heard all the persons affected by the transfer and may pass an order ratifying the transfer or refusing to ratify the transfer. Hence, under this Clause although the period of limitation 3 years has been prescribed but the Collector may suo motu exercise powers under Sub-section (6-b) on his own motion at any time. Sub-section (6-ee) has been inserted in its application to Scheduled Areas by Notification dated the 4th June, 1984 and according to this provision, the agricultural land transferred by the Bhumiswami other than a Bhumiswami belonging to an aboriginal tribe declared under Sub-section (6) to a person not belonging to an aboriginal tribe shall not be diverted for any other purpose before the expiry of period of 10 years from the date of transfer.

(b) Under the same chapter Section 168 provides for leases and a restriction has been made to Bhumiswami not to lease his holding for more than one year during any consecutive period of the three years. However, this provision is not made applicable to certain class of Bhumiswami referred in the proviso and the Bhumiswami belonging to any of the categories envisaged under Sub-section (2) to this Section.

(c) Section 169 of this chapter pertains to unauthorized lease etc. and according to this provision, two years" period has been prescribed to eject an unauthorized lessee, failing which occupancy rights would be conferred on him.

(d) Section 170 of this chapter is in respect of avoidance of transfer in contravention of Section 165 and Sub-section (2) speaks for setting aside the sale of any land which is in contravention of Sub-section (3) to Section 165 subject to the rights conferred to the Bhumiswami or his heirs and the prescribed period of limitation is two years.

(e) In the same chapter Section 170-A is in respect of certain transfer which is to be set aside. This provision is having overriding effect over the Limitation Act and by conferring power to Sub Divisional Officer to enquire whether transfer of

agricultural land belonging to a tribe under Sub-section (6) of Section 165 on or before 31st December, 1978 to a person not belonging to such tribe or transfer effected by way of right of occupancy tenant u/s 169 or of Bhumiswami under Sub-section (2-A) of Section 190 at any time during the period commencing on the 2nd October, 1959 and ending on the date of commencement of Third Amendment made applicable to the Code to satisfy himself as to the bonafide nature of such transfer. Another provision 170-B has been enacted in respect of reversion of land of members of aboriginal tribe which was transferred by fraud and according to this provision, every person who on the date of commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 1980 is in possession of the agricultural land which belonged to a member of a tribe which has been declared to be an aboriginal tribe under Sub-section (6) of Section 165 between the period commencing on the 2nd October, 1959 and ending on the date of the commencement of Amendment Act, 1980 shall within two years of such commencement, notify to the Sub-Divisional Officer that all the information as to how he has come in possession of such land. In case such person who is in possession of the land fails to submit necessary information to the Sub-Divisional Officer within two years, it shall be deemed to be in unauthorized possession and has acquired the land without any lawful authority and the said land shall be reverted to the person to whom it originally belonged. Whatever the order would be passed by the Sub-Divisional Officer shall be subjected to appeal, but Second Appeal is barred as per Section 170-D of the Code.

(f) In the same chapter Section 176 has been enacted in respect of abandonment of holding and according to this provision, if a Bhumiswami fails to cultivate his holding for two years or does not pay land revenue, the Tehsildar after enquiry may pass necessary orders and may take possession of the land and arrange its cultivation by letting it out on behalf of Bhumiswami for a period of one agricultural year.

(g) In this chapter Section 178 has been enacted which speaks for partition of holding and according to this provision, if a holding is of more than one Bhumiswami, any Bhumiswami may apply to Tehsildar for partition of his share in the holding subject to restriction that if any question of title is raised, the Tehsildar shall stay the proceeding before him for a period of three months and would direct the parties to file Civil Suit for declaration of the question of title and in case any Civil Suit is filed, the Tehsildar shall vacate the stay and proceed to partition the holding.

Under this chapter the maximum period of limitation is 10 years.

Chapter XIII

(xi) This chapter is in respect of Government Lessees and Service Land.

Under this chapter Section 182 has been enacted which governs the rights and liabilities of a Government lessee and according to this provision, a Government lessee may be ejected from his land if he fails to pay the rent for the period of 3

months from the date when it became due. Hence, a maximum period of limitation 3 months has been prescribed.

Chapter XIV

(xii) This chapter speaks about the occupancy tenants.

Under this chapter one year's period has been given to a person who is holding a land as occupancy tenant to make an application for the resumption of Bhumiswami right. Section 202 is in respect of reinstatement of wrongfully ejected occupancy tenant and as per this provision, any person who immediately before the coming into force of the Code was holding the land under any of the capacities mentioned in Section 185 has been ejected or dispossessed from the land during the three years immediately preceding the coming into force of the Code, may within two years from the date of coming into force of the Code apply to Tehsildar for his reinstatement on such land. In this chapter the maximum period of limitation is 3 years.

Chapter XV

(xiii) This chapter speaks about alluvion and diluvion.

Under this chapter there are only two sections, but no limitation has been prescribed in these two sections to do a particular thing.

Chapter XVI

(xiv) This chapter is in respect of Consolidation of Holdings.

Under this chapter no particular limitation has been prescribed to do a particular thing, but Section 210 speaks that the scheme of consolidation if it is to be confirmed by the Collector is subjected to revision u/s 50 of the Code by the Settlement Commissioner.

Chapter XVII

(xv) This chapter is in respect of Village Officers.

This chapter has been divided into three sub-chapters. "A" is in respect of Patels while "B" pertains to Kotwar and "C" for the establishment of a Gram Sabha. Under this chapter the procedure of their appointment and removal from the post has been enumerated, but no period of limitation has been prescribed for the same.

Chapter XVIII

(xvi) This chapter has been enacted to demonstrate the rights in abadi and unoccupied land and its produce.

(a) Under this chapter Section 242 has been enacted which speaks about the wajib-ul-arz and under Sub-section (3) any person aggrieved by any entry made in

wajib-ul-arz within one year from the date of the publication of such record can institute a Civil Suit to have such entry cancelled or modified.

(b) Another Section under this chapter is Section 246 which pertains to right of persons holding house sites in abadi and according to Clause (i) the allottee is required to build a house within five years from the date of allotment under Gramin Avas Yojna to a landless person and Clause (ii) imposes restriction to transfer for ten years.

(c) In the same Chapter Section 250 has been enacted which is in respect of re-instatement of Bhumiswami improperly dispossessed and according to this Section, if a Bhumiswami of special category under Sub-section (c) of Section 165 has been illegally dispossessed, he may file proceeding before Tehsildar within five years from the date of dispossession and in case of other class of Bhumiswami two years" period of limitation from the date of dispossession has been prescribed.

(d) In the same chapter another important provision is Section 257 which speaks about exclusive jurisdiction of Revenue Authorities and under this section from Clauses (a) to (z-2) different type of matters have been enacted over which there shall be exclusive jurisdiction of the Revenue Court.

Under this chapter the maximum period of limitation is 10 years.

The purpose of quoting the various aforesaid provisions of the entire Code is that different type of periods of limitation have been prescribed for different chapters so that the aim and object of a particular chapter for which it has been enacted may be achieved and, therefore, looking to the entire scheme of the Code different type of period of limitation have been rightly enacted for a particular purpose of different chapters.

Coming to the point in question "what should be the reasonable period". We have at a glance demonstrated different type of periods of limitation in order to achieve the aim and object of a particular chapter and the provisions enacted in that chapter. Hence, according to us, in respect to Section 50 of the Code which comes under Chapter v. of the Code what should be the reasonable period for exercising suo motu powers, one should be guided with the aims and object of this chapter only and should not borrow the different type of periods of limitation which have been prescribed in other chapters to achieve the aim and object of the provisions prevailing in those chapters. Hence, the prescribed periods of limitation of 30 years, 10 years, 5 years, 3 years, 2 years or even 1 year prescribed in different chapters and the provisions enacted in that chapter cannot be made applicable for the purpose of achieving the aim and object of this Chapter v. in which Section 50 has been enacted which speaks about the exercise of suo motu powers of revision also. The Chapter v. of the Code contains Sections 44 to 56 and the maximum period of limitation in this chapter is 90 days. Hence, according to us, the maximum period which has been envisaged in any of the provision of any other chapter of the Code cannot be made

applicable for the purpose of this chapter because that particular period of limitation has been enacted by the Legislature to achieve the aim and object of that particular chapter and its provisions only. The maximum period of limitation of 90 days has been enacted for filing the revision, but since this restriction is not for exercising suo motu powers and to serve the purpose, the aim and object for which this provision has been enacted, according to us, within a period of 180 days the Revisional Authority should exercise suo motu powers from the date of the coming into the knowledge to it that any particular illegality, impropriety or irregularity of the proceeding has been exercised by any officer subordinate to it.

Apart from what we have held hereinabove, we have been reminded by the maxim *vigilantibus noa dormientibus jura subveniunt* which means that laws come to the assistance of those who are vigilant and not those who sleep upon their rights. Why we cannot extend this maxim to the Revisional Authority who has to exercise his suo motu power despite having come to know that illegality and impropriety have been committed by any authority subordinate to it or the subordinate authority has committed irregularity in the proceedings and is permitting to continue it for indefinite period, and therefore, it cannot be said that, one fine morning when the authority thinks it proper, he may exercise the said power.

It is the trite law that if no period of limitation has been prescribed, the Statutory Authority must exercise its jurisdiction within a reasonable period. What should be the reasonable period should be judged from this angle also that what is the nature of the statute itself, rights and liabilities thereunder and other relevant factors. The Supreme Court in *Bhatinda District Cooperative Milk Producers Union Ltd. (supra)*, in Para 19 has held that the reasonable period of limitation may be borne out from the statutory scheme of the Act. The Supreme Court while considering the various provisions of Punjab General Sales Tax Act, 1948 in Para 19 has held that looking to the scheme of the said Act the maximum period of limitation provided in Sub-section (6) of Section 11 of the Act is five years and, therefore, in those circumstances the Supreme Court has held that as per the scheme of the Act, the reasonable period should be three years. Since in the present case, as we have noticed hereinabove, different type of periods of limitation which are prescribed for exercising particular right and liability under different chapters, looking to the aim, object and the purpose of enacting the provisions of suo motu powers 180 days of the period of limitation would be the reasonable period and, according to us, for this another reason also the same period should be the reasonable period to exercise suo motu powers by the Revisional Authority from the date of coming into the knowledge of illegality, impropriety and irregularity of the proceeding having been done by the authority subordinate to it.

Ex consequenti we hereby hold that in order to exercise suo motu power of revision envisaged u/s 50 of the Code and looking to the scheme of Chapter V, it should be exercised by the Revisional Authority within 180 days from the date of the

knowledge of the illegality or impropriety of any order passed or as to the irregularity of the proceedings of any Revenue Officer subordinate to it and it will not be justifiable to stretch it for any length of period even for protection of the Government land or public interest.

We shall now come to the second part of the question which has been referred to us that what is the "irreparable loss". Needless to say, dispossession itself amounts to irreparable loss although the possession should have basis of some right accrued in a person by some statute or the law or may be on account of some order passed by an officer or authority under the statute. The term "irreparable loss" cannot be defined since it varies case to case. It may consist of so many factors which are required to be kept in mind. No exhaustive list can be given that what should be the irreparable loss, but some illustrations of irreparable loss we may quote hereinafter :-

- (i) the possession of the immovable property in question for a considerable long period under some right or by virtue of some order passed by an authority or officer under a statute;
- (ii) the person having possession of only that particular land in question which has been given to him by an order of the authority under a statute;
- (iii) if the duties have not been performed by the authorities within reasonable time resulting into causing of the injuries to the effected party if he is dispossessed;
- (iv) accrual of right of the third party in the immovable property due to passage of considerable long time;
- (v) change of hands by subsequent bonafide transfers;
- (vi) an order under which a person is possessing the immovable property, has attained finality under a particular statute;
- (vii) putting hard labor by the person to whom possession of the immovable property has been given by his sweat to develop the land, boundaries, digging the well etc. in the field; and
- (viii) the immovable property has passed to the heirs of original person to whom land was given in possession by inheritance or survivalship.

Ab judicatio for the reasons stated hereinabove we hereby answer the question referred to us as under:-

The suo motu powers can be exercised by the Revisional Authority envisaged u/s 50 of the Code within a period of 180 days from the date of the knowledge of illegality, impropriety and irregularity of the proceedings committed by any Revenue Officer subordinate to it even if the immovable property is Government land or having some public interest. What should be the irreparable loss, it should be considered

on the facts and circumstances of each case as no definite yardstick in that regard can be drawn. We have already mentioned hereinabove certain instances which can be said to be the "irreparable loss"

Let the matter now be placed before the learned Single Bench.

Abhay M. Naik, J.

(1) I have had the privilege to go through the order passed by the brother Shrivastava, J., which, indeed is a well considered and well reasoned order prescribing thereby the period of 180 days for exercise of suo motu powers of revision after detection of illegality/impropriety in the order or irregularity in the proceedings committed by the officer sub-ordinate to it. In my opinion, this would be applicable when the person against whom exercise of suo motu power is being made, establishes an irreparable loss. Brother Shrivastava, J. has rightly observed that the term "irreparable loss" cannot be defined since, it varies from case to case and what would be the irreparable loss is to be considered on the facts and circumstances of each case. To this extent, I express my complete concurrence.

(2) This Full Bench, in my opinion, is not required to dwell upon the question of irreparable loss or no irreparable loss in view of the language of the point of reference, which reads as under:-

Whether in the case wherein an individual is not put to suffer any irreparable loss, exercise of suo motu powers after any length of period is justifiable in law, more so, for protection of Govt. land or public interest ?

It appears from the point of reference that the Full Bench is expected to answer the reasonable period for exercise of suo motu powers of revision when an individual against whom such exercise is being made is not put to suffer an irreparable loss and secondly, when protection of Government land or public interest is liable to be achieved by such exercise.

(3) Though, brother Shrivastava, J. has mentioned certain illustrations of irreparable loss, I with great respect find myself unable to concur with him in totality. According to me, few of them may not necessarily depict the full proof cases of irreparable loss. Whether the person against whom suo motu powers is being exercised would be put to irreparable loss, would be a question depending upon facts required to be established by him. For an example, non-allotable land is granted by Revenue Officer without authority of law and is found so even after considerable period by Revisional Authority, there may not be a bar for exercise of suo motu powers unless irreparable loss is established. Likewise, if an allottee under an order without jurisdiction or under void and non est order retains possession and harvests the crops by making development of the land, constructing the boundaries, digging the well etc. in the field, he must have nourished by harvesting more crops. Such type of expenditure may be considered as investment for more profits. He by making such

investment must have been more benefited, in the meantime, before detection of illegality, impropriety or irregularity in the order/proceedings sought to be revised under suo motu exercise of powers. It is a different thing, when it is proved that for such development, construction of boundaries or well he has raised money by alienating his another property. In such cases, he may be said to have suffered irreparable loss. Otherwise, in normal cases, when no such factor is proved he may be treated as having flourished by undertaking various activities like development of land/boundaries and by making provisions for water in order to flourish himself for taking more yields. Likewise, duties of the officers are expected to be discharged in the light of the order itself. If the order under suo motu revision is illegal, improper or irregular, authorities cannot be blamed for not performing their duties within the reasonable time unless illegality, impropriety or irregularity is detected. Of course, the illustrations of the cases quoted at Sl. Nos. 2, 4, 5 and 6 may be treated in particular set of facts and circumstances as the cases of irreparable loss, but I feel, that the question of irreparable loss shall be left open for being decided by the Court which is required to deal with the evidence on record. Brother Shrivastava, J., has rightly observed in his conclusion that what would be irreparable loss, is to be considered on the basis of facts and circumstances of each case. This being so, in my considered opinion, all the illustrative cases by themselves may not be treated as cases of irreparable loss, more so, because in view of the language of point of reference, we are not required to dwell upon it.

(4) Brother Shrivastava, J., has taken much pains by considering various judgments/citations in appreciable manner. Since, brother Shrivastava, J. has considered and discussed the point of irreparable loss, I express my concurrence at his conclusion in the manner that the question of irreparable loss should be considered in the facts and circumstances of each case, as rightly observed by him and in such cases the exercise of suo motu powers of revision u/s 50 of M.P. Land Revenue Code, 1959 may be made within 180 days from the date of detection of illegality, impropriety or irregularity of the proceedings of any Revenue Officer subordinate to the Revisional Authority which would be a reasonable period for such cases. I may add here that the period of 180 days would provide an upper-ceiling of limitation because if third party interest is created in the meantime on the basis of the order sought to be revised, the person against whom such power is being exercised would be within his rights to show that such power ought to have been exercised in lesser period as it would cause an irreparable loss.

(5) I want to add little about the reasonable period for exercise of suo motu powers when no irreparable loss is going to be caused and such exercise is required for protection of Govt. land and/or public interest. In my considered opinion when a person against whom exercise of suo motu power is being made, is not put to suffer an irreparable loss due to such exercise, and there is involvement of Government land or public interest such cases stand on a different footing. He cannot be equated with a person who would suffer an irreparable loss due to such exercise of

powers. A person who by virtue of an illegal/improper/irregular order within the meaning of Section 50 of the Code achieves nourishment by harvesting crops or by taking the benefits from such land and would not be put to suffer irreparable loss due to exercise of suo motu power is not to be treated at par with the person suffering irreparable loss due to such exercise. We are liable to take into consideration instances, when at times orders are passed by the Revenue Officers ignoring their duties to protect Government land or public interest. Non-seriousness or irresponsible approach of the Revenue Officers is not totally unknown.

(6) Deliberate action of Revenue Officers despite involvement of Government land or public interest is not unknown. Revisional Authority, even after detecting illegality, impropriety or irregularity in the proceedings of an officer subordinate to it, may require more information before taking a concrete decision to exercise suo motu powers. He may be required to collect more information by requisitioning various records which may take its own time, according to the functioning of the Government. Hon'ble Supreme Court of India has commented on the functioning of the Government/its officers in the case of [State of Haryana Vs. Chandra Mani and others](#), in the following words:-

...It is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the-buck ethos, delay on the part of the state is less difficult to understand though more difficult to approve, but the state represents collective cause of the community. It is axiomatic that decisions are taken by officer/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay -- intentional or otherwise -- is a routine.....

(7) When public interest is involved, a different approach is required to be applied as observed by the Apex Court in the case of [G. Ramegowda, Major and Ors Vs. Special Land Acquisition Officer, Bangalore](#), in the following words:

...Government, like any other litigant must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it.

In the case of [State of Nagaland Vs. Lipok AO and Others](#), again while commenting on the functioning of the Government, following observations have been made:-

...The factors which are peculiar to and characteristic of the functioning of the Governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process.

(8) From the aforesaid, it is clear that when public interest is involved, a cognizant and pragmatic justice oriented approach is required to be adopted. Cases wherein, a person against whom exercise of suo motu powers of revision is to be made would not be put to an irreparable loss and such exercise is necessary in order to protect the Government land or public interest would form a different class than the cases wherein such persons would be put to an irreparable loss and therefore in my considered opinion, needs a higher period of limitation as a reasonable period for exercise of suo motu powers. In the nature of latter cases, period of 180 days as found proper by Brother Shrivastava, J., is quite reasonable, however, in the nature of former cases, the same may be prescribed by keeping in mind the necessity to adopt a cognizant and pragmatic justice oriented approach as guided by the Apex Court in the case of State of Nagaland (supra).

(9) It is true that reasonableness of the period is to be decided by considering the scheme and object of the various provisions of the act as observed by the Hon'ble Supreme Court of India in the case of [State of Punjab and Others Vs. Bhatinda District Coop. Milk P. Union Ltd.](#), It may be seen that various periods of limitations have been prescribed for different chapters contained in the M.P.L.R. Code. They vary from 30 days to 30 years as revealed in the discussion made by Brother Shrivastava, J. It is true that Section 50 of the Code which contains a provision for revision prescribes a period of 90 days, however, it cannot be lost sight off that the necessity to exercise the suo motu powers of revision may arise in the cases arising from different chapters and various sections of the Code. Considering it, a period of 1 year from the date of detection of illegality, impropriety or irregularity of the proceedings of the officer subordinate to the Revisional Authority would be reasonable when protection to Government land or public interest is involved and persons against whom such power is being exercised would not be put to irreparable loss on account of such exercise.

(10) In none of the cases cited at bar, question of reasonableness of the period for exercise of suo motu power of revision with reference to cases involving Govt. land/public interest with no irreparable loss to a person against whom such exercise is being made, was considered, in specific. Length of reasonable period for exercise of suo motu power of revision in the cases involving an irreparable loss and the cases involving no irreparable loss may be different in my opinion because they would form different classes of cases.

(11) We are aware that power to exercise suo motu power is conferred by virtue of Section 50 of the M.P.L.R. Code yet with no limitation of time. Legislature has deliberately used the words "at any time" in the said provision. Powers to exercise suo motu power of revision are conferred on the Revisional Authority in order to remove illegality, impropriety and irregularity of the order/proceedings of any Revenue Officer subordinate to it. Legislature was well aware that such illegality, impropriety and irregularity may not be known to the Revisional Authority for any

length of time and the authority may not be aware of it for a considerable length of time. Considering these, the words "at any time" seem to have been deliberately inserted in Section 50 of the M.P.L.R. Code so that the Revisional Authority may be able to take action by exercising suo motu revisional powers whenever it comes to it's knowledge. The Supreme Court of India has repeatedly observed that even if no period of limitation is prescribed, Statutory Authority must exercise its jurisdiction within a reasonable period.

(12) I may successfully refer to Para 18 of the decision in the case of [State of Punjab and Others Vs. Bhatinda District Coop. Milk P. Union Ltd.,](#)

18. It is trite that if no period of limitation has been prescribed, Statutory Authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.

I may also reproduce Paragraph 11 of the decision in the case of [Shri Santoshkumar Shivgonda Patil and Others Vs. Shri Balasaheb Tukaram Shevale and Others,](#)

11. It seems to be fairly settled that if a statute does not prescribe the time-limit for exercise of revisional power, it does not mean that such power can be exercised at any time; rather it should be exercised within a reasonable time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. Where the Legislature does not provide for any length of time within which the power of revision is to be exercised by the authority, suo motu or otherwise, it is plain that exercise of such power within reasonable time is inherent therein.

Thus, Section 50 (supra), read in the context of the aforesaid law of land would mean that the exercise suo motu power of revision may be made at any time from the date of impugned order/proceedings but within a reasonable time from the detection of illegality, impropriety or irregularity. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities therein and other relevant factors as observed in the case of State of Punjab and Ors. (supra).

(13) In view of the aforesaid discussion, I concur with Brother Shrivastava, J., that what should be an irreparable loss is to be considered in the facts and circumstances of each case because as no definite yardstick in that regard can be applied. I further concur with him in the manner that in such cases a period of 180 days from the date of detection of illegality, impropriety and/or irregularity of the order/proceedings committed by Revenue Authority subordinate to Revisional Authority would be a reasonable period for exercise of suo motu powers despite involvement of Government land or public interest. I may further hasten to add that this would be upper-ceiling of limitation for exercise of such powers and the person suffering an irreparable loss would be within his rights to show that such power ought to have been exercised in lesser period in view of the attending facts and

circumstances of the case, causing irreparable loss prior to such exercise.

However, when a person against whom suo motu exercise of power is being made is not put to an irreparable loss, period of one year from the date of detection of illegality, impropriety or irregularity in the order/proceedings would be a reasonable period for exercise of suo motu powers of revision u/s 50 of the M.P. Land Revenue Code for protection of the Government land or public interest.