



Non-Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No.699 of 2017

M/s Circar Paper Mills Ltd.

.... Appellant

Versus

District Collector, Nellore Distt. & Ors.

.... Respondents

W I T H

Civil Appeal Nos.807-808 of 2017

Civil Appeal Nos.809-810 of 2017

J U D G M E N T

K. VINOD CHANDRAN, J.

Two of the above set of civil appeals relate to the very same property i.e. 65.94 acres in various survey numbers, of which the actual dispute is with respect to 40.65 acres; whether those are assigned lands, which revert back to the State on unauthorised transfers being made. The appellant in Civil Appeal No.699/2017, the Company in liquidation, represented by the Official Liquidator (for brevity, O.L) was in ownership and possession of such lands and on the Company

sliding into liquidation, the said properties were put in auction by the O.L appointed by the Company Court, in which auction the appellant in Civil Appeal Nos.809-810 of 2017 purchased the same. Learned Single Judge confirmed the auction-sale but in appeal by the State, the confirmation was set aside finding the State's claim to be valid, which is challenged by the Company in liquidation as also the purchaser in public auction. In the other appeal the individual appellants together claimed title over just adjacent properties. They raised a contention that the 17.73 acres in their possession, along with the properties which are the subject matter of the other appeals, were in the ownership and possession of their predecessor-in-interest for long. Therein the denial of revenue passbooks, validating the Patta was declined, which was challenged before the writ court. The writ court followed the judgment in the other appeals to disentitle the claim raised by the appellants therein.

2. Sri Ranjit Kumar and Sri Navin Pahwa learned Senior Counsel appeared for Jeevaka Kandasari Sugar Mills (J.K. Sugar Mills), who purchased the properties in auction and the

individual appellants in the other appeals are the persons in possession of the adjacent properties, represented by learned Senior Counsel Sri B. Adinarayana Rao. Sri K.M. Nataraj, learned Additional Solicitor General appeared for the O.L of Circar Paper Mills Limited, the Company in liquidation. Ms. Prerna Singh, learned Counsel appeared for the State. We refer to the parties by their name and the individual appellants as Sundaramma and others, for convenience.

3. Admittedly, the total area of land purchased by J.K. Sugar Mills from the O.L appointed for Circar Paper Mills Limited, admeasures 65.94 acres, comprised in 445-A1, 445-A5, 445-A6, 521, 525, 527 and 529. Out of which, 40.65 acres in the above Survey numbers in Kodurupadu village, Nellore Mandal, District Nellore is the land on which the Government stakes their claim, asserting it to be 'assigned lands'. The 25.29 acres is stated to be lands acquired for APIIC Limited while the title of the total land of 65.94 acres is traced to one Balasada Jagannada Rao (B.J. Rao; hereinafter), as per the averments in the Civil Appeals.

4. The claim of the appellants, is that the entire lands at one point belonged to B.J. Rao. In fact, 82.35 cents was purchased in the year 1920 by one Perumraju Naidu from Desabhatla Krishnaiah. He was in possession and enjoyment of the said properties till 1932 when he settled the same in the name of his only son B. Janardhana Naidu, whose name was also mutated in the revenue records and the taxes were continuously paid by him. Janardhana Naidu bequeathed the properties to B. J. Rao; his son, on 14.04.1962; who was the husband of Sundaramma and the father of appellant Nos.2 to 6, under a registered Will. B.J. Rao's name was mutated in the revenue records after his father's death by proceedings F. Dis. No.49/74 dated 31.03.1965 of Taluk Office Nellore.

5. B.J. Rao sold the entire properties in three lots of different extents; 17.73 acres, 18.39 acres and 46.23 acres. The Government proposed to acquire the land belonging to P. Ramanarayna and P. Kalyana Sundar Rao who had purchased the 17.73 acres from B.J. Rao. The acquisition was intended to establish an industry by name M/s Pennar Steels Limited. The Section 4(1) notification dated 26.06.1976 was challenged

successfully before the High Court, wherein liberty was reserved to issue fresh notice and to consider the objections of the land owners. In the said Writ Petition, the Government filed a counter affidavit admitting the land in Survey No.445/82, 445/3 and 445/A4 as 'private patta lands' which counter affidavit is produced as Annexure P6 in Civil Appeal Nos.807-808 of 2017. The last of the sale by B.J. Rao was to Circar Paper Mills in the year 1980 of 46.23 acres, who had also purchased the industrial plot of Pennar Steels, mutating their name in the revenue records. The Land Reforms Tribunal, Nellore had passed an order dated 17.11.1982, finding that B.J. Rao was not holding any excess lands as on 01.01.1975. P. Kalyana Sunder Rao and P. Ramanarayana settled the property in favour of the Sundarammma & ors. by a registered settlement deed dated 17.05.1990 on the strength of which mutation was also carried out.

6. Circar Paper Mills went into liquidation proceedings and the party appellants approached the RDO Nellore with a request to issue pattadar passbooks under the provisions of the Andhra Pradesh Rights in Lands of Pattadar Passbooks Act,

1971. This prompted a show cause notice dated 16.10.2004 issued in the name of B.J. Rao, alleging that 57.06 acres are assigned lands and B.J. Rao is not entitled to retain more than 5 acres. The final order passed was challenged before the High Court in a Writ Petition, which was heard along with O.S.A. No.21 of 2005 and disposed of by two separate orders; the judgment in O.S.A. No.21 of 2005 being delivered first and the judgment impugned in C.A. No.807-808 of 2017 delivered immediately thereafter following the earlier decision. O.S.A No. 21 of 2005 was by the State against the order of the Company Court; the confirmation of auction sale.

7. Civil Appeal Nos.809-810 of 2017, in fact indicate numerous proceedings taken by B.J. Rao's father, B.J. Naidu for preservation of the properties while he was in ownership and occupation of the same. Pennar Steels Limited, a joint venture of APIIC acquired through the Government 18 acres of land, undisputedly taken over by Pennar Steels Limited in the year 1977. The original owners of the remaining land sold it to Circar Paper Mills through sale deeds executed in 1980. Circar Paper Mills mutated their names in the revenue

records and converted the lands purchased from agricultural use to industrial use, as also constructed a factory and operated it till it went into liquidation.

8. By order dated 14.02.2001 in referred Company Case No.20/2000, the learned Company Judge of the High Court of Judicature at Andhra Pradesh passed Annexure P1 order on the strength of which the O.L took possession of the lands of M/s Circar Paper Mills on 27.03.2001, having an extent of about 64 acres. The possession taken over by the Estate Staff of the O.L is evident from Annexure P2 dated 27.03.2001. This led to the auction proceedings after valuation report was taken. The learned Company Judge passed an order dated 13.07.2004, permitting the sale of the lands fixing the upset price. The paper publication issued by the O.L dated 29.07.2004 is produced as Annexure P4 and in the auction proceedings the successful bid was that of J.K. Sugar Mills Limited for Rs.7 crore 80 lakhs.

9. The paper publication, in fact, prompted the action by the Mandal Revenue Officer, Nellore who issued a telegram dated 16.08.2024 to the O.L, pointing out that out of the lands

proposed to be auctioned as per the publication, 41.65 acres may be excluded since they were Government lands. The O.L filed a report Annexure P6 before the Company Judge, which was accepted and J.K. Sugar Mills, the auction purchaser, paid the entire amounts in August 2004. In fact, the auction was conducted on the specific orders issued by the High Court as evident from Annexure P3. The properties were in the custody of the Company Court and the State's contention that it was taken over by the State prior to the auction cannot be countenanced.

10. On the report filed by the O.L regarding the auction, Annexure P12 order was passed by the learned Company Judge. The Mandal Revenue Officer's claim referred to in the report was specifically noticed by the learned Company Judge and he was *suo motu* impleaded as party respondent. It was specifically noticed that despite expressing no objection to the sale of the properties, subsequently an affidavit was filed contending that 40.65 acres was assigned to landless people, which cannot be alienated by virtue of the A.P. Assigned Lands (Prohibition of Transfer) Act 1977. It was

specifically noticed that the Company in liquidation was ordered to be wound up on 14.02.2001 and the O.L had taken the properties on 27.03.2001 and sale was directed by public auction on 13.07.2004. The objection was raised by the Mandal Revenue Officer only at that stage, which was found to be belated since the lands were purchased by the Company prior to 1986 and there was a functional industry operated therein and no proceedings were taken prior to the instant objections raised by the Mandal Revenue Officer. Noticing the valuation of the land, the O.L was directed to pay the Government at the rate of Rs.1,50,000/- per acre for the total extent of 40.65 acres. The sale was confirmed in the name of the highest bidder and the O.L was also directed to handover possession, which was challenged in appeal by the District Collector successfully.

11. We cannot but notice that the lands were privately held as asserted by the individual appellants whose predecessors were in possession long before the companies obtained an interest in the said lands. In fact, based on title deeds and mutation carried out in revenue records, the appellant's claim

is that the interest of their predecessors can be traced to 1920 and continuously existing till the date of auction without any objection raised by the Government. In fact, a portion of the land is said to have been acquired, which acquisition when challenged, the Government had filed a counter affidavit produced as Annexure P6 in Civil Appeal No.807-808 of 2017. The requisition for acquisition was made by the Managing Director, APIIC. The owners of the land sought to be acquired were P. Kalyana Sunder Rao and P. Ramnarayana, who had purchased the lands from B.J. Rao. As has been pleaded by Sundaramma and others, the ceiling proceedings against B.J. Rao was settled once and the reopening was made only when the pattadar passbooks were claimed. There is also no clarity as to whether the acquisition proceedings were successful and whether it is the 17.73 acres which was taken over by Pennar Steels later sold to Circar Paper Mills Limited. In any event, it is evident that Circar Paper Mills Limited, the Company in liquidation had purchased the lands from its earlier owner and mutation was effected. It was the said lands in the ownership and possession of Circar Paper Mills Limited, which was taken over by the O.L on 27.03.2001.

12. The O.L had taken over the properties on the orders of the Company Court and any proceedings, if intended against the said lands should have been taken after getting orders from the Company Court. The Government, on noticing the publication, despite it being very clear that the publication was issued by the O.L on orders of the Company Court, merely issued a telegram to exclude the 40.65 acres from auction, without approaching the Company Court. The Company Court on noticing the objection impleaded the Mandal Revenue Officer who did not proceed further with the objection and did not attempt to prove the State's case before the Company Court, as held by the learned Judge.

13. In this context, we have to notice that even in the present appeals, a counter affidavit has been filed by the State only in C.A. No.809-810 of 2017 wherein a bland statement is made in tabular form that the different extents of properties in the different Survey numbers, totalling 40.65 acres are assigned lands, alienated against the provisions of the Act of 1977, which alienation reverts the possession of the said lands to the Government. It is to be specifically noticed from the tabular

form that more than half of the total extent claimed, specifically 20.94 acres, is stated to have been assigned by the Government to B.J. Rao and three other parcels to three different people. The very statement of assignment of lands to B.J. Rao, on the face of it demolishes the plea of the State, since B.J. Rao, who had substantial holdings, was never a landless person and the assignment could only be to land less persons. Again, but for the assertion of assignment and a lackadaisical statement made regarding the entries in the revenue records revealing such assignment, nothing has been produced to substantiate it. Even if some document was produced, we have our own doubts as to whether the claim of the lands being assigned and the subsequent reversion by reason of alienation could have been adjudicated in the instant proceedings, which only dealt with the liquidation of the Company and the auction of the properties which were admittedly in the possession of the Company, such possession having been uninterrupted over a number of years. We are of the opinion that Appellate Court ought not to have interfered with the auction proceedings in a summary manner.

14. In this context, we notice the decision of this Court, arising from the same State in ***Government of Andhra Pradesh v. Thummala Krishna Rao and Another***¹ wherein the sustainability of the summary proceedings for eviction under the Andhra Pradesh Land Encroachment Act, 1905 arose for consideration. Therein the dispute arose with respect to three groups of lands, which belonged originally to a Nawab, devolved on his legal representative on his death. The Government of Nizam of Hyderabad between the years 1932 and 1937 had acquired certain lands under the Hyderabad Land Acquisition Act for the benefit of Osmania University, which University acquired an independent legal status under the Charter promulgated by the Nizam. The three plots of land according to the Osmania University was a part of the acquisition, while the Nawab denied it. The Osmania University filed a suit, which was dismissed and the appeal filed was also rejected, however, without the State on the party array. On a communication by the Osmania University to the Government of Andhra Pradesh, proceedings were initiated

¹ (1982) 2 SCC 134

under the Land Encroachment Act, 1905 and an order was passed evicting the respondent from the land. The two appellate remedies having been unsuccessful, writ petitions were filed before the High Court of Andhra Pradesh, which were dismissed. However, in appeal, it was found that since there are disputes as to whether the acquisition included the said plots, it was for the Government to file a suit on the subject matter. It was held that the dispute going back to 1942 cannot be dealt with in summary proceedings under the Land Encroachment Act.

15. This Court, in that case dealt with the provisions of the Land Encroachment Act. Sub-section (1) of Section 2 provides that *inter alia* public roads, street lanes, bed of the sea, harbours and creeks, excluding those coming under the exceptions specified under Clauses (a) to (e) would be declared to be the property of the Government. Sub-section (2) also provided a deeming fiction insofar as public roads and streets vested in any local authority being declared as Government property. This Court found that insofar as the lands covered under sub-sections (1) and (2) of Section 2,

there can be no doubt, difficulty or dispute as to the title of the Government and therefore, in respect of such property the Government would be free to take recourse to the summary remedy of eviction provided in Section 6. However, Section 3 dealt with unauthorised occupation, for which the occupant is liable to be assessed under Section 3, wherein if a *bona fide* dispute is raised regarding the title of the Government, it cannot take an unilateral decision in its own favour, that the property belongs to it and on that basis, take recourse to the summary eviction process provided under Section 6 to evict the person in possession of the property; who holds it under a *bona fide* claim of title. Therein, it was found that unquestionably a genuine dispute between the State Government and the respondents existed as to the title of the three plots of land, the acquisition itself for the purpose of Osmania University having been denied by the owners. Of course, therein the suit filed by Osmania University was dismissed on the ground of limitation and so was the appeal filed, rejected. However, the dictum as to whether the title to the property vested in the Government as a result of the acquisition and whether the Nawab encroached upon the

property thereafter and perfected his title by adverse possession was held to be a question, which arises for decision in a properly constituted suit. Till such resolution of the dispute is arrived at there can be no summary eviction was the finding.

16. Andhra Pradesh Assigned Land (Prohibition of Transfers) Act, 1977 is in *pari materia* insofar as the summary proceedings are concerned. Therein Section 3 provides that if a transfer is made of a land assigned by the Government to a landless poor person for purpose of cultivation or a house site, notwithstanding anything contrary contained in any other law, the transfer shall be deemed to have never been occasioned and the assigned land shall not vest in any person acquiring the land by such transfer. Sub-section (4); providing for a consequences of breach of provisions of Section 3, clothes the District Collector or any other officer not below the rank of Mandal Revenue Officer, on his or her satisfaction of contravention of Section 3(1) in respect of any assigned land, to take possession of the land after evicting the person in possession, in the manner prescribed.

17. As we observed the subject lands were said to be in the possession of the predecessors-in-interest of Sundaramma and others from 1920 onwards; which cannot be taken over by the Government through a summary procedure, as adopted herein on the ground of vesting of such properties by reason of an unauthorized transfer of assigned lands. The assignment of lands also has not been established unequivocally, nor can it be done in a writ proceeding or as is also the issue in the present case, before the Company Court dealing with the auction of the properties in possession of a Company in liquidation. Admittedly the O.L of the Company took possession of the lands in which an industry had been carried on for considerable time, with sanctions and permissions obtained from the Government; presumably. The landlords also claim title on the strength of registered deeds as also mutation entries carried out in accordance with sale deeds. The Government cannot plead ignorance of either the sanctions and permissions granted or of the mutation entries made. The acquisition of the properties as carried out by the Government for APIIC clearly indicates the ownership of at least the said property being in the hands of private

individuals. The Company in liquidation is said to have purchased the adjacent properties from owners whose title also is asserted on the basis of registered sale deeds and the mutation entries. The long possession itself restrains this Court from accepting any summary proceedings for eviction.

18. We also have to notice that the properties were taken into the custody by the O.L on orders of the Company Court and the auction was also conducted on the basis of the orders passed by the Company Court; confirmed by that Court. The direction to deposit the portion of the amount to the Government, looking at the actual valuation of the property was only to protect the interest of the Government, if any, while not interfering with the perfectly legal proceedings carried out as per the Companies Act, 1956. The Government, for whatever reason, woke up from a long slumber, when the auction was published by the O.L. No steps were taken by the Government to approach the Company Court to put forth its contentions. Further the Mandal Revenue Officer or even the Collector cannot review the Ceiling proceedings under the

Land Reforms Act, which as against B.J. Rao stands concluded by the order of the Land Tribunal.

19. We find absolutely no reason to sustain the order of the Company Court in appeal and set aside the same. The order of the learned Single Judge of the High Court would revive and the possession, if not already handed over, would be handed over to the purchaser, J.K. Sugar Mills and if they are in possession, it shall not be interfered with. Having followed the impugned order in the other two appeals; that having been set aside, the order impugned in the S.L.P of Sundaramma & others also stand set aside. The writ petition filed by Sundaramma and others shall stand revived in the High Court and the same shall be considered afresh. It is also informed that the summary proceedings initiated has been concluded by orders of resumption issued by the Government, which have been challenged before the High Court by the other appellants herein. The matters pending before the High Court and that restored by us with respect to Sundaramma and others shall be considered on merits by the High Court. The amounts directed to be deposited to the Government, by the

O.L, shall be immediately restored, to be applied in liquidation of the Company, Circar Paper Mills Limited.

20. We make it clear that the consideration of the High Court shall be untrammelled by any observations made in the judgments, now set-aside, but ensuring that the observations regarding summary eviction as made by this Court and the judgment of this Court cited above shall be given precedential weightage. The civil appeals shall stand allowed to that extent, leaving remedy to the parties to agitate their cause on all contentions including the invalidity of the summary proceedings, as coming out in the cited case being applicable to the appellants too.

21. Civil Appeals are allowed and pending application(s), if any shall stand disposed of.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
AUGUST 25, 2026.**