HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY, THE TWELFTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL

THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT APPEAL NO: 304 OF 2025

Writ Appeal under clause 15 of the Letters Patent Appeal preferred against the order dated 04/09/2024 passed in W P No 11883 of 2024 on the file of the High Court.

Between:

1. The State of Telangana, Rep. by its Chief Secretary, Secretariat, Hyderabad
2. The District Collector, Ranga Reddy District, Kongarakalan, Ibrahimpatnam, Ranga Reddy District.

...APPELLANTS/RESPONDENTS

AND

1. Syed Mohammed Shabbuddin, S/o Late Syed Mohammed Nayeemuddin, Aged about 45 years R/o Pahadi Shareef, Maheshwaram Mandal, Ranga Reddy District.

...RESPONDENT/WRIT PETITIONER

2. The Union of India, Rep.by its Defence Secretary, Ministry of Defence, Sough Block, New Delhi-110011
3. The Director of DRDL, Research Centre Imarat (RCI) Vignan Kancha Post, Hyd-500069

...RESPONDENTS/RESPONDENTS

IA NO: 3 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the judgment in W.P.No.11883 of 2024, dt: 04.09.2024, pending disposal of appeal

Counsel for the Appellants: SRI SRIDHAR REDDY POTTIGARI SPL. GP REP., FOR THE ADVOCATE GENERAL

Counsel for the Respondent No.1: SRI VEDULA VENKATA RAMANA SR. COUNSEL REP., FOR M/S BHARADWAJ ASSOCIATES

Counsel for the Respondent Nos.2&3: SRI B. NARSIMHA SHARMA ASST., SOLICITOR GENERAL OF INDIA REP., FOR SRI GADI PRAVEEN KUMAR DY. SOLICITOR GENERAL OF INDIA

The Court made the following: JUDGMENT

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL

AND

THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT APPEAL No.304 of 2025

JUDGMENT *(Per Hon'ble Smt. Justice Renuka Yara)*

Heard Sri Sridhar Reddy Pottigari, learned Special Government Pleader appearing for learned Advocate General for the appellants, Sri Vedula Venkata Ramana, learned Senior Counsel appearing for M/s. Bharadwaj Associates, learned counsel for respondent No.1 and Sri B. Narsimha Sharma, learned Assistant Solicitor General of India appearing for Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India for respondent Nos.2 and 3. Perused the record.

2. This is an Intra-Court appeal directed against the order dated 04.09.2024 passed by a learned Single Judge in W.P.No.11883 of 2024, wherein, the appellants/respondent Nos.3 and 4 and respondent Nos.1 and 2 were directed to initiate and conclude land acquisition proceedings with respect suit schedule land in O.S.No.333 of 1986 on the file of the I Additional Senior Civil Judge, Ranga Reddy District, within a period of four (04) months and to pay compensation to respondent No.1/writ petitioner.

3. Initially, respondent No.1 filed Writ Petition vide W.P.No.11883 of 2024 against appellants/respondent Nos.3 and 4 to initiate land

acquisition proceedings for acquisition of land of respondent No.1/writ petitioner admeasuring Ac.16-09 gts. of land in Dhakala No.449 in Sy.No.1/1 of Kanchana Imarath, Raviryal Village, Maheshwaram Mandal, Ranga Reddy District to implement the orders passed in E.A.No.21 of 2023 in E.P.No.103 of 2007 in O.S.No.333 of 1986 on the file of the I Additional Senior Civil Judge, Ranga Reddy District.

4. The background facts leading to the filing of the writ petition and writ appeal are that respondent No.1 is claiming to be the absolute owner of the land admeasuring Ac.16-19gts. in Dhakala No.449 situated at Raviryal Village, Maheshwaram Mandal, Ranga Reddy District (for short 'the subject property') having inherited the same through his grandfather Syed Mohammed Ghouseddin. Initially, the said Mohammed Ghouseddin filed O.S.No.333 of 1986 on the file of I Additional Senior Civil Judge, Ranga Reddy District seeking declaration of title and recovery of possession of the subject property. The said suit was decreed on 15.11.1996 declaring the grandfather of respondent No.1 as title holder coupled with relief of delivery of possession. The appellants and respondent Nos.2 and 3 did not prefer any appeal, as such, the judgment and decree of the learned I Additional Senior Civil Judge, Ranga Reddy District became final. Thereafter, after a lapse of 11 years, the father of respondent No.1 i.e. Syed Mohammed Nayeemuddin filed E.P.No.103 of 2007 in O.S.No.333 of 1986 and the

same was allowed in his favour on 19.04.2012. Aggrieved by the said order, respondent Nos.2 and 3 filed CRP No.3685 of 2012 before this Court and the same was dismissed vide order dated 08.06.2022. Thereafter, the legal heirs of the original decree holders including respondent No.1 herein filed E.A.No.21 of 2023 in E.P.No.103 of 2007 seeking issuance of warrant for delivery of possession through the Bailiff. Pending issuance of the warrant, the subject property was utilized by respondent Nos.2 and 3 as Missile Research Centre. In the circumstances, respondent Nos.2 and 3 opposed E.A.No.21 of 2023 on the ground that it is not possible to deliver the property as Missile Research Centre has been established.

5. Having heard the respondent No.1 and respondent Nos.2 and 3, the E.P Court disposed of the E.A directing respondent Nos.2 and 3 to initiate land acquisition proceedings with respect to subject land vide order dated 17.10.2023. The respondent No.1 filed the writ petition aggrieved by the inaction of respondent Nos.2 and 3 in initiating land acquisition proceedings in spite of the fact that the subject land is in possession of the Ministry of Defence. The writ petition is filed seeking grant of compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The learned Single Judge referred to judgments of the Hon'ble Supreme Court of India in **Hindustan Petroleum Corpn. Ltd. v.**

Darius Shapur Chennai[1] and **Vidya Devi v. State of Himachal Pradesh**[2], wherein, it is held that when the State acquires from private parties for public purpose, reasonable compensation has to be paid and thus ordered the appellants and respondent Nos.2 and 3 to acquire the subject land within four months.

6. Aggrieved by the said order of the learned Single Judge, the appellants filed the present appeal on the ground that the subject land belongs to the Government and that respondent No.1 and his ancestors were never in possession and therefore, the judgment and decree dated 15.11.1996 in O.S.No.333 of 1986 are nullity.

7. The learned counsel for the writ appellants would submit that the land in every revenue village will be allotted with survey number except Grama Kantam land (village site). The word 'Biladakala' means land without any survey number i.e. land which does not belongs to any private person or individual, but belongs to the Government. Further, it is submitted that the suit in O.S.No.333 of 1986 was filed without mentioning any boundaries except mentioning the subject land as Dhakala No.449 admeasuring Ac.16-19 gts. Respondent No.1's ancestors allegedly purchased the subject land in auction, however, no documentary proof is available and there is no reason stated for not

[1] (2005) 7 SCC 627
[2] (2020) 2 SCC 569

mentioning the name of respondent No.1's grandfather in the revenue records. More particularly, it is submitted that the land under the control of Nizam's dominion was brought under the Central Administration when the erstwhile Hyderabad District was formed in 1949. The H.E.H. the Nizam has submitted an Inventory of properties belonging to him in List-I, List-II and List-III, to the Government of India, for its acceptance. The Government of India vide D.O.No.F2(1)-H/50, dated 10.11.1953 accepted the Lists-I and II as private properties of the Nizam, whereas the property in List-III consisting of kanchas admeasuring approximately 23,000 acres is not approved and would be under the operation of Government by the Hyderabad State Tenancy and Revenue Laws. List-III properties were not approved by the Government of India as personal properties of Nizam. Therefore, H.E.H. the Nizam has no right or title over the land. As per List-III, Sl.No.1 shows the Office building of the Sharqhi (Eastern Taluk) called Kancha Iamarath, adjacent to the Hill of Baba Sharfeeduiinh Shahen, Sy.No.1, admeasuring 4330-31 acres, but there is no mention as Dhakala No.449. The total land admeasuring Ac.15,964.15 gts., including Kancha Imarath was acquired by the then Collector and the Land Acquisition Officer, Hyderabad District, duly notifying the lands under the Land Acquisition Act, 1894. An amount of Rs.4,00,000/- was paid to H.E.H. the Nizam towards compensation with 15% statutory

allowances. The matter was carried to the Hon'ble Supreme Court of India in S.L.P. (Civil) No.246 of 1960 and the subject property was held to be the land vested in the Government of A.P. and the appellant Nawab Mir Osman Ali i.e., H.E.H. the Nizam of Hyderabad shall handover possession of the State of A.P and that the Government of A.P shall not be liable to pay interest on the amount of Rs.4,00,000/- and shall not be entitled to profits. On the basis of order of the Hon'ble Supreme Court, the Government of A.P acquired the lands and H.E.H. the Nizam has lost his right and title over the lands covered under List-III kanchas. As per the revenue records, the Imarath Kancha was recorded as 'Biladhakala' with a total extent of Ac.4076.00 gts. and the same was allotted to the defense authorities for establishment of missile range vide G.O.Ms.No.1724 Food & Agriculture, dated 19.09.1969 on lease basis. Thereafter, through various proceedings, the said land under List-III was in possession of various Government Departments/Institutions. The entire land has no entry for private persons and the ancestors of respondent No.1 were never in possession of the subject land and there is no entry of the names of ancestors of respondent No.1 in the revenue records. The subject land is in possession of the Government for more than 100 years in the control of various departments. While so, the respondent No.1 obtained fraudulent decree on the basis of false documents without mentioning

the boundaries and survey number of Kancha Imarath. These facts though stated by the writ appellants in the counter in the writ petition, the same were not considered by the learned Single Judge. Hence, it is prayed that the order of the learned Single Judge be set aside.

8. Learned counsel for respondent No.1 submitted that though the learned I Additional Senior Civil Judge, Ranga Reddy District passed an order for initiating land acquisition proceedings, the respondent authorities on one pretext or the other are postponing the matter and depriving the fruits of decree.

9. Learned counsel for respondent Nos.2 and 3 submitted that their stand before the learned I Additional Senior Civil Judge, Ranga Reddy District in E.A.No.21 of 2023 as well as before the Writ Court is that they have no objection for initiating land acquisition proceedings provided the State Government takes necessary steps at its end.

10. A perusal of the record shows that the writ appellants were parties to the proceedings in O.S.No.333 of 1986 before the learned I Additional Senior Civil Judge, Ranga Reddy District but they did not contest the suit. The respondent Nos.2 and 3 only appeared before the I Additional Senior Civil Judge, Ranga Reddy District and the suit was decreed on 15.11.1996. Further, there was no opposition by the writ appellants to the E.P filed in the year 2007 and the order dated

19.04.2012 passed in the said E.P has become final. When E.A.No.21 of 2023 was filed, respondent Nos.2 and 3 gave consent for initiating land acquisition proceedings as the land was in their control. The prayer in the E.A was for delivery of possession of the subject land through the Court Bailiff. However, since the subject land was not available for delivering possession and since respondent Nos.2 and 3 agreed to initiate land acquisition proceedings, the learned I Additional Senior Civil Judge, Ranga Reddy District instead of ordering delivery of possession ordered the writ appellants and respondent Nos.2 and 3 to initiate land acquisition proceedings.

11. As per the record, the State Government i.e. writ appellants who are claiming to be the owners did not contest the suit when the same was filed in the year 1986 and the same was decreed in the year 1996. Since there was no challenge to the judgment and decree of the learned I Additional Senior Civil Judge, Ranga Reddy District in O.S.No.333 of 1986, dated 15.11.1996, the writ appellants herein would not have *locus standi* to challenge the same belatedly in the year 2024 in the writ petition or in the year 2025 in the writ appeal. The writ appellants ought to have presented their case of being title holders and possessors of the subject property before the learned I Additional Senior Civil Judge, Ranga Reddy District but not in this writ appeal.

12. Having concluded that the writ appellants do not have *locus standi* to challenge the judgment and decree of the learned I Additional Senior Civil Judge, Ranga Reddy District, there are three points that go to the root of the matter about the maintainability of the writ petition. To begin with, the respondent No.1 filed a suit for declaration of title and recovery of possession. Having filed a suit for recovery of possession, the respondent No.1 is entitled to only relief of declaration of title and recovery of possession and no other relief. The learned I Additional Senior Civil Judge, Ranga Reddy District as an Executing Court has jurisdiction to implement the decree without exceeding its scope. The scope of the decree was to deliver the possession of the subject land to respondent No.1 either physically or symbolically. While so, the learned I Additional Senior Civil Judge, Ranga Reddy District merely on the basis of representation made by respondent Nos.2 and 3 ordered them to initiate land acquisition proceedings.

13. In this regard, the Hon'ble Supreme Court of India in ***Sanwarlal Agrawal & Ors. Vs. Ashok Kumar Kothari & Ors.***[3] with respect to exercise of jurisdiction of executing Court in execution of a decree has held as below:-

> "15. This Court has time and again cautioned against the Execution Court adopting such an approach. In ***Topanmal Chhotamal v.***

[3] CIVIL APPEAL NO(S). 1312-1313 OF 2023 [@ SPECIAL LEAVE PETITION (CIVIL) NOS. 13478-13479 OF 2022]

Kundomal Gangaram[4]**,** a three-judge bench held as follows: "It is a well-settled principle that a Court executing a decree cannot go behind the decree: it must take the decree as it stands, for the decree is binding and conclusive between the parties to the suit". Yet again, in ***Meenakshi Saxena v. ECGC Ltd***[5]**,** it was reiterated that: "The whole purpose of execution proceedings is to enforce the verdict of the court. Executing court while executing the decree is only concerned with the execution part of it but nothing else. The court has to take the judgment in its face value. It is settled law that executing court cannot go beyond the decree. But the difficulty arises when there is ambiguity in the decree with regard to the material aspects. Then it becomes the bounden duty of the court to interpret the decree in the process of giving a true effect to the decree. At that juncture the executing court has to be very cautious in supplementing its interpretation and conscious of the fact that it cannot draw a new decree. The executing court shall strike a fine balance between the two while exercising this jurisdiction in the process of giving effect to the decree."

14. Further, with regard to issue of whether the order of Civil Court can become the subject matter of a writ petition under Article 226 of Constitution of India, the Hon'ble Supreme Court of India in ***State of Madhya Pradesh vs. Bhailal Bhai and others***[6], has held as under:-

"At the same time we cannot lose sight of the fact that the special remedy provided in Art. 226 is not intended to supersede completely the modes of obtaining relief by an action in a civil court or to deny defences legitimately open in such actions. It has been made clear more than once that the power to give relief under Art. 226 is a discretionary power. This is specially true in the case of power to issue writs in the nature of mandamus. Among the several matters

[4] AIR 1960 SC 388
[5] (2018) 7 SCC 479
[6] AIR 1964 SC 1006

which the High Courts rightly take into consideration in the exercise of that discretion is the delay made by the aggrieved party in seeking this special remedy and what excuse there is for it. Another is the nature of controversy of facts and law that may have to be decided as regards the availability of consequential relief. Thus, where, as in these cases, a person comes to the Court for relief under Art. 226 on the allegation that he has been assessed to tax under a void legislation and having paid it under a mistake is entitled to get it back, the court, if it finds that the assessment was void, being made under a void provision of law, and the payment was made by mistake, is still not bound to exercise its discretion directing repayment. Whether repayment should be ordered in the exercise of this discretion will depend in each case on its own facts and circumstances. It is not easy nor is it desirable to lay down any rule for universal application. It may however be stated as a general rule that if there has been unreasonable delay the court ought not ordinarily to lend its aid to a party by this extraordinary remedy of mandamus. Again, where even if there is no such delay the Government or the statutory authority against whom the consequential relief is prayed for raises a prima facie triable issue as regards the availability of such relief on the merits on grounds like limitation, the Court should ordinarily refuse to issue the writ of mandamus for such payment. In both these kinds of cases it will be sound use of discretion to leave the party to seek his remedy by the ordinary mode of action in a civil court and to refuse to exercise in his favour the extraordinary remedy under Art. 226 of the Constitution".

15. In view of the legal ratios laid down in above citations, we are of the considered view that the Writ Court ought to have considered three pertinent questions as below:

i. Whether the learned I Additional Senior Civil Judge, Ranga Reddy District had jurisdiction to exceed/convert the scope of the decree i.e. effectively changing the nature of suit for recovery of possession to that of a suit for mandatory injunction by directing respondent Nos.2 and 3 to initiate land acquisition proceedings?

ii. Whether the judgment and decree of a civil court can be implemented without following procedure contemplated under E.P proceedings in CPC?

iii. Whether the order of an Executing Court in E.A.No.21 of 2023 can become the subject matter of a writ petition?

16. Without considering the above questions, the Writ Court proceeded to pass the impugned order dated 04.09.2024. Hence, by setting aside that order, we deem it necessary to remand the matter back to the learned Single Judge for passing orders after duly considering the above questions as to maintainability.

17. With the above direction, the Appeal is, disposed of.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of.

SD/- B. SATYAVATHI
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Defence Secretary, Union of India, Ministry of Defence, Sough Block, New Delhi-110011
2. The Director of DRDL, Research Centre Imarat (RCI) Vignan Kancha Post, Hyd-500069
3. Two CCs to ADVOCATE GENERAL, High Court for the State of Telangana at Hyderabad. [OUT]
4. One CC to SRI. M/S BHARADWAJ ASSOCIATES Advocate [OPUC]

5. One CC to Sri Gadi Praveen Kumar, Deputy Solicitor General of India [OPUC]
6. The Section Officer, Writ DB Section, High Court for the State of Telangana at Hyderabad.
7. The Section Officer, POSTING Section, High Court for the State of Telangana at Hyderabad.
8. The Section Officer, Writ NON SERVICE Section, High Court for the State of Telangana at Hyderabad.
9. Two CD Copies

KKS

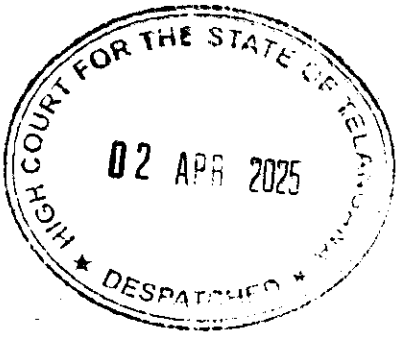
HIGH COURT

HAC,J &
RY,J

DATED:12/03/2025

JUDGMENT

WA.No.304 of 2025



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

(12)
02/04/25