IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY ,THE TWENTY FIRST DAY OF FEBRUARY TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL

AND

THE HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR

O.S.A. NO. 5 OF 2017 IN APPLICATION NO. 839 OF 2013 IN C.S. NO. 7 OF 1958

Appeal Under Clause 15 of Letters Patent Act aggrieved by the Order dated 19-09-2013 passed in Application No. 839 of 2013 in C.S.No. 7 of 1958 on the file of the High Court.

Between:

1. The State of Telangana , Rep. by its Principal Secretary (Previously The Government of AP) Revenue Department, Secretariat.
2. The District Collector,, Medchal-Malkajgiri (Previously shown as District Collector, Ranga Reddy District).
3. The Tahsildar, Kukatpally Mandal (Previously shown as Tahsildar, Balanagar Mandal), Medchal-Malkajgiri District. **...APPELLANTS/ Respondents**

AND

1. Abdul Samad Khan, S/o. late Hakeem Mohd. Abdullah Khan, aged 57 years Occ: Business, R/o H.No.20-3-412/1, Moosa Bowli, Hyderabad.
2. Mohd. Faizullah Shareef, S/o Late Mohd. Manzoor Shareef, aged about 37 years, Occ: Business, R/o H-No.20-3-393, Moosa Bowli, Hyderabad.
3. Ahmed Akramullah Shareef, S/o Late Mohd. Manzoor Shareef, aged about 42 years, Occ: Advocate, Rio H.No.20-3-396, Moosa Bowli, Hyderabad
4. Syed Azhar, S/o Syed Hyder, aged about 50 years, Occ Business, R/o H.No.20-3-412/1, Moosa Bowli, Hyderabad. (Petitioners No.2 to 4 are represented by their GPA holder, Petitioner No.1) .. Respondents/ Appellants
5. Sahebzadi Sultan Jahan Begum (Died)
6. D-1 Nawab Zahir Yar Jung Bahadur (Died)
7. D-2Mazharuddin Khan (died) Per L.Rs., Respondents No. 4 to 8
8. D-2 (a) Nawab Mohd., Moinuddin Khan, S/o. Mazharuddin Khan, aged about 70 years, Occ: Househod, R/o. Masabtank, Hyderabad.
9. D-2 (b) Nawab Mohd. Mohiuddin Khan, S/o. Mazharuddin Khan, aged about 68 years, R/o. Kkatiyanagar, Nanalnagar, Htyderabad.
10. D-2 (c) Janaba Parwarishunnisa Begum, D/o. Mazharuddin Khan, aged about 73 years, Occ: Household, R/o. H.No. 6-2-30/2, Lakdikapool, Hyderabad.
11. D-2(d) Janaba Qamarunnisa Begu, D/o. Mazharuddin Khan, aged about 69 years, Occ: Household,R/o. H.No.6-3-597/A, Banjara Hills, Hyderabad.
12. D-2 (e) Janaba Viqarunnisa Begum, D/o. Mazharuddin Khan, aged about 60 years, Occ: Household R/o. H.No.33/44, Block Koramandla, Bangalore, Karnataka.

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(Respondents No.4 to 8 are added as Defendants No.D-2(a) to (e) in Appl.No.73/2000 in C.S.No.7/1958 order dated 2-2-2000, being the legal representatives of deceased Defendant No.2 Mazharuddin.

13). (D-3) Bashir Jung (Died) Per L.Rs., Respondents No.10 to 15.

14). (D-3(a) Nawab Shahabuddin Khan (Died issueless), S/o. Bashir Jung.

15). (D-3(b) Nawab Shahiduddin Khan (Died), S/o. Bashir Jung.

16). (D-3(c) Janaba Siddiqa Sultana Begum, W/o Late Nawab Sirajuddin Khan, aged about 60 years, Occ: Household, R/o H.No.6-3-1102, Hidden Treasure Apartments, Somajiguda, Hyderabad.

17). (D-3(d) Nawab Nizamuddin Khan, S/o. Late Bashir Jung, aged about 52 years, Occ: Business, R/o H.No.4-14-75/A, Hasan Nagar, Hyderabad.

18). (D-3(e) Janaba Mohammed unnisa Begum, D/o. Late Bashir Jung, aged about 55 years, Occ: Household, R/o Humayun Nagar, Hyderabad.

19). (D-3(f) Janaba Inteqabunnisa Begum (Died), D/o. Late Bashir Jung.

(Respondents No.10 to 15 are added as Defendants No.D-3(a) to (f) in Appl.No.73/2000 in C.S.No.7/1958 vide order dated 2-2-2000, being the legal representatives of deceased Defendant No.3 Bashir Jung.

20). (D-4). Lateefuddin Khan (since deceased per L.Rs., (D-4(a) to (e), Respondents No.17 to 31.

21). D-4(a). Janaba Kamalunnisa Begum, W/o Late Nawab Lateefuddin Khan, aged about 92 years, Occ: Nil, R/o Flat No.507, Kushal Towers, Khairathabad, Hyderbad.

22). (D-4(b). Nawab Mohd. Shamsuddin Khan, S/o. Late Nawab Lateefuddin Khan, aged about 75 years, Occ: Retired, R/o H.No.11-5-416/1, Red Hills, Hyderabad.

23). (D-4©. Janaba Ahmedunnisa Begum, D/o Late Nawab Lateefuddin Khan, aged about 73 years, Occ: Household, R/o Suite 339, 515, St.Laurent, Bivd, Ottawa KIK 3^5 Ontorio, Canada.

24). (D-4(d). Janaba Habeebunnisa Begum, D/o Late Nawab Lateefuddin Khan, aged about 70 years, Occ: Household, R/o Flat No.508, Kushal Towers, Khairathabad, Hyderabad.

25). (D-4(e). Janaba Mahboobunnisa Begum, D/o Late Nawab Lateefuddin Khan, aged about 69 years, Occ: Household, R/o Flat No.402, Indra Lok Apartments, Banjara Hills, Hyderabad.

26). (D-4(f). Nawab Mohd. Fakhruddin Khan, S/o Late Nawab Lateefuddin Khan, aged about 62 years, Occ: Business, R/o H.No.11-5-416/1, Red Hills, Hyderabad.

27). (D-4(g). Janaba Jameelunnisa Begum, D/o Late Nawab Lateefuddin Khan, aged about 61 years, Occ: Household, R/o H.No.5037, Willow Wood Drive, Missisauga L5R 3 Rs.Ontario, Canada.

28). (D-4(h). Janaba Mohammedunnisa Begum, D/o Late Nawab Lateefuddin Khan, aged about 60 years, Occ: Household, R/o H.No.11-5-416/1, Red Hills, Hyderabad.

29). (D-4(i). Janaba Noorunnisa Begum (Died), D/o Late Nawab Lateefuddin Khan.

30). (D-4(j). Nawab Mohd. Naseeruddin Khan, S/o Late Nawab Lateefuddin Khan, aged about 59 years, Occ: Employee in abroad, R/o Pst Box No.228, Sharjah, U.A.E.

31). (D-4(k). Janaba Aasia Begum, D/o Late Nawab Lateefuddin Khan, aged about 80 years, Occ: Household, R/o Flat No.402, Indralok Apartments, Banjara Hills, Hyderabad.

32). (D-4(l). Janaba Shabana Begum, D/o Late Nawab Lateefuddin Khan, aged about 60 years, Occ: Household, R/o Flat No.402, Indralok Apartments, Banjara Hills, Hyderabad.

33). (D-4(m). Janaba Muneer Begum, D/o Late Nawab Lateefuddin Khan, aged about 60 years, Occ: Household, R/o Flat No.402, Indralok Apartments, Banjara Hills, Hyderabad.

34). (D-4(n). Nawab Khamruddin Khan, S/o Late Nawab Lateefuddin Khan, aged about 58 years, Occ: Business, R/o Flat No.402, Indralok Apartments, Banjara Hills, Hyderabad.

35). (D-4(o). Nawab Azizuddin Khan, S/o Late Nawab Lateefuddin Khan, aged about 57 years, Occ: Business, R/o Flat No.402, Indralok Apartments, Banjara Hills, Hyderabad.

(Respondents No.17 to 31 added as per order of the court dated 19-12-58 in Appl.No.127/58 as Defendants No.D-4(a) to D-4(o) in C.S.No.7/1958 and defendant No.4(k) appointed guardian.

36). (D-5). Iftekharuddin Khan (deceased) per Legal Representatives Respondents No.33 to 38 as Defendants No.D-5(a) to D-5(f).

37). (D-5(a) Janaba Azizunnisa Begum (Died), W/o Late Iftekharuddin Khan.

38). (D-5(b). Janaba Ghouseunnisa Begum, D/o Late Iftekharuddin Khan, aged about 72 years, R/o. Roshan Vihar, Santoshnagar, Hyderabad.

39). (D-5(c). Nawab Khamruddin Khan, S/o Late Iftekharuddin Khan, aged about 70 years, R/o. H.No.17-1-365, Asmajahi Tombs, Santoshnagar, Hyderabad.

40). (D-5(d). Janaba Shoukathunnisa Begum, D/o Late Iftekharuddin Khan, aged about 68 years, R/o. H.No.5-9-246/1, Chirag Ali Lane, Abids, Hyderabad.

41). (D-5(e). Nawad Akbaruddin Khan, S/o Late Iftekharuddin Khan, aged about 66 years, Occ: Business, R/o. H.No.17-1-30/4/1, Eidi Bazaar, Ramachandra Nagar, Hyderabad.

42). (D-5(f). Janaba Khairunnisa Begum, D/o Late Iftekharuddin Khan, aged about 64 years, Occ: Household, R/o. Roshan Vihar, Santoshnagar, Hyderabad.

43). (D-6. Ahmeduddin Khan (Died) per L.Rs., Respondents No.40 to 49.

44). (D-6(a). Janaba Afzalunnisa Begum (Died), W/o Late Ahmeduddin Khan.

45). (D-6(b). Janaba Viqarunnisa Begum, D/o Late Ahmeduddin Khan, aged about 65 years, Occ: Household, R/o H.No.16-11-234, Judges Colony, Malakpet, Hyderabad.

46). (D-6(c). Janaba Hameedunnisa Begum, D/o Late Ahmeduddin Khan, aged about 63 years, Occ: Household, R/o Opp: Farhath Nursing Home, Saleem Nagar Colony, Hyderabad.

47). (D-6(d). Nawab Mohd. Khaja Moinuddin Khan, S/o Late Ahmeduddin Khan, aged about 60 years, Occ: Business, R/o Flat No.301, Pleasant Park Apartments, Shantinagar Colony, Hyderabad.

48). (D-6(e). Nawab Mohd. Nizamuddin Khan, S/o Late Ahmeduddin Khan, aged about 58 years, Occ: Business, R/o H.No.19-2-137/B/106, Kalapathar, Bilalnagar, Hyderabad.

49). (D-6(f). Janaba Yousufunnisa Begum, D/o Late Ahmeduddin Khan, aged about 56 years, Occ: Household, R/o H.No.19-2-137/B/106, Kalapathar, Bilalnagar, Hyderabad.
50). (D-6(g). Janaba Haseebunnisa Begum, D/o Late Ahmeduddin Khan, aged about 54 years, Occ: Household, R/o H.No.19-2-137/B/106, Kalapathar, Bilalnagar, Hyderabad.
51). (D-6(h). Janaba Magerunnisa Begum, D/o Late Ahmeduddin Khan, aged about 52 years, Occ: Household, R/o Flat No.301, Pleasant Park Apartments, Shantinagar Colony, Masabtank, Hyderabad.
52). (D-6(i). Nawab Mohd. Rafiuddin, S/o Late Ahmeduddin Khan, aged about 50 years, Occ: Business, R/o Saleemnagar Colony, Hyderabad.
53). (D-6(j). Janaba Nikhathunnisa Begum, D/o Late Ahmeduddin Khan, aged about 48 years, Occ: Household, R/o Flat No.301, Pleasant Park Apartments, Shantinagar Colony, Masabtank, Hyderabad.
(Respondents No 40 to 49 are added as Defendant No.D-6(a) to (j) in Appl.No.73/200 in C.S.No.7/1958 vide order dated 2-2-2000, being the legal representatives of deceased Defendant No.6 Adhmeduddin Khan
54). (D-7). Afsaruddin Khan (Died) per L.Rs., Respondents No.51 to 53.
55). (D-7(a). Janaba Basheer Banu, D/o Late Afsaruddin Khan, aged about 58 years, Occ: Household, R/o H.No.16-2-70/1, Shnkar Bazaar, Gaddianaram, R.R.District.
56). (D-7(b). Janaba Viqar Banu, D/o Late Afsaruddin Khan, aged about 35 years, Occ: Household, R/o H.No.16-2-70/1, Shnkar Bazaar, Gaddianaram, R.R.District.
57). (D-7(c). Nawab Jahangiruddin Khan, S/o Late Afsaruddin Khan, aged about 34 years, Occ: Business, R/o H.No.16-2-70/1, Shnkar Bazaar, Gaddianaram, R.R.District.
(Respondents No.51 to 53 are added as Defendants No.D-7(a) to (c) in Appl.No.72/2000 in C.S.No.7/1958 vide order dated 2-2-2000, being the legal representatives of deceased Defendant No.7 Afsaruddin Khan.
58). (D-8). Iqbaluddin Khan (Died), S/o Late Nawab Moinuddowla Bahadur.
59). (D-9). Wajihuddin Khan (Died), per L.Rs., Respondents No.56 to 64.
60). (D-9(a). Janaba Fareedunnisa Begum (Died), W/o Wajihuddin Khan.
61). (D-9(b). Nawab Afzaluddin Khan, S/o Wajihuddin Khan, aged about 66 years, Occ: Business, R/o 75/A, Katedhan, Shivrampally, R.R.District.
62). (D-9(c). Nawab Azeemuddin Khan, S/o Wajihuddin Khan, aged about 68 years, R/o 22-5-484, Panjeshah, Hyderabad.
63). (D-9(d). Nawab Yousufuddin Khan, S/o Wajihuddin Khan, aged about 58 years, Occ: Business, R/o H.No.19-3-262/2/5, Jahanuma, Hyderabad.
64). (D-9(e). Janaba Viqarunnisa Begum, D/o Wajihuddin Khan, aged about 62 years, Occ: Household, R/o H.No.8-5-11/2, Uddamgadda, Bandlaguda, R.R.District.
65). (D-9(f). Janaba Sayeedunnisa Begum, D/o Wajihuddin Khan, aged about 54 years, Occ: Household, R/o H.No.8-5-11/2, Uddamgadda, Bandlaguda, R.R.District.
66). (D-9(g). Nawab Asifuddin Khan, S/o Wajihuddin Khan, aged about 50 years, Occ: Business, R/o H.No.8-5-11/2, Uddamgadda, Bandlaguda, R.R.District.

67). (D-9(h). Nawab Moinuddin Khan, S/o Wajihuddin Khan, aged about 52 years, Occ: Household, R/o H.No.4-75/A, Katedhan, Shivrampally, R.R.District.
68). (D-9(i). Janaba Parwarunnisa Begum @ Jahandarunnisa Begum, D/o Wajihuddin Khan, aged about 66 years, Occ: Household, R/o Lord Mansion, Lalapet, Hyderabad.
(Respondents No.55 to 64 are added as Defendants No.D-9(a) to (i) in Appl.No.72/2000 in C.S.No.7/1958 vide order dated 2-2-2000, being the legal representatives of deceased Defendant No.9 Wajihuddin Khan.
69). (D-10). Bahauddin Khan (died) per L.Rs. Respondents No.6 to 69.
70). (D-10(a). Janaba Mahaboob Begum, W/o Late. Bahauddin Khan, aged about 94 years, Occ: Nil, R/o H.No.12-1-584/8, Asifnagar, Hyderabad.
71). (D-10(b). Nawab Runuddin Khan, S/o Late. Bahauddin Khan, aged about 66 years, R/o H.No.12-1-584/8, Asifnagar, Hyderabad.
72). (D-10(c). Nawab Yousufuddin Khan (Died) S/o laet Bahauddin Khan.
73). (D-10(d). Janaba Parwarishunnisa Begum @ Mohammedunnisaa Begum, W/o Late. Bahauddin Khan, aged about 64 years, Occ: Household, R/o H.No.12-1-584/8, Asifnagar, Hyderabad.
(Respondents No.66 to 69 are added as Defendants No.D-10(a) to (d) in Appl.No.72/2000 in C.S.No.7/1958 vide order dated 2-2-2000, being the legal representatives of deceased Defendant No.10 Bahauddin Khan.
74). (D-11). Badaruddin Khan (died).per L.Rs., Respondents No.71 to 74.
75). (D-11(a). Janaba Asmatunnisa Begum (Died), W/o Late Badaruddin Khan.
76). (D-11(b). Nawab Naseeruddin Khan, S/o Late Badaruddin Khan, aged about 58 years, Occ: Business, R/o H.No.1-8-506/55, New Prakashnagar, Begumpet, Hyderabad.
77). (D-11(c). Janaba Ameerunnisa Begum, D/o Late Badaruddin Khan, aged about 60 years, Occ: Household, R/o H.No.3-5-782/52/a/1, King Koti, Hyderabad.
78). (D-11(d). Janaba Qamarunnisa Begum, D/o Late Badaruddin Khan, aged about 50 years, Occ: Household, R/o H.No.1-8-506/55, New Prakashnagar, Begumpet, Hyderabad.
(Respondents No.71 to 74 are added as Defendants No.D-11(a) to (d) in Appl.No.72/2000 in C.S.No.7/1958 vide order dated 2-2-2000, being the legal representatives of deceased Defendant No.11 Badaruddin Khan.
79). Nawab Mohd. Jalaaluddin Khan D-12 (Died).
80). (D-13). Nawab Zainulabeddin Khan (Died), S/o Late Nawab Moinuddowla Bahadur, Per L.Rs., Respondents No.77 to 103.
81). (D-13(a). Janaba Yousufunnisa Begum (Died), W/o Late Nawab Zainulabeddin Khan.
82). (D-13(b). Tayyaba Begum, W/o Nawab Zainulabeddin Khan, aged about 75 years, Occ: Household, R/o H.No.17-5-389, Dabilpura, Hyderabad.
83). (D-13(c). Nawab Mohd. Abdul Barkath Khan, S/o Nawab Zainulabeddin Khan, aged about 65 years, Occ: Landlord, R/o H.No.12-1-513, Lalapet, Secunderabad.
84). (D-13(d). Nawab Mohd. Fareeduddin Khan, S/o Nawab Zainulabeddin Khan, aged about 63 years, Occ: Landlord, R/o H.No.12-1-513, Lalapet, Secunderabad.

85). (D-13(e). Janaba Younusunnisa Begum, D/o Nawab Zainulabedcin Khan, aged about 61 years, Occ: Landlord, R/o H.No.12-1-513, Lalapet, Secunderabad.
86). (D-13(f). Nawab Mohd. Naseeruddin Khan (Died), S/o Late Nawab Zainulabeddin Khan, Per L.Rs., (D-13 F(1) to 13 F(11).
87). (D-13(F-1). Janaba Mahaboobunnisa Begum, W/o Late Nawab Mohd. Naseeruddin Khan, aged about 61 years, Occ: Household, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
88). (D-13(F-2). Janaba Atiya Begum, W/o Late Nawab Mohd. Naseeruddin Khan, aged about 51 years, Occ: Household, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
89). (D-13(F-3). Nawab Mohd. Abdul Fateh Khan (Died), Per L.Rs., Respondents No.86 to 89.
90). (D-13(F-3(a). Azmath Fathima, W/o Nawab Mohd. Abdul Fateh Khan, aged about 35 years, Occ: Household, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
91). (D-13(F-3(b). Zainabunnisa Begum, D/o Nawab Mohd. Abdul Fateh Khan, aged about 13 years, Occ: Student, Minor Represented by Guardian Aazmath Fathima Mother, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
92). (D-13(F-3(c). Kashifunnisa Begum, D/o Nawab Mohd. Abdul Fateh Khan, aged about 11 years, Occ: Student, Minor Represented by Guardian Aazmath Fathima Mother, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
93). (D-13(F-3(d). Khadarunnisa Begum, D/o Nawab Mohd. Abdul Fateh Khan, aged about 9 years, Occ: Student, Minor Represented by Guardian Aazmath Fathima Mother, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
94). (D-13(F-4). Nawab Mohd. Zainul Mutakheen Khan, S/o Late Nawab Mohd. Naseruddin Khan, aged about 40 years, Occ: Landlord, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
95). (D-13(F-5). Nawab Mohd. Ruknuddin Khan, S/o Late Nawab Mohd. Naseruddin Khan, aged about 27 years, Occ: Landlord, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
96). (D-13(F-6). Nawab Mohd. Ismailuddin Khan, S/o Late Nawab Mohd. Naseruddin Khan, aged about 23 years, Occ: Landlord, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
97). (D-13(F-7). Nawab Mohd. Zainulabeddin Khan, S/o Late Nawab Mohd. Naseruddin Khan, aged about 20 years, Occ: Student, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
98). (D-13(F-8). Ameenunnisa Begum, D/o Late Nawab Mohd. Naseruddin Khan, aged about 28 years, Occ: Student, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
99). (D-13(F-9). Bilqeesunnisa Begum, D/o Late Nawab Mohd. Naseruddin Khan, aged about 26 years, Occ: Household, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
100). (D-13(F-10). Humerаunnisa Begum, D/o Late Nawab Mohd. Naseruddin Khan, aged about 24 years, Occ: Student, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.
101). (D-13(F-11). Anees Fathima Begum, D/o Late Nawab Mohd. Naseruddin Khan, aged about 18 years, Occ: Student, R/o H.No.12-1-512, Mahboob Mansaion, Secunderabad.

102). (D-13(g-1). Mohd. Basheeruddin Ahmed, H/o Lae Nafeesunnisa Begum, aged about 65 years, Occ: Business, R/o H.No.12-1-511/2, Mahboob Mansaion, Secunderabad.
103). (D-13(g-2). Nawab Mohd. Daveruddin Khan, S/o Lae Nafeesunnisa Begum, aged about 42 years, Occ: Business, R/o H.No.12-1-511/2, Mahboob Mansaion, Secunderabad.
104). (D-13(g-3). Mohd. Sirajuddin Ahmed, S/o Lae Nafeesunnisa Begum, aged about 35 years, Occ: Business, R/o H.No.12-1-511/2, Mahboob Mansaion, Secunderabad.
105). (D-13(g-4). Janaba Wajahathunnisa Begum, D/o Lae Nafeesunnisa Begum, aged about 44 years, Occ: Household, R/o H.No.12-1-511/2, Mahboob Mansaion, Secunderabad.
106). (D-13(g-5). Janaba Qadeerunnisa Begum, D/o Lae Nafeesunnisa Begum, aged about 38 years, Occ: Household, R/o H.No.12-1-511/2, Mahboob Mansaion, Secunderabad.
107). (D-13(g-6). Ayesha Bano Ahmed, D/o Lae Nafeesunnisa Begum, aged about 24 years, Occ: Household, R/o H.No.12-1-511/2, Mahboob Mansaion, Secunderabad.
(Respondents No.77 to 103 are added as Defendants No.D-13(a) to (f), D-13(F-1 to F-11 & D-13(G-1) to (G-6), being the legal representatives of deceased Defendant No.13 Zainulabeddin Khan.
108). (D-14). Ghaziuddin Khan, S/o late Nawab Moinuddowla Bahadur, aged about 76 years, Occ: Landlord, R/o H.No.8-2-686/16/D/2, Road No.14, Banjara Hills, Hyderabad.
109). (D-15). Warisuddin Khan, S/o late Nawab Moinuddowla Bahadur, aged about 74 years, Occ: Landlord, R/o H.No.8-2-686/16/D/2, Road No.14, Banjara Hills, Hyderabad.
110). (D-16). Fareedunnisa Begum (Died), unmarried & issueless.
111). (D-17). Layeequnnisa Begum (Died), D/o Late Moinuddowla Bahadur.
112). (D-18). Izzathunnisa Begum (Died), D/o Late Moinuddowla Bahadur (died) per L.Rs. Respondents No.109 to 111.
113). (D-18(a). Janaba Liyaqathunnisa Begum, D/o Izzathunnisa Begum, aged about 60 years, Occ: Household, R/o Kakatiyanagar, Nanalnagar, Hyderabad.
114). (D-18(b). Janaba Zeenathunnisa Begum (Died), D/o Late Izzathunnisa Begum.
115). (D-18(c). Janaba Tahniyathunnisa Begum, D/o Late Izzathunnisa Begum, aged about 58 years, Occ: Household, R/o H.No.10-2-310, Bazaarguard, Mallepally, Hyderabad.
(Respondents No.109 to 111 are added as Defendants No.D-18(a) to (c) in Appl.No.73/2000 in C.S.No.7/1958 vide order dated 2-2-2000, being the legal representatives of deceased Defendant No.18 Izzathunnisa Begum.
116). (D-19). Iftehkarunnisa Begum (Died), D/o Late Moinuddowla Bahadur.
117). (D-20). Mallika Jahan Begum, D/o Late Moinuddowla Bahadur, aged about 78 years, Occ: Household, R/o H.No.22-5-484, Panjeshah, Charminar, Hyderabad.

118). (D-21). Akthar Jahan Begum, D/o Late Moinuddowla Bahadur, aged about 76 years, Occ: Household, R/o H.No.23-1-213, Andherigalli, Alijahkotla, Charminar, Hyderabad.
119). (D-22). Dawoodunnisa Begum, D/o Late Moinuddowla Bahadur, aged about 72 years, Occ: Household, R/o SRT-198, Chandulal Baradari, Hyderabad.
120). (D-23). Mahboobunnisa Begum
121). (D-24). Raheemunnisa Begum
122). (D-25). Ladli Begum (deceased) Per L.Rs.,
123). (D-25 (a). Kulsum Begum
124). (D-25 (b). Mirza Bakar Ali
125). (D-25 (c). Mirza Liakat Aali Baig
126). (D-25 (d). Moinuddin Khan
127). (D-25 (e). Sultanuddin Khan
128). (D-26). Liaqat Begum
129). (D-27). Fareed Jahan Begum
130). (D-28). Sultana Begum
131). (D-29). Gulam Mohammed
132). (D-30). Mansab Jung
133). (D-31). Shaik Mohiuddin
134). (D-32). William Ceaser
135). (D-33). Mahboob Khan
136). (D-34). Shamsuddin Khan
137). (D-35). Govind Rao
138). (D-36). Sridhara Rao
139). (D-37). Jayarao Sambrahani
140). (D-38). N.K.Guruswamy
141). (D-39). Dr.B.N.Das
142). (D-40). Sahebzada Dildar Ali Khan
143). (D-41). Syed Waliullah Hussaini
144). (D-42). Ameenuddin Hussaini
145). (D-43). Hyderabad Development Cooperative Society
146). (D-44). Colonel Ali Raza
147). (D-45). Syed Ali Abbas
148). (D-46). C.S.Venkat Rao
149). (D-47). Jagir Administrator, Government of Andhra Pradesh
150). (D-48). Secretary, Finance Department, Government of Andhra Pradesh
151). (D-49). Hari Prasad

... Respondents/Defendants.

152). Nawab Sabir Lutfuddin Khan, S/o Late Nawab Sirajuddin Khan, aged about 32 years, Occ: Private Service, R/o H.No.6-3-1102, Hidden Treasure Apartments, Somajiguda, Hyderabad.
153). Janab Fatima Khan, D/o Late Nawab Sirajuddin Khan, aged about 36 years, Occ: Household, R/o H.No.6-3-1102, Hidden Treasure Apartments, Somajiguda, Hyderabad.
(Respondents No.148 to 149 are impleaded as Defendants No.3(g) & 3(h) vide orders dated 13-09-2013 in Appl.No.838/2013 in C.S.No.7/1958.

154). Nawab Abdul Rahman Khan, S/o Late Nawab Shahiduddin Khan, aged about 42 years, Occ: Business, R/o Aziz Bagh Colony, Tolichowki, Hyderabad.
155). Nawab Hasan Nooruddin Khan, S/o Late Nawab Shahiduddin Khan, aged about 39 years, Occ: Business, R/o Aziz Bagh Colony, Tolichowki, Hyderabad.
(Respondents No.159 & 151 are impleaded as Defendants No.3(i) & 3(j) vide orders dated 13-09-2013 in Appl.No.838/2013 in C.S.No.7/1958.
156). Janaba Sumera Imran, D/o Late Janaba Inteqabunnisa Begum, aged about 28 years, Occ: Household, R/o Mud fort, Sec'bad.
157). Janaba Saba Nasir, D/o Late Janaba Inteqabunnisa Begum, aged about 26 years, Occ: Household, R/o Mud fort, Sec'bad.
158). Janaba Sara Naseer, D/o Late Janaba Inteqabunnisa Begum, aged about 24 years, Occ: Household, R/o Mud fort, Sec'bad.
(Respondents No.152 to 154 are impleaded as Defendants No.3(k), 3(l) & 3(m) vide orders dated 13-09-2013 in Appl.No.838/2013 in C.S.No.7/1958.
159). Nawab Mohd. Fareeduddin Khan, S/o Late Nawab Iqbaluddin Khan, aged about 64 years, Occ: Landlord, R/o H.No.16-2-705/A/B, Akbar Bagh, Malakpet, Hyderabad.
160). Janaba Moununnisa Begum, D/o Late Nawab Iqbaluddin Khan being the legal heir and representative of Nawab Iqbaluddin Khan, S/o Late Moin-ud-Dowla, aged 61 years, Occ: Landlord, R/o 3-5-782/10/6, Gaf-bungalow, Kind kothi, Hyderabad. R/o 7A Bank Building, Mitcham Lane, London Sw166NG, England, U.K.
161). Janaba Iqbalunnisa Begum, D/o Late Nawab Iqbaluddin Khan, being the legal heir and representative of Nawab Iqbaluddin Khan, S/o Late Moin-ud-Dowla, aged 56 years, Occ: Landlord, R/o 3-5-782/10/6, Gaf-bungalow, Kind Kothi, Hyderabad.
162). Nawab Majeeduddin Khan, S/o Late Nawab Iqbaluddin Khan, being the legal heir and representative of Nawab Iqbaluddin Khan, S/o Late Moin-ud-Dowla, aged 43 years, Occ: Landlord, R/o 16-2-705/5/B, Akbar Bagh, Malakpet, Hyderabad.
(Respondents No.155 to 158 are impleaded as Defendants No.D-8(a) to D-8(d) vide orders dated 13-09-2013 in Appl.No.838/2013 in C.S.No.7/1958.
163). Nawab Mohd. Rishaduddin Khan, S/o Late Nawab Yousufuddin Khan aged about 30 years, Occ: Accountant, presently R/o P.O.Box:3410, Dubai, U.A.E. represented by GPA Holder Nawab Mohd. Khaleemuddin Khan vide No.
164). Nawab Mohd. Kaleemuddin Khan, S/o Late Nawab Yousufuddin Khan aged about 27 years, Occ: Student, R/o 12-2-24/1, Syedaliguda, Asif Nagar, Hyderabad.
165). Janaba Sameera Begum, D/o Late Nawab Yousufuddin Khan aged about 32 years, Occ: Housewife, R/o 12-2-24/1, Syedaliguda, Asif Nagar, Hyderabad.
166). Janaba Sara Begum, D/o Late Nawab Yousufuddin Khan aged about 23 years, Occ: Housewife, R/o 12-2-24/1, Syedaliguda, Asif Nagar, Hyderabad.
(Respondents No.159 to 162 are impleaded as Defendants No.D-10(e) to D-10(h) vide orders dated 13-09-2013 in Appl.No.838/2013 in C.S.No.7/1958.
167). Nawab Mohd. Sikendaruddin Khan, S/o Late Nawab Mohd. Jalaluddin Khan, aged 54 years, Occ: Landlord, R/o Hussaini Heights, Flat No.202, Humayun Nagar, Hyderabad.

(Respondents No.163 is impleaded as Defendants No.12(a) vide orders dated 13-09-2013 in Appl.No.838/2013 in C.S.No.7/1958.

168). Nawab Khusro KamalPasha S/o Late Janaba Layeequnnisa Begum, aged about 68 years, Occ: Landlord, permanent resident of R/o 5-9-246/1, Chirag Ali Lane, Abids, Hyderabad.

169). Nawab Al. Bin Hamid, S/o Late Zeenatunnisa Begum, aged 32 years, Occ: Landlord, R/o H.No.11-2-585, Habeeb Nagar, Nampally, Hyderabad.

170). Nawab Jaffar Bin Hamid, S/o Late Zeenatunnisa Begum, aged 30 years, Occ: Landlord, R/o H.No.11-2-585, Habeeb Nagar, Nampally, Hyderabad.

171). Janaba Sumihaunnisa Hamid, D/o Late Zeenatunnisa Begum, aged 37 years, Occ: Landlady, R/o H.No.11-2-585, Habeeb Nagar, Nampally, Hyderabad.

172). Janaba Hassa Hamid, D/o Late Zeenatunnisa Begum, aged 34 years, Occ: Landlady, R/o H.No.11-2-585, Habeeb Nagar, Nampally, Hyderabad.

(Respondents No.165 to 168 are impleaded as Defendants No.D-18(d) to D-18(g) vide orders dated 13-09-2013 in Appl.No.838/2013 in C.S.No.7/1958

173). Nawab Ali Bin Saleh H/o Late Janaba Iftekarunnisa Begum, aged 70 years, Occ: Landlady, R/o 9-4-84/99, Plot No.99, Kakatiya Nagar, Tolichowki, Hyderabad.

(Respondents No.169 is impleaded as Defendants No.19(a) vide orders dated 13-09-2013 in Appl No.838/2013 in C.S.No.7/1958.

174). Nawab Mohd. Ghaziudin Khan, (D14 in C.S.No.7/58) S/o Late Nawab Moinud-Dowla, aged 75 years, Occ: Landlord, R/o 8-2-686/16/D/2, Banjara Hills, Hyderabad.

175). Nawab Mohd. Warisuddin Khan, (D15 in C.S.No.7/58) S/o Late Nawab Moinud-Dowla, aged 74 years, Occ: Landlord, R/o 8-2-686/16/D/2, Banjara Hills, Hyderabad.

(Respondents No.170 & 171 are original as Defendants No.14 & 15 and also L.Rs., of Defendant No.19 being her brothers).

176). M/s. Anish Construction Co., Represented by its Proprietrix, Smt. Nirmala D., D/o Shree Digambar Rao. Having the office at 4-1-1001, Atria Mall, Abids, Hyderabad – 1

177). My Mutually Aided Co-operative Society, Represented by its President Sri. Sripad Deshpande, S/o Late Sri M.G.Deshpande, aged about 47 years, Occ: Business. Having the office at Flat No.202, Pleasant Park Apartments, Shantinagar Colony, Second Cross Road, Hyderabad – 28.

178). M/s. M.A.Bari Advocate,
Receiver-cum-Commissioner in C.S.No.7/1958
Having the office at H.No.11-3-627, Mosque Road,
New Mallepally, Hyderabad.

179). M/s. B.Shyam Sunder Rao Advocate,
Receiver-cum-Commissioner in C.S.No.7/1958
Having the office at H.No.11-3-627, Mosque Road,
New Mallepally, Hyderabad.

.....Respondents/Receiver-cum-Commissioners.

(Sl. No.5 to 179 are not necessary parties)

I.A. NO: 1 OF 2017(APPL. NO: 139 OF 2017)

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 suspending the operation of the judgment and decree, dt.19-09-2013, passed in Appl.No.839/2013 in C.S.No.7/1958, pending disposal of the Appeal, in the interest of justice.

Counsel for the Appellants: THE ADDL ADVOCATE GENERAL

Counsel for the Respondents: SRI N. M. KRISHNAIAH

The Court delivered the following Judgment

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SRI JUSTICE N.V. SHRAVAN KUMAR

O.S.A. No.5 of 2017 in Application No.839 of 2013 in C.S. No.7 of 1958

JUDGMENT: *(Per the Hon'ble Sri Justice N.V. Shravan Kumar)*

The learned Advocate General for the appellant.

Mr. N.M. Krishnaiah, learned counsel for the respondents.

This Original Side Appeal has been filed under Clause 15 of Letters Patent aggrieved by the order dated 19.09.2013 passed by the learned Single Judge of this Court in Application No.839 of 2013 in C.S. No.7 of 1958.

2. The appellants herein submits that they are the respondents No.176, 177 and 178 and the respondents herein are the petitioners in Application No.839 of 2013 in C.S. No.7 of 1958. Further, the respondents No.2 to 4 herein are represented by their GPA holder respondent No.1 herein.

3. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the present appeal i.e. Appellants/ Respondents and respondents/petitioners.

4. The Respondents/Petitioners have filed Application No.839 of 2013 in C.S. No.7 of 1958 seeking to pass final decree in respect of the land measuring Acs.10.00 guntas in Sy.No.57 of Shamsiguda village, Balangar Mandal, R.R. District, being part of Item No.252 of

schedule 'A' annexed to the preliminary decree in C.S. No.7 of 1958 and to direct the Receivers-cum-Commissioners to deliver the physical possession of the land measuring Acs.10.00 guntans in Sy.No.57 of Shamsiguda village, Balanagar Mandal, R.R. district as shown in the schedule and plan.

5. The learned Single Judge vide order dated 19.09.2013 allowed the application to the extent of passing final decree only. Assailing the same, the appellants/respondents filed the present appeal on the following grounds:

1. The order passed in application No.839 of 2013 seeking final decree in respect of Acre 10-00 in Sy.No.57 of Shamshiguda village, Balangar Mandal, R.R. District is contrary to law and facts and is liable to be set aside.

2. The learned Judge ought to have seen that while seeking up final decree, the State was necessary party to the proceedings since the properties in respect of which final decree was claimed is vested with the Government, consequent upon abolishing of Jagirs.

3. The learned Judge ought to have seen that by not ordering notice to the State, serious prejudice is caused to the interest of the State in the subject lands.

4. The learned Judge ought to have appreciated that the proceedings being civil in nature notice has to be ordered and had notice been given to the State appropriate claim would have been made in respect of the property.

5. The learned Judge ought to have seen that there was no material available on record to arrive at a conclusion as to the nature of the property and claims by third parties *vis* the State.

6. The learned Judge ought to have issued notice to the State, so as to enable the State to place before the Court that there is no specific mention of Sy.No.57 of Shamshiguda village in any of the schedules to the preliminary decree and that the final decree could not have been passed when the preliminary decree does not mention the survey number.

7. The learned Judge ought to have issued a notice to the State so as to enable the State to place before the Court that as per the settlement tender revenue records of Kukatpalli the land is recorded as "Poramboke Sarkari" and the land belongs to the State.

8. The learned Judge failed to appreciate that by no issuing notice to the State rights of the State suffered and fraud is played to knock away the valuable Government property.

9. The Application No.839 of 2013 came to be filed on 12.09.2013 and the same was ordered on 19.09.2013, thus demonstrating that the matter concluded without notice being ordered to the State and notice served on the Government Pleader if any does not amount to serve of notice on party as the proceedings are civil in nature.

6. Heard the learned counsel for the parties and perused the material made available on the record.

7. For better appreciation, it is necessary to excerpt the order dated 19.09.2013 passed in Application No.839 of 2013 in C.S. No.7 of 1958 by the learned Single Judge.

> "The Court made the following order:
>
> This is an application filed to pass a final decree in favour of the petitioners 1 and 2 in respect of land measuring Acs.10.00 guntas, in Sy.No.57 of Shamshiguda village, Balanagar Mandal, Ranga Reddy District, on payment of requisite stamp duty and direct the Receiver-cum-Commissioner to deliver the physical possession of the land to the petitioners.
>
> It is stated that already paper publication is ordered in Application No.495 of 2009 and the same was published and filed in the Court. Thereafter, the Commissioner filed his report on 17.07.2009.
>
> The learned counsel for the respondents have no objection in allowing the application since they have entered into a compromise.
>
> Sri M.A. Bari, Learned Senior Counsel, Receiver-cum-Commissioner also submits that he has no objection for passing a final decree.
>
> In view of the averments stated in the affidavit filed in support of the application and since there is no objection from anybody, this application is allowed to the extent of passing final decree only.
>
> Sri M.A. Bari, Senior Counsel, who is Receiver-cum-Commissioner is entitled to receive the remuneration at the rate of 2% on the value of the

property and the petitioners are directed to pay the same at the time of delivery of possession of the property."

8. The aforesaid order was followed by the decree dated 19.09.2013 drafted in Application No.839 of 2013 in C.S. No.7 of 1958, which reads as under:

"1. That the Civil Suit C.S. No.7/1958 is a suit for partition and separate possession respect of the Matruka properties of Late Nawab Moinduddowla Bahadur, forming Paigah Asmajahi. The Hon'ble High Court has passed a preliminary decree in C.S. No.7/1958 on 6-4-1959 by virtue of a compromise, under which the Plaintiff and Defendant No.1 have received the cash, mansions, urban properties and securities, therefore the share of Defendants No.2 to 22 are determined, holding them entitled to receive their shares in all other suit schedule properties including the properties shown in item No.230 to 254 of schedule "A" annexed to the preliminary decree.

2.That the property in Sy.No.57 of Shamsiguda village, Balangar Mandal, R.R. District is part of item No.252 of schedule "A" appended to the preliminary decree, which is the Matruka properties of Moinuddowla Bahadur, wherein the Defendants No.2 to 22 are held entitled to receive the due share in terms of the preliminary decree in C.S No.7/1958. The Chief Commissioner Land Administration, Govt., of A.P., submitted a report to the Government of Andhra Pradesh Revenue Department, A.P. Secretariat vide CCLA LR.No.NA2/206/2009 dated 22-02-2010,

confirming that the land in Sy.No.57 of Shamsiguda village, is a private patta land belonging to Paigah Asmajahi. The said proceedings have become final and therefore the Government of A.P., represented by the Respondents No.176 to 178 is bound by the preliminary decree as well as this final decree.

3. That the Petitioners No.1 to 4 have acquired the property in Sy.No.57 of Shamsiguda village, Balangar Mandal, R.R. District, being part of item No.252 of Schedule "A" appended to the preliminary decree, to an extent of Ac.1—Gts., under two sale deeds both dated 12-03-2004 executed by the Share Holders/Defendants. The Petitioners No.1 to 4 have been brought on record as Defendants, having purchased the property the Petitioners No.1 to 4 are in physical possession of the property measuring Ac.10-00 Gts., out of Sy.No.57 of Shamsiguda village. The Petitioner No.2 to 4 have empowered petitioner No.1 to act as their GPA, and accordingly, permission is granted.

4. That as per the orders of the Hon'ble High Court in Appl.No.495/2009 in C.S. No.7 of 1958, the Receivers-cum-Commissioners have submitted the scheme of partition along with the plan, dividing the property by metes and bounds among the share holders. While preparing the scheme of partition, the Petitioners No.1 to 4 being the alienees pendent lite, have also filed the work memo before the Receivers-cum-Commissioners, requesting them to accommodate the in the scheme of partition, as they are the bona fide purchasers. Accordingly the Receivers-cum-

Commissioners have found the Petitioners No.1 to 4 in physical possession of the property measuring Ac.10-00 Gts., in Sy.No.57 of Shamsiguda Village and have accommodated the Petitioners No.1 to 4 and specifically allotted Ac.10-00 Gts., of land to the Petitioners being the purchasers from the share holders, and shown the same in the plan by metes and bounds.

5. That by virtue of the purchase of the property measuring Ac.10-00 Gts., out of Sy.No.57 of Shamsiguda Village, and the fact of accommodation of the Petitioners under the scheme of partition, entitled the Petitioners to get the present final decree passed in their favour.

6. Therefore this Court do hereby grant the final decree in favour of the Petitioners No.1 to 4 jointly in respect of the land measuring Ac.10-00 Cents., in Sy.No.57 of Shamsiguda village, being the alienees pendent lite, which is shown in the schedule and the plan in red color appended to this final decree. Thus by virtue of this final decree, the Petitioners No.1 to 4 are be and hereby declared as absolute owners of the land measuring Ac.10-00 Cents., in Sy.No.57 of Shamsiguda Village, Balanagar Mandal, R.R. District being part of item No.252 of schedule "A" annexed to the preliminary decree in C.S. No.7/1958, being the alienees pendent lite, more specifically shown in the schedule and the plan in red color annexed to this final decree.

7. That the respondents 172 and 173 herein as purchased extent of Ac.100.00 gts of land in Sy.No.57 of Shamsiguda Village, Under the assignment deed dated: 16.09.2010 the

conveyance deed dated: 03.08.2003 and the registered deed of declaration deed dated 12.08.2011 which is registered on as a document No.293/IV/2011 by the District Registrar, Ranga Reddy District which has given them exclusive right to seek final decree for which the respondents 172 and 173 have filed as separate final decree application and for passing of final decree in favour of the respondents 172 and 173 to the extent of Ac.100.00 gts, the petitioners have no objection.

8. That the Petitioners No.1 to 4 are be and hereby directed to pay the remuneration to the Receivers-cum-Commissioners in respect of the land finally decreed in their favour within two weeks..

That there be no order as to costs.

SCHEDULE OF PROPERTY

All that land measuring Ac.10-00 Gts., in Sy.No.57 of Shamsiguda Village, Balanagar Mandal, R.R. District, being part of item No.252 of schedule "A" annexed to the preliminary decree in C.S. No.7/1958, and morefully described and shown in the schedule and plan in red color annexed hereto and bounded by:-

North : Village boundary of Gajula Ramaram Village.

: land allotted to D-7 & D-8 in Sy.No.57 of Shamsiguda.

South : Land allotted to D-6 in Sy.No.57 of Shamsiguda.

East : Land allotted to D-5 & D-6 in Sy.No.57 of Shamsiguda.

West Land allotted to D-6 & 7 in Sy.No.57 of Shamsiguda."

9. On a perusal of the above, the learned Single Judge in the order dated 19.09.2013, recorded that the respondents had no objection in allowing the application since they have entered into compromise. It is also observed that already paper publication is ordered in Application No.495 of 2009 and the same was published and filed in the Court and thereafter, the Commissioner filed his report on 17.07.2009. It is further recorded that the learned Senior Counsel, Receiver-cum-Commissioner also submits that he has no objection for passing a final decree. Recording the above, the learned Single Judge allowed the application to the extent of passing final decree only.

10. However, in the copy of the final decree, there is no mention or reference about the compromise of the appellants herein, who represents the State. In the decretal copy, it is declared that the respondents herein are the absolute owners of the subject land of Acs.10.00 guntas in Sy.No.57 of Shamshiguda village, Balangar Mandal, R.R. District being part of item No.252 of schedule "A" annexed to the preliminary decree in C.S. No.7 of 1958. It is further recorded that the respondents No.172 and 173, in the decree, have purchased extent of Acs.100.00 guntas in Sy.No.57 of Shamshiguda village, under the assignment deed dated 16.09.2010, the conveyance deed dated 03.08.2003 and the registered deed of declaration deed dated 12.08.2011, which is registered on as a document

No.293/IV/2011 by the District Registrar, Ranga Reddy District which has given them exclusive right to seek final decree for which the respondents 172 and 173, in the decree, have filed separate final decree application and for passing of final decree in favour of the respondents 172 and 173, in the decree, to the extent of Acs.100.00 guntas, the respondents herein have no objection. It is to be noted that in the para 7 of the final decree dated 19.09.2013 drafted in Application No.839 of 2013 in C.S. No.7 of 1958 is not forming part of the order dated 19.09.2013 passed in Application No.839 of 2013 in C.S. No.7 of 1958 by this Court, which has been allowed to the extent of passing final decree only. As such, there is discrepancy in the order and in the decree dated 19.09.2013.

11. At this juncture, it is significant to note that the Division Bench of this Court vide order dated 09.01.2025 closed the C.S. No.7 of 1958 wherein at para No.36 observed as under:

> "36. On a perusal of the paragraph 4(g) of the preliminary decree dated 06.04.1959, it is evident that the defendant Nos.2 to 22 were entitled to the properties mentioned at item Nos.230 to 254 of Schedule 'A' annexed to the preliminary decree, in case the same are restored or released in favour of Asman Jahi Paigah. In the instant case, admittedly, there is no material to indicate that the properties mentioned at serial No.230 to 254 of Schedule 'A' to the preliminary decree have been restored or released in favour of Asman Jahi Paigah. It is pertinent to note that as per para 4(g) of the preliminary decree dated 06.04.1959, the

Commissioners-cum-Receivers have the power to sell the property by way of public auction and exercise all powers necessary for effecting the division of the sale between the defendants No.2 to 12 and 14 to 22. Accordingly, each son would get 2/33 and each daughter would get 1/33 in the properties of Schedule 'A' except items 230 to 254 of the Schedule and items of properties allotted to the plaintiff. The defendant Nos.2 to 22 will get their share, namely, each son getting 2/35 and each daughter getting 1/35 from the arrears of income future income, compensation or commutation or sale proceeds of the items 230 to 254 of Schedule 'A' detailed under the head of "Makthas" in case of the same are restored or released in favour of Paigah Asman Jahi."

12. The subject property under appeal is in respect of Item No.252 (Shamshiguda) of Schedule-A of the suit. The Division Bench of this Court vide order dated 09.01.2025 had closed the C.S. No.7 of 1958 wherein at Para No.40 it was observed that *"As such, the submissions made on behalf of the objectors are unsustainable and in that view of the matter, it can safely be concluded that no lands are available for partition in item Nos.230 to 254 of Schedule 'A' attached to the preliminary decree. In the absence of preliminary decree for item Nos.230 to 254 in Schedule 'A', no final decree could have been passed. Therefore, reports filed earlier are without proper verification, are fictitious and the same are treated as nullity and are hereby rejected."*

13. It is to be noted that the C.S. No.7 of 1958 was closed with specific observation that no lands are available for partition in Item No.252 Schedule-A and the subject land i.e. admeasuring Acs.10.00 guntas in Sy.No.57 of Shamshiguda village of Schedule 'A' of the suit Balangar Mandal, Ranga Reddy District.

14. In view of the above discrepancies found in the order and the decree dated 19.09.2013 and also taking into consideration the specific observations made in C.S. No.7 of 1958 that no lands are available for partition in Item Nos.230 to 254 of Schedule "A" attached to the preliminary decree and in the absence of preliminary decree for item Nos.230 to 254 in Schedule "A", no final decree could have been passed, impugned order and decree dated 19.09.2013 passed in Application No.839 of 2013 in C.S. No.7 of 1958 are hereby set aside.

15. Accordingly, this OSA. No.5 of 2017 in Application No.839 of 2013 in C.S. No.7 of 1958 is allowed. However, it is made clear that this Court has not expressed any opinion on the title or otherwise of the appellants herein. There shall be no order as to costs.

As a sequel, miscellaneous applications, if any pending, shall stand closed.

SD/-K. SRINIVASA RAO
JOINT REGISTRAR

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SECTION OFFICER

To,

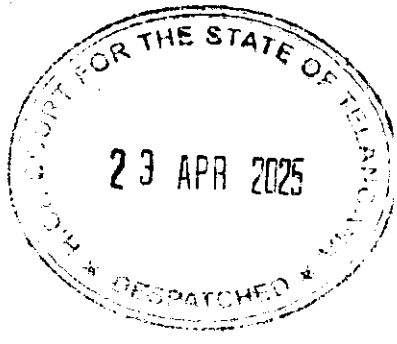
1. Two CCs to the Additional Advocate General, High Court for the State of Telangana at Hyderabad.
2. The S.O. O.S. Section, High Court for the State of Telangana at Hyderabad.

3. M/s. M.A.Bari and B. Shyam Sunder Rao, Advocates,Receiver-cum-Commissioners in C.S. No. 7 of 1958 , Office at H.No. 11-3-627, Mosque Road, New Mallepally, Hyderabad.
4. One CC to SRI N M KRISHNAIAH Advocate [OPUC]
5. Two CD Copies

kul/gh

HIGH COURT

DATED:21/02/2025



JUDGMENT

O.S.A. NO. 5 OF 2017 IN APPLICATION NO. 839 OF 2013 IN C.S. NO. 7 OF 1958

Allowing the Original Side Appeal without costs

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