

Andhra Pradesh High Court - Amravati**B Savitri vs The Ap Cooperative Tribunal on 4 September, 2025****Author: K.Sreenivasa Reddy****Bench: K.Sreenivasa Reddy**

APHC010085732025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3327]

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF SEPTEMBER

TWO

THOUSAND AND TWENTY FIVE

PRESENT

THE

HONOURABLE SRI JUSTICE K SREENIVASA REDDY

WRIT

PETITION NO: 4437/2025 Between: 1. B SAVITRI, W/O LATE B. SIVA PRASAD REDDY, AGED ABOUT 54 YEARS, OCC HOUSEWIFE, R/O PARASANNAYAPALLE VILLAGE, RAPTHADU MANDAL, ANANTHAPURAMU DISTRICT. 2. B. VENKATA RAMANA REDDY,, S/O LATE B. SIVA PRASAD REDDY, AGED ABOUT 29 YEARS, OCC EMPLOYEE, R/O PARASANNAYAPALLE VILLAGE, RAPTHADU MANDAL, ANANTHAPURAMU DISTRICT.

...PETITIONER(S)

AND 1. THE AP COOPERATIVE TRIBUNAL, VIJAYAWADA, BESANT RD, GOVERNOR PETA, VIJAYAWADA, ANDHRA PRADESH 520002 REPRESENTED BY ITS CHAIRMAN. 2. KURUBA CHANDRAYUDU, (DIED) 3. KURUBA NARAYANAMMA, W/O KURUBA CHENDRAYUDU (DIED), AGED ABOUT 75 YEARS, R/O 13-440, ANANTHA SAGAR COLONY, BUKKARAYASAMUDRAM, ANANTAPUR. 4. GIRAKA SRIRAMULU, S/O GIRAKA CHANDRAYUDU, AGED ABOUT 49 YEARS, R/O D.NO. 28-3-840-A, NETAJI NAGAR, ANANTAPUR. 5. GUNJARA LAKSHMIDEVI, W/O KULLAYAPPA, AGED ABOUT 47 YEARS, R/O D.NO. 20-894-A, YADAVA DEEDHI, DHARMAVARAM, ANANTAPUR. 6. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES AND REGISTRAR OF DISTRICT, ANANTAPUR DISTRICT 2 COOPERATIVE CENTRAL BANK LIMITED, ANANTAPUR. 7. THE PRESIDENT, RAPTHADU PRIMARY AGRICULTURAL CREDIT SOCIETY, RUDRAMPETA, ANANTAPUR

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased toPleased to issue writ, order, or direction, more particularly one in the nature of Prohibition by declaring that the proceedings in O.A. No. 45 of 2024 on the file of the Andhra Pradesh Cooperative Tribunal, Vijayawada, as without jurisdiction and ultravires the provisions of Andhra Pradesh Cooperative Societies Act, 1964 and to pass IA NO: 1 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 pleased to grant stay of all further proceedings in O.A. No. 45 of 2024 pending before the Andhra Pradesh Cooperative Tribunal, Vijayawada pending disposal of the above writ petition and to pass IA NO: 2 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 may be pleased to DISMISS the Writ Petition in W.P.No.4437 of 2025 by vacating the Orders dated 19.02.2025 passed in I.A.No.1 of 2025 in W.P.No.4437 of 2025 in the interest of justice Counsel for the Petitioner(S): 1. N SIVA REDDY Counsel for the Respondent(S): 1. 2. PHANI BABU YALAMANCHILI 3. GP FOR COOPERATION The Court made the following:
3 THE HONOURABLE SRI JUSTICE
K.SREENIVASA REDDY WRIT PETITION No.4437 OF 2025 ORDER:

The present Writ Petition is filed seeking the following relief :

"...declaring that the proceedings in O.A.No.45 of 2024 on the file of the Andhra Pradesh Co-operative Tribunal, Vijayawada as without jurisdiction and ultra vires the provisions of the Andhra Pradesh Co-operative Societies Act, 1964."

2. (a) It is the case of the petitioners that land admeasuring Ac.4.95 cents situated in survey No.147-3 of Rapthadu village, Anantapuram district (hereinafter referred to, as „the subject property“) was owned by deceased 2nd respondent. He mortgaged the said property in favour of Anantapur District Co-operative Central Bank and obtained loan. He committed default in repayment of the loan and hence, to recover the same, the Bank conducted a public auction on 26.04.1996 wherein one late B.Siva Prasad Reddy, who is husband of 1st petitioner and father of 2nd petitioner, purchased the said property. The sale was confirmed by the Bank on 22.06.1996 and a Sale Certificate was issued in favour of the purchaser on 04.07.1996 in E.P.No.1538/95-96, coupled with delivery of vacant possession of the property. Thereafter, recognising his title and possession, revenue authorities issued pattadar pass book and title deed in his favour, and he had been in peaceful possession and enjoyment of the property. When the Government wanted to take the said land for construction of a model school without following due procedure, he filed W.P.No.4401 of 2012 before this Court, wherein this Court directed stay of dispossession except in accordance with law. He also filed W.P.No.11236 of 2012 before this Court wherein this Court observed that Section 22-A of the Registration Act does not apply to lands purchased from Co- operative Central Banks. He also filed W.P.No.16169 of 2013 before this Court when the revenue authorities passed orders removing his name from records and the unofficial respondents are parties to the said Writ Petition, and on 14.12.2015, deceased 2nd respondent- K.Chandrayudu, husband of 2nd respondent and father of respondents 3 and 4, filed counter affidavit, wherein he denied his assertion about his purchase of the subject property in auction from the Bank, etc.

(b) It is the further case of the petitioners that in the aforesaid background, the unofficial respondents approached 1st respondent-Tribunal by way of an application vide O.A.(SR) No.34 of 2019, seeking to set aside the Sale Certificate dated 04.07.1996, issued in favour of late B.Siva Prasad Reddy, with a petition vide M.A.No.84 of 2019, to condone delay of 22 years and 7 months (8270 days) in filing the said application, stating that the deceased 2nd respondent-K.Chandrayudu became aware of the alleged auction only three months prior to the filing of the application before the Tribunal, and 1st respondent- Tribunal vide Order dated 23.10.2024 in M.A.No.84 of 2019, condoned the said abnormal unexplained delay, and numbered the application as O.A.No.45 of 2024.

(c) It is the further case of the petitioners that the said late B.Siva Prasad Reddy executed third party transactions in respect of the subject property and numerous registered transactions were executed as long back as in 1997 selling various extents of

lands to third parties, who are in possession of their respective extents; that there is no „sufficient cause“ made out by the unofficial respondents for condoning such unexplained abnormal delay of 22 years and 7 months (8270 days), and since the date of purchase in the Bank auction 1996, the petitioners are forced to struggle endlessly to protect the said land, and the said B.Siva Prasad Reddy was brutally murdered in the office of the Tahsildar, Rapthadu while fighting for justice. It is their further case that the deceased 2nd respondent was well of the sale of the subject property in Bank auction, and even otherwise, he was aware of the claim of the petitioners in the year 2015 when he filed counter affidavit in W.P.No.16169 of 2013 before this Court on 14.12.2015, wherein he admitted that he had taken loan from the Bank, but denied our case of purchase from the Bank, but he had not taken any steps to challenge the same even thereafter till the year 2019 on 15.3.2019, on which date the subject application was filed in 1st respondent-Tribunal. It is the further case of the petitioners that when third party rights and registered documents are involved, 1st respondent-Tribunal has no jurisdiction and the aggrieved parties have to approach competent civil court for redressal. Hence, the Writ Petition.

3. (a) Respondents 2 to 5 filed detailed counter affidavit denying the material averments in the affidavit filed in support of the Writ Petition and stating inter alia that 2nd respondent died on 16.8.2020 and thereafter respondents 3 to 5 came on record as his legal representatives in the O.A. before the Tribunal, by filing various interlocutory applications, which were allowed. After condoning the delay and numbering the application, 1st respondent-Tribunal proceeded with the case and P.W.1 was examined and 37 documents were got marked, and evidence on behalf of the applicants therein was closed on 10.02.2025, and the matter was posted to 17.02.2025 for hearing the petitioners herein.

(b) It is further stated that in W.P.No.16169 of 2013, the respondents 3 to 5 came on record vide order in I.A.No.1 of 2021, and the said Writ Petition is partially allowed by this Court vide Order dated 2.12.2022. It is stated that the deceased 2nd respondent was an illiterate and did not inform about the details of the cases to respondents 3 to 5, and after his death, the respondents 3 to 5 came to know that the said late B.Siva Prasad Reddy, in collusion with respondents 6 and 7 herein, created fake document viz. Form-10 as if he purchased the subject property in the alleged open auction conducted by respondent No.6 Bank on 22.06.1996, but no such auction was held as per the provisions of the A.P. Co-operative Societies Act, 1964, and when the answering respondents made application on 24.12.2021 seeking for a certified copy of the said Form-10, respondent No.6 Bank replied that the related file was not available with them. Further, in the counter filed by respondent No.6 Bank in M.P.No.84 of 2019 before the Tribunal, stated that the original E.P. file was not available in their office and hence he was unable to produce the same before the Tribunal.

(c) It is further stated that as per the said Form-10, the said B.Siva Prasad Reddy purchased the subject property for Rs.33,000/-, but as per the Valuation Certificate issued by the Sub Registrar concerned, the market value of the subject property in 1996 was Rs.49,005/-. It is further stated that 2nd respondent did not commit any default in repayment of the instalments regarding the loan availed by him and discharged the entire loan, and that 7th respondent-society never referred the previous loan Account No.3 to either the Deputy Registrar or the Officer on Special Duty or to any Official of 6th respondent Bank for initiating recovery proceedings, as such, the question of recovery proceedings vide E.P.No.1538/95-96 does not arise. No demand notice was served on deceased 2nd respondent before initiation of the alleged recovery proceedings. It is further stated that deceased 2nd respondent availed a loan of Rs.99,000/- by mortgaging the subject property on 08.11.2017, and a Certificate to that effect was

issued by 7th respondent-Society on 14.6.2023, and the respondents 3 to 5 have been paying the instalments.

(d) It is further stated that on coming to know about the fraud played by the said late B.Siva Prasad Reddy, in collusion with respondents 6 and 7 herein, a private complaint was filed before the Judicial Magistrate of First Class, Anantapur, pursuant to which a case in crime No.9 of 2024 of Rappthadu p.s. was registered.

(e) It is further stated that either deceased 2nd respondent or the respondents 3 to 5 are aware of the subject Sale Certificate issued in favour of late B.Siva Prasad Reddy in respect of the subject property, and deceased 2nd respondent came to know about the fraud played by said late B.Siva Prasad Reddy in collusion with respondents 6 and 7, only three months prior to filing of the subject O.A. before 1st respondent-Tribunal.

(f) It is stated that the said late B.Siva Prasad Reddy worked as Single Window President of respondent No.7-society in the year 1996, and he, with mala fide intention, to grab the subject property, manipulated, forged and created the alleged proceedings of the Special Officer of respondent No.6 and dated 22.06.1996 and the Sale Certificate dated 04.07.1996, and pressed the same into service to obtain pattadar pass book and title deed. Deceased 2nd respondent, being illiterate, was not aware of the said misdeeds. Revenue authorities again mutated name of deceased respondent No.2 in revenue records as he was in physical possession and enjoyment of the same, and respondents 3 to 5 were under the impression that the subject property is in the name of deceased respondent No.2 in revenue records till 2019. The said late B.Siva Prasad Reddy, in collusion with respondents 6 and 7 herein, committed serious material irregularities which caused substantial injury and loss to respondents 2 to 5. Deceased respondent No.2, on coming to know of the said fraudulent auction sale of the subject property, approached respondents 6 and 7 in the month of December, 2018 and requested for copies of the proceedings of the said auction sale, but they gave only certified copy of impugned Sale Certificate alleged to have been prepared in favour of late B.Siva Prasad Reddy in respect of the subject property. Respondents 2 to 5 alone are in possession and enjoyment of the subject property and no third party is in possession of the same. As the proceedings before 1st respondent-Tribunal arose in consequence of the Sale Confirmation Order in E.P.No.1538/95-96, dated 22.06.1996 under the A.P. Co-operative Societies Act, 1964, 1st respondent- Tribunal has jurisdiction to entertain the application. Considering the facts and circumstances of the case, 1st respondent-Tribunal rightly condoned the delay in filing the O.A. and there are no grounds to interfere with the same. Hence, it is prayed to dismiss the Writ Petition.

4. Heard the learned counsel for the petitioners and the learned counsel for respondents 3 to 5. Perused the material on record.

5. Learned counsel for the petitioners submits that late B.Siva Sankar Reddy purchased the subject property, which was mortgaged by deceased 2nd respondent, who is owner of the subject property, in an auction conducted by the Bank on 26.04.1996 and the sale was confirmed on 22.06.1996 and a Sale Certificate dated 04.07.1996 was issued in his favour and vacant possession of the subject property was handed over to him, and ever since the date of purchase, he had been in possession and enjoyment of the same, and the deceased 2nd respondent was aware of the proceedings.

He further submits that late B.Siva Prasad Reddy filed several cases, including W.P.No.16169 of 2013 before this Court, wherein deceased 2nd respondent was a party and he filed counter affidavit deposed by him on 14.12.2015, wherein in paragraph No.3, he categorically denied the allegation in the writ affidavit with regard to purchase of the subject property by late B.Siva Prasad Reddy, issuance of the sale certificate in

his favour and his possession and enjoyment over the subject property; hence, the deceased 2nd respondent had knowledge about claim of late B.Siva Prasad Reddy over the subject property basing on the Sale Certificate, dated 04.07.1996, as on 14.12.2015. He submits that as an after-thought and in order to have unlawful gain, the deceased 2nd respondent challenged the Sale Certificate dated 04.07.1996 by way of filing O.A. (SR) No.34 of 2019 before 1st respondent-Tribunal, with an application M.P.No.84 of 2019 to condone delay of 22 years and 7 months (8270 days); that under Section 76 (3) of the Andhra Pradesh Co-operative Societies Act, 1964, there must be „sufficient cause“ to condone the delay in preferring the application; that there is no cause, much less „sufficient cause“ shown by deceased 2nd respondent to condone the said inordinate and abnormal delay; that 1st respondent-Tribunal, without considering the said aspect, by discussing the merits of the case, erroneously condoned the delay; that the petitioners, having purchased the subject property in Bank auction by paying sale consideration and obtained Sale Certificate issued by the Deputy Registrar/Office on Special Duty, Anantapur District Co-operative Central Bank Limited, Anantapur, are forced to face the litigations one after the other, and though about 29 years“ has lapsed, the same has not yet attained finality.

The learned counsel further submits that after purchase, the subject property was sold to several third parties under registered transactions and third party interest has been created in the subject property, and in such a case, 1st respondent-Tribunal has no jurisdiction to entertain the O.A. and the aggrieved parties have to approach competent civil court for redressal. Hence, he prays to set aside the Order dated 23.10.2024 in M.P.No.84 of 2019 in O.A.(SR) No.34 of 2019 passed by 1st respondent-Tribunal, by declaring that the said proceedings are without jurisdiction and ultra vires the provisions of the A.P. Co-operative Societies Act, 1964.

6. On the other hand, learned counsel for respondents 3 to 5 submits that late B.Siva Prasad Reddy, who worked as Single Window President of respondent No.7, in collusion with respondents 6 and 7, played fraud and created fake and fabricated Sale Certificate dated 04.07.1996, in order to grab the subject property; that there is no file relating to E.P.No.1538/95-96 with respondent No.6 Bank; that the alleged loan taken by deceased 2nd respondent was totally repaid by him; that respondents 2 to 5 are in possession and enjoyment of the subject property and there are no sales to third parties, as stated by the petitioners, and hence, 1st respondent-Tribunal has jurisdiction to entertain the O.A.; that the deceased 2nd respondent, who is an illiterate, came to know about the fraud played, just about three months prior to filing of the subject O.A. before 1st respondent-Tribunal, and considering these aspects and considering the fraud played by the petitioners, 1st respondent-Tribunal rightly condoned the delay, and proceeded with the O.A. proceedings thereafter, and there are no grounds to interfere with the same. Hence, he prayed to dismiss the Writ Petition.

7. Now, the point that arises for determination is whether respondents 2 to 5 made out sufficient cause to condone delay of 22 years and 7 months (8270 days) in filing the application vide O.A.(SR) No.34 of 2019, seeking to set aside the Sale Certificate dated 04.07.1996, and whether the Order passed by 1st respondent-Tribunal, dated 23.10.2024 in M.P.No.84 of 2019 in O.A.(SR) No.34 of 2019 warrants any interference by this Court?

8. The deceased 2nd respondent filed appeal by way of the subject O.A. before 1st respondent-Tribunal challenging the Sale Confirmation Order passed in E.P.No.1538/95-96, dated 22.06.1996 on the file of the Deputy Registrar/Office on Special Duty, Anantapur District Co-operative Central Bank Limited, Anantapur. The said Appeal is filed under Section 76 (1) of the Andhra Pradesh Co-operative Societies Act, 1964 (for short, „the Act, 1964“). Section 76 (1) of the Act, 1964 reads thus:

"(1) Any person or society aggrieved by any decision passed or order made under Section 6, Section 9A, Section 9B, Section 9C, Section 12A, Section 13, Section 16, Section 17, Section 19, Section 21, Section 21A, Section 21AA, Section 23, sub-section (3) of Section 32, Section 34, Section 34A, Section 60, Section 62, Section 64, Section 66, Section 70, Section 71, Section 73 and Section 117 may appeal to the Tribunal :

Provided that nothing in this sub-section shall apply to any order of withdrawal or transfer of a dispute under sub-section (3) of Section 62."

Section 76 (3) of the Act, 1964 reads thus:

"Any appeal under sub-section (1) shall, subject to the other provisions of this Act, be preferred within sixty days from the date of communication to the appellant of the decision, refusal or order complained of but the Tribunal may admit an appeal preferred after the said period of sixty days, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within the said period."

Under the aforesaid provision, the limitation period for filing an Appeal under Section 76 (1) of the Act, 1964 is sixty days from the date of communication to the appellant of the decision, refusal or order complained of. The said provision makes it clear that the Tribunal may admit an appeal preferred after the said period of sixty days, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within the said period. Under Section 76 (3) of the Act, 1964, there must be „sufficient cause“ for not preferring the appeal within the period prescribed therein. The word „sufficient cause“ means a cause which is beyond the control of the party invoking the aid of the said Section.

9. In the case on hand, the deceased 2nd respondent preferred the appeal by way of the subject O.A. before 1st respondent-Tribunal challenging the Sale Confirmation Order passed in E.P.No.1538/95-96, dated 22.06.1996 on the file of the Deputy Registrar/Office on Special Duty, Anantapur District Co-operative Central Bank Limited, Anantapur in favour of late B.Siva Prasad Reddy. There is a delay of 22 years and 7 months (8270 days) in filing the said O.A. To condone the same, he preferred M.P.No.84 of 2019 in the said O.A. under Section 76 (3) of the Act, 1964. During pendency of the said proceedings, the deceased 2nd respondent, who is appellant in the O.A., died and respondents 3 to 5 came on record in the O.A., as his legal representatives. The reason assigned for the delay is that deceased 2nd respondent was not aware of the sale proceedings conducted by the Bank and came to know about the alleged sale, only about three months prior to filing the appeal. According to the deceased 2nd respondent, he discharged the entire loan taken on previous occasion and there was no default, and that the file relating to E.P.No.1538/95-96 is forged and fabricated one. It is the case of deceased 2nd respondent that the said late B.Siva Prasad Reddy worked as Single Window President of respondent No.7-society in the year 1996, and he, with mala fide intention, to grab the subject property, manipulated, forged and created the alleged proceedings of the Special Officer of respondent No.6 Bank dated 22.06.1996 and the Sale Certificate dated 04.07.1996, in collusion with respondents 6 and 7, and pressed the same into service to obtain pattadar pass book and title deed, and the deceased 2nd respondent, being illiterate, was not aware of the said misdeeds.

10. On the other hand, it is the case of the writ petitioners, who are wife and son of late B.Siva Prasad Reddy, that the subject property was purchased by late B.Siva Prasad Reddy in a Bank Auction on 26.04.1996, and the sale was confirmed by the Bank on

22.06.1996 and Sale Certificate dated 04.07.1996 was issued in his favour by the Deputy Registrar/Office on Special Duty, Anantapur District Co-operative Central Bank Limited, Anantapur. It is their further case that the deceased 2nd respondent, having allowed the bank to auction the subject property in view of his failure to pay the loan amount, wherein, late B.Siva Prasad Reddy became the highest bidder, was creating several hurdles to the auction purchaser in enjoying the property in view of rise in prices, and that he was well-aware of the issuance of subject Sale Certificate, dated 04.07.1996, and that there is no fraud or fabrication of document, as the subject Sale Certificate is available in the records of the Bank, and that in view of lapse of long time, the records in subject E.P. are not available in the Bank records.

11. At this juncture, it is pertinent to refer to the counter affidavit filed by 1st respondent in the O.A.(SR)-Deputy Registrar/Officer on Special Duty, Anantapur District Co-operative Central Bank Limited, Anantapuram before the Tribunal, from which it is clear that deceased 2nd respondent herein availed loan from 7th respondent society, and as he defaulted in repayment of the loan, E.P. No.1538/95-96 was filed for realisation of the overdue amount, and the E.P. was executed duly following the procedure prescribed under the Act, 1964, sale was conducted on 26.04.1996, which was knocked down in favour of late B.Siva Prasad Reddy, and a sale certificate in Form No.10 dated 04.07.1996 was issued in his favour. According to the averments in the said counter affidavit, since 23 years has elapsed, the original E.P. file is not available in the office. Even as per the counter affidavit filed by respondents 3 to 5, the respondents 6 and 7 gave certified copy of Sale Certificate to the deceased 2nd respondent. From the aforesaid, it is clear that the Sale Certificate in Form No.10, dated 04.07.1996 is available and it forms part of the records of the Bank.

12. Coming to the reason assigned by the deceased 2nd respondent for the delay of 22 years and 7 months (8270 days) in preferring the appeal by way of subject O.A before 1st respondent-Tribunal challenging the Sale Certificate in Form No.10, dated 04.07.1996, it is his case that he came to know about the said Certificate just before three months prior to filing of the said O.A. A perusal of the record goes to show that late B.Siva Prasad Reddy, after purchasing the subject property in the bank auction, initiated several proceedings before this Court as well as authorities, and in one of such proceedings bearing W.P.No.16169 of 2013 filed by him, the deceased 2nd respondent-late K.Chendrayudu was arrayed as respondent No.4. In the said Writ Petition, the deceased 2nd respondent (respondent No.4 in the said Writ Petition) filed counter-affidavit, wherein, in paragraph No.3, he categorically denied the averment made in the writ affidavit in the said Writ Petition that when he failed to pay the loan, the P.A.C.S., Raptadu, after following procedure, auctioned the said land and the petitioner (late B.Siva Prasad Reddy), being the highest bidder, purchased the same for valid consideration and that the society issued a Sale Certificate and thereupon, the possession of the said land was also delivered to the petitioner (late B.Siva Prasad Reddy) and that the petitioner (late B.Siva Prasad Reddy) has been in continuous possession and enjoyment of the same till date. It is further stated in the said counter-affidavit by the deceased 2nd respondent that the society never issued any demand notice to him in respect of the said land and the society failed to bring the fact about the auction of the said property and that the Officials of the society never approached the land prior to the alleged sale and after the said sale. In the said counter-affidavit the deceased 2nd respondent (respondent No.4 in the said Writ Petition) also denied the averments in the Writ-affidavit about the various proceedings initiated by late B.Siva Prasad Reddy before the various revenue authorities for mutation, NOC etc. Further, he admitted in the said counter-affidavit that he availed loan from 7th respondent-Society in the year 1990 by mortgaging the subject property, and he paid some instalments of the loan and thereafter, due to failure of crops, he failed to pay some instalments. However, he took a plea that thereafter, the society never demanded the balance

amount and he came to know that the remaining loan was waived off, due to failure of crops. For the purpose of clarity, paragraphs 3 and 4 of the said counter-affidavit are extracted hereunder:

"3. I submit that in reply to Para 3 of the affidavit, it is true that the revenue authorities assigned the land admeasuring Ac.4.95 cents in Survey No.147-3 of Raptadu Village in my favour vide Patta in DA No.59/97, dated 23.01.1988. I submit that thereafter, I have been in possession and enjoyment of the said property till today. The Revenue authorities also issued Pattadar Pass Book and Title Deed bearing Patta No.167 in my favour in respect of the said land. It is true that I have taken loan from the Primary Agricultural Co-Operative Society, Raptadu in the year 1990 against the Hypothecation of the said land. I submit that thereafter I have paid some instalments to the aid society. Thereafter due to failure of crops, I failed to pay some instalments and thereafter, the Officials of the society never demanded the balance amount and I came to know through the Secretary of the society that the remaining loan had been waived off due to failure of crops in the area. I submit that as an illiterate farmer, I believed the same and I did not approach the Society. The allegation that when I failed to pay the loan, the PACS, Raptadu, after following procedure auctioned the said land and the petitioner being the highest bidder purchased the same for valid sale consideration and that the Society issued a sale certificate and thereupon the possession of the aid land was also delivered to the petitioner and that the petitioner has been in continuous possession and enjoyment of the same till date is out and out false and is hereby denied and the petitioner is put to strict proof of the same. I submit that in fact, when the Patta was granted in my favour, I took possession of the land and have been cultivating the same and eking out my livelihood through the crops derived from the said land. I submit that the Society never issued any demand notice to me in respect of the said land and also the Society failed to bring the fact about the auction of the said property. I submit that the officials of the Society never approached the land prior to the alleged sale or after the said sale. I submit that the claim that the possession was delivered by the Society in favour of the petitioner is out and out false and the petitioner never interfered in the said land and I am in continuous possession of the same.

4. I submit that in reply to Para 4 of the affidavit, the allegation that immediately after purchase of the land the petitioner made an application to the revenue authorities for mutation of his name in the revenue records and that the revenue authorities after conducting detailed enquiry issued a Pattadar Pass Book and Title Deed in favour of the petitioner is hereby denied and the petitioner is put to strict proof of the same. I submit that I am the existing Patta holder and I am in possession of the said land. I submit that when the Revenue authorities tried to transfer the Patta in favour of Third Parties, they would have issued notice to me under the A.P. Rights in Land and Pattadar Pass Book Act, 1971 but they never issued any such notice to me to transfer the Patta in favour of the petitioner. The allegation that after purchase the petitioner converted the land into plots and that certain plots were sold to Third parties is hereby denied. I submit that the petitioner never converted the land into house site plots and no authority issued such conversion proceedings or layout proceedings against the said land. The contention of the petitioner is utterly false as I am in possession of the said land since 1988 till date. The allegation that I have not filed any appeal or revision against the sale or with regard to Pattadar Pass Book issued in favour of the petitioner is hereby denied; the same does not arise as there was no notice to me and I had no knowledge about the alleged sale and issuance of the Pattadar Pass Book and Title Deed in favour of the petitioner. I submit that I have no knowledge about the

application made by the petitioner to the Mandal Revenue Officer, Raptadu Mandal, for „No Objection Certificate“. I submit that the alleged procedures, i.e. sale, mutation, and NOC were completed behind my back and I had no knowledge about the same."

A perusal of the said counter-affidavit makes it clear that the deceased 2nd respondent sworn to the said counter-affidavit on 14th day of December, 2015. From the aforesaid recitals of the counter-affidavit, it is clear that the factum of issuance of the subject Sale Certificate, dated 04.07.1996 in favour of late B.Siva Prasad Reddy and also about the various judicial and quasi judicial proceedings initiated by him before various authorities in respect of the subject property, pursuant to the said Sale Certificate, dated 04.07.1996, was well within the knowledge of deceased 2nd respondent, at least, by the date of filing the said counter-affidavit on 14.12.2015. Therefore, the deceased 2nd respondent, having allowed the bank to auction the subject property, for his failure to pay the balance loan amount, and being well-aware of the various proceedings initiated by the auction-purchaser late B.Siva Prasad Reddy, was not vigilant in taking steps by approaching the appropriate Forum, challenging the Sale Certificate, dated 04.07.1996 within reasonable time, and there are laches on his part. There cannot be any dispute about the proposition of law that while considering the applications for condonation of delay, a liberal approach has to be adopted by the Courts. However, in the case on hand, after 22 years and 7 months (8270 days), the subject O.A. was filed challenging the Sale Certificate issued in the year 1996 in favour of late B.Siva Prasad Reddy. Except mere a stray sentence that deceased 2nd respondent came to know about the said Sale Certificate just three months prior to filing of the O.A., there is no satisfactory explanation offered, or sufficient cause has been shown, by him for the inordinate delay. Furthermore, as discussed supra, the deceased 2nd respondent was well-aware of the various proceedings initiated by late B.Siva Prasad Reddy before the judicial and quasi judicial authorities in respect of the subject property pursuant to the subject Sale Certificate, dated 04.07.1996. The deceased 2nd respondent was actively participating in various proceedings initiated by late B.Siva Prasad Reddy in respect of the subject property basing on the subject Sale Certificate. Therefore, this Court is of the opinion that respondents 2 to 5 failed to show any cause, much less sufficient cause for condonation of the abnormal delay.

13. Further more, it is the specific case of the Writ Petitioners that, late B.Siva Prasad Reddy, after purchase of the subject property in bank auction, entered into several registered transactions with third-parties in respect of various extents of land, which are part and parcel of the subject property, and the third-party purchasers are in possession and enjoyment of the respective extents of land, and that in view of the involvement of third-party interest, 1st respondent-Tribunal has no jurisdiction to entertain the subject O.A. and the aggrieved parties have to approach the competent Civil Court. To substantiate his contention, petitioners filed copy of Encumbrance Certificate. There cannot be any dispute about the proposition of law that a registered transaction acts on the constructive notice. In support of his contention learned counsel for the petitioners relied on a Judgment of a Division Bench of this Court in M.Venkataramana and Ors. v. the Andhra Pradesh Cooperative Tribunal an Ors.1, wherein the relevant paragraph Nos.51, 52 and 53 read thus:

"51. As rightly contended by the learned counsel for the petitioners that the genuineness or otherwise of the sale deeds, the identity and nature of the land in dispute, whether the alienations are liable to be set aside and the sale deeds are MANU/AP/1164/2010.

liable for cancellation, and whether the constructions made by the petitioners on the disputed land are liable to be demolished or not, are all matters, which are outside the scope of Section 61 of the Act, as they do not relate to „business of the society“, which can be referred to and adjudicated upon by the Arbitrator. When once, the sale deeds are executed to and adjudicated upon by the Arbitrator. When once, the sale deeds are executed and registered, title in the property covered by the sale deeds gets legally transferred in favour of the vendees and even the vendor cannot unilaterally cancel the same. In case the transaction is found to be illegal and beyond the authority of the society, necessary recourse has to be taken to the provisions of the Specific Relief Act, which provides for cancellation of documents and decrees.

52. Having regard to the facts and circumstances of the case, by passing the impugned award, the 2nd respondent-Arbitrator appears to have decided the dispute usurping the jurisdiction of the civil Court. The impugned award passed by the 2nd respondent, as confirmed by the first respondent-Tribunal, therefore, suffers from lack of inherent jurisdiction to entertain or adjudicate upon the dispute, which is found to be not a dispute, touching the business of the society.

53. In the circumstances and for the reasons stated above, the impugned award of the 2nd respondent-Arbitrator, as confirmed by the first respondent-Tribunal, is held vitiated for want of jurisdiction to entertain or adjudicate upon the dispute referred and hence, the same is liable to be set aside and accordingly, it is set aside."

He also relied upon an Order passed by another Division Bench² of this Court dated 14.10.2024 in Writ Appeal No.277 of 2023 and decision of a learned single Judge of this Court in M.Lakshmi Narayana and Ors. v. the Andhra Pradesh Cooperative Tribunal, Vijayawada and Ors.³, wherein the decision in M.Venkata Ramana and Ors. (1 supra) was followed. From the aforesaid decisions, it is clear that the disputed questions like genuineness or otherwise of the sale deeds, the identity and nature of the land in dispute, whether the alienations are liable to be set aside and the sale deeds are liable for cancellation etc., are all matters which are outside the scope of adjudication before 1st respondent-Tribunal, and the aggrieved party has to approach competent Civil Court for redressal of the said remedies. On this ground also, the subject O.A. is not maintainable, when it is the specific case of the writ petitioners that late B.Siva Prasad Reddy executed various registered transactions in favour of third-parties in respect of various extents of land covered by the schedule property and the purchasers are in possession of the respective extents of the land purchased by them and when the said averment is denied Order, dated 14.10.2024 in Writ Appeal No.277 of 2023 MANU/AP/2193/2022.

by the respondents 2 to 5, by claiming that they are in possession of the said property. These disputed questions of fact are outside the scope and jurisdiction of 1st respondent- Tribunal.

14. As regards the parameters for issuance of a writ of prohibition, learned counsel for respondents 2 to 5 relied upon a decision of a Division Bench of this Court in Allauddin Charities and Ors. v. Hameed Ali and Ors.⁴. The relevant paragraph No.29 reads thus:

"29. A writ of prohibition can be issued only when three conditions are satisfied, namely, 1) that the authority against whom it is sought is about to exercise judicial or quasi judicial power, 2) that the exercise of such power is unauthorised by law and 3) that it will result in injury for which no other adequate remedy exists. It is

provided for an extraordinary remedy and can be issued only in cases of extreme necessity. Before such writ is issued, the Court must arrive at a finding that the party aggrieved had applied in vain to the inferior Tribunal for relief. It is also trite that a writ of prohibition is not to be claimed as a matter of right but the same is granted to do justice and the same must be based on sound judicial discretion depending upon the facts and circumstances of each case. In U.P. SALES TAX SERVICE ASSOCIATION v. TAXATION BAR ASSOCIATION, the Apex Court observed that a writ or order of prohibition cannot be issued prohibiting a quasi-judicial or statutory authority from discharging its statutory functions or transferring those functions to another jurisdiction. Exercise of MANU/AP/0745/2001 = 2002 (1) ALD 67.

such power, the Supreme Court held, generates its rippling effect on the subordinate judiciary and statutory functionaries.

On this aspect, he also relied upon a decision of the Hon"ble Apex Court in Govinda Menon v. Union of India (UOI) 5. The relevant paragraph No.4 reads thus:

"The jurisdiction for grant of a writ of prohibition is primarily supervisory and the object of that writ is to restrain courts or inferior tribunals from exercising a jurisdiction which they do not possess at all or else to prevent them from exceeding the limits of their jurisdiction. In other words, the object is to confine courts or tribunals of inferior or limited jurisdiction within their bounds. It is well-settled that the writ of prohibition lies not only for excess of jurisdiction or for absence of jurisdiction but the writ also lies in a case of departure from the rules of natural justice (See Halsbury's Laws of England, 3rd Edn., Vol. II, p.

114). It was held for instance by the Court of Appeal in The King v. North 1927 (1) K.B.491 that as the order of the judge of the consistory court of July 24, 1925 was made without giving the vicar an opportunity of being heard in his defence, the order was made in violation of the principles of natural justice and was therefore an order made without jurisdiction and the writ of prohibition ought to issue. But the writ does not lie to correct the course, practice or procedure of an inferior tribunal, or a wrong decision on the merits of the proceedings. It is also well-

established that a writ of prohibition cannot be issued to a court or an inferior tribunal for an error of law unless the error makes it go outside its jurisdiction (See Regina v. Comptroller-General of Patents and Designs 1953 (2) W.L.R. 760, 765 and Parisienne Basket Shoes Proprietary Ltd. v. Whyte 59 C.L.R. MANU/SC/0329/1967 = AIR 1967 SC 1274.

369. A clear distinction must therefore be maintained between want of jurisdiction and the manner in which it is exercised. If there is want of jurisdiction then the matter is coram non Judice and a writ of prohibition will lie to the court or inferior tribunal forbidding it to continue, proceedings therein in excess of its jurisdiction."

15. Learned counsel for respondents 2 to 5 also relied upon a decision in A.Vemanaidu v. Erracheruvupalle Primary Co- operative Society, Chittoor District and Ors.6. The relevant paragraph No.9 reads thus:

"9. it is well-settled that ordinarily when there is effective alternative remedy provided by statute especially by a Statutory Tribunal duly constituted under the Act, this Court ordinarily does not entertain the writ petition at the initial stages.

This rule, is no doubt, has certain exceptions like, blatant violation of law and rules, violation of principles of natural justice and in cases where the very provision of Statute itself is questioned. (See Whirlpool Corporation v. Registrar of Trade Marks Mumbai, MANU/SC/0664/1998 : AIR 1999 SC 22).

There is no dispute with regard to the proposition of law laid down in the aforementioned decisions.

16. As regards the contention with regard to fraud, the learned counsel for respondents 2 to 5 relied upon a Judgment of the Hon^{ble} Apex Court rendered in the State of Andhra Pradesh v. T. Suryachandra Rao⁷, wherein it is held thus: (paragraph No.7).

"The order of the High Court is clearly erroneous. There is no dispute that the land which was offered for surrender by the respondent had already been acquired by the State and the same had vested in it. This was clearly a case of fraud. Merely because an enquiry was made, Tribunal was not divested of the power to correct the error when the respondent had clearly committed a fraud."

On this aspect, he also relied on a decision of the Hon^{ble} Apex Court in Commissioner of Customs v. Candid Enterprises⁸, wherein it is held thus: (paragraph No.5) "The Tribunal would appear to have lost sight of the cardinal principle which is enshrined in Section 17 of the Limitation Act that fraud nullifies everything. If the Tribunal was satisfied, as it ought to have been upon these facts, that there might be some fraud, there was every reason for it to condone the delay and to hear the appeal. The judgment in Ajit Singh Thakur's case has no application to facts such as these."

He also relied on a decision of the Hon^{ble} Apex Court in Commr. of Customs (Preventive) v. Aafloat Textiles (I) Pvt. Ltd. and Ors.⁹, wherein it is held thus : (paragraph No.9) "9. "Fraud" means an intention to deceive; whether it is from any expectation of advantage to the party himself or from the ill

MANU/SC/1282/2001 = (2002) 9 SCC 764.

MANU/SC/0447/2009 = (2009) 11 SCC 18.

will towards the other is immaterial. The expression "fraud" involves two elements, deceit and injury to the person deceived. Injury is something other than economic loss, that is, deprivation of property, whether movable or immovable or of money and it will include and any harm whatever caused to any person in body, mind, reputation or such others. In short, it is a non-economic or non-pecuniary loss. A benefit or advantage to the deceiver, will almost always call loss or detriment to the deceived. Even in those rare cases where there is a benefit or advantage to the deceiver, but no corresponding loss to the deceived, the second condition is satisfied. See Dr. Vimla v. Delhi Administration MANU/SC/0163/1962:1963 Supp. 2 SCR 585 and Indian Bank v. Satyam Febrs (India) Pvt. Ltd. MANU/SC/0657/1996 : AIR 1996 SC 2592.

There is no dispute with regard to the proposition of law laid down in the aforementioned decisions.

17. In case on hand, as discussed supra, the respondents 2 to 5 failed to prove „sufficient cause" for the delay in preferring the appeal before 1st respondent-Tribunal. Therefore, the aforesaid decisions do not render any assistance to the case of

respondents 2 to 5. In the impugned Order, dated 23.10.2024 passed by 1st respondent-Tribunal, 1st respondent-Tribunal went into the merits of the main case, without there being sufficient cause made out for condonation of the delay, and erred in allowing M.P.No.84 of 2019. The impugned order is liable to be set aside.

18. Accordingly, the Order dated 23.10.2024 in M.P.No.84 of 2019 in O.A.(SR) No.34 of 2019 passed by 1st respondent-Tribunal is set aside and consequently M.P. No.84 of 2019 stands dismissed.

19. The Writ Petition is, accordingly, allowed. As a sequel, interlocutory applications pending, if any, in the Writ Petition shall stand closed.

 K.SREENIVASA REDDY, J .09.2025 DRK THE HONOURABLE
SRI JUSTICE K.SREENIVASA REDDY WRIT PETITION No.4437 OF 2025 .09.2025 DRK

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