



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

**CIVIL APPEAL NO. 7477 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 13697 OF 2016)**

RAMESH PARSRAM MALANI & ORSAPPELLANT(S)
VERSUS
THE STATE OF TELANGANA & ORS.RESPONDENT(S)

J U D G M E N T

HEMANT GUPTA, J.

- 1) The legality and validity of an order passed by the Chief Commissioner of Land Administration, Andhra Pradesh¹ on February 26, 2003 is subject matter of consideration in the present appeal. Vide aforesaid order, 19.26 standard acres of land in Village Poppalguda, District Ranga Reddy was allotted to the appellant by the CCLA (as a delegatee of the Central Government) as balance of verified claim of 43.7 standard acres of land.
- 2) Some facts would be necessary to appreciate the contention raised by the parties. One Parsram Ramchand Malani, father of the appellant, was resident of Sindh in the present-day Pakistan and

1 for short, 'CCLA'

after partition, came to settle in Hyderabad. The father of the appellant asserted that he was owner of 83.11 acres of land in Sindh. Such land was verified vide an order passed by Settlement Claim Officer, Bombay on November 22, 1952 (copy submitted by the appellant during the course of the arguments). On the basis of such order, the father of the appellant applied for 200 acres of land in lieu of 83.11 acres of land left by him in the West Pakistan (copy submitted by the appellant during the course of the arguments). It is on the basis of such application that 40.4 standard acres of land (323.10 local acres) was allotted in District Hyderabad East, Village Bata Singaram, measuring 32.12 standard acres (262.11 local acres) and in Hyderabad West, Village Boinapally measuring 7.8 standard acres (60.39 local acres). There is no dispute between the parties till such allotment. Such allotment was made prior to commencement of the Displaced Persons (Compensation & Rehabilitation) Act, 1954². Therefore, to regularise such allotment, another letter was issued on March 24, 1956 after commencement of the Act. The father of the appellant did not raise any claim for allotment of additional land till his death on August 10, 1988. It may be mentioned that Rule 51 of the Displaced Persons (Compensation & Rehabilitation) Rules, 1955³ provides for scale of compensation in the form of land in accordance with the Land Allotment Scheme in the States of Punjab and Patiala and the East Punjab States Union as set out in Appendix XIV. A perusal of

2 for short, 'Act'

3 for short, 'Rules'

Appendix XIV would show that against area abandoned of 83 standard acres, the entitlement is allotment of 45.8¾ acres. It has also come on record that the father of the appellant, the displaced person, sold the entire land allotted to him soon after allotment.

- 3) The appellant addressed a letter to the CCLA on March 15, 2001 claiming allotment of 43.7 standard acres against balance of verified claim. The CCLA addressed the letter to the Settlement Officer, Ministry of Home Affairs, Government of India on May 5, 2001 but no response was received from the Ministry of Home Affairs. On February 21, 2003, the appellant made another representation to the CCLA pursuant to which CCLA allotted the land measuring 19.26 standard acres (148.3 local acres) in Survey No. 301 to 308, 325 to 328 and 331 part in favour of the appellant on February 26, 2003, which is the subject matter of present appeal.
- 4) The orders of CCLA were stayed by a memo of Government of Andhra Pradesh dated March 20, 2003. The Secretary to Revenue Department in the Government of Andhra Pradesh initiated *suo moto* proceedings in respect of six cases of allotment of evacuee property in Hyderabad and Ranga Reddy District. Subsequently, a show-cause notice was issued to the appellant on August 20, 2003. The appellant filed writ petition before High Court of Andhra Pradesh challenging the show-cause notice and the stay order dated March 20, 2003. The High Court disposed of the writ petition

on November 14, 2003 with a direction to the appellant to approach the Revisional Authority. The Revisional Authority dismissed the revision filed by the State on June 28, 2006 holding that the allotment of land is in accordance with the Act.

- 5) The said order was challenged by the State through the District Collector, Ranga Reddy District by way of a writ petition before the High Court at Hyderabad. Such writ petition was allowed on February 12, 2016. It is the said order which is subject matter of challenge in the present appeal.
- 6) The High Court has, *inter alia*, found that CCLA was not the competent authority to make allotment of land, *inter alia*, for the reason that there was no delegation by the Central Government in his favour to make allotment and secondly, for the reason that the land stood transferred to the State Government on the basis of communication dated May 24, 1980 and was, thus, not available in compensation pool for allotment. Thirdly, the High Court also found that the claim of the appellant suffers from delay and laches.
- 7) A brief resume of the Act, process of allotment and subsequent repeal of the Act needs to be recapitulated. In the aftermath of partition of the country in 1947, there was large scale movement of population from one part of the country to another country. Since, large scale of population moved, there was a question of the rehabilitation of the population migrating from one country to another to deal with the property of the population who left the

country. The property of the persons who left the country vested in the Union under the Administration of Evacuee Property Act, 1950. The custodian was responsible for preservation, management and administration of evacuee property as was done by various State legislatures. However, the law governing allotment of evacuee property to displaced persons was statutorily provided by the Act. The procedure was that the persons who migrated to the country will apply for verification of their property including land left behind in West Pakistan and such property was verified on the basis of revenue record either received by the Government of India or verified by the revenue authorities in Pakistan. Such verification of the property was called as verified claim in terms of Section 2(e) of the Act. Such verified claim entitles the migrant defined as displaced person in Section 2(b) of the Act for compensation in the manner prescribed under Section 8 of the Act. The property left by the persons migrating to Pakistan (evacuee persons) was put in the compensation pool as defined in Section 2(a) of the Act and was a source of resettling the displaced persons.

- 8) The process of resettling the displaced persons is based upon the following steps as found by this Court in ***Amar Singh & Ors. v. Custodian, Evacuee Property, Punjab & Anr.***⁴:

- “1. Registration and verification of land claims.
2. Assessment and valuation of such claims.
3. Classification of the villages and of lands of evacuees

4 AIR 1957 SC 599

available for allotment.

4. Allocation of the claims to various areas with reference to such classification.

5. Allotment of lands to individuals with reference to the valuation of their claims, guided by various considerations, priorities and preferences and so forth administratively determined.”

- 9) The first step is registration and verification of land claims i.e. verification of the property such as land in the present day Pakistan. The assessment and valuation of such claims is the second step which is required, for which Rule 51 read with Appendix XIV prescribes the scale of land which can be allotted in view of verified claim of the property left in the present day Pakistan. The third step is identification of evacuee land available which forms part of the compensation pool. Such land including urban and rural land available for allotment with reference to the valuation of the claims guided by other consideration, priorities and preferences.
- 10) The displaced person as defined in Section 2(b) of the Act includes successor-in-interest of any such person. Such displaced person having a verified claim has to make an application for payment of compensation on or before June 30, 1955. The Settlement Commissioner would make an inquiry in the manner prescribed to determine the amount of compensation. A displaced person is entitled to payment of cash compensation or compensation in terms of land out of compensation pool in terms of Section 8 of the

Act. Section 12 empowers the Central Government to acquire any evacuee property for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons. In terms of sub-section (4) of Section 12, all evacuee property acquired in terms of sub-section (1) or sub-section (3) forms part of the compensation pool. Section 16 of the Act empowers the Central Government to take such measures as it considers necessary or expedient for the custody, management and disposal of the compensation pool. Section 16(2)(b) empowers the Central Government to constitute such authority or corporation as it may deem fit for the management and disposal of the compensation pool.

- 11) The Managing Officer or the Managing Corporation is competent to transfer any property out of compensation pool in terms of Section 20 of the Act but the allotment is as per the valuation determined by the Settlement Commissioner in terms of Section 20(1)(c) of the Act. The relevant provisions of the statute read as under:

“THE DISPLACED PERSONS (COMPENSATION & REHABILITATION) ACT, 1954

2(a) "compensation pool" means the compensation pool constituted under section 14;

2(b) "displaced person" means any person who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or the fear of such disturbances in any area now forming part of West Pakistan, has after the first day of March, 1947, left, or been displaced from, his place of residence in such area and who has been subsequently residing in India, and includes any person who is resident in any

place now forming part of India and who for that reason is unable or has been rendered unable to manage, supervise or control any immovable property belonging to him in West Pakistan, and also includes the successors- in interest of any such person;

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4. Application for payment of compensation. -

(1) The Central Government shall, from time to time, but not later than the thirtieth day of June, 1955, by notification in the Official Gazette, require all displaced persons having a verified claim to make applications for the payment of compensation and any such notification may be issued with reference to displaced persons residing in any State or in any one of a group of States.

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8. Form and manner of payment of compensation. -

(1) A displaced person shall be paid out of the compensation pool the amount of net compensation determined under sub- section (3) of section 7 as being payable to him, and subject to any rules that may be made under this Act, the Settlement Commissioner or any other officer or authority authorised by the Chief Settlement Commissioner in this behalf may make such payment in any one of the following forms or partly in one and partly in any other form, namely:-

(a) in cash;

(b) in Government bonds;

(c) by sale to the displaced person of any property from the compensation pool and setting off the purchase money against the compensation payable to him;

(d) by any other mode of transfer to the displaced person of any property from the compensation pool and setting off the valuation of the property against the compensation payable to him;

(e) by transfer of shares or debentures in any company or corporation;

(f) in such other form as may be prescribed.

(2) For the purpose of payment of compensation under

this Act, the Central Government may, by rules, provide for all or any of the following matters, namely:-

(a) the classes of displaced persons to whom compensation may be paid;

(b) the scales according to which, the form and manner in which, and the instalment by which, compensation may be paid to different classes of displaced persons;

(c) the valuation of all property, shares and debentures to be transferred to displaced persons;

(d) any other matter which is to be, or may be, prescribed.

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14. **Compensation pool.** - (1) For the purpose of payment of compensation and rehabilitation grants to displaced persons, there shall be constituted a compensation pool which shall consist of—

(a) all evacuee property acquired under section 12, including the sale proceeds of any such property and all profits and income accruing from such property;

(b) such cash balances lying with the Custodian as may, by order of the Central Government, be transferred to the compensation pool;

(c) such contributions, in any form whatsoever, as may be made to the compensation pool by the Central Government or any State Government;

(d) such other assets as may be prescribed.

(2) The compensation pool shall vest in the Central Government free from all encumbrances and shall be utilised in accordance with the provisions of this Act and the rules made thereunder.

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16. **Management of compensation pool.** - (1) The Central Government may take such measures as it considers necessary or expedient for the custody, management and disposal of the compensation pool in

order that it may be effectively utilised in accordance with the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may, for the purposes referred to in sub-section (1), by notification in the Official Gazette.-

(a) appoint such officers as it may deem fit (hereinafter referred to as managing officers); or

(b) constitute such authority or corporation, as it may deem fit (hereinafter referred to as managing corporation).

(3) Every managing corporation shall be constituted under such name and shall consist of such number of persons as may be specified in the notification, and every such corporation shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued:

Provided that one-third of the members of every managing corporation shall be non-officials.

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17. Functions and duties of managing officers and managing corporations.-

(1) All managing officers or managing corporations shall perform such functions as may be assigned to them by or under this Act under the general superintendence and control of the Chief Settlement Commissioner.

(2) Subject to the provisions of this Act and the rules made thereunder, a managing officer or managing corporation may take such measures as he or it considers necessary or expedient for the purpose of securing, administering, preserving, managing or disposing of any property in the compensation pool entrusted to him or it and generally for the purpose of satisfactorily discharging any of the duties imposed on him or it by or under this Act and may for any such purpose as aforesaid, do all acts and incur all expenses necessary or incidental thereto.

(3) xx xx xx

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20. **Power to transfer property out of the compensation pool.** - (1) Subject to any rules that may be made under this Act, the managing officer or managing corporation may transfer any property out of the compensation pool-

(a) by sale of such property to a displaced person or any association of displaced persons, whether incorporated or not, or to any other persons, whether the property is sold by public auction or otherwise;

(b) by lease or any such property to a displaced person or any association of displaced person, whether incorporated or not, or to any other person;

(c) by allotment of any such property to a displaced person or an association of displaced persons whether incorporated or not, or to any other person, on such valuation as the Settlement Commissioner may determine;

(d) in the case of a share of an evacuee in a company, by transfer of such share to a displaced person or any association of displaced persons, whether incorporated or not, or to any other person.

12) To give effect to the provisions of the Statute, the Central Government framed the Rules in exercise of the power conferred under Section 40 of the Act. Rule 3 provides for an application for compensation to be submitted by a displaced person having a verified claim and in case of death of a displaced person, by his successor-in-interest. Rule 11 contemplates verification of claim by the Settlement Commissioner. Rule 49 contemplates that a displaced person having a verified claim in respect of an agricultural land be paid compensation by allotment of agricultural land. The scale of compensation in the form of land is set out in Appendix XIV. In terms of Rule 52, the Central Government may

from time to time having regard to the availability of land, determine the maximum area of land which may be allotted in the first instance to a person having a verified claim for agricultural land. Rule 86 deals with an application for compensation by successor-in-interest. Some of the Rules which are relevant for examining the issues in hand are reproduced hereunder:

"THE DISPLACED PERSONS (COMPENSATION & REHABILITATION) RULES, 1955

3. Persons entitled to make application for compensation - An application for compensation may be made by a displaced person having a verified claim or if such displaced person is dead, by his successor-in-interest.

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11. Enquiry by the Settlement Commissioner on receipt of duplicate copy of compensation application - (1) On receipt of a duplicate copy of an application for compensation from a Settlement Officer, the Settlement Commissioner (Headquarters) shall verify the assessed value of the claim as stated in the application, with the final order in respect thereof in the claims record.

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34. Date of transfer. - Where any property is transferred to any person under this chapter, the property shall be deemed to have been transferred to him:-

(a) XX XX XX

(b) XX XX XX

(c) XX XX XX

(d) in any other case, from such date as the Central Government may, by general or special order, specify.

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49. Compensation normally to be paid in the form of land - Except as otherwise provided in this chapter, a displaced person having a verified claim in respect of agricultural land shall, as far as possible, be paid compensation by allotment of agricultural land. Provided that where any such person wishes to have his claim satisfied against property other than agricultural land, he may purchase such property by bidding for it at an open auction or by tendering for it and in such a case the purchase price of the property shall be adjusted against the compensation due on his verified claim for agricultural land which shall be converted into cash at the rate specified in rule 56.

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51. Scale of compensation in the form of land - The scale for the allotment of land as compensation in respect of a verified claim for agricultural land shall be the same as in the quasi-permanent Land Allotment Scheme in the States of Punjab and Patiala and the East Punjab States Union as set out in Appendix XIV.

Explanation - If any public dues are recoverable, the allottable area shall be reduced correspondingly.

52. Manner of allotment of land - The Central Government may, from time to time, having regard to the availability of land, determine the maximum area of land which may be allotted in the first instance to a person having a verified claim for agricultural land. Such area shall be the area permissible under the scheme referred to in rule 51 or thirty standard acres whichever is less:

Provided that the balance, if any, of the area permissible for allotment according to the scale referred to in Rule 51 shall be given later in instalments as and when more land becomes available for allotment.

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86. Proof by successor-in-interest - (1) On receipt of an application for compensation from any person claiming to be a successor-in-interest of any deceased claimant as provided in rule 4, the Regional Settlement

Commissioner or the Settlement Officer, as the case may be, take steps for the determination of his claim.

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- 13) The Revenue Department of Government of Andhra Pradesh on December 9, 1964 in response to the communication of the Regional Settlement Commissioner, Bombay had informed its officials, vide Annexure P/2, that the Settlement Organization was in the process of winding up and that they had to find ways and means for speeding up the process by transferring certain items of this work to the State Authorities. The Government of India communicated the sanction of the President to transfer certain items of work which were dealt with by the Office of the Regional Settlement Commissioner, Bombay to the State Government on payment of agency charges. The items of work transferred were collection of rent dues of acquired evacuee properties; disposal of remaining acquired evacuee properties including urban agricultural lands; disposal of unacquired evacuee properties; disposal of rural agricultural lands and recoveries in respect of evacuee rights transferred to locals; collection of installments on price of land transferred on installment basis; and collection of lease money from the occupants of evacuee lands on percentage basis of the amount collected by the State Government.
- 14) It is thereafter, on May 24, 1980, the Ministry of Supply and Rehabilitation Department, Department of Rehabilitation,

Government of India issued letter in respect of transfer of items of work relating to administration, management and disposal of undisposed acquired evacuee lands/properties and realisation of rental demands etc. It was communicated as under:

“Subject: Transfer of items of work relating to administration, management and disposal of undisposed of acquired evacuee lands/properties and realisation of rental demands etc.

Sir,

I am directed to state that the question of administration, management and disposal of the remaining undisposed of acquired evacuee lands/properties and realisation of arrears of rental demands outstanding against individuals in respect of evacuee properties in the State of Andhra Pradesh has been under consideration of the Government of India for some time past.

2. It has been observed that only a limited number of acquired evacuee agricultural lands/properties remain to be disposed of. Besides, arrears on account of rural and urban evacuee properties which run into considerable amount have become long overdue for recovery and their realisation is presenting considerable difficulty.

3. With a view to effecting economy in expenditure and ensuring proper arrangement for administration, management and disposal of acquired evacuee lands/properties and recovery of arrears of rent of rural and urban evacuee properties it has been decided in public interest to transfer the aforesaid items of work to the Govt. of Andhra Pradesh for disposal of the residuary work in a satisfactory manner and for carrying out the purposes of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 and the Rules framed thereunder.

4. I am directed to convey the sanction of the President of India to the transfer of the work relating to administration, management and disposal of the

remaining undisposed of acquired lands/evacuee properties and recovery of arrears of rent etc. to State Government on the terms and conditions specified against each:

5. I. URBAN EVACUEE PROPERTIES AND URBAN EVACUEE LANDS.

Sl. No.	Description of assets	Payment to be made by the State Govt. to the Govt. of India
(a)	39 properties in the Districts of Khamman, Medak, and Mahboobnagar, the reserve price of which is Rs.1,62,000/- (Rupees one lakh and sixty two thousands).	15% of the reserve price.
(b)	xx xx	
(c)		
(d)		

The properties, would, thereafter, be managed and disposed of by the State Government who would pay to the Government of India 15% of the reserve price/market value as assessed in 1953 or 15% of the value realised as a result of disposal of these properties, as the case may be. The balance amount would be retained by the State Government.

II. RURAL AGRICULTURAL LAND.

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III. xx xx xx

IV. DISPOSAL OF JUDICIAL CASES RELATING TO EVACUEE PROPERTIES IN THE STATE OF ANDHRA PRADESH

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V. xx xx xx

VI. RESIDUARY WORK IN THE SETTLEMENT WING

Residuary work relating to the properties etc.

already disposed of will be taken over by the State Govt. and dealt with by them hereafter.

VII. RECORDS

The files pertaining to the litigation work referred to in item No. (V) above will be handed over by a representative of this Department at Hyderabad. The files pertaining to the residuary work vide para (VI) above will also be transferred to the State Government. In addition, there are about 6000 closed files in the Central Record Room of the Settlement Wing pertaining to the properties already disposed of. Necessary arrangements for transferring this record would be made by this Department. The expenditure on their transportation from New Delhi to Hyderabad would be met by this Department.

VIII. TRANSFER OF WORK UNDER THE EVACUEE INTEREST (SEPARATION) ACT, 1951

The work relating to administration, management and disposal of composite properties in terms of the Evacuee Interest (Separation) Act, 1951 shall stand transferred to the State Government with effect from 1.6.1980.

(a) The State Government shall appoint a Competent Officer under Section 4 and an Appellate Officer under Section 13 of the said Act, to deal with the composite properties in respect of which proceedings under any provisions of the said Act have already been started or may be started hereafter.

(b) After the evacuee interest is separated, the State Government shall deal with and dispose of the properties in accordance with the Evacuee Interest (Separation) Act, 1951 and the Displaced Persons (Compensation & Rehabilitation) Act, 1954.

(c) The State Government shall pay to the Govt. of India the following share out of the sale proceeds of evacuee share in the composite properties:

(i) In the case of urban 15% of the amount evacuee properties and realised.

- urban evacuee lands.
- (ii) In the case of rural 5% of the amount
evacuee lands/ realised.
properties.

The remaining share of the sale proceeds in the evacuee interest shall be retained by the State Government on account of their administrative and other charges.

The entire expenditure on account of the administration, management and disposal of the composite properties in Andhra Pradesh and the establishment of the Competent Officer and Appellate Officer shall be borne by the State Government.

IX. THE REMAINING UNDISPOSED OF URBAN EVACUEE PROPERTIES URBAN EVACUEE LANDS AND RURAL AGRICULTURAL LANDS.

All the lands/properties held and dealt with by the Custodian of Evacuee Property under the Administration of Evacuee Property Act, 1950 which have not yet been finally disposed of under the provisions of the aforesaid Act or the Displaced Persons (Compensation & Rehabilitation) Act, 1954 shall stand transferred to the Government of Andhra Pradesh with effect from 1.6.1980.

6. The arrangement detailed above shall not in any way affect the payment of compensation to the displaced persons having unsatisfied claims for properties left in former West Pakistan in accordance with the provisions of the Displaced Persons (Compensation & Rehabilitation) Act, 1954. Their claims shall, as usual, be dealt with the Officers of the Government of India. The liability to satisfy the claims of the displaced persons shall continue to rest with the Government of India.

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8. The properties mentioned above should be deemed to have been completely transferred to the Government of Andhra Pradesh with effect from 1.6.1980. The entire sale price thereof payable on this account by the State Government in respect of

various categories of properties will accordingly become due on 1.6.1980 and shall be paid in six equal half-yearly installments without payment of any interest thereon. The first half-yearly instalment due on 1.6.1980 shall be paid by the State Government on 31.3.1981 and subsequent half-yearly instalments will be computed from that date. However, if the instalments are not paid on due dates as mentioned above, interest will be payable on any unpaid amount for the period of late payment, the rate of interest being fixed by the Central Government from time to time. The total amount payable by the State Govt. in this respect to the State Government by the Deputy Chief Settlement Commissioner (G), Settlement Wing, Department of Rehabilitation, New Delhi.

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- 15) It is, thereafter, Ministry of Supply and Rehabilitation, Government of India issued different notifications authorising Officers of the State to discharge the functions of the Central Government under the Act. The notifications dated June 23, 1980 appointing Tehsildar as Managing Officer; Joint Collectors as Settlement Commissioners and Commissioner of Survey & Settlement as the Settlement Commissioner in respect of property forming part of compensation pool within the State reads as under:

“S.O. 2006- In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954). The Central Government hereby appoints all Tehsildars of various Talukas in the State of Andhra Pradesh, to be the Managing Officers for, the purpose of performing in addition to their own duties as Tehsildars, the functions assigned to a Managing Officer by or under said Act, in respect of properties forming part of compensation pool within the State of Andhra Pradesh.

(2) This supersedes Government of India, Ministry of Rehabilitation, office of the Chief Settlement Commissioner's Notification No. 5(10)/L&R/63-A dated 22.1.1965.

S.O. 2007- In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints the Joint Collectors in the State of Andhra Pradesh as Settlement Commissioners in their respective districts for the purpose of performing in addition to their own duties as Joint Collectors the functions assigned to a Settlement Commissioner by or under the said Act, in regard to the management, agricultural lands, shops and vacant sites forming part of the Compensation Pool within the State of Andhra Pradesh.

S.O. 2008- In exercise of the powers conferred by Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints the Commissioner of Survey & Settlement Government of Andhra Pradesh, Revenue Department, Hyderabad, as Settlement Commissioner by or under the said Act, in respect of the land and properties forming part of the Compensation Pool within the State of Andhra Pradesh.

S.O. 2009- In exercise of the powers conferred by sub-section (1) of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby directs that any powers exercisable by it under sub-section (4) of Section 24 and Section 33 of the said Act shall be exercisable also by the Secretary, Revenue Department, Government of Andhra Pradesh, Hyderabad in addition to his own duties; in respect of the lands and properties forming part of the Compensation Pool within the State of Andhra Pradesh."

- 16) The Chief Settlement Commissioner delegated his powers in terms of Section 34(2) of the Act to the Commissioner of Survey and

Settlement, Government of Andhra Pradesh vide separate notification of the same date i.e. June 23, 1980, to hear appeals under Section 23, revisions under Section 24 and transfer of cases under Section 28 of the Act.

- 17) The State issued a circular on November 6, 1981 consolidating instructions dealing with evacuee property and in respect of transfer of residuary work to the State Government. It was, *inter alia*, mentioned as under:

“Since the properties so declared by the Collectors as Evacuee Properties were acquired by the Government of India under the provisions of the Displaced Persons (Compensation & Rehabilitation) Act, the Evacuee Properties have become acquired properties of the Government of India and now stand transferred to the State Government. Thus, no action need to take in respect of acquired Evacuee Properties under this Act.

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This Act provides for appointment of various authorities in the Settlement organization, constitution of compensation pool payment of a compensation and Rehabilitation grants to the displaced persons and disposal pool properties. This Act also provides for appeals, revisions, and other related matters, Rules under this Act were issued by the G.O.I. as Displaced Persons (Compensation and Rehabilitation) Rules, 1955. It is under this Act and Rules, action has to be taken for the settlement of verified claims of the displaced persons and disposal of the pool properties now transferred by the Government of India to the State Government under this Act, the Tehsildar is the Managing Officer, who is mainly concerned with the management and disposal of property. The Joint Collector is the Settlement Commissioner within his jurisdiction. Revisional powers of Chief Settlement Commissioner under Section 24 of the Act, stand

delegated to the Commissioner of Survey Settlement and Land Records and the Secretary to Government in Revenue Department.

The Claim of displaced person in respect of acquired properties have almost been disposed of by the settlement organization before the transfer of residuary work to the State Government. However, some cases may be coming up which need be examined and disposed under the provision of this Act and Rules framed thereunder.”

- 18) It is the Managing Officer who has to take such measures as it considers necessary or expedient for the purpose of securing, managing or disposing of any property entrusted to him. It may be mentioned that the powers of Settlement Commissioner were vested with the Commissioner of Survey & Settlement of the Government of Andhra Pradesh but such post of Survey & Settlement Commissioner was abolished vide notification dated 21.01.1999 issued by the Government of Andhra Pradesh, but no delegation was notified by the Central Government in favour of CCLA.
- 19) Mr. Kapil Sibal, learned senior counsel for the appellant, argued that the land falling part of compensation pool is not transferred to the State Government and that the land vests in the Central Government in terms of the Act and can be utilized only for the purposes contemplated in the Act by the Central Government. Admittedly, evacuee property was available in the compensation pool and that, as against verified claim of the appellant of 83.11

acres, only 40.4 acres was allotted to the father of the appellant. Therefore, the appellant was rightly allotted balance land of the verified claim by the CCLA on February 26, 2003. It is argued that the High Court has made out a completely new case so as to return a finding that the land vested with the State and that the CCLA was not competent to allot land to the displaced person. It is also argued that the finding of the High Court that there was delay on the part of the appellant to apply for allotment of land is a perverse finding as the displaced person has a right for allotment of equivalent land left by him in West Pakistan in the aftermath of partition. It is the statutory mandate of the Central Government to make allotment to compensate displaced person in view of the land left by such displaced person. The Act and the Rules framed thereunder does not contemplate that once allotment has been made, it exhausts the right of the displaced person to seek further allotment. The displaced person has right to seek equivalent land in India according to the verified claim in respect of land left in Pakistan. To support such argument, reliance was placed on Rule 52 of the Rules where it contemplates that the Central Government may from time to time, having regard to the availability of land, determine the maximum area of land which may be allotted in the first instance to a person having a verified claim. It is, thus, contended that the Rules contemplate multiple allotments starting with the maximum area of the land which can be allotted to the displaced person. Therefore, the allotment made in the year 1954

by the Regional Settlement Commissioner will not exhaust the claim of the displaced person for allotment of more land.

- 20) Mr. Sibal vehemently argued that the transfer of evacuee property in Punjab was complete which is evident from the fact that Punjab Government enacted Punjab Package Deal Properties (Disposal) Act, 1976⁵, whereas, the communication dated May 24, 1980 does not unequivocally transfer the evacuee land to the State of Andhra Pradesh as was the situation in Punjab where evacuee land was transferred in pursuance of letters dated June 3, 1961, March 5, 1962, March 23, 1963 and March 29, 1983 as mentioned in Section 2(1A) of the Punjab Act. The Schedule attached to the Punjab Act, referring to letter dated June 3, 1961, provides for sale of 80000 standard acres of surplus land to the Punjab Government at the rate of Rs.450/- per standard acre and subsequent letters in respect of the payment of sale price. It is argued that there is no outright transfer of land to the State of Andhra Pradesh as in the case of surplus evacuee land in Punjab, therefore, the Central Government retained control and management of land falling in compensation pool and is entitled to allot the evacuee land which was available for disposal to the displaced persons.
- 21) Mr. V. Giri, learned senior counsel for the respondents argued that the appellant is a displaced person as defined in Section 2(b) of the Act which includes the successors-in-interest of a displaced person.

5 for short, 'Punjab Act'

It is contended that allotment was made in favour of the displaced person in the year 1954 under the Act but such person never objected to a quasi-judicial order passed by the Regional Settlement Commissioner under the Act. If the father of the appellant had any subsisting claim or was not satisfied with the allotment of land, he had a right to object to the allotment of a lesser area in appeal or revision. However, the father of the appellant had not raised any grievance for more than 32 years after the allotment of land till his death in the year 1988. It is contended that Rule 86 of the Rules is not applicable as the appellant is not raising claim of allotment of land for the first time but asserting rights as successor-in-interest of the deceased displaced person. Rule 86 comes into play if the deceased displaced person could not submit his claim during his life time which claim had to be filed on or before 30th June 1955 by the successor-in-interest in terms of Section 4 of the Act. Therefore, the claim of the appellant is grossly delayed and not permissible in terms of the provisions of the Act.

- 22) The first and the foremost question which requires to be examined is as to whether the Central Government having transferred land to the State Government, could make allotment to the displaced persons after May 24, 1980. Another question which arises is whether CCLA, as a delegatee of the Central Government, could allot land though he exercises the appellate powers, the power of allotment having been vested with the Managing Officer as per

Section 17 of the Act.

- 23) In the State of Andhra Pradesh, initially a letter was communicated on December 9, 1964 in response to the communication from the Government of India regarding winding up of certain organization of the Central Government and transfer of land to the State. However, on May 24, 1980, the transfer of the land in compensation pool to the State Government was completed when the circular contemplating administration, management and disposal of remaining undisposed evacuee property was issued. The circular provides that the Central Government is to be given 15% of realised value of the properties after sale and the balance sale amount was permitted to be retained by the State Government. The transfer of land to the State Government is complete w.e.f. June 1, 1980 subject to the conditions specified in the Circular dated May 23, 1980 such as payment of 15% of realised value to the Central Government. Even if, such value is not paid by the State Government, it is between the State Government and the Central Government and not for any third party to make a grievance or dispute the same.
- 24) All evacuee property in terms of notification issued by the Central Government from time to time in terms of Section 12 of the Act forms part of compensation pool under Section 14 of the Act. Section 16 of the Act empowers the Central Government to take such measures as is considered necessary or expedient for the

custody, management and disposal of compensation pool. The Circular dated May 23, 1980 relates to administration, management and disposal of compensation which is in terms of Section 16 of the Act. Section 16(2)(b) of the Act empowers the Central Government to constitute such authority or corporation for the purposes of sub-section (1) i.e. custody, management and disposal of compensation pool. The Central Government is competent to constitute any authority or corporation for the same purpose. Therefore, the transfer of land forming part of compensation pool to the State Government has legislative sanction in terms of Section 16(2)(b) of the Act.

25) Once the power of disposal has been conferred upon the State Government, and the manner of transfer stands crystalized in the circular, the expression disposal of land by the State Government will include transfer of title to the purchaser as the State Government could transfer only that much right which the owner i.e. the Central Government had. Therefore, disposal of land would mean transfer of land free from all encumbrances by the State Government except to the extent of 15% of the realised value as the share of contribution to the Central Government. It is between the Central Government and the State Government to regulate the transfer between them. The management and disposal of land to the State Government is in terms of Section 16 of the Act.

26) It is wholly immaterial that the language of letter issued by the

Central Government to the Government of Punjab in the year 1961 is different from the language of the letter issued to the Government of Andhra Pradesh. The purpose of both the communications is transfer of evacuee land to the State Governments to give effect to the provisions of the Act for consideration which was lumpsum in the State of Punjab and on percentage basis in the State of Andhra Pradesh but the transfer of land is complete as far as Central Government is concerned. The Division Bench of Punjab and Haryana High Court in **Ram Chander v. The State of Punjab & Ors.**⁶ observed that it is a financial arrangement between the two Governments by means of a letter, for which no instrument of conveyance under Article 299 of the Constitution has been drawn up. No such instrument is necessary as the transfer was made under the Act and that the provisions of Article 299(1) would not be applicable in a transaction of this nature. The Court held as under:

“What is true of contracts between Government and individuals also holds good in the case of the present contract which was between the Central Government and the State of Punjab. The details of the transaction of transfer had been settled between the two Governments and these conditions set out in detail in the letter of 1961 have been fulfilled and the transaction completed. It has not been disputed that the entire amount due to the Central Government has been paid and it would be pointless in such a situation to contend that the transfer, not having been executed in the form envisaged in Article 299(1) becomes void and inoperative altogether. As Mr. Justice Bose observed, the provisions of Article 299 (1) are meant to safeguard the interests of the Government and

6 (1968) 2 ILR P&H 651

there can be contracts which though not executed in the form contemplated in Article 299 (1) are all the same binding on the parties concerned. In our view, therefore, the package deal put an end to the ownership of the Central Government of the properties comprised in the compensation pool and the State Government thereafter had full authority to dispose them.”

27) In ***Pala Singh (Deceased) by LRs v. Union of India & Ors.***⁷, this Court approved the order passed by the Punjab and Haryana High Court in ***Ram Chander*** when it was held that since the excess land allotted was the package deal property the same cannot be sold nor can it be allowed to be sold to the appellant by the Managing Officer under the provisions of the Act as the delegatee of the Central Government. The Court found that the order of the Officer is without jurisdiction as the said property was no longer in the compensation pool of the Central Government but it was a package property vested in the State of Punjab. The Court held as under:

“8. It appears from the letters dated 3-6-1961, 5-3-1962 as well as 23-3-1963 issued from the office of Chief Settlement Commissioner, Government of India that all surplus lands as well as excess area in occupation of the allottees stood transferred to the Punjab Government with effect from 1-4-1961 and the Punjab Government paid the price of the lands at the rate of Rs 445 per standard acre to the Central Government by half yearly instalments in 6 instalments within a period of three years commencing from 1-4-1961. So these lands are package deal properties vested in the State of Punjab. It has been rightly held in the letters patent appeal confirming the order of the learned Single Judge in the writ petition that since the excess land allotted to the appellant was package deal property the same cannot be sold nor can it be allowed to be

7 1987 (Supp) SCC 201

sold to the petitioner-appellant by the Managing Officer under the provisions of Displaced Persons (Compensation and Rehabilitation) Act, 1954. So the order of the Managing Officer made in February 1962 is wholly without jurisdiction inasmuch as the said property was no longer in the Compensation Pool of the Central Government but it was a package deal property vested in the State of Punjab. It has also been rightly held that the Chief Settlement Commissioner is competent under Section 24 of the Displaced Persons (Compensation and Rehabilitation) Act 44 of 1954 to cancel the allotment of land in excess of the area the petitioner is entitled to get under the provisions of the said Act. This legal position has been settled by a decision of the Punjab and Haryana High Court in the case of *Ram Chander v. State of Punjab* [1968 CLJ (P & H) 668, 673] wherein it has been held:

“In our opinion, the package deal has the effect of transferring the property from the Central Government to the Punjab State and the logical result which flows from it is that the Settlement Authorities as delegates of the Central Government could not pass any orders under the Act.”

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11. It is therefore clear and evident that the judgment of the Punjab High Court rendered in the case of *Ram Chander v. State of Punjab* [1968 CLJ (P & H) 668, 673] insofar as it relates to the validity of the package deal, has been upheld by this Court. So there is no merit in this contention made on behalf of the appellant.”

- 28) The argument raised by Mr. Sibal that the Central Government has notified the authorities to give effect to the provisions of the Act, therefore, the Central Government has retained control and administration of the evacuee property, is misconceived. The land forming part of the compensation pool was transferred to the State

Government and the officers of the State Government were entrusted with the functions of Managing Officer or Settlement Commissioner, as the case may be. The allotment of all evacuee land is governed by the Act, therefore, the officers competent to make allotment are the Managing Officers, whereas power of appeal and revision are to be exercised by the Settlement Commissioner or the Chief Settlement Commissioner. Such notifications facilitate the exercise of powers under the Act by the officers of the State Government in respect of land which stood transferred to the State Government. The CCLA in terms of the scheme of the Act has no power to make allotment of land as he exercises the appellate or revisional jurisdiction as a delegate of the Central Government. The power of allotment is vested with the Managing Officer only in terms of Section 17 of the Act.

- 29) The allotment was made by the CCLA as a delegatee of the Central Government. The Settlement Commissioner had no power to make allotment of land falling in compensation pool either before May 23, 1980 or thereafter. Since the land stood transferred to the State Government, the CCLA as a delegatee of the Central Government, could not deal with the land forming part of compensation pool which stood transferred to the State Government.
- 30) On this ground alone, the allotment made in favour of the appellant on February 26, 2003 cannot be sustained in view of the Division Bench judgment of Punjab and Haryana High Court in

Ram Chander, as approved by this Court in **Pala Singh**. We find that the Central Government or its delegatee could not allot land after the same was transferred to the State as a part of the package deal.

- 31) However, we are unable to agree with the High Court that transfer of land to the State Government takes such transferred land out of compensation pool. The land transferred to the State Government continues to be part of compensation pool but it is required to be disposed of by the Officers of the State who have been conferred the powers of the Managing Officer or of the Settlement Commissioner for the settlement of the displaced persons alone. It is only after the displaced persons are settled, the State Government may utilize the land for other purposes.
- 32) We do not find any merit in the argument that there is no time limit for allotment of land to make good the verified claim. Rule 86 of the Rules will come into play if the displaced person has not raised any claim within the time period prescribed under Section 4 of the Act i.e. June 30, 1955 but once a claim has been filed by a displaced person, the successor-in-interest steps into his shoes and was required to raise his grievance in respect of allotment of lesser area or any other grievance arising out of a quasi-judicial order passed by the Regional Settlement Commissioner in the manner prescribed by the Act. Since the predecessor-in-interest of the appellant has not raised any grievance during his life time and for

more than 13 years after his death by the appellant, therefore, the appellant cannot be permitted to agitate the issues which have attained finality. Rule 86 of the Rules is not a perennial source of allotment by the successor-in-interest but operates in respect of a successor-in-interest by a displaced person who has not filed claim during his life time of a displaced person before June 30, 1955. The successor-in-interest is also required to file claim before the date fixed by Section 4 of the Act.

- 33) The argument that the appellant is entitled to equivalent land as is the verified claim is untenable. The verified claim is verification of the claim of the displaced person in respect of his property in West Pakistan. The entitlement of allotment out of compensation pool is contained in Rule 51 of the Rules. Rule 51 of the Rules provides for the land which is to be allotted in lieu of area abandoned. In respect of 83 acres of area abandoned, the entitlement is $45.8\frac{3}{4}$ acres as per the Appendix XIV. Therefore, the father of the appellant could at best claim the remaining 4 acres but had to raise a claim by seeking his remedy against the order passed by the Regional Settlement Commissioner on April 29, 1954 or March 24, 1956. Rule 51 of the Rules will be applicable if the land is not available and the competent authority decides to allot land in bits and parts. The order of allotment does not show that the allotting authority reserved any right for allotment of the remaining land, therefore, the claim of the appellant stood satisfied in its entirety when the allotment was made under the Act in the year 1954.

34) In somewhat similar circumstances, the Division Bench of Punjab and Haryana High Court in ***Chameli Devi & Ors. v. Union of India & Ors.***⁸ has dismissed the claim on behalf of successor-in-interest after the death of displaced person on May 10, 1989. The displaced person has never disputed any claim regarding land allotted to him. It is after his death, the appellant met the Revenue Minister in 1994, who set the allotment process in motion. In the aforesaid case, the Division Bench of the High Court held as under:

“16. The facts of this case show that application was filed by Harbans Lal Arora on 15.03.1994, which was obviously highly belated. Moreover, such an application could have been filed only by a person, who was a holder of a “verified claim”, which according to the definition means a person, whose claim made under the East Punjab Refugees (Registration of Land Claims) Act, 1948, had remained un-satisfied. Had this been the case Jeta Ram would not have remained quiet during his life time. This in itself suggests that the application made by Harbans Lal Arora lacked bonafide. Further, such an application was to be made to the Settlement Officer and was to be examined by the Settlement Commissioner, who, after an inquiry made in prescribed manner could determine the amount of compensation, if at all, payable. The application, if made by an heir of the displaced person, required additional documents to be filed alongwith it to enable the concerned official to make a determination regarding his status. The facts of this case, however, reveal that an application was directly made to the then Revenue Minister and on his instructions/directions, the Tehsildar (Sales)-cum-Managing Officer passed orders of additional allotment. The exercise of classification of land abandoned in West Pakistan, valuation thereof and valuation of land allotted in India was done by the said Managing Officer, whereas according to the 1954 Act, such power is

8 CWP No. 14772 of 2000 decided on November 14, 2017

vested in the Settlement Commissioner. The various orders of allotment are thus, illegal having been passed by officers who were not vested with jurisdiction to do so.

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19. Thus, it stands established on record that the claim of Jeta Ram stood satisfied during his life time. There was no "verified claim" of him left to be satisfied and the entire exercise initiated by his son through letter dated 15.03.1994 was with fraudulent intentions. Officials/officers passed allotment orders with a view to benefit Harbans Lal Arora, even though, they did not have the jurisdiction to do so under the law. Even the procedure prescribed by law was short-circuited so that instant gratification could be achieved.

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21. Thus, it is unequivocally held that Harbans Lal Arora, as heir of Jeta Ram, was not entitled to any additional allotment and his belated claim was totally false, fabricated and arose out of an ulterior motive."

35) Another argument was raised that the expression 'package deal' is not the expression used in the communication dated May 24, 1980 though such expression was used in the communication dated March 5, 1962 by the Central Government and/or in the communication dated March 23, 1963 when communicating with Punjab Government. We find that the lack of use of expression 'package deal' will not change the nature of transfer which is in terms of Section 16 of the Act with the date of transfer specified as June 1, 1980 in terms of Rule 34 of the Rules. The transfer of land forming part of compensation pool is contemplated by Section 16 of the Act, when it provides that for the custody, management and

disposal of the compensation pool, the Central Government constitute such authority or corporation. Thus, if the Central Government could transfer land forming part of the compensation pool to a corporation, then it could very well transfer land to a State Government.

36) The Punjab Act is to regulate transfer of land for allotment to displaced persons after vesting of surplus land with the State Government of Punjab. Such Act is only to regulate and provide for procedure for allotment of surplus evacuee land.

37) In fact, the Act was repealed by the Displaced Persons Claims and Other Laws Repeal Act, 2005. One of the objects of the Repeal Act is as under:

“2. The major works of claims compensation and rehabilitation more or less had been completed by the year end of 1970. Subsequently, the erstwhile Ministry of Labour and Rehabilitation (Department of Rehabilitation) which was responsible for the aforesaid rehabilitation work also concluded that only a limited number of acquired evacuee urban and agricultural lands or properties had remained to be disposed of and the expenditure which was being incurred for the purpose was out of proportion to the volume of work and the receipts from their disposal...

3. Subsequent to the transfer of the ownership of the Central Government on the undisposed evacuee properties to the State Governments concerned, it was reported by the State Governments that a large number of claims under the aforesaid Acts' are being continued to be filed in the various courts under the aforesaid Acts. It has further been brought to the notice of the Central Government that a number of persons unconnected with the claimants posing as their legal heirs are presenting

repeated demands for lands. Examinations have revealed that in most of such cases the claimants under the temptation to grab more lands, have managed to obtain bogus and excess allotments. It therefore had become difficult for the State Governments to retrieve the Government lands and properties worth crores of rupees from the hands of unscrupulous persons.”

38) The Government of India clarified on September 22, 2008 that the proceedings pending under the Act before the repeal have to be decided under the relevant laws. It was communicated as under:

“3. The matter has, therefore, been considered in detail by the Ministry of Home Affairs, in consultation with the Ministry of Law & Justice and after ascertaining the ground situation from some of the State Governments/UTs concerned. Pursuant thereto, and in order to remove ambiguity and doubts which appear to have been created, it is clarified that the enactment of the displaced persons claims and other laws repeal Act 2005 would not affect disposal of the following categories of cases and the State Government/UTs may, therefore, take action as appropriate, to settle them under the relevant State Laws or the General Clauses Act:

3.1. Unsatisfied verified claims filed under the Displaced Persons (Claims) Act, 1950 in which right has accrued or has been acquired and which were pending as on 06.09.2005, the date on which the Displaced Persons (Compensation & Rehabilitation) Act, 1954 and other related Acts were repealed.

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5. As regards revival of the authorities prescribed under the repealed Acts, it is clarified that since the subject stands transferred to the State Governments, action for settlement of pending matters, can be taken by the authorities prescribed under any state laws that may have been enacted or in any other manner as considered appropriate and it may not be necessary to revive the

authorities prescribed under the repealed acts.”

39) It is, thereafter, another communication was addressed by the Government of India on November 17, 2016 subsequent to an order passed by this Court in ***Union of India v. International Sindhi Panchayats & Ors.***⁹ on April 28, 2014 that the cases and proceedings which were pending on the date of repeal of the Act will be decided in terms of the provisions of the Act. It was communicated as under:

“2. Considering the above judgment passed by the Hon’ble Supreme Court on the issue, this Ministry, in consultation with Ministry of Law & Justice has decided to request all the State Governments/UTs to continue to decide the pending cases and proceedings which were pending on the date of the repeal of the said Acts, and deal with the residuary works of administration, management and disposal of acquired evacuee properties (forming part of Compensation Pool) transferred to the State Governments/UTs, under the un-repealed Displaced Persons (Compensation & Rehabilitation) Act, 1954 and other related Acts as per the provisions of Section 6 of the General Clauses Act, 1897.”

40) Mr. Sibal has strongly relied upon the order passed by this Court in ***International Sindhi Panchayats***. The said order is that the cases and proceedings pending on the date of repeal shall be decided under the provisions of the Act. The said order is not helpful to the issue raised in respect of the right of the Central Government for allotment of land after the same was transferred to State of Andhra Pradesh on May 24, 1980 w.e.f. June 1, 1980.

9 Civil Appeal No. 6079 of 2010

41) In view of the above, we do not find any merit in the present appeal. Consequently, appeal is dismissed.

.....J.
(L. NAGESWARA RAO)

.....J.
(HEMANT GUPTA)

**NEW DELHI;
OCTOBER 22, 2019.**