

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

WRIT PETITION NO: 39589 OF 2012

Between:

1. Smt. N.Indiramma, W/O late Srinivasa Chary, Aged 64 years, Occ Agriculture, R/o Wanaparthy, Mahaboobnagar district.
2. M.S.Nagesh Chander, S/o M.S. Chandraiah Aged about 54 Years Occ Business R/o Mettupally Wanaparthy, Wanaparthy District
(Petitioner No.2 is impleaded as per Court Order dated 25.07.2024 Vide IA No.1 of 2023 in W.P.No. 39589 of 2012)

...PETITIONERS

AND

1. State of Telangana, Law and Legislature Department, Rep by its Secretary, Secretariat, Hyderabad.
2. State of Telangana, Revenue Department, Rep by its Prl.Secretary, Secretariat, Hyderabad.
(RR 1 and 2, C.T. is amended as per Court Order dated 25.07.2024 Vide IA No. 1 of 2019 in W.P.No. 39589 of 2012)
3. District Collector, Mahaboobnagar district, Mahaboobnagar.
4. Joint Collector, Mahaboobnagar district, Mahaboobnagar.
5. Revenue Divisional Officer, Wanaparthy, Mahaboobnagar district.
6. Lambadi Tulcharam, S/OTakru,
7. Gulam Rasool, S/O Shaik Dawood

...RESPONDENTS

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 to Writ of Mandamus or any other appropriate writ, order or direction,

declaring Rule 18 of A.P. (T.A.) Abolition of Inams Rules, 1975 is ultravires to object of Section 24 of A.P. (T.A.) Abolition of Inams Act, 1955 and contrary to Section 3 and 4 of A.P. District Collectors Power (Delegation) Act, 1961 and further declare the said Rule as null and void

(Prayer is amended as per Court Order dated 25.07.2024 Vide IA No.2 of 2019 in W.P.No. 39589 of 2012)

I.A. NO: 1 OF 2017(WPMP. NO: 12205 OF 2017)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased fix an early date for disposing the above Writ Petition No.39589/2012, in the interest of justice.

IA NO: 2 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the petitioner to substitute the Writ Prayer as under, to issue a Writ of Mandamus or any other appropriate writ order or direction declaring Rule ultravires to object of section 24 of APTA Abolition of Inams Act 1955 and contrary to Sections 3 and 4 of AP, District Collector's Powers (Delegation) Act, 1961 and further declare the said rule as null and void.

Counsel for the Petitioners: SRI MEHERCHAND NORI

Counsel for the Respondent No.1: GP FOR LAW & LEGISLATIVE AFFAIRS

Counsel for the Respondent Nos.2 TO 5: GP FOR REVENUE

Counsel for the Respondent Nos.6 & 7: SRI K.GOVERDHAN REDDY

The Court made the following: ORDER

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J.SREENIVAS RAO**

WRIT PETITION No.39589 OF 2012

ORDER: (*per the Hon'ble Sri Justice J.Sreenivas Rao*)

Heard Sri Meherchand Nori, learned counsel for the petitioner No.1, Sri K.S.Suneel, learned counsel representing Chandrasen Law Offices appears for petitioner No.2 and Sri Mohd. Imran Khan, learned Additional Advocate General, assisted by Herur Rajesh Kumar, learned Government Pleader for Law and Legislative Affairs appearing on behalf of respondent Nos.1 to 5.

2. Petitioners filed this writ petition seeking declaration of the Rule 18 of the Andhra Pradesh (Telangana Area) Abolition of Inams Rules, 1975 ('Rules' for brevity) as *ultra vires* to object Section 24 of Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 ('Act' for brevity) and contrary to Section 3 and 4 of Andhra Pradesh District Collector's Powers (Delegation) Act, 1961 and further declare the Rule 18 of Rules as null and void.

3. Brief facts of case:

3.1 The claim of the petitioner No.1 is that her husband namely late Nambakkam Sreenivas Chary is the owner and possessor of land to an extent of Acs.2.33 guntas in Survey No.956 and

Acs.4.17 gunas in Survey No.957, total comes to Acs.7.10 guntas situated at Metpally Village, Wanaparthy Mandal, Mahabubnagar District. After the death of her husband, petitioner No.1 has made application for mutation of her name in the revenue records and her daughters have given consent for the same. When the said application is pending consideration before the Tahsildar, Wanaparthy Mandal, she had executed a General Power of Attorney in favour of P.Nagaraju to the land to an extent of Acs.2.33 gunas in Survey No.956 and also handed over the possession to the said person, when the Tahsildar failed to mutate her name in the revenue records, the petitioner No.1 along with said P.Nagaraju filed suit in O.S.No.1 of 2009 on the file of Senior Civil Judge, Wanaparthy making Mandal Revenue Officer and Revenue Divisional Officer as party defendants and the said suit was dismissed for default. Subsequently, she filed application seeking restoration of the said suit, when the said application is pending, she came to know that respondent No.5 had issued Occupancy Rights Certificate ('ORC' for brevity) in Form No.III in File No.B/167/2010 dated 26.03.2010 in favour of the respondent Nos.6 and 7 basing on the report of Mandal Revenue Officer, Wanaparthy dated 20.02.2010, wherein it is stated that respondent Nos.6 and 7 have purchased the said land from her

husband by way of simple sale deed dated 15.06.1998. Questioning the said order dated 26.03.2010, petitioner No.1 filed appeal in Case No.F2/15/2010 before respondent No.4 and the appellate authority erroneously dismissed the appeal by its order dated 10.01.2011. Aggrieved by the same, the petitioner No.1 preferred the revision and the same is pending. In this writ petition the petitioners have questioned Rule 18 of Rules on the ground that the said rule is contrary to the provisions of the Sections 10 and 24 read with Section 2(1)(a) of the Act.

4. Submissions of Learned Counsel for the Petitioners:

4.1 Learned counsel for the petitioner No.1 contended that the District Collector alone is the competent authority and is having jurisdiction to adjudicate the appeal filed against the order passed under Section 10 of the Act and pass orders. In the instance case respondent No.4 passed order in Case No.F2/15/2010 on 10.01.2011, without jurisdiction.

4.2. Learned counsel vehemently contended that the as per the provisions of Section 2(1)(a) read with Sections 10 and 24 of Act, the Collector is competent authority to enquire and to issue certificate including ORC and any order of the Collector under Section 24 is appealable to the prescribed authority. In the case

on hand, the Revenue Divisional Officer exercising the powers under Section 10 of the Act issued ORC in favour of respondent Nos.6 and 7 on 26.03.2010, though he is not having jurisdiction. Similarly, the Joint Collector is also not having jurisdiction to pass the order in appeal Case No.F2/15/2010 dated 10.01.2011.

4.3. He further contended that Rule 18 of Rules is not in consonance with Section 24 of the Act. Section 24 of the Act provides an appeal to the prescribed authority against the orders of the Collector. As per the provisions of the Section 30 of the Act, the Government may, by general or special order authorize any officer not below the rank of a Tahsildar subordinate to him to hold enquiries on his behalf under this Act. Hence, the Revenue Divisional Officer is only having jurisdiction to receive the applications under Section 10 of the Act and conduct enquiry and submit report to the Collector and the Collector alone is having jurisdiction to pass appropriate orders, including issuance of ORC, and against the said order appeal lies to the Board of Revenue.

4.4 He further contended that Rule 18 of the Rules travels beyond Section 24 of the Act. Hence, the Rule 18 is liable to be declared as *ultra vires*.

4.5. In support of his contention, learned counsel relied upon the following judgments:

i. In ***Roop Chand Vs. State of Punjab***¹ the Hon'ble Apex Court held as follows:

"11. The question then arises, when the Government delegates its power, for example, to entertain and decide an appeal under Section 21(4), to an officer and the officer pursuant to such delegation hears the appeal and makes an order, is the order an order of the officer or of the Government? We think it must be the order of the Government. The order is made under a statutory power. It is the statute which creates that power. The power can, therefore, be exercised only in terms of the statute and not otherwise. In this case the power is created by Section 21(4). That section gives a power to the Government. It would follow that an order made in exercise of that power will be the order of the Government for no one else has the right under the statute to exercise the power. No doubt the Act enables the Government to delegate its power but such a power when delegated remains the power of the Government, for the Government can only delegate the power given to it by the statute and cannot create an independent power in the officer. When the delegate exercises the power, he does so for the Government. It is of interest to observe here that Wills, J. said in *Huth v. Clarke* [LR (1890) 25 QBD 391] that "the word delegate means little more than an agent". An agent of course exercises no powers of his own but only the powers of his principal. Therefore, an order passed by an officer on delegation to him under Section 41(1) of the power of the Government under Section 21(4), is for the purposes of the Act, an order of the Government. If it were not so and it were to be held that the order had been made by the officer himself and was not an order of the Government — and of course it had to be one or the other — then we would have an order made by a person on whom the Act did not confer any power to make it. That would be an impossible

¹ AIR 1963 SC 1503

situation. There can be no order except as authorized by the Act. What is true of Section 21(4) would be true of all other provisions in the Act conferring powers on the Government which can be delegated to an officer under Section 41(1). If we are wrong in the view that we have taken, then in the case of an order made by an officer as delegate of the Government's power under Section 21(4) we would have an appeal entertained and decided by one who had no power himself under the Act to do either. Plainly, none of these things could be done."

ii. In ***Indore Vikas Pradhikaran v. Pure Industrial***

Coke & Chemicals Ltd² the Hon'ble Apex court held as follows:

"90. There cannot be any doubt whatsoever that even a delegatee exercises its power relying on or on the basis of its power conferred upon it by the delegator, its act would be deemed to be that of the principal as has been held by this Court in *State of Orissa v. Commissioner of Land Records & Settlement* [(1998) 7 SCC 162] . This Court held: (3SCC p. 173, para 25)

"25. We have to note that the Commissioner when he exercises power of the Board delegated to him under Section 33 of the Settlement Act, 1958, the order passed by him is to be treated as an order of the Board of Revenue and not as that of the Commissioner in his capacity as Commissioner. This position is clear from two rulings of this Court to which we shall presently refer. The first of the said rulings is the one decided by the Constitution Bench of this Court in *Roop Chand v. State of Punjab* [AIR 1963 SC 1503] . In that case, it was held by the majority that where the State Government had, under Section 41(1) of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, delegated its appellate powers vested in it under Section 21(4) to an 'officer', an order passed by such an officer was an order passed by the *State Government* itself and 'not an order passed by any *officer* under this Act' within Section 42 and was not revisable by the State Government. It was pointed out that for the purpose of exercise of powers of revision by the State under Section 42 of that Act, the order sought to be revised must be an order passed by an officer *in his own right* and *not as a*

² (2007) 8 SCC 705

delegate of the State. The State Government was, therefore, not entitled under Section 42 to call for the records of the case which was disposed of by an officer acting as its delegate."

(emphasis in original)

4.6 Sri K.S.Suneel, learned counsel representing Chandrasen Law Offices appearing for petitioner No.2 adopted the submissions made by the learned counsel for petitioner No.1.

5. Submissions of the Learned Additional Advocate General:

5.1 Learned Additional Advocate General submits that Rule 18 of Rules was made exercising the powers conferred under Sub Section (1) of Section 35 of the Act. He further contended that as per the provisions of the Section 2(1)(a) of the Act, "Collector" means the Collector of a district and includes any other officer, not below the rank of Deputy Collector who may be authorized by the Government by notification in the official Gazette to discharge functions of a Collector under the Act.

5.2. He further submits that the Government exercising the powers conferred under the Act had issued notification *vide* G.O.Ms.No.1122, dated 20.08.1975 empowering Revenue Divisional Officers to discharge the functions of the Collector under Section 2(1)(a) of the Act, since the Revenue Divisional Officers are conferred with the power to discharge the functions of the

Collector, they are competent to examine the claims of the occupants as inams and also for issuance of the ORCs under Section 10 of the Act.

5.3 He further contended that the allegation made by the petitioners that Revenue Divisional Officer is having only authority or power to conduct enquiry and submit report to the Collector and is not having authority or jurisdiction to issue ORC is not true and correct, the Revenue Divisional Officer is having all powers to pass appropriate orders under Section 10 of the Act either accepting or rejecting the claims of the applicants and to issue ORC. Against the said order, the remedy of appeal is provided before the Collector i.e., Joint Collector under Section 24 of the Act and against the said order the aggrieved parties are entitled to file revision petition under Section 28 of the Act, or under Article 226 or 227 of the Constitution of India before this Court.

5.4 In support of his contention he relied upon the Judgment of Division Bench of this Court in ***K.Chandra Sekhara Rao and Ors. Vs. District Collector, Hyderabad and Ors***³, wherein it is held as follows:

“6. Section 2(1)(a) of the Act of 1955, which is utmost relevant, defines Collector to mean the Collector of a

³ 2016 (6) ALD 272

district and includes any other officer not below the rank of a Deputy Collector, who may be authorized by the Government by notification in the Official Gazette, to discharge the functions of a Collector under the Act. Presently, a Deputy Collector would mean a Revenue Divisional Officer. Chapter II of the Act (Sections 3 to 11) deals with abolition of Inams and conferment of rights upon the occupant viz., Inamdar; Kabiz-e-kadim; permanent, protected and non-protected tenants. A Kabiz-e-kadim is a holder of the Inam land, other than the Inamdar, who was in possession at the time of grant of the Inam or for not less than twelve years before the date of vesting and pays the Inamdar only land revenue. Chapter III (Sections 12 to 22) deals with determination, apportionment and payment of compensation. Chapter IV (Sections 23 to 29) provides for the remedies of appeal, reference and revision. The concluding Chapter V deals with miscellaneous matters and comprises Sections 30 to 37.

9. Under Section 10 of the Act of 1955, the Collector is required to examine the nature and history of the lands in respect of which the Inamdar; Kabiz-e-kadim; permanent, protected or non-protected tenant, seeks to be registered as an occupant under Sections 4, 5, 6, 7 or 8, as the case may be, and decide in whose favour and in respect of which Inam lands, such claims should be allowed, apart from the land revenue and the premium payable in respect of the lands. As the definition of Collector includes the Deputy Collector, that is, the Revenue Divisional Officer, he is the primary authority under Section 10 of the Act of 1955.

11. In the aforementioned statutory scheme, remedies provided in relation to various aspects may also warrant examination. As regards claims for occupancy rights by the Inamdar; Kabiz-e-kadim; permanent, protected and non-protected tenants under Sections 4, 5, 6, 7 and 8 of the Act of 1955, dealt with by the Revenue Divisional Officer as the primary authority under Section 10 of the Act of 1955, an appeal is provided under Section 24(1) to the prescribed authority and the decision of such prescribed authority shall be final.

14. It would be apposite at this stage to examine the dichotomy in the opinion of the two learned Judges which

led to this reference. In *G.V.Narsimha Reddy Vs. Syed Aktar Ali* (1988 (2) ALT 136), the revision was filed under Section 28 of the Act of 1955 against the order passed by the Joint Collector under Section 24(1) of the Act of 1955. As the issue of maintainability of the revision was raised, the same was considered by the learned Judge. Observations of the learned Judge in this regard read thus:

20. Reading Sec. 2(a) with Sec. 28, it is clear that under Sec. 28 the Legislature wanted to prohibit a revision in cases where an appeal lay, (this is on similar lines as Sec. 115, C.P.C.) or a reference lay. But the Legislature did not, in my opinion, intend to disallow a revision to the High Court against appellate orders of the Collector. In as much as the R.D.O. has also become a Collector by virtue of a delegation of power, the prohibition in Sec. 28 is only in regard to orders of the R.D.O. which are appealable under Sec. 24(1) to the Joint Collector or a reference is to be made under Sec. 24(2). Notwithstanding the delegation, the Joint Collector, while dealing with appeals, is still a Collector because of Sec. 2(a). Hence the words in brackets in Sec. 28, namely, except those referred to in Sec. 24 apply only to primary orders passed by the R.D.O. which are either appealable under Sec. 24(1) or against which a reference lies under Sec. 24(2), but not to appellate orders of the Collector (i.e., Joint Collector) made under Sec. 24(1) in matters concerning Sec. 10 i.e., grant of occupancy right certificates.

21. In the present case, the impugned order of the Joint Collector is, as held by me, one not only under Sec. 24(2) on a reference, but also one made under Sec. 24(1) read with Sec. 10 as an appellate authority and is clearly revisable under Sec. 28.

22. In any event, to avoid doubts about my jurisdiction, and having regard to the long litigation, I am inclined to exercise suo motu powers under Art. 227 of the Constitution of India.

23. Thus either under Sec. 28 or under Art. 227 of the Constitution of India, the impugned order of the Joint Collector is revisable and the objection of the respondent is rejected.

23. The language of Section 28 may also be examined minutely. The provision starts with a non-obstante clause indicating that the revisionary power of the High Court thereunder is given primacy and paramount reach so as to correct jurisdictional errors of the original or appellate authorities under the Act of 1955. The provision states unequivocally that an application for revision shall lie to the High Court from any order passed or proceedings taken by the Collector, excepting those referred to in Section 24, or by the Special Tribunal. Thus, what is excluded from the reach of the revisionary remedy under Section 28 are orders passed or proceedings taken by the Collector referred to in Section 24. Section 24(1) speaks of the decision of the Collector under Section 10 and permits an appeal therefrom within 30 days to the prescribed authority and the decision of such prescribed authority is conferred with finality. As pointed out hereinbefore, Rule 18(1) of the Rules of 1975 stipulates that for the purpose of Section 24(1), the District Collector shall be the prescribed authority. However, reference to the primary authority in Section 24 is by use of the word Collector and an appeal from his decision lies to the prescribed authority. In the light of the wider definition giving to the term Collector under Section 2(1)(a) of the Act of 1955, the word Collector in Section 24(1) is therefore not intended to refer to the District Collector, the prescribed appellate authority, but to the primary authority, the Deputy Collector (Revenue Divisional Officer).

24. Viewed thus, when the District Collector is brought in as an appellate authority under Section 24(1) only by the description of the prescribed authority stipulated under Rule 18(1) of the Rules of 1975, reference to an order passed by the Collector in Section 24(1) cannot be intended to mean the order of the District Collector, the prescribed appellate authority, but only to the order of the Collector, the primary authority. Similarly, Section 24(2) deals with determination of the question as to whether any building or land falls within the scope of Section 9 of the Act of 1955. The issue would necessarily have to be dealt with by the Collector, the primary authority, which would mean the Deputy Collector/Revenue Divisional Officer, and when a question arises before him as to whether a particular building or land falls within the scope of Section 9 of the

Act of 1955, he is required to refer it to the prescribed authority under Section 24(2) and the decision of such prescribed authority is conferred with finality. Rule 18(2) of the Rules of 1975 provides that the prescribed authority for the purpose of Section 24(2) is the Special Tribunal. Needless to state, reference by the Deputy Collector/Revenue Divisional Officer, the primary authority, under Section 24(2) would not be a decision but a proceeding taken by the Collector in terms of Section 28 and is sought to be excluded from the ambit of the revisionary remedy provided thereunder.

25. The aforesaid scheme therefore makes it clear that against an order passed by the Collector, the primary authority under Section 10, only an appeal lies to the District Collector under Section 24(1) and such a primary authority's order is not revisable under Section 28. Similarly, if a question as to whether a building or land falls within the scope of Section 9 is referred to the Special Tribunal under Section 24(2), such a reference by the Collector is not revisable under Section 28. Further, once the prescribed authority, being the District Collector under Section 24(1) or the Special Tribunal under Section 24(2), passes orders under Section 24(1) or Section 24(2) respectively, such decisions are conferred with finality in terms of no further appeal being provided therefrom. However, the question is whether jurisdictional errors, such as exercising a jurisdiction not vested or failing to exercise a vested jurisdiction or acting illegally or with material irregularity in following the procedure, by the prescribed authority under Section 24(1) or under Section 24(2) would be revisable under Section 28.

32. We therefore hold that the appellate order passed under Section 24(1) by the prescribed authority, the District Collector, as well as a reference order passed under Section 24(2) by the prescribed authority, the Special Tribunal, is revisable by the High Court in exercise of the powers conferred by Section 28 of the Act of 1955 on the limited grounds prescribed thereunder. Beyond the scope of such revision, such orders are conferred with finality on purely factual aspects.

Analysis of the case:

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that the petitioners are questioning Rule 18 of Rules on the ground that the said Rule is in contravention of the provisions of the Section 24 of the Act. The main ground urged by the learned counsel for the petitioners is that as per the provisions of the Section 2(1) (a) of the Act, Collector is only competent authority to entertain the applications and pass orders under Section 10 of the Act. The aggrieved party is having remedy of appeal before appellate authority under Section 24 of the Act. As per the provisions of the Section 24 of the Act, the prescribed authority is having jurisdiction to entertain the appeal under Section 10 of the Act. Whereas under Rule 18 of the Rules, the prescribed authority is defined as District Collector. Against the order of the Collector, the remedy of appeal is provided before the prescribed authority i.e, District Collector which is contrary to the object of the provisions of Section 24 of the Act.

7. The records further reveal that petitioner No.1 has already filed Civil Revision Petition Nos.4580 and 6239 of 2012 before this Court aggrieved by the orders passed by respondent No.4 under Section 24 of the Act and the same are pending.

8. It is relevant to extract Section 2(1)(a) of the Act, which reads as follows:

“(a) ‘Collector’ means the Collector of a district and includes any other officer, not below the rank of Deputy Collector, who may be authorized by the Government by notification in the official Gazette to discharge the functions of a Collector under this Act”

9. The above said provision envisages that Collector means Collector of a District and includes any other officer not below the rank of Deputy Collector to whom authority is given by the Government by notification in the official Gazette to discharge the functions of the Collector. It appears from the record that Government had issued G.O.Ms.No.1122, Revenue department, dated 20.08.1975 empowering the Revenue Divisional Officer to discharge the functions of the Collector under Section 10 of the Act.

10. It is also relevant to extract Section 10 of the Act:

“10. Enquiry by Collector in certain cases:

- The Collector shall examine the nature and history of all lands in respect of which an inamdar kabiz-e-kadim, permanent tenant, protected tenant or non-protected tenant, claims to be registered as an occupant under Sections 4, 5, 6, 7 and 8 as the case may be, and decide-

(a) in whose favour, and in respect of which inam lands, the claims should be allowed:

(b) the land revenue and the premium payable in respect of such lands.”

11. The above said provision reveals that Revenue Divisional Officer is having power, authority and jurisdiction under Section 10 of the Act, to examine the nature and history of all lands in respect of which an inamdar kabiz-e-kadim, permanent tenant, protected tenant or non-protected tenant, claims to be registered as an occupant under Sections 4, 5, 6, 7 and 8 as the case may be and decide the same.

12. In the case on hand, Revenue Divisional Officer while exercising the powers conferred under the provisions of the Section 10 of the Act issued ORC dated 26.03.2010, in favour of respondent Nos.6 and 7. As per the provisions of the Section 24 of the Act, the aggrieved party is having remedy to file appeal before appellate authority. Accordingly the petitioner No.1 filed appeal before appellate authority.

13. It is also relevant to extract the provisions of Section 24 of the Act and Rule 18 of the Rules.

“24. Appeals from orders under section 10 to prescribed authority.

(1) Any person aggrieved by a decision of the Collector under section 10 may, within thirty days from the date of decision, or such further time as the prescribed authority may for sufficient cause allow, appeal to the prescribed authority and its decision shall be final.

(2) If any question arises whether any building or land falls within the scope of section 9 the same shall be referred to the prescribed authority whose decision shall be final.

Rule 18 of Rules:

- (1) For the purpose of Sub-Section (1) of Section 24 the Board of Revenue shall be the prescribed authority.
- (2) For the purpose of Sub-Section (2) of Section 24 the Special Tribunal shall be the prescribed authority.

14. The above said provisions clearly envisage that against the order passed by the Collector/Revenue Divisional Officer, under Section 10 of the Act, aggrieved party is entitled to file appeal to the prescribed authority under Section 24 of the Act and prescribed time limit. It appears from the order dated 04.02.2022 passed in W.P.No.34455 of 2018, the Government had issued another G.O Ms.No.818, Revenue (Ser.I) Department dated 06.09.1990, reserving the subject 'Inams Abolition Act' to the Joint Collectors and that *vide* a subsequent G.O.Ms.No.699 dated 13.07.1994, the Government had also conferred powers on the Joint Collector to adjudicate on the matters under the Act. It further appears from the record that the Rule making authority framed the rules through G.O.Ms.No.870 Revenue (G) Department dated 27.06.1975, exercising the powers conferred under Section 35 of the Act, and prescribed authority is mentioned in Rule 18 of the Rules as "*District Collector*" to adjudicate the appeal under Section 24 of the Act. Hence, Rule 18 of the Rules is in

consonance with Section 24 of the Act and the contention of the learned counsel for the petitioners that Rule 18 of the Rules is not in conformity with the provisions of Section 24 of the Act is not tenable under law.

15. It is undisputed fact that Revenue Divisional Officer and Joint Collector are above the rank of Deputy Collector. As per the definition of Sec 2(1)(a) of the Act, the Revenue Divisional Officer and Joint Collector come within the purview of Collector and they are having authority to exercise the powers of Collector under Sections 10 and 24 of the Act.

16. It is also pertinent to mention here that as per the Telangana General Clauses Act, 1891, Collector means "Collector" shall include every officer who, for the time being, is authorized to exercise the powers of the Collector; and District Collector means the Chief local officer in charge of the Revenue administration of a District.

17. In ***K.Chandra Sekhara Rao*** (supra) the Division Bench of this Court held that against the order passed under Section 10 of the Act, remedy of appeal is provided under Section 24 of the Act to District Collector. The prescribed authority is mentioned as District Collector under Rule 18 of the Rules, hence this Court is of the

considered view that Rule 18 of the Rules is in consonance with the provisions of the Section 24 of the Act. Especially the Government is having power to frame the rules exercising the powers under Section 35 of the Act

18. Learned counsel for the petitioner relying upon the judgment in **Roop Chand** (supra) and **Indore Vikas Pradhikaran** (supra) contended that as per the provisions of the Act, statute creates powers for adjudication of the proceedings under Section 10 of the Act to the Collector and the said powers cannot be delegated. The judgments relied upon by the learned counsel for the petitioner are not applicable to the facts and circumstances of the case on hand, on the ground that rule making authority is having power to frame rules exercising the powers conferred under the provisions of Section 35 of the Act and as per the provisions of Section 2(1)(a) of the Act, Government issued notification authorizing the powers of the Collector to the Revenue Divisional Officer to exercise the powers under Section 10 of the Act. As per the provisions of Section 24 of the Act, the competent authority prescribed under Rule 18 of Rules is "*District Collector*", and the said authority is having jurisdiction to entertain and adjudicate the appeal against the said order under Section 10 of the Act. Against the said order further remedy of revision is provided under Section 28 of the Act.

Hence, the entire provisions of the Act and Rules, if read together, Rule 18 of the Rules is in consonance with Section 24 of the Act and Rule 18 of the Rules is not running contrary to the object and provisions of the Section 24 of the Act.

19. For the foregoing reasons, this Court does not find any grounds to declare the Rule 18 of Rules as *ultra vires*. However the petitioners are granted liberty to agitate their rights over the subject property in pending revision petitions.

20. Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

SD/- K.SREERAMA MURTHY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

One fair copy to the HON'BLE THE CHIEF JUSTICE ALOK ARADHE
(For His Lordship's Kind Perusal)

AND
One fair copy to the HON'BLE SRI JUSTICE J. SREENIVAS RAO
(For His Lordship's Kind Perusal)

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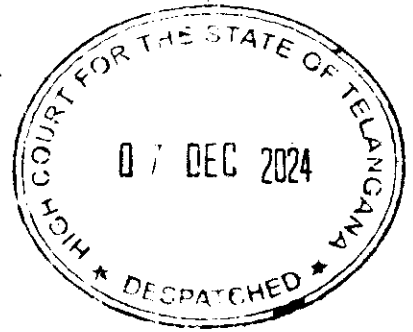
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HIGH COURT

DATED:06/09/2024

ORDER

WP.No.39589 of 2012



**DISMISSING THE WRIT PETITION
WITHOUT COSTS.**

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