

2025 LiveLaw (SC) 564

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
DIPANKAR DATTA; J., MANMOHAN; J.**

May 14, 2025.

**CIVIL APPEAL NO.5321 OF 2025 (Arising out of Special Leave Petition (C) No. 25818 of 2023)
THE STATE OF TELANGANA & ORS. *versus* DR. PASUPULETI NIRMALA HANUMANTHA
RAO CHARITABLE TRUST**

Transfer of Property Act, 1882; Section 10 - Applicability to Government Land Allotments - Restrictive Conditions - Resumption of Land - Held, Section 10 of the Transfer of Property Act, 1882, which prohibits absolute restraints on alienation, does not apply to government land allotments, as these are not *inter vivos* or commercial transactions but are governed by public interest. The Telangana government validly imposed conditions on land allotted for charitable purposes in 2001. The Respondent-Trust's subdivision and sale of the land breached these conditions, justifying the State's 2012 resumption order. The High Court's 2022 decision, which invalidated the resumption order as violating Section 10, was set aside, as government allotments are regulated by specific statutory frameworks (Rules 1975 and Board of Revenue Standing Orders), not the Transfer of Property Act. The appeal was allowed, affirming the State's authority to enforce conditions and resume land for public welfare. (Para 23)

For Petitioner(s): Mr. S. Niranjana Reddy, Sr. Adv. Ms. Devina Sehgal, AOR Ms. Palak Arora, Adv. Mr. S. day Bhanu, Adv.

For Respondent(s) :Mr. Gaurav Agrawal, Sr. Adv. Mr. D. Abhinav Rao, AOR Mr. Abhisek Das, Adv. Ms. Megha Shaw, Adv. Mr. Raghav Bherwani, Adv.

J U D G M E N T

MANMOHAN, J

1. Present Appeal has been filed challenging the impugned judgment and final order dated 05th July, 2022 passed by the High Court for the State of Telangana at Hyderabad in Writ Appeal No.1328 of 2014, whereby the High Court dismissed the Writ Appeal filed by the Appellants herein and upheld the judgment and order dated 24th June, 2014 passed in W.P.(C) 28980/2013 passed by the learned Single Judge. It is pertinent to mention that both the Courts below held that the Respondent-Trust is the absolute owner of the land to the extent of Ac.3.01 gts.in Sy. No.72/31 situated at Chinnathimmapur village, Mulugu Mandal, Medak District, as the Appellant-State having sold the land on payment of market value could not have placed any condition restricting the enjoyment of the land and such restrictions were void under Section 10 of the Transfer of Property Act, 1882 (hereinafter referred to as 'TPA'). The relevant portion of the impugned order passed by the Division Bench is reproduced hereinbelow: -

"7. Thus, learned Single Judge noted that respondent had purchased the subject land on payment of market value from the Government. On such purchase, respondent became the owner of the subject land whereafter, the same ceased to be a Government land or an assignable land. Having sold the land on payment of market value, the Government could not have placed any condition restricting the enjoyment of the land by the land owner.

8. We do not find any error or infirmity in the view taken by the learned Single Judge. No case for interference is made out."

ARGUMENTS ON BEHALF OF APPELLANT

2. Mr. S. Niranjan Reddy, learned senior counsel for the Appellant-State, submitted that the impugned judgments of the High Court were untenable in law, inasmuch as, they did not consider the statutory scheme under which the Appellant-State had allotted land to the Respondent-Trust. He pointed out that under Section 25 of Telangana Land Revenue Act (hereinafter referred to as 'Act'), the Commissioner/Collector can assign/set apart any land for the purpose of public benefit. He stated that to facilitate alienation of land, the State of Telangana has framed Telangana Alienation of State Lands and Land Revenue Rules 1975 (for short 'Rules 1975') under Section 172 of the Act. The relevant portion of Rules 5 and 6 of the said Rules 1975 are reproduced herein below: -

"5. (a) For every alienation of land requiring the sanction of the Board of Revenue or the State Government there shall be made an application by the Collector in the prescribed in Appendix I to these rules....."

6.(a) Every grant of Alienation of State land whether for religious Educational or any other public purpose always be subject to the following conditions: -

(1) The land shall be usedand for no other purpose.

(2) The Government may resume the land wholly or in part with any buildings thereon, in the event of the infringement of any of the conditions of the grant. In the event of such resumption, no compensation shall be payable for any improvements that may have been effected, or other works that may have been executed on the land by the grantee and the grantee shall not be entitled to the repayment of any amount that may have been paid to the Government for the grant. If there are buildings on the land the Government may direct the grantee to remove them."

3. He further stated that G.O.Ms. No.635 dated 02nd July, 1990 empowers the Commissioner, Land Revenue/ District Collectors to dispense Government lands by alienation on payment of market value. The relevant portion of the aforesaid G.O.Ms. is reproduced hereinbelow: -

"REVENUE DEPARTMENT

G.O.Ms. No.635 Dated 2-7-1990

1. G.O.Ms. No.73, Revenue dated 20.01.1975.

2. From the Commissioner of land Revenue, Hyderabad D.G. Letter No.B1/653/90, dated 27.02.1990.

ORDER:-

The Andhra Pradesh (Telangana Area) Alienation of State lands and land Revenue Rules 1975, empower the Commissioner, Land Revenue and the District Collectors to dispense of Government lands by alienation to local Mediums and private institutions, Companies, Associations and private individuals on payment of market value. Illegible within certain limitations. Similar provisions is also available in B.S.O. 24 (empowering the Commissioner, Land Revenue and District Collectors to dispose of Government land by alienation....."

4. The relevant portion of the Board Standing Order 24 referred to in G.O.Ms. No.635 is reproduced hereinbelow: -

"6. Condition for the grant of State land:- (i) Lands at the disposal of Government:- A grant of State land whether for religious, educational or other public purpose should always contain the following conditions:-

(1) The land shall be usedand for no other purpose.

(2) *The Government may resume the land wholly or in part with any buildings thereon, in the event of the infringement of any of the conditions of the grant. In the event of such resumption no compensation shall be payable for any improvements that may have been effected, or other works that may have been executed on the land by the grantee and the grantee shall not be entitled to the repayment of any amount that may have been paid to the Government for the grant. If there are buildings on the land the Government may direct the grantee to remove them.....”*

5. He pointed out that in the present case, the District Collector, Medak vide order dated 08th February 2001, had allotted the subject land in exercise of the powers conferred under G.O.Ms. No. 635 (Revenue) dated 2nd July 1990. He emphasised that the only document on which the Respondent-Trust had relied upon to prove its title/ownership was the allotment letter issued under a statutory Scheme and not a sale deed.

6. He further stated that the allotment was made subject to certain conditions, and it was specifically stated that any deviation from the said conditions would result in the land being resumed back by the revenue authorities.

7. He contended that in the present case, the Appellant-State was not intending to sell the land but to allot the same to charitable trust for a charitable purpose for the benefit of public at large.

8. Additionally, Mr. Reddy drew the attention of this Court to the General Power of Attorney dated 18th June 2011 (“GPA”) executed by the Respondent Trust, *qua* the subject land. He contended that the Respondent-Trust had fraudulently executed a GPA without making any reference to the allotment letter dated 08th February, 2001 or the conditions on which the allotment of said land had been made. The relevant portion of GPA relied upon by him is reproduced hereinbelow: -

“GENERAL POWER OF ATTORNEY

KNOWN ALL MEN BY THE PRESENTS, THAT I Dr. P. HANUMANTH RAO S/O Dr. P. RAMA RAO, aged about 66 years.....

DO HEREBY NOMINATE, CONSTITUTE, APPOINT AND RETAIN

SYED JAVED.....AS MY TRUE AND LAWFUL ATTORNEY.....

WHEREAS I am the lawful owner, Pottedar and possessor of Agricultural Land bearing Sy.No.72/31, admeasuring Ac.3-01 Gts.....having acquired the same from Smt. S. SHREE SUDHA W/O SRI SANGARAJU MANOHAR RAJU through a Regd. Sale Deed Vide

Document No.859/1988, Dt: 09-03-1938 Regd. at SRO Gajwel, Medak District. Thereafter the Revenue officials have issued the Title Deed and Pattedar Passbooks vide title deed No.674409 and the Patta No.143 respectively.

WHEREAS, the said Smt. S. SHREE SUDHA W/O SRI SANGARAJU MANOHAR RAJU has purchased the said property from Shri MURTHY MURRAY S/O Late S.S. MURRAY through a Regd. Sale Deed vide Document No.695/1981, Dt. 03-07.1981 Regd. at SRO Gajwel, Medak District.

AND WHEREAS, I am intending to hand over the above property agricultural land bearing Sy.No. 72/31 an extend of Ac.3-01 gts., situated at CHINNA THIMMAPUR Village, Mulugu Mandal, Siddipet Revenue Division, Medak District A.P. (hereinafter called the SCHEDULE OF PROPERTY) which is more fully described in the schedule of property but due to personal work I am not looking after the affairs of the said property personally as such I am not in position to deal with the intending purchase, as such I hereby empower and authorize my Attorney Mr. SYED JAVED S/o late S.G. MOHIUDDIN to deal with all the matters contained to him with the following powers.....”

9. Mr. Reddy lastly stated that the Power of Attorney holder had cut a colony by the name 'Eden Orchard' on the land allotted to the Respondent-Trust and even some of the plots had been sold to third parties without disclosing the conditions on which the initial allotment had been made.

ARGUMENTS ON BEHALF OF RESPONDENT

10. *Per contra*, Mr. Gaurav Agrawal, learned senior counsel for the Respondent-Trust contended that the subject land was sold by the State Government after following the due procedure stipulated in G.O.Ms. No. 635 dated 02nd July, 1990, wherein the District Collector, Medak in consultation with the Commissioner of Land Revenue sold the land to the Respondent-Trust on payment of market value. He emphasised that the said sale was made at market value and the same was not an allotment at any concessional rate.

11. He further stated that the said alienation contained a general condition that "*the land would be utilised only for the purpose for which it is allotted*" without actually specifying the exact purpose for the allotment. Therefore, he submitted that there was no restriction/condition imposed on the usage of the land by the Respondent-Trust herein and in any event, any such condition on usage would be violative of Section 10 of the TPA – as held by the High Court. Since Section 10 of the TPA was heavily relied upon by learned senior counsel for the Respondent-Trust, the same is reproduced herein below: -

"10. Condition restraining alienation.—*Where property is transferred subject to a condition or limitation absolutely restraining the transferee or any person claiming under him from parting with or disposing of his interest in the property, the condition or limitation is void, except in the case of a lease where the condition is for the benefit of the lessor or those claiming under him: provided that property may be transferred to or for the benefit of a woman (not being a Hindu, Muhammadan or Buddhist), so that she shall not have power during her marriage to transfer or charge the same or her beneficial interest therein."*

12. He further submitted that the resumption order dated 19th January 2012 was passed in violation of the principle of natural justice. He, however, stated that the said aspect was not considered by the learned Single Judge and the Division Bench, and therefore, if this Court was inclined to set aside the impugned orders, it should remand the matter back to the High Court for fresh adjudication on merits.

REJOINDER

13. In rejoinder, learned senior counsel for the Appellant-State submitted that Section 10 of the TPA operates in a completely different sphere as it applies in a case of inter vivos transfer, whereas allotment by the Appellant-State is different from a private party engaging in inter vivos transfers. He contended that the learned Single Judge and the Division Bench had erred in not making a distinction between sale and allotment of the subject land.

ISSUES

14. Having heard learned counsel for the parties and having perused the paper book, this Court is of the view that the following issues arise for consideration in the present proceedings, namely: -

- i. Whether alienation of land by the District Collector, Medak, Government of Andhra Pradesh vide order dated 8th February 2001 was a sale or alienation/allotment?
- ii. Whether any condition was imposed pursuant to the alienation of land by the Government of Andhra Pradesh? and

iii. Whether any condition/restriction imposed by the State Government would be violative of Section 10 of the TPA?

REASONING

ALIENATION OF LAND BY APPELLANT-STATE WAS NOT A SALE BUT AN ALLOTMENT UNDER A STATUTORY SCHEME

15. Before answering the aforesaid issues, this Court is of the view that it is essential to outline the relevant facts. The land in question to the extent of Ac. 3.01 gts., falls under Sy. No.72/31 and is Government land as per entries of record and was declared as Government (Poramboke) land in the year 1989.

16. Further, the Respondent, being a charitable trust, had applied for allotment of land. A charitable trust can use land for charitable purposes only.

17. The request of the Respondent-Trust was processed as per the instructions laid down in G.O.Ms. No.635 dated 02nd July, 1990 and the land in question was conditionally allotted by the District Collector, Medak, Government of Andhra Pradesh vide order dated 8th February 2001 by virtue of the power conferred under the Telangana Alienation of State Lands and Land Revenue Rules, 1975 framed under Sections 25 and 172 of the Act and G.O.Ms.No.635 dated 2nd July 1990 read with Board Standing Order 24. The said fact is apparent from the alienation letter dated 8th February 2001 issued by the District Collector, Medak, which specifically records that sanction is accorded to alienation of Government land subject to payment of market value and subject to the following three conditions. It was made clear that in case of deviation of the said three conditions, the land shall be resumed back by the Revenue authorities. The relevant portion of the alienation order dated 08th February 2001 is reproduced hereinbelow:

- “1. That the above land should be utilized only for the purpose for which it is allotted.
2. That the construction work should be completed within (2) years from the date of handing over possession of the land.
3. That the trees should be planted in the open place.”

In case of any deviation of the above conditions the land shall be resumed back by the Revenue authorities....”

18. Consequently, alienation of land by the District Collector, Medak, Government of Andhra Pradesh vide order dated 8th February, 2001 was not a sale, but an allotment under a statutory Scheme.

THE ALLOTMENT OF LAND WAS CONDITIONAL TO THE RESPONDENTTRUST’S KNOWLEDGE

19. Though no specific purpose of allotment was mentioned, yet this Court is of the view that as the allotment was in favour of the Respondent-Trust, the allotment could be used for a charitable purpose only. Even in the RespondentTrust’s understanding, the allotment of land was conditional. This would be apparent from the fact that not only in the contemporaneous correspondence, but even in the writ petition filed, there was an admission by the Respondent-Trust that the allotment was made for a charitable purpose, and the land was being used for the said purpose. In response to the Appellant’s letter dated 23rd November 2011, the Respondent-Trust had specifically replied that there were no violations of the conditions laid down in the letter dated 8th February 2001 and the land was being utilized for the purpose for which it was allotted. The relevant portion of the Respondent-Trust’s reply dated 29th November 2011 is reproduced herein below: -

“...I, further state that **there are no such violations in the conditions laid down in the District Collector Medak Proceedings No.E3/7542/98, Dt.8.2.2001.**

After taking the possession the above land is being utilized for the purpose alienated. Class room, sheds were constructed within two years through our own funds...”

(emphasis supplied)

20. It was also specifically averred in the writ petition filed by the Respondent-Trust that as the Appellant-State had offered the land as per G.O.Ms. No.635 dated 2nd July 1990 subject to three conditions vide proceedings No.E3/7542/98 dated 08th February 2001, the Respondent-Trust had followed the same ‘scrupulously’. Consequently, the Respondent-Trust’s argument that no specific purpose of allotment was specified is false to the Respondent-Trust’s knowledge.

HIGH COURT FELL IN ERROR IN MAKING OUT A CASE OF SALE

21. In fact, the case of the Respondent-Trust in its writ petition filed before the learned Single Judge was not that it was a case of sale, but it had been assured that, “*the alienation of land is amounting to sale...*”. Consequently, this Court is of the view that the High Court fell in error in making out a case of sale, ignoring the fact that the Appellant-State had allotted land to the Respondent-Trust under a statutory scheme of alienation/allotment.

22. This Court is further of the view that when the Government decides to sell its land, as the Respondent-Trust would like this Court to believe, the Government can neither select a buyer nor can it fix a price unless and until the said decision is backed by a social or economic or welfare policy/purpose – which is admittedly absent in the present case. It is a settled law that the Government cannot distribute State’s largesse and normally the State ‘must’ get the ‘maximum value’ of the resources, especially when State-owned assets are passed over to private individuals/entities unless there are good and cogent reasons for doing so in special circumstances. [See: **Ramana Dayaram Shetty vs. The International Airport Authority of India & Ors., 1979 (3) SCR 1014; Natural Resources Allocation, In Re, Special Reference No.1 of 2012, (2012) 10 SCC 1 and Manohar Lal Sharma vs. Principal Secretary & Ors., (2014) 9 SCC 516**].

STATUTORY SCHEME OF ALLOTMENT NOT ECLIPSED BY SECTION 10

23. This Court is of the view that the Appellant-State had allotted land to public trust for public purpose. In such a situation, the State cannot be put in the normal classical inter vivos party’s position as public interest is supreme and must prevail. This Court is also of the opinion that Rules 1975 and the Board of Revenue Standing Orders operate in a completely distinct space and are not eclipsed by Section 10 of the TPA.

GPA REFLECTS MALAFIDES OF THE RESPONDENT-TRUST (ALLOTEE)

24. In any event, in 2011, Dr. Pasupuleti Niramala Hanumantha Rao, without disclosing that he is a Trustee of the Respondent-Trust to whom the land had been allotted by the State Government, appointed Sri Syed Javed as G.P.A. holder under the Registration Deed No.148/11 dated 18th June 2011. It is pertinent to mention that the conditions on which the allotment had been made by the State Government were not mentioned/disclosed in the G.P.A. which reflects malafides of the Respondent-Trust (allottee).

DECISION TO CUT A COLONY – A FRAUD ON STATUTE

25. This Court is further of the view that the Respondent-Trust, despite having accepted the conditions of grant of alienation laid down under Condition No.6 of the Andhra Pradesh Board Standing Orders, violated these conditions as the said land was not used for the purpose for which it was granted, i.e. for the purpose of a Charitable Trust. On the contrary, a colony was cut on the said land, which was sub-divided into plots, some of which have already been sold to third parties vide different sale deeds in violation of the conditions of allotment. This Court is of the opinion that the decision to cut a colony in violation of the specific conditions on which land had been allotted cannot be termed as anything else but fraud on the statute.

CONCLUSION

26. Keeping in view the aforesaid findings, the impugned judgments dated 24th June 2014 and 05th July 2022 are set aside and the Appeal, is accordingly allowed.

Pending applications, if any, shall stand disposed of.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)