2018 INSC 434

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 4632-4638 OF 2018
(Arising out of S.L.P. (C) Nos.21856-21862 OF 2010)

Telangana Housing Board .....Appellant

versus

Azamunnisa Begum (Died) Thru. Lrs. & Ors. ....Respondents

J U D G M E N T

Madan B. Lokur, J.

Leave granted.

1. The question for our consideration relates to the interpretation of Section 87 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli and the meaning of the expression 'clerical error'. The further question is whether a 'clerical error' can be corrected "at any time" or only within a reasonable time.

2. In our opinion, the correction sought to be made by the respondents is not a 'clerical error' and so the further question really does not arise. However, the expression "at any time' cannot be interpreted to stretch over a period of 25 years, as in the present case.

Land Acquisition Proceedings

3. On 24th May, 1963 a notification was issued under the provisions of Section 4 of the Land Acquisition Act, 1894 (the Land Acquisition Act). The entire acquisition was of a few thousand acres comprising of dozens of survey numbers. Amongst others, the acquisition included survey nos. 1009, 1043 to 1065 comprising of 1110.07 acres in Kukatpally Village, Balanagar Mandal in Ranga Reddy District of Andhra Pradesh. The entire acquisition was for the purpose of a Housing Scheme of the Andhra Pradesh Housing Board (APHB) framed under Section 22-A of the Andhra Pradesh Housing Board Act, 1956.

4. As is evident, the area was extremely large but it is recorded in paragraph 4 of the Land Acquisition Award that:

> "The lands under acquisition were got surveyed by the Measuring Circle Inspector of this office and were got checked by the G.D. Inspector of Hyderabad District, and areas of the lands under Acquisition were approved by the Land Record Assistant. The Areas as approved after survey and check are adopted in this Award."

5. As far as Survey No. 1009 is concerned an area of 661.04 acres was sought to be acquired. The notification does not indicate that only a part of Survey No. 1009 was sought to be acquired. There was no indication that 661.04 acres of land is only a part of the entire extent of Survey No.1009. In fact, as suggested in the Award, the entire Survey No. 1009 along with the entire survey nos. 1043 to 1065 (along with

several dozen other survey numbers) were sought to be acquired by the said notification.

6. In paragraph 29 (b) of the Land Acquisition Award it is further stated:

> "The Special Deputy Collector Patancheru has informed vide his Lr. No.B1/341/67 dated 6.8.67 that he has acquired 5 acres 21 guntas out of survey number 1009 measuring 666.25 acres of Kukatpally village. The area tallies on the spot hence an area 5 acres 21 guntas is deleted from the area of survey no.1009 of Kukatpally and award is being passed for the balance area of 661.64 acres out of survey number 1009."

7. At this stage, we may mention that an area of 5.21 acres in Survey No. 1009 was earlier acquired for the Manjeera Water Works Department and hence 661.04 acres was sought to be acquired by the said notification.

8. The acquisition proceedings concluded without any objection having been raised by the respondents who were admittedly owners of the land. An Award was passed by the Special Deputy Collector, Land Acquisition, Andhra Pradesh Housing Board, Hyderabad on 10th June, 1968 and Survey No. 1009 was described in the Award as "dry lands full of rocks unfit for cultivation and no cultivation is being done."

9. On 24th June, 1968 the APHB took possession of all the acquired lands including entire survey nos. 1009 and 1043 to 1065.

10. Dissatisfied with the award of compensation, the respondents filed a reference under Section 18 of the Land Acquisition Act. In the claim

petition it was stated that survey nos. 1009 and 1043 to 1065 comprise of 1121.17 acres. However, compensation was awarded only for 1104.26 acres (5.21 acres relating to Manjeera Water Works Department was not included in this calculation). Accordingly, it was stated that "11 acres and odd, they being the property of the claimant, it is not acquired and they remain to be the property of the claimant." It is significant to note that the 11 acres and odd which was sought to be excluded from the acquisition proceedings by the respondents was not specified or identified inasmuch as the survey number of this un-acquired area was not stated or earmarked by the claimants. It is much later that the respondents came to the conclusion that the allegedly un-acquired 11 acres and odd was a part of Survey No. 1009.

11. Be that as it may, the compensation was enhanced and ultimately, settled by this Court sometime in 1992. We are not concerned with the details of the compensation proceedings any further but have mentioned it only for the purpose of indicating that:

i) The entire area of survey nos. 1009 and 1043 to 1065 was acquired. The acquisition consisted of huge areas and physical measurements were carried out, surveyed, checked and approved as per the revenue records.

ii) Possession of the entire land was taken by the APHB for a Housing Scheme.

iii) Although the respondents made a submission that 11 acres and odd was not acquired, this area was not identified or specified as being a part of any particular survey number or even earmarked.

Proceedings relating to Section 87 of the A.P. (Telangana Area) Land Revenue Act, 1317 F.

12. On 7th December, 1993 the respondents moved an application under the provisions of Section 87 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli (for short the Act). In the application, it was stated that as per the revenue record pertaining to Survey No. 1009 the land area is actually 672.14 acres and it incorrectly shows the area less by 11.10 acres. It was stated in the application that this area of 11.10 acres was in possession of the respondents. It is for the first time in 1993 that 11.10 acres was attributed to Survey No. 1009. Section 87 of the Act reads as follows:-

> "**Settlement Officer to correct clerical and other errors admitted by all parties and application for correction of name to be made within two years**:
>
> The Director of Settlements and on making over the settlement records to the Collector, the Collector may, at any time, correct or cause to be corrected any clerical error or errors admitted by the party concerned.

> The aforesaid officer shall hear all applications made within two years after the introduction of the settlement, for the correction of any wrong entry of a pattadar's name in the register referred to in the preceding section and if satisfied about the error whether such error has been made through negligence, fraud, or collusion shall correct the same, notwithstanding that the party concerned does not admit the error but no such application shall be entertained after two years, unless reasonable cause is shown to the said officer for the delay, and in such cases if any error is proved it shall not be corrected without obtaining the sanction of the Government."

13. Acting on the application, the District Collector requested the Assistant Director, Survey and Land Records for a survey of Survey No. 1009 and to fix the boundaries. The Assistant Director issued notice to the APHB on 7th July, 1994 for the purposes of carrying out the survey but according to the APHB the notice was not received. In our opinion, the non-receipt of the notice is hardly of any relevance.

14. In any event, the Assistant Director submitted a Report on 5th August, 1994 to the District Collector. In his Report, it was concluded that the area of Survey No. 1009 was actually 687.03 acres. This comprised of 661.04 acres (subject matter of consideration before us) and 5.21 acres earlier acquired for Manjeera Water Works Department. Therefore, according to the Assistant Director there was an excess of 20.18 acres that had not been acquired. It was also noted that IDL was in possession of some extent of Survey No. 1009. No specification or details were provided of the area and location of the land in possession of IDL.

15. It is also significant to note that while the respondents had been contending that there was an excess of 11.10 acres that had not been acquired, the Assistant Director came to the conclusion that 20.18 acres had not been acquired.

16. At this stage, we may take a slight diversion and refer to a Circular dated 15th October, 1994 issued by the Commissioner of Survey, Settlements and Land Records. This Circular concerns itself with Section 87 of the Act it seeks to explain a 'clerical error' that could be rectified.

17. The relevant portions of the Circular dated 15th October, 1994 are paragraphs 4 and 5 and they read as follows:-

> "Clarification: There is no time limit for entertaining clerical errors, and District: Revenue Officer is competent to entertain clerical errors. The time limit is prescribed only for errors other than clerical errors. For rectification of errors other than clerical errors condonation of delay is required, for which District: Revenue Officer alone is competent. However the District: Revenue Officer is not competent to carryout correction other than clerical errors without the approval of the Commissioner, Survey, Settlement and Land Records.
>
> Clarification: Section 87 of the Land Revenue Act 1317 Fasli does not provide definition of clerical errors and errors other than clerical errors. The clerical errors are minor errors which do not involve alteration in area, change of classification, or change of name of the pattedar.
>
> A few examples of errors, which come under the category of clerical errors, are furnished below:-
>
> a. Name of the Pattedar misspelt.
> b. Inter-change of survey numbers.
> c. Survey no. missing in the survey map.
> d. Area is calculated wrongly though measurement on ground and records support the correct area.

> Since the definition of clerical error and errors other than clerical errors is not there in the Act, it is not proper to leave it to the judgment of Assistant Director Survey and Land Records whether particular survey error falls under the category of clerical error or errors other than clerical error. Therefore, the Assistant Director, Survey and Land Records shall send detailed technical report to Director, Survey Settlement and Land Records, regarding proposed error. This is purely a technical and non-statutory function. The report so sent shall be examined at Directorate whether the error falls under the category of clerical error or error other than clerical error and the fact will be communicated to Assistant Director Survey and Land Records. On obtaining clearance from the Directorate, the Assistant Director shall send the file to District Revenue Officer to dispose of the case at District Revenue Officers level under Section 87 of the Land Revenue Act, if the error is a clerical error. If the error is other than clerical error, the District Revenue Officer, shall send proposals to Commissioner Survey Settlement and Land Records duly condoning the delay as per rules for disposal of the case by Commissioner, Survey, Settlement and Land Records, under Section 87-A of Land Revenue Act 1317 fasli."

18. In response to the application made by the respondents under Section 87 of the Act and the Report given by the Assistant Director on 5th August, 1994, the Director of Settlements, Survey and Land Records wrote to the District Collector on 19th April, 1995 acknowledging that there is no record of any actual measurement of Survey No. 1009 since it is a large tract of land. He also stated that variation in calculating the area apparently in view of the rocky nature of the land could be between 10% and 30%. The fact that all the survey numbers had been measured, as mentioned in the Award, was lost sight of.

19. Nevertheless, the Director stated that the measurement exercise

undertaken by the Assistant Director is technically correct and the area of Survey No. 1009 is actually 687.03 acres while the recorded area is 666.25 acres (which includes the land acquired for Manjeera Water Works Department). Therefore, according to the Director the variation is to the extent of 20.18 acres. The Director also expressed the opinion that the measurement error falls within the category of 'clerical error' as mentioned in the Circular dated 15th October, 1994 and necessary corrective action ought to be taken.

20. It is not clear how the APHB learnt of the Report of the Assistant Director and its acceptance by the Director but in any event, on 10th June, 1996 objections were raised by the APHB before the District Collector to the Report and the decision to correct the revenue records.

21. On receipt of the objections, the District Collector referred the case to the Commissioner of Survey, Settlements and Land Records, Hyderabad on 1st August, 1996 to consider rectification of the measurement error.

22. On 15th September, 1997 the Commissioner directed the District Revenue Officer to take action in terms of the Circular of 15th October, 1994 since there was a clerical error in terms of paragraph 5 of the Circular. However, the Commissioner also directed that before passing any orders under Section 87 of the Act the APHB should be heard.

23. It appears that the APHB was thereafter heard by the District

Revenue Officer who then passed an order on 9th June, 1998 concluding that in fact the area of Survey No. 1009 was 687.03 acres and that there was an excess of 20.18 acres that had not been acquired. This was as against the claim of the respondents that 11.10 acres had not been acquired. The District Revenue Officer concluded that the APHB had no right over the area of 20.18 acres and that necessary corrections in terms of Section 87 of the Act should be made.

24. Feeling aggrieved by the order passed by the District Revenue Officer which appears to have been accepted by the higher authorities the APHB filed an appeal before the Commissioner (Appeals) under Section 158 of the Act. This Section reads as follows:

> "**Appeal from order of Revenue Officer**- (1) Except as otherwise provided in this Act for any other law for the time being in force, an appeal shall lie against any decision or order passed by a Revenue Officer under this Act or any other law for the time being in force, to his immediate superior officer whether such decision or order may have been passed in the exercise of original jurisdiction or on appeal.
>
> (2) Subject to the provisions of the Andhra Pradesh (Telangana Area) Board of Revenue Regulation, 1358 F., (Regulation LX of 1358F.) an appeal shall lie to the Government from any decision or order passed by a Collector or Settlement Commissioner except in the case of any decision or order passed by such officer on second or third appeal.
>
> (3) and (4) xxx xxxxxx

25. On 24th March, 1999 the Commissioner (Appeals) passed an *ex parte* order in the appeal filed by the APHB for maintaining *status quo*.

26. It appears that in spite of the *status quo* order passed by the Commissioner (Appeals) the revenue records were corrected by issuing a Supplementary Sethwar. Be that as it may, the respondents challenged the *ex parte* order dated 24th March, 1999 by filing a writ petition in the Andhra Pradesh High Court on 5th April, 1999. The writ petition was numbered as the W.P. No. 7940 of 1999. Among the grounds taken by the respondents, in the writ petition, was that the appeal filed by the APBH was beyond time and an *ex parte* order ought not to have been passed by the Commissioner (Appeals).

27. On 10th August, 2000 the learned Single Judge hearing the writ petition passed an interim order to earmark the land in possession of the APHB and whether it is occupying 661.04 acres or more. In compliance with the interim order, the Assistant Director gave a Report dated 23rd June, 2001 to the effect that the area of Survey No. 1009 is 666.25 acres including 5.21 acres with Manjeera Water Works Department. It is important to note that the Assistant Director did not report that the area of Survey No. 1009 was more than 666.25 acres. In other words, there was a turn-around from the earlier decisions taken in this regard. It was reported as follows:

> "After fixing the boundaries as stated above the land available within such boundaries surveyed with the help of theodolite (traverse survey) and arrived the total area as Ac.666.25 gts. which is tallied with the recorded area of survey no. 1009 as per survey records. The survey work is concluded on 11.6.2001.

The details of land showing physical features within survey no.1009 arrived after detailed survey are as under:-

	Ac. Gts.
1. Land under the possession of Housing Board covered by built up area	288.00
2. Open land under possession of Housing Board	358.04
3. Land left for Graveyard/Burial ground by the Housing Board	15.00
	661.04
4. Land under Manjeera Pipeline (Water works Dept.)	5.21
Total area of survey no. 1009	666.25

A sketch of survey no. 1009 showing the above details is prepared and submitted herewith."

28. On 31st October, 2001 the learned Single Judge decided W.P. No. 7940 of 1999 and directed the Commissioner (Appeals) to hear the appeal and pass appropriate orders. In the meanwhile, *status quo* was directed to be maintained.

29. Pursuant to the directions given by the learned Single Judge, the Commissioner (Appeals) heard the appeal filed by APHB. By an order dated 4th January, 2003 the Commissioner (Appeals) upheld the view of the District Revenue Officer dated 9th June, 1998 and dismissed the appeal. The Commissioner (Appeals) was of opinion that:

(i) Only 661.04 acres of land was acquired out of the larger area in Survey No.1009;

(ii) The claim made by the respondents that 11.10 acres out of Survey No.1009 was not acquired was not a belated claim;

(iii) The correction sought by the respondents in their claim under Section 87 of the Act was the correction of a clerical error under paragraph 5 (d) of the Circular dated 15th October, 1994.

Proceedings before the learned Single Judge

30. Feeling aggrieved by the dismissal of its appeal by the Commissioner (Appeals), a writ petition was filed by APHB in the Andhra Pradesh High Court and that was numbered as W.P. No. 13927 of 2003.

31. A learned Single Judge of the High Court heard the writ petition and by a judgment and order dated 19th April, 2005 allowed it and quashed the order of the Commissioner (Appeals).

32. The learned Single Judge took the view that Section 87 of the Act was not applicable to the case and as such the claim made by the respondents was not maintainable. In addition, it was held that the claim made by the respondents does not fall within the category of a 'clerical error' and therefore the Circular dated 15th October, 1994 was also not

applicable. The learned Single Judge made a reference to the failure of the State and the respondents to produce the record prepared at the time of survey which could have shown a wrong calculation of area. In this regard it was held by the learned Single Judge as follows:

> "Record prepared at the time of survey is not produced to show that there is a wrong calculation of area, though the measurement on ground and record support the correct area. So, entry regarding extent of S.No.1009 cannot be said to have been made wrongly due to a clerical mistake. By arriving at the area of a particular survey number by conducting survey thereof only, several decades after settlement, and without surveying the areas in other survey numbers adjacent to that survey number, question of the original entry in the settlement register was a wrong entry as a clerical error or not cannot be determined. There is nothing on record to show that lands in adjacent survey numbers of S.No.1009 also were surveyed and as to what is the extent found in such survey, and the extent noted in the settlement register."

33. With regard to the contention that only 661.04 acres had been acquired out of Survey No.1009, the learned Single Judge noted that a declaration had been filed by and on behalf of the respondents under the provisions of the Andhra Pradesh Land Reforms (Ceiling of Agricultural Holdings) Act, 1973. In that declaration there was nothing to suggest that the respondents were holding excess land which would have been so had the respondents been in possession of 11.10 acres. The learned Single Judge observed as follows:-

> "The contention of Mir Fazeelath Hussain Khan and his heirs that since they are in actual physical possession of the land of Acs.11=10gts in S. No. 1009, even after acquisition by the petitioner, and so they can make a claim cannot be countenanced

because by the time A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Act 1 of 1973) and the Urban Land (Ceilings and Regulation) Act, 1976, came into force Mir Fazeelath Hussain Khan, who originally filed the application before the 3rd respondent, was alive, and had filed a declaration under the Act 1 of 1973. He showed the total area covered by S. Nos. 1009, 1043 to 1065 belonging to him as Acs.1109-92 gts. That extent was deleted from his holding as it was acquired and by the order dated 09-12-1976, vide common order in C.C.Nos.156 to 159/W/75 he was held to be holding 0.4083 standard holding in excess even after deleting of an extent of Acs.1109.92 gts in S. Nos. 1009, 1043 to 1065 of Kukatpally village. If Mir Fazeelath Hussain Khan really was in possession of or was owning any extent over and above the area acquired by the petitioner either in S. No. 1009 or 1043 to 1065, he would have had to surrender that area also, because even without that area being included in his holding he was found to be holding land in excess of the ceiling area."

.....

"So, it is clear that the family of Raisyar Jung was said to be holding only land to the extent of Acs.349-63 cents in S.No.1007 but not any land in S. No. 1009. This extent of Acs.11-10 gts now said to be in the possession of unofficial respondents was not declared by them or their predecessors in the declaration under Act 1 of 1973. Had Fazeelath Hussain Khan, who filed the petition before the District Revenue Officer, or any of the unofficial respondents or their predecessors-in-title, been in possession of any extent of land in S. No. 1009 by 01.01.1975 they would have shown it in their declaration filed under Act 1 of 1973. But they did not do so. For that reason also the contention of the unofficial respondents that they are in possession of some land in S. No. 1009 and that the extent of S. No. 1009 is more than that was acquired by the petitioner cannot be believed or accepted."

34. The learned Single Judge also dealt with the submission on behalf of the respondents that the APHB had no *locus standi* to question the order passed by the Commissioner (Appeals). It was noted that the APHB was a party to the proceedings before the Commissioner (Appeals)

and therefore it was entitled to question the adverse order. Moreover, when the authorities assume jurisdiction which they do not possess under Section 87 of the Act and pass orders likely to affect the interests of the APHB, a right accrues to the APHB to question such orders passed without jurisdiction.

35. Since the learned Single Judge concluded that the orders passed by the District Revenue Officer and the Commissioner (Appeals) were without jurisdiction, there was obviously no occasion to decide the question whether the claim filed by the respondents was belated or not.

Proceedings before the Division Bench

36. Feeling aggrieved by the judgment and order passed by the learned Single Judge on 19th April, 2005, writ appeals being W.A. No. 1311 of 2005 and W.A. No. 1781 of 2005 were filed by the respondents challenging the order passed by the learned Single Judge. By the impugned judgment and order dated 25th September, 2009 the writ appeals were allowed by the Division Bench and it is under these circumstances that the present appeals are before us.

37. The High Court allowed the writ appeals primarily on two submissions. It was held by the Division Bench that a report of the survey authorities had confirmed that the area of land in Survey No. 1009 was more than 661.04 acres. Admittedly, only 661.04 acres had been

acquired out of Survey No. 1009. Therefore, the APHB was entitled to hold only 661.04 acres while the balance had not been acquired and therefore the ownership remained with the respondents. According to the Division Bench, there was a clerical error in the measurement area of Survey No. 1009 and therefore paragraph 5(d) of the Circular dated 15th October, 1994 was applicable and the authorities were entitled to correct the calculation error.

38. The second ground given by the Division Bench was with reference to the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. In this context, it was held that since the respondents were not holding the land, they could not have made a declaration as envisaged under the provisions of the said Act and in any event this was hardly of any relevance since Survey No. 1009 indicates that the area of that survey number was greater than 661.04 acres. However, what is of significance is the conclusion arrived at by the Division Bench that the respondents were not in possession of 11.10 acres in Survey No. 1009. Possession of the entire Survey No. 1009 was with the APHB.

Discussion

39. In our opinion, the Division Bench of the High Court has seriously erred in setting aside the order of the learned Single Judge.

40. It is quite clear to us that the APHB had acquired, in terms of the Award dated 10th June, 1968 a couple of thousand acres of land covering a few dozen survey numbers. The entire land was acquired and in view of the large area of acquisition even if there was some error in describing the area of a particular survey number, that would be inconsequential given the overall acquisition and its purpose for a Housing Scheme under Section 22A of the Andhra Pradesh Housing Board Act.

41. In addition, it is quite clear from the extracted passages in the Award, that the entire land in Survey No.1009 was acquired by the APHB. There cannot be any doubt in this regard, particularly since the APHB also took possession of the entire Survey No.1009.

42. While it is correct that the respondents did submit in their claim petition under Section 18 of the Land Acquisition Act, 1894 that 11 acres and odd had not been acquired, there was absolutely no reference to any survey number in which this 11 acres and odd was located. There was no clear identification of the land, no boundaries were mentioned nor was the land ear-marked in any manner and in fact even the exact measurement was not mentioned. It appears to us that the respondents were taking a potshot in the dark to somehow or the other retain possession of some of the acquired land.

43. If the respondents were convinced that 11 acres and odd had not

been acquired by the APHB in 1968 it is not understandable why no follow up action taken by them. They had an option, perhaps, of proceeding against the APHB for being in wrongful possession of 11 acres and odd owned by the respondents and they certainly had the option of moving an application under Section 87 of the Act. The respondents took neither of these steps on an urgent basis or any other step that might have been available to them in law.

44. All that the respondents did was to wait for another 25 years and then move an application under Section 87 of the Act sometime in 1993. There was no change in the factual situation between 1968 and 1993 except construction having been made by the APHB in pursuance of its Housing Scheme. The respondents have given absolutely no explanation for filing an application under Section 87 of the Act after such an enormous lapse of time. What has been submitted is that there is no time limit for correcting a clerical error and that being so, the respondents cannot be non-suited on the ground of delay and laches.

45. We are not in agreement with the respondents on any aspect of the case. First of all we agree with the APHB that an accurate picture of the area in terms of measurement of land in Survey No.1009 cannot be fully relied upon after several decades and after construction having been made. The records had originally indicated that Survey No.1009 consists

of 666.25 acres and we must proceed on that basis rather than assume the correctness of a measurement carried out after several decades.

46. That the unexplained delay in measurement of the area cannot be relied upon is also supported by the fact that even the revenue authorities were not quite sure about the exact area of Survey No.1009. According to the respondents, 11.10 acres had not been acquired but according to the revenue authorities the entire area of Survey No.1009 was actually 687.03 acres with the result that 20.18 had not been acquired. In view of this discrepancy, we are of opinion that surveys conducted post the notification under Section 4 of the Land Acquisition Act cannot be relied upon. We have also noted that it has come on record that IDL was also in possession of some parts of Survey No.1009. We must, therefore, accept the fact that the entire Survey No.1009 was acquired by the APHB and possession taken, regardless of its actual measurement and the alleged non-acquisition of 11.10 acres is nothing but a red herring. Consequently, the question of correcting a 'clerical error' with reference to Section 87 of the Act does not arise.

A clerical error

47. In any event, it was contended by the respondents that a clerical error was sought to be corrected in the measurement of the area of Survey No.1009. It is not clear what the clerical error was. If the clerical error

was that the area of Survey No.1009 was not 661.04 acres or 666.25 acres but actually 687.03 acres then the contention is self-defeating. This is because the area of Survey No.1009 would then have to be read as 687.03 for all purposes and not 661.04 acres. The consequence of this correction would be that the acquisition was of 687.03 acres and not of 661.04 acres.

48. That apart, the correction of the alleged clerical error does not give rise to the argument that only 661.04 acres was acquired out of 687.03 acres. If the correction gives rise to an argument or contention, then it ceases to be the correction of a clerical error but is really the correction of a substantive error, which does not come within the purview of Section 87 of the Act.

49. Be that as it may, in ***M/s Tata Consulting Engineers v. Workmen***[1] Pathak, J. adverted to a clerical error and held in paragraph 20 of the Report as follows:

> "The jurisdiction given to the [Industrial] Tribunal by Rule 31 [Industrial Disputes (Bombay) Rules, 1957] is closely circumscribed. It is only a clerical mistake or error which can be corrected, and the clerical mistake or error must arise from an accidental slip or omission in the award. An accidental slip or omission implies that something was intended and contrary to that intention what should not have been included has been included or what should have been included has been omitted. It must be a mistake or error amenable to clerical correction only. It must not be a mistake or error which calls for rectification by modification of the conscious adjudication on the issues involved."

[1] 1980 (Supp.) SCC 627

50. Similarly, a clerical error was discussed in ***Sooraj Devi v. Pyare Lal.***[2] In paragraph 4 of the Report, reference was made to ***Master Construction Co. (P) Ltd. v. State of Orissa***[3] and it was held as follows:

> "A clerical or arithmetical error is an error occasioned by an accidental slip or omission of the court. It represents that which the court never intended to say. It is an error apparent on the face of the record and does not depend for its discovery on argument or disputation. An arithmetical error is a mistake of calculation, and a clerical error is a mistake in writing or typing."

51. More recently, in ***Vipinchandra Vadilal Bavishi (Dead) by Lrs. v. State of Gujarat*** [4] it was held in paragraph 26 of the Report as follows:

> "An arithmetical mistake is a mistake in calculation, while a clerical mistake is a mistake of writing or typing error occurring due to accidental slip or omissions or error due to careless mistake or omission. In our considered opinion, substituting different lands in place of the lands which have been notified by a statutory notification under Sections 10(1), 10(3) and 10(5) [Urban Land (Ceiling and Regulation) Act, 1976] cannot and shall not be done by issuing a corrigendum unless the mandatory requirements contained in the aforementioned sections is complied with. A landholder cannot be divested from his land on the plea of clerical or arithmetical mistake liable to be corrected by issuing corrigendum."

52. The Circular dated 15th October, 1994 clarifies a clerical error. Some examples have been given and one clarification is to the effect that a clerical error is where the area is calculated wrongly though measurement on the ground and the records support the correct area.

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[2] (1981) 1 SCC 500
[3] AIR 1966 SC 1047
[4] (2016) 4 SCC 531

This clause is sought to be relied upon by the respondents. It must be appreciated in this case that there is no question of a calculation error since no arithmetical error was committed as understood by this Court. The area of Survey No.1009 was measured and it was found to be 666.25 acres (including the area acquired for Manjeera Water Works Department). The survey by the Measuring Circle Inspector, the check by the G.D. Inspector and approved by the Land Record Assistant clearly indicate this. This was sought to be 'corrected' by the respondents by claiming that the area of Survey No.1009 was much more. A calculation error would be, in a situation such as the present, an error that would appear on the face of the document or the revenue records, as the case may be. If there is a need to carry out a survey and a re-survey, the error cannot by any means, be described as a clerical error.

53. What makes the situation worse insofar as the respondents are concerned is that according to them the error was to the extent of 11.10 acres but on a survey having been conducted, the error was said to be to an extent of 20.18 acres. Surely, such a discrepancy cannot be described as an accidental slip or a clerical mistake or a calculation error. It can only be described as a major error which ought to have been rectified at the appropriate time in 1968 when the Award was passed or soon thereafter. To notice and make much ado about such an error after at

least 25 years cannot be understood as the correction of a clerical error.

54. Learned counsel for the respondents referred to ***K.P. Varghese v. Income Tax Officer, Ernakulum and Another***[5] to contend that the Circular dated 15th October, 1994 is a contemporaneous exposition of the true state of affairs as understood by the revenue authorities themselves and if they believed that a 'clerical error' ought to be interpreted in the manner described in the Circular, that interpretation must be accepted. The following passage was referred to and relied upon:

> "The rule of construction by reference to *contemporanea expositio* is a well-established rule for interpreting a statute by reference to the exposition it has received from contemporary authority, though it must give way where the language of the statute is plain and unambiguous. This rule has been succinctly and felicitously expressed in *Crawford on Statutory Construction*, (1940 Edn.) where it is stated in para 219 that "administrative construction (i.e. contemporaneous construction placed by administrative or executive officers charged with executing a statute) generally should be clearly wrong before it is overturned; such a construction, commonly referred to as practical construction, although non-controlling, is nevertheless entitled to considerable weight; it is highly persuasive"".

55. Similarly, reference was also made to ***Desh Bandhu Gupta and Co. v. Delhi Stock Exchange Association Ltd.***[6]The following passage was relied upon by learned counsel for the respondents.

> "The principle of *contemporanea expositio* (interpreting a statute or any other document by reference to the exposition it has received from contemporary authority) can be invoked though the

[5] AIR 1981 SC 1922"
[6] AIR 1979 SC 1049

> same will not always be decisive of the question of construction (Maxwell 12th ed. p. 268)."

56. It is no doubt true that the contemporaneous exposition of a document must carry great weight but if that exposition is not in consonance with the law laid down by the Courts, including this Court, the exposition would not be relevant. We have made a reference to several decisions which explain the meaning of a clerical error.The view expressed in the Circular dated 15th October, 1994 particularly clause 5(d) referred to and relied upon by the respondents does not come within the four corners of the understanding of the expression clerical error by this Court if it involves a survey and a re-survey as in this case. Therefore, no reliance can be placed upon the contemporaneous exposition made by the revenue authorities in the Circular dated 15th October, 1994.

57. We conclude that there was no clerical error in the measurement of Survey No.1009 for all intents and purposes and that in any event, the entire land in Survey No.1009 was acquired for the Housing Scheme of the APHB.

Section 87 of the Act and delay in making a claim

58. We are also not satisfied with the delay by the respondents in making a claim under Section 87 of the Act. The contention of the respondents is that since there is no time limit specified for filing a claim

petition, they could have made a claim at any point of time, particularly for correcting a clerical error.

59. It is now well settled that where no time-limit is specified, whatever is required to be done should be within a reasonable period. In ***Collector v. P. Mangamma***[7]it was held in paragraphs 5 and 6 as follows:

> "A reasonable period would depend upon the factual circumstances of the case concerned. There cannot be any empirical formula to determine that question. The court/authority considering the question whether the period is reasonable or not has to take into account the surrounding circumstances and relevant factors to decide that question.
>
> In *State of Gujarat* v. *Patel Raghav Natha*[8] it was observed that when even no period of limitation was prescribed, the power is to be exercised within a reasonable time and the limit of the reasonable time must be determined by the facts of the case and the nature of the order which was sought to be varied.....". Reasonable, being a relative term is essentially what is rational according to the dictates of reason and not excessive or immoderate on the facts and circumstances of the particular case."

60. Similarly, in ***Joint Collector Ranga Reddy District v. D. Narsing Rao*** [9] the exercise of revisional jurisdiction where no time-limit is specified was considered and it was held in paragraph 31 of the Report as follows:

> "To sum up, delayed exercise of revisional jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs, which is not the policy of law.

[7] (2003) 4 SCC 488 at page 491
[8] (1969) 2 SCC 187
[9](2015) 3 SCC 695

> Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third-party rights, that cannot be trampled by a belated exercise of a discretionary power especially when no cogent explanation for the delay is in sight. Rule of law it is said must run closely with the rule of life. Even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent will not extend the time for its correction to infinity; for otherwise the exercise of revisional power would itself be tantamount to a fraud upon the statute that vests such power in an authority."

61. Finally in ***Basanti Prasad v. Chairman, Bihar School Examination Board***[10] it was pointed out where third party rights are likely to be affected, the courts decline to interfere but if there is a necessity to interfere then the aggrieved person should be heard on merits.

62. Insofar as the facts of the present case are concerned, the claim made under Section 87 of the Act was after a period of at least 25 years. This can hardly be described as a reasonable period. There is no explanation for the inordinate delay and to make matters worse, third party interests have been created through a Housing Scheme developed on the land in dispute or in any event on the surrounding land. After a further lapse of 25 years it is not possible to put the clock back, even if there is any reason to do so, which reason we cannot even visualise in this case.

[10](2009) 6 SCC 791

Locus standi

63. It was submitted by learned counsel for the respondents that the APHB has no *locus standi* to raise any dispute with regard to the measurement of Survey No.1009. We are not at all in agreement with this submission. A tract of land measuring 11.10 acres out of Survey No.1009 was sought to be taken away from the APHB which had announced a Housing Scheme under Section 22A of the Andhra Pradesh Housing Board Act, 1956 and third party rights had also been created in this regard. The primary responsibility of protecting the interests of the beneficiaries of the Housing Scheme was that of the APHB and surely it cannot be said under these circumstances that the APHB had no *locus standi* to participate in the proceedings. In fact, even the revenue authorities recognised the locus of the APHB in the order dated 15th September, 1997. The Commissioner of Survey, Settlements and Land Records, Hyderabad directed the District Revenue Officer to take action in terms of the Circular of 15th October, 1994 but before passing any orders under Section 87 of the Act, it was directed that the APHB should be heard. We therefore reject the contention that the APHB had no *locus standi* in the matter.

Interference on facts

64. The final submission of learned counsel for the respondents was

that the revenue authorities had come a factual conclusion in their favour and the High Court ought not to have interfered with the factual conclusions and even this Court ought not to interfere with the factual conclusions arrived at by the revenue authorities. In our opinion, the revenue authorities had completely misdirected in law in reopening a factual issue that had been settled way back in 1968 if not earlier and there was no occasion for reopening that factual issue after a lapse of at least 25 years. That being the position, it cannot be said that the courts are precluded from interfering in a matter of determination of facts when the authorities have completely misdirected themselves in law and exercised jurisdiction which did not vest in them. We therefore also reject this submission of the respondents.

Conclusion

65. To conclude, therefore, we hold that the entire Survey No. 1009 was acquired by the APHB for a Housing Scheme. No parcel of land in Survey No.1009 was left out or not acquired. Compensation was paid for acquisition of the entire Survey No.1009. The Division Bench of the High Court erred in concluding that 20.18 acres of land in Survey No.1009 had not been acquired.

66. We also hold that it is too simplistic on the part of the respondents to contend that land in excess of 661.04 acres in Survey No.1009 was not

acquired. This is certainly not so and the entire Survey No.1009 was acquired. The submission in this regard is rejected.

67. We also hold that the claim made by the respondents under Section 87 of the Act was hopelessly delayed for which there is absolutely no explanation forthcoming. In addition, we hold that since third party rights have been created in the meanwhile under the Housing Scheme of the APHB and there is no way to put the clock back. The respondents ought to have been vigilant in pursuing their claim, assuming the claim was legitimate, but since they were not vigilant enough, they must suffer the consequences of their inaction.

68. We also hold that the proceedings under the Andhra Pradesh Land Reforms (Ceiling of Agricultural Holdings) Act, 1973 were of some consequence but since the APHB has not relied upon the proceedings under the said Act and learned counsel has only mentioned it in passing, we do not intend to base our decision on the declaration made by the respondents under the said Act.

69. We also hold that the APHB was directly and primarily affected by the claim made by the respondents under Section 87 of the Act and therefore had the *locus standi* to proceed before the Commissioner (Appeals), the High Court and this Court.

70. In view of the above conclusions, the judgment and order passed

by the Division Bench is set aside and the appeals filed by the Telangana Housing Board are allowed. No costs.

..…….J
(Madan B. Lokur)

New Delhi; **……J**
May 1, 2018 **(Deepak Gupta)**