REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 325-326 OF 2015

[Arising out of Special Leave Petition (Civil) Nos.5029-5030 of 2011]

Jt. Collector Ranga Reddy Dist. & Anr. Etc. .. Appellants

-vs-

D. Narsing Rao & Ors. Etc. Etc. .. Respondents

With

CIVIL APPEAL NO. 327 OF 2015

[Arising out of Special Leave Petition (Civil) No.5031 of 2011]

The Chairman, Joint Action Committee of Employees Teachers and Workers A.P. .. Appellant

-vs-

D. Narsing Rao & Ors. etc. etc .. Respondents

J U D G M E N T

C. NAGAPPAN, J.

1. Leave granted.

2. These appeals are directed against the common judgment dated 8.6.2010 passed in Writ Appeal No.273 and 323 of 2010 by the Division Bench of High Court of Andhra Pradesh at Hyderabad.

3. Broadly speaking, the facts leading to filing of these appeals are as follows: There is no dispute that Gopanpally village in Ranga Reddy district was a Jagir village. According to the writ petitioners Survey Nos.36 and 37 measuring Ac 280.00 guntas and Ac.378.14 guntas of the said village were Jagir lands and Jagirdar had given Pattas to different persons who were in possession of the lands and after abolition of Jagirs the same were reflected as Pattas in Khasra Pahani for the year 1954-55 which was prepared under Section 4(2) of the Andhra Pradesh (Telangana Area) Record of Rights in land Regulation, 1358F and subsequently the Pattadars had alienated the lands to the petitioners under registered sale deeds and they are in possession of the same. It is their further case that Patta was granted to an extent of Acre 44-00 in Survey No.36 and to an extent of

acre 46-00 in Survey No.37 and while the matter stood thus, the petitioners on inquiry came to know that the Government has reserved and allotted a total extent of 477 acres in Survey Nos.36 and 37 of Gopanpally village for house sites to the Government employees by Government Orders dated 10.7.1991 and 24.9.1991, without mentioning the sub-division Nos. of the survey numbers and the Patta lands of the petitioners are also sought to be included within the area reserved and the petitioners challenged the same by filing writ petition No.21719 of 1997 on the file of the High Court. The writ petitioners have further stated that the Respondent No.1 at the instance of Respondent No.2 had issued notice dated 19.12.2003 to the writ petitioners and others stating that on verification of records i.e. namely Faisal Patti for the year 1953-54 in respect of the land bearing Survey Nos.36 and 37 of Gopanpally village there is no “Ain Izafa” (i.e.) (implementation of changes) taken place in respect of the said land and the entries in the Khasra Pahani appears to be incorporated by the then Patwari without order from the competent

authority and an enquiry under Section 9 of the Andhra Pradesh Rights in Land to Pattadar Passbooks Act, 1971, is scheduled for hearing on 27.12.2003 and the writ petitioners challenged the said notice by filing Writ Petition No.26987 of 2003 and the learned Single Judge of the High Court allowed the said Writ Petition by order dated 30.8.2004 and set aside the impugned show cause notice. It is further stated by the writ petitioners that the first respondent on the very same basis issued subsequent notice dated 31.12.2004 for enquiry under Section 166B of Andhra Pradesh (Telangana Area) Land Revenue Act, 1317F fixing the date of hearing on 5.2.2005 and the petitioners challenged the same in their writ petition No.1731 of 2005 and the learned single Judge of the High Court heard both the writ petitions i.e. 21719 of 1997 and 1731 of 2005 together.

4. The said writ petitions were resisted by the Government by stating that the Jagirs were abolished on 15.8.1948 by the Andhra Pradesh (Telangana Area) (Abolition of Jagirs) Regulation, 1358 fasli and

the pre-existing rights in all the Jagirs were taken away and as per the Khasra Pahani for the year 1954-55 the sub-divisions were made under Survey Nos.36 and 37 of the village Gopanpally fraudulently by the Patwari and those sub-divisions and names were not approved by Nizam Jamabandi in Faisal Patti during the year 1954-55 as per the procedure in vogue and the schedule land bearing survey Nos. 36 and 37 from the time of Jagir abolition on 15.8.1948 is classified as Chinna Kancha (grazing land) and it belongs to the Government and the said unauthorized entries in Khasara Pahani made by the then Patwari were detected by the Revenue Authorities and hence enquiry has been ordered under Section 166B of Andhra Pradesh (Telangana Area) Land Revenue Act, 1317F and only a show cause notice has been issued.

5. The learned single Judge by common order dated 15.9.2009 set aside the impugned Government order in GOMS No.850 dated 24.9.1991 insofar as the lands held by the writ petitioners to the total extent

of Acre 90-00 in Survey Nos.36 and 37 are concerned and also set aside the impugned notice dated 31.12.2004 and accordingly allowed the writ petitions. Aggrieved by the same respondents 1 and 2 namely the Government preferred appeal in writ Appeal Nos. 273 and 323 of 2010 and the Division Bench of the High Court after hearing both sides dismissed both the writ appeals by common judgment dated 8.6.2010. Challenging the same the State Government has preferred the present appeals. Respondent No.13 in writ appeal 323 of 2010 has also preferred an independent appeal before this Court and all the three appeals are heard together.

6. Mr. Nageshwar Rao, learned Additional Solicitor General appearing for the appellant State contended that the land was held by Jagirs as 'crown grant' and it was not heritable and that the Jagir system was abolished on 15.8.1948 and the entire Jagir land by operation of law came to be vested with the Government and as per the land Revenue records prepared under A.P. (Telangana Area) Record of

Rights in Land Regulation, 1358, Fasli for the year 1950-52 the land comprised in survey Nos. 36 and 37 of Gopanpally village was owned by the Government and it is classified as “grazing land (Kancha China Sarkari non agriculture) and as per land revenue records called faisal-patti for 1953-54, the said land continued to be “Government grazing land”. It is his further submission that for the first time in August 1997 the Respondent Nos. 1-12 by filing Writ Petition No.21719 of 1997 claimed to have acquired right on 75 acre GTS in Survey Nos. 36 and 37 based on their predecessor name recorded in the Khasra Pahani of 1954-55 whereas no sub-division of the Survey Nos.36 and 37 was ever carried out and the land was allotted to employees co-operative societies as one consolidated plot of land as shown in the Government records. According to the appellants the names of the vendor of the respondents have been recorded in the Khasra Pahani in the year 1954-55 surreptitiously by the then Patwari without any order issued by the competent authority under the relevant

provisions of law and no right can be claimed merely on the basis of the fraudulent entries.

7. It is his further contention that the High Court failed to appreciate that the Government cannot be precluded from taking action to correct fraudulent entries in the Khasra Pahani by citing long lapse of time and the dismissal of the Writ Appeals is unsustainable in law. Mr. R. Venkataramni, learned senior counsel appearing for the other appellant also assailed the impugned order for the same reasons. In support of their submissions reliance was placed on the following decisions of this Court.

In the decision in ***Collector and others vs. P. Mangamma and others*** (2003) 4 SCC 488 this Court while dealing with suo motu action against irregular assignments under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 held that it would be hard to give an exact definition of the word "reasonable" and a reasonable period would depend upon the facts of the case concerned and on the facts of the case in which the decision

arose, suo motu action taken after a period of thirty years was remitted to the High Court for fresh consideration.

In the decision in ***State of Maharashtra and another vs. Rattanlal*** (1993) 3 SCC 326 this Court while dealing with revisional power under Section 45 of Maharashtra Agricultural Land (Ceiling and Holdings)Act, 1961 held that suo motu revisional power may not be exercised after the expiry of three years from the date of the impugned order, however, where suppression of material facts, namely, existence of the undeclared agricultural land had come to the knowledge of the higher authorities after a long lapse of time, the limitation would start running only from the date of discovery of the fraud or suppression.

In the decision in ***State of Orissa and others vs. Brundaban Sharma and another*** (1995) Supp.(3) SCC 249 this Court while dealing with the power of revision under Section 38-B of Orissa Estates Abolition Act, 1951 held that the Board of Revenue exercised the power of revision 27 years

after the date of alleged grant of patta but its authenticity and correctness was shrouded with suspicious features and, therefore, exercise of revisional power was legal and valid.

8. We heard the submissions made by Mr. U.U. Lalit, Mr. Pravin H. Parekh, Mr. Ranjit Kumar, Mr. P.V. Shetty, learned senior counsels and also the other learned counsels appearing for the respondents. The main submissions of the learned counsels appearing for the respondents are that the names of the predecessors in title of the respondents are found mentioned in the Khasra Pahani of the year 1954-55 and the purchase of the subject land by the respondents from them under registered sale deeds are not in dispute and they have been regularly paying land revenue continuously since the year 1954 and substantial rights on account of continuous possession and enjoyment of the subject property has been accrued to the respondents and the exercise of suo-motu revisional power after long lapse of time is arbitrary and summary remedy of enquiry and

correction of records cannot be invoked when there is bonafide dispute of title and liberty has been given to the appellants to work out its remedies by way of filing civil suit and the findings of the High Court are sustainable on facts and law. In support of their submissions reliance was placed on the following decisions of this Court.

In the decision in ***State of Gujarat vs. Patil Raghav Natha and others*** (1969) 2 SCC 187 this Court while adverting to Sections 65 and 211 of the Bombay Land Revenue Code, 1879 held that though there is no period of limitation prescribed under Section 211 to revise an order made under Section 65 of the Act, the said power must be exercised in reasonable time and on the facts of the case in which the decision arose, the power came to be exercised more than one year after the order and that was held to be too late.

In the decision in ***Mohamad Kavi Mohamad Amin vs. Fatmabai Ibrahim*** (1997) 6 SCC 71 this Court while dealing with Section 84-C of Bombay Tenancy and Agricultural Lands Act,

1976 held that though the said Section does not prescribe for any time limit for initiation of proceeding such power should be exercised within a reasonable time and on the facts of the case, the suo motu enquiry initiated under the said Section after a period of nine months was held to be beyond reasonable time.

In the decision in ***Santoshkumar Shivgonda Patil and others vs. Balasaheb Tukaram Shevale and others*** (2009) 9 SCC 352 this Court while dealing with the power of revision under Section 257 of the Maharashtra Land Revenue Code, 1966 held as follows :

> **"11.** It seems to be fairly settled that if a statute does not prescribe the time-limit for exercise of revisional power, it does not mean that such power can be exercised at any time; rather it should be exercised within a reasonable time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. Where the legislature does not provide for any length of time within which the power of revision is to be exercised by the authority, suo motu or otherwise, it is plain that exercise of such power within reasonable time is inherent therein.

> **12.** Ordinarily, the reasonable period within which the power of revision may be exercised would be three years under Section 257 of the Maharashtra Land Revenue Code subject, of course, to the exceptional circumstances in a given case, but surely exercise of revisional power after a lapse of 17 years is not a reasonable time. Invocation of revisional power by the Sub-Divisional Officer under Section 257 of the Maharashtra Land Revenue Code is plainly an abuse of process in the facts and circumstances of the case assuming that the order of the Tahsildar passed on 30-3-1976 is flawed and legally not correct."

In the decision in ***State of Punjab and others vs. Bhatinda District Cooperative Milk Producers Union Ltd.*** (2007) 11 SCC 363 this Court while dealing with the revisional power under Section 21 of the Punjab General Sales Tax Act, 1948 held thus :

> **"17.** A bare reading of Section 21 of the Act would reveal that although no period of limitation has been prescribed therefor, the same would not mean that the suo motu power can be exercised at any time.
>
> **18.** It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.

> **19.** Revisional jurisdiction, in our opinion, should ordinarily be exercised within a period of three years having regard to the purport in terms of the said Act. In any event, the same should not exceed the period of five years……."

In the decision in ***Ibrahimpatnam Taluk Vyavasaya Coolie Sangham vs. K. Suresh Reddy and others*** (2003) 7 SCC 667 this Court while dealing with suo motu power of revision under Section 50-B(4) of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Land Act, 1950 held as follows :

> **"9.** ……In the absence of necessary and sufficient particulars pleaded as regards fraud and the date or period of discovery of fraud and more so when the contention that the suo motu power could be exercised within a reasonable period from the date of discovery of fraud was not urged, the learned Single Judge as well as the Division Bench of the High Court were right in not examining the question of fraud alleged to have been committed by the non-official respondents. Use of the words "at any time" in sub-section (4) of Section 50-B of the Act only indicates that no specific period of limitation is prescribed within which the suo motu power could be exercised reckoning or starting from a particular date advisedly and contextually. Exercise of suo motu power depended on facts and circumstances of each case. In cases of fraud, this power could be exercised within a reasonable time from

the date of detection or discovery of fraud. While exercising such power, several factors need to be kept in mind such as effect on the rights of the third parties over the immovable property due to passage of considerable time, change of hands by subsequent bona fide transfers, the orders attaining finality under the provisions of other Acts (such as the Land Ceiling Act). Hence, it appears that without stating from what date the period of limitation starts and within what period the suo motu power is to be exercised, in sub-section (4) of Section 50-B of the Act, the words “at any time” are used so that the suo motu power could be exercised within reasonable period from the date of discovery of fraud depending on facts and circumstances of each case in the context of the statute and nature of rights of the parties. Use of the words “at any time” in sub-section (4) of Section 50-B of the Act cannot be rigidly read letter by letter. It must be read and construed contextually and reasonably. If one has to simply proceed on the basis of the dictionary meaning of the words “at any time”, the suo motu power under sub-section (4) of Section 50-B of the Act could be exercised even after decades and then it would lead to anomalous position leading to uncertainty and complications seriously affecting the rights of the parties, that too, over immovable properties. Orders attaining finality and certainty of the rights of the parties accrued in the light of the orders passed must have sanctity. Exercise of suo motu power “at any time” only means that no specific period such as days, months or years are not prescribed reckoning from a particular date. But that does not mean that “at any time” should be unguided and arbitrary. In this view, “at any time” must be understood as within a

reasonable time depending on the facts and circumstances of each case in the absence of prescribed period of limitation."

9. Consequent to the merger of Hyderabad State with India in 1948 the Jagirs were abolished by the Andhra Pradesh (Telangana Area) Abolition of Jagirs Regulation, 1358 fasli. 'Khasra Pahani' is the basic record of rights prepared by the Board of Revenue Andhra Pradesh in the year 1954-55. It was gazetted under Regulation 4 of the A.P. (Telangana Area) Record of Rights in Land Regulation 1358F. As per Regulation No.13 any entry in the said record of rights shall be presumed to be true until the contrary is proved. The said Regulation of 1358-F was in vogue till it was repealed by the A.P. Rights in Land and Pattadar Pass Books Act, 1971, which came into force on 15.8.1978. In the 2nd edition (1997) of "The Law Lexicon" by P. Ramanatha Aiyer (at page 1053) 'Khasra' is described as follows:

"Khasra is a register recording the incidents of a tenure and is a historical record. Khasra would serve the purpose of a deed of title, when there is no other title deed."

10. Admittedly, the names of the predecessors in title of the respondents are found mentioned in the Khasra Pahani of the year 1954-55 pertaining to Survey Nos.36 and 37 of Gopanpally village. The purchase of the said lands by the respondents from them under registered sale deeds are also not seriously disputed. The further fact is that they have been regularly paying land revenue continuously since the year 1954. The appellants herein issued the impugned notice dated 31.12.2004 under Section 166B of A.P. (Telangana Area) Land Revenue Act,1317 F (1907) for cancellation of entries in the Khasra Pahani of the year 1953-54, by fixing the date of inquiry as 5.2.2005 and that notice is the subject matter of challenge here.

Regulation 166B reads as follows:

"166-B. Revision:—

(1) Subject to the provisions of the Andhra Pradesh (Telangana Area) Board of Revenue Regulation, 1358 F, the Government or any Revenue officer not lower in rank to a Collector the Settlement

Commissioner of Land Records may call for the record of a case or proceedings from a subordinate department and inspect it in order to satisfy himself that the order or decision passed or the proceedings taken is regular, legal and proper and may make suitable order in that behalf;

Provided that no order or decision affecting the rights of the ryot shall be modified or annulled unless the concerned parties are summoned and heard.

(2) Every Revenue Officer lower in rank to a Collector or Settlement Commissioner may call for the records of a case or proceedings for a subordinate department and satisfy himself that the order or decision passed or the proceedings taken is regular, legal and proper and if, in his opinion, any order or decision or, proceedings should be modified or annulled, he shall put up the file of the case and with his opinion to the Collector or Settlement Commissioner as the case may be. Thereupon the Collector or Settlement Commissioner may pass suitable order under the provisions of sub-section (1).

(3) The original order or decision or an authentic copy of the original order or decision sought to be revised shall be filed along with every application for revision."

11. No time limit is prescribed in the above Regulation for the exercise of suo motu power but the question is as to whether the suo motu power could be exercised after a period of 50 years. The Government as early as in the year 1991 passed order reserving 477 acres of land in Survey Nos. 36 and 37 of Gopanpally village for house-sites to the government employees. In other words the Government had every occasion to verify the revenue entries pertaining to the said lands while passing the Government Order dated 24.9.1991 but no exception was taken to the entries found. Further the respondents herein filed Writ Petition No.21719 of 1997 challenging the Government order dated 24.9.1991 and even at that point of time no action was initiated pertaining to the entries in the said survey numbers. Thereafter,

the purchasers of land from respondent Nos.1 and 2 herein filed a civil suit in O.S.No.12 of 2001 on the file of Additional District Judge, Ranga Reddy District praying for a declaration that they were lawful owners and possessors of certain plots of land in survey No.36, and after contest, the suit was decreed and said decree is allowed to become final. By the impugned Notice dated 31.12.2004 the suo motu revision power under Regulation 166B referred above is sought to be exercised after five decades and if it is allowed to do so it would lead to anomalous position leading to uncertainty and complications seriously affecting the rights of the parties over immovable properties.

12. In the light of what is stated above we are of the view that the Division Bench of the High Court was right in affirming the view of the learned single Judge of the High Court that the suo motu revision undertaken after a long lapse of time, even in the absence of any period of limitation was arbitrary and opposed to the concept of rule of law.

13. Thus, we find no merit in these appeals. Consequently they are dismissed with no order as to costs.

.....J.
(C. Nagappan)

New Delhi;
January 13, 2015.

REPORTABLE

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J U D G M E N T

T.S. THAKUR, J.

1. I have had the privilege of reading the order proposed by my esteemed Brother C. Nagappan, J. Though I entirely agree with the conclusion drawn by His Lordship that revisional powers vested in the Joint Collector under Section 166B of A.P. (Telangana Area) Land Revenue Act cannot be exercised 50 years after the making of the alleged fraudulent entries and that the High Court was justified in quashing notice dated 31st December, 2004 issued to the respondents, I would like to add a few lines of my own.

2. The facts giving rise to the filing of the writ petitions and the writ appeals before the High Court out of which arise the present appeals have been set out at length by my esteemed Brother in the order proposed by him. Narration of the factual matrix over again would, therefore, serve no useful purpose. Suffice it to say that the dispute in these proceedings is confined to an extent of 44 acres of land situate in Survey No.36 and 46 acres of land in Survey No.37

of Gopanpally village of Ranga Reddy district in the state of Andhra Pradesh. The case of the respondents (writ petitioners before the High Court) was that the said extent of land was granted by the Jagirdar concerned on Patta to persons in actual cultivating possession. The Patta was, according to the respondents, recongnised by the Government, with the result that the names of the holders were shown in the Khasra Phanis since the year 1954-55.

3. In terms of G.O.Ms 850 Rev. (Asn.III) Dept. dated 24th September, 1991 the Government appears to have allotted an extent of 477 acres of land in Survey Nos. 36 and 37 of Gopanpally village for grant of house sites to Government employees. This was followed by a notice dated 31st December, 2004 from the Joint Collector, Ranga Reddy District, whereunder the writ-petitioners (respondents herein) were asked to appear on 5th February, 2005 to show cause why the Khasra Phani entries in respect of land comprising Survey No.36 measuring 460.07 acres and Survey No.37 measuring 424.17 acres situate in the village mentioned above should not be cancelled. Aggrieved by the Government order and the show-cause notice Writ Petitions No.21719 of 1997 and 1731 of 2005 were filed before the

High Court which were disposed of by a learned Single Judge of the High Court of Andhra Pradesh by his order dated 15th September, 2009. The High Court was of the view that the entries in the Khasra Pahani for the year 1954-55 reflected the names of the predecessors-in-title of the writ-petitioners although according to the Government the said entries were made fraudulently by the then Patwari of the village. The High Court further held that since the entries showing ownership and possession of the writ-petitioners had continued unchallenged for nearly 40 years before the Government issued G.O.M.s 850 Rev. (Asn.III) Dept. dated 24th September, 1991 the Government was not justified in making any allotment in disregard of the same. The High Court also took the view that the proposed correction of the alleged fraudulent entries nearly 50 years after the entries were first made was also legally impermissible even when the revisional power being invoked to do so did not prescribe any period of limitation. The High Court recorded a finding that the predecessors-in-title of the writ-petitioners had registered sale-deeds in their favour and that the State Government or its officers had not denied that the writ-petitioners or their predecessors-in-title had remained in

possession of the subject land. The High Court held that exercise of revisional powers, even where no period of limitation is prescribed, must be within a reasonable period.

4. Aggrieved by the order passed by the High Court the appellants preferred Writ Appeals No.273-323 of 2010 which were also dismissed by a Division Bench of that Court in terms of its order dated 8th June, 2010. The Division Bench relying upon the decisions of this Court in ***Santoshkumar Shivgonda Patil and Anr. v. Balasaheb Tukaram Shevale (2009) 9 SCC 352*** and ***Special Director and Anr. v. Mohd. Ghulam Ghouse and Anr. (2004) 3 SCC 440*** held that the proposed correction of the revenue entries 50 years after the same were made was not legally permissible. The present appeals assail the correctness of that view.

5. The writ-petitioners, as noted earlier, claim to have purchased an extent of 90 acres of land in Survey Nos.36 and 37 from the erstwhile Pattadars recorded in the revenue records. The present dispute is, therefore, limited to that extent of land only. That being so, if the notice invoking the

revisional jurisdiction under Section 166B of A.P. (Telangana Area) Land Revenue Act has been not assailed by any other effected party, we should not be understood to be interfering with the same *qua* such persons. Having said that the only question which the High Court has addressed and which has been elaborately dealt with by it in the impugned orders is whether revisional powers vested in the competent authority under Section 166B of the Act aforementioned could be invoked 50 years after the alleged fraudulent entries were made. The contention urged on behalf of the appellant primarily was that since there is no period of limitation prescribed for invoking the revisional powers under the provisions mentioned above, there should be no impediment in the exercise of the same intervening delay notwithstanding. There is no error much less any perversity in that view. The legal position is fairly well-settled by a long line of decisions of this Court which have laid down that even when there is no period of limitation prescribed for the exercise of any power revisional or otherwise such power must be exercised within a reasonable period. This is so even in cases where allegations of fraud have necessitated the exercise of any corrective power. We may briefly refer to

some of the decisions only to bring home the point that the absence of a stipulated period of limitation makes little or no difference in so far as the exercise of the power is concerned which ought to be permissible only when the power is invoked within a reasonable period.

6. In one of the earlier decisions of this Court in ***S.B. Gurbaksh Singh v. Union of India 1976 (2) SCC 181***, this Court held that excercise of *suo motu* power of revision must also be within a reasonable time and that any unreasonable delay in the exercise may affect the validity. But what would constitute reasonable time would depend upon the facts of each case.

7. To the same effect is the decision of this Court in ***Ibrahimpatnam Taluk Vyavasaya Coolie Sangham V. K. Suresh Reddy and Ors. (2003) 7 SCC 667*** *w*here this Court held that even in cases of fraud the revisional power must be exercised within a reasonable period and that several factors need to be kept in mind while deciding whether relief sooner be denied only on the ground of delay. The Court said:

> *"In cases of fraud, this power could be exercised within a reasonable time from the date of detection or discovery of fraud. While exercising such power, several factors need to be kept in mind such as effect on the rights of the third parties over the immovable property due to passage of considerable time, change of hands by subsequent bona fide transfers, the orders attaining finality under the provisions of other Acts (such as the Land Ceiling Act)."*

8. To the same effect is the view taken by this Court in ***Sulochana Chandrakant Galande. v. Pune Municipal Transport and Others (2010) 8 SCC 467*** where this Court reiterated the legal position and held that the power to revise orders and proceedings cannot be exercised arbitrarily and interminably. This Court observed:

> *"The legislature in its wisdom did not fix a time-limit for exercising the revisional power nor inserted the words "at any time" in Section 34 of the 1976 Act. It does not mean that the legislature intended to leave the orders passed under the Act open to variation for an indefinite period inasmuch as it would have the effect of rendering title of the holders/allottee(s) permanently precarious and in a state of perpetual uncertainty. In case, it is assumed that the legislature has conferred an everlasting and interminable power in point of time, the title over the declared surplus land, in the hands of the State/allottee, would forever remain virtually insecure. The Court has to construe the statutory provision in a way which makes the provisions workable, advancing the purpose and object of enactment of the statute".*

9. In ***State of H.P. and Ors. v. Rajkumar Brijender Singh and Ors. (2004) 10 SCC*** this Court held that in the absence of any special circumstances a delay of 15 years in *suo motu* exercise of revisional power was impermissible as the delay was unduly long and unexplained. This Court observed:

> *"We are now left with the second question which was raised by the respondents before the High Court, namely, the delayed exercise of the power under sub-section (3) of Section 20. As indicated above, the Financial Commissioner exercised the power after 15 years of the order of the Collector. It is true that sub-section (3) provides that such a power may be exercised at any time but this expression does not mean there would be no time-limit or it is in infinity. All that is meant is that such powers should be exercised within a reasonable time. No fixed period of limitation may be laid but unreasonable delay in exercise of the power would tend to undo the things which have attained finality. It depends on the facts and circumstances of each case as to what is the reasonable time within which the power of suo motu action could be exercised. For example, in this case, as the appeal had been withdrawn but the Financial Commissioner had taken up the matter in exercise of his suo motu power, it could well be open for the State to submit that the facts and circumstances were such that it would be within reasonable time but as we have already noted that the order of the Collector which has been interfered with was passed in January 1976 and the appeal preferred by the State was also withdrawn sometime in March 1976. The learned counsel for the appellant was not able to point out such other special facts and circumstances by reason of which it could be said that exercise of suo motu power after 15 years of the order interfered with was within a reasonable time. That being the position in our view, the order of the Financial Commissioner stands vitiated having been passed after a long lapse of 15 years of the order which has been interfered with. Therefore, while*

holding that the Financial Commissioner would have power to proceed suo motu in a suitable case even though an appeal preferred before the lower appellate authority is withdrawn, maybe, by the State. Thus the view taken by the High Court is not sustainable. But the order of the Financial Commissioner suffers from the vice of the exercise of the power after unreasonable lapse of time and such delayed action on his part nullifies the order passed by him in exercise of power under sub-section (3) of Section 20".

10. We may also refer to the decision of this Court in ***M/s Dehri Rohtas Light Railway Company Ltd. V. District Board, Bhojpur and Ors. (1992) 2 SCC 598*** where the Court explained the legal position as under:

"The rule which says that the Court may not enquire into belated and stale claim is not a rule of law but a rule of practice based on sound and proper exercise of discretion. Each case must depend upon its own facts. It will all depend on what the breach of the fundamental right and the remedy claimed are and how delay arose. The principle on which the relief to the party on the grounds of laches or delay is denied is that the rights which have accrued to others by reason of the delay in filing the petition should not be allowed to be disturbed unless there is a reasonable explanation for the delay. The real test to determine delay in such cases is that the petitioner should come to the writ court before a parallel right is created and that the lapse of time is not attributable to any laches or negligence. The test is not as to physical running of time. Where the circumstances justifying the conduct exist, the illegality which is manifest cannot be sustained on the sole ground of laches. The decision in Tilokchand case relied on is distinguishable on the facts of the present case. The levy if based on the net profits of the railway undertaking was beyond the authority and the illegal nature of the same has been questioned though belatedly in the pending

proceedings after the pronouncement of the High Court in the matter relating to the subsequent years. That being the case, the claim of the appellant cannot be turned down on the sole ground of delay. We are of the opinion that the High Court was wrong in dismissing the writ petition in limine and refusing to grant the relief sought for. We however agree that the suit has been rightly dismissed".

11. 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. 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.

12. In the case at hand, while the entry sought to be corrected is described as fraudulent, there is nothing in the notice impugned before the High Court as to when was the alleged fraud discovered by the State. A specific statement in that regard was essential for it was a jurisdictional fact, which ought to be clearly asserted in the notice issued to the respondents. The attempt of the appellant-State to demonstrate that the notice was issued within a reasonable period of the discovery of the alleged fraud is, therefore, futile. At any rate, when the Government allowed the land in question for housing sites to be given to Government employees in the year 1991, it must be presumed to have known about the record and the revenue entries concerning the parcel of land made in the ordinary course of official business. In as much as, the notice was issued as late as on 31st December, 2004, it was delayed by nearly 13 years. No explanation has been offered even for this delay assuming that the same ought to be counted only from the year 1991. Judged from any angle the notice seeking to reverse the

entries made half a century ago, was clearly beyond reasonable time and was rightly quashed.

13. Having said that we must make it clear that we have not gone into the correctness of the alleged fraudulent entry nor have we expressed any opinion whether, the quashing of the notice dated 21st December, 2004 would prevent the State from taking such other steps as may be permissible under any provision of law. The High Court has, as a matter of fact, made it clear that the State Government shall be free to take any other steps or proceedings in accordance with law *qua* the land in question. That liberty should suffice for we have examined the matter only from the narrow angle whether the Khasra Phani entry of 1954-55 could be corrected at this belated stage in exercise of the revisional powers vested in the competent authority under Section 166-B of the A.P. (Telangana Area) Land Revenue Act. That question having been answered in the negative these appeals must fail and are hereby dismissed leaving the parties to bear their own costs.

.....J.

(T.S. THAKUR)

New Delhi

January 13, 2015