

IN THE HIGH COURT OF JUDICATURE OF ANDHRAPRADESH
AT HYDERABAD

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HONOURABLE SRI JUSTICE SAMUDRALA GOVINDARAJULU

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C.R.P.M.P.No.7187 of 20012 in
C.R.P.M.P.(SR) No.29010 of 2012 &
C.R.P.M.P.(SR) No.29010 of 2012 in C.R.P.No.2092 of
1998

DATE: 11.03.2013

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Between:

N.S.Raju

Petitioner
And

Vigneshwara Cooperative House Building Society Limited
And 4 others

.....
.....Respondents

**HONOURABLE SRI JUSTICE SAMUDRALA
GOVINDARAJULU**

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–
COMMON ORDER:

These two petitions are filed by a third party to recall order dated 10.02.2000 passed by this Court and to grant leave for defending the case respectively. It is his contention that he is owner of plot bearing No.93 having purchased the same from Vigneshwara Cooperative House

building Society Limited (in short, 'the Society) who is the 1st respondent in these petitions and that order passed by this Court as well as by the authorities below are not legal as they were passed without notice to the petitioner and others who are similarly placed along with the petitioner. The order dated 10.02.2000 was passed by this Court in C.R.P. No.2092 of 1998 filed by the petitioner's vendor who is the Society. C.R.P was filed questioning the order of the Joint Collector, Rangareddy District in the proceedings under Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950. The Society has been a party to the proceedings before the Joint Collector also.

2) Against the order dated 10.02.2000 passed by this Court in C.R.P. No.2092 of 1998 (which is sought to be recalled now) was taken to Supreme Court by the Society and the Supreme Court was pleased not to grant special leave to file Civil Appeal and the Special Leave Petition was dismissed on 01.12.2000 itself. Thus, order dated 10.02.2000 passed by this Court in C.R.P. No.1092 of 1998 has become final in the Supreme Court. Placing reliance on ***Kunhayammed V. State of Kerala***^[1] of three Judges Bench of the Supreme Court, it is contended by the

petitioner's counsel that an appeal would be said to have been admitted by the Supreme Court if leave to appeal was granted and otherwise, not. Therefore, it is argued that dismissal of Special Leave Petition by the Supreme Court is no bar for approaching this Court with these petitions. It is also fairly stated by the petitioner's counsel that in ***Khoday Distilleries Ltd V. Mahadeshwara S.S.K. Ltd***^[2], the Supreme Court referred the question relating to maintainability of review petition in the High Court when the Special Leave Petition was dismissed by the Supreme Court, to a larger bench with the following observations:

“We notice considerable arguments are being raised before this Court as well as before various High Courts in the country on the maintainability of review petitions after the disposal of the special leave petition without granting leave but with or without assigning reasons on which also conflicting views are also being expressed by the two-Judge Benches of this Court. In order to resolve those conflicts and for proper guidance to the High Courts, we feel it would be appropriate that this matter be referred to a larger bench for an authoritative pronouncement”.

Therefore, maintainability of these petitions before this Court is still in doubt in law and the doubt has to be resolved by the Supreme Court by larger bench of the Supreme Court.

3) Be that as it may, order of this Court dated 10.02.2000 in C.R.P. No.2092 of 1998 is sought to be

recalled after a period of 12 years. No reason is assigned for the said delay. It is contended that the petitioner is not a party to the proceedings in spite of there being specific provision for issuing notice to all the persons interested and that no notice of the proceedings was served on him. All the purchases of plots made by the petitioner and similarly placed persons were from the Society only; and the Society is a party to those proceedings. It is stated by the petitioner's counsel that wherever the petitioner went, order of this Court in C.R.P. No.2092 of 1998 is being confronted to him in order to non-suit him. In case notice is compulsory to the petitioner as per law and such notice is not served on him, he can put forth the argument that the impugned proceedings culminating upto C.R.P. No. 2092 of 1998 are not binding on him.

4) In these circumstances, I do not find any reason to entertain these two petitions, that too after 12 years of the order in C.R.P. No.2092 of 1998.

5) In the result, both the petitions are dismissed.

SAMUDRALA GOVINDARAJULU,J

Dt.11th March, 2013

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[\[1\]](#) AIR 2000 Supreme Court 2587

[\[2\]](#) 2012(10) LAWS (SC) 57