THE HON'BLE SMT JUSTICE T.MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G BHAVANI PRASAD

Writ Petition Nos.: 19857; 19858, 19859, 19991, 19993, 19996, 20002 and 20004 of 2008

COMMON ORDER: (Per the Hon'ble Smt Justice T.Meena Kumari)

1. Challenging the common order dated 30-06-2008 passed by the Debt Recovery Tribunal, Hyderabad in R.A.Nos. 6, 5, 4, 11, 8, 7, 9, and 10 of 2008 respectively and also seeking a writ of Mandamus to declare the G.O.Ms.No.154 of 2005, dated. 22.7.2005 and G.O.Ms.No. No.1882 of 2005 dated. 8-11-2005 and the consequent proceedings dated 18-11-2005 issued by the 2nd respondent as unconstitutional, illegal, arbitrary, and malafide, the above writ petitions have been filed.

2. Since all these writ petitions arise out of a common order in the Recovery Appeals, and the question that arises for consideration is common, both the counsel in these writ petitions agreed for final disposal together by a common order.

3. Though separate writ petitions are filed against the common order, it is relevant to note the averments in **W.P. No. 19857 of 2008** since the averments in all the writ petitions are similar. The present writ petition is filed against the orders passed by the Debt Recovery Tribunal dated 30-6-2008 in R.A. No. 6 of 2008, wherein the Debts Recovery Tribunal dismissed the appeals filed by the petitioner bank in RA Nos. 4, 5, 6, 7, 8, 9, 10 & 11 of 2008 against the orders of Recovery Officer dated 29-8-2007 in C.P. Nos.18, 19, 20, 21, 22, 23, 24 & 25 of 2007.

4. The brief facts of the case, which are necessary for disposal of the case, are as follows:

The petitioner bank filed O.A. No. 398 of 2000 on the file of Debts Recovery Tribunal, Hyderabad for recovery of its dues from

respondent Nos. 6 to 8 and the same was allowed and a Recovery Certificate was issued on 20-01-2004 for recovery of Rs.41,04,40,050.79ps, that the Recovery Officer issued demand notices and published in the news papers and at the instance of the petitioner, attached the petition schedule property on the ground that they belonged to 7th respondent herein, who was 2nd defendant in the O.A. Against the said attachment order, claim petition was filed by 5th respondent claiming title over the property attached on the ground that originally the schedule property belonged to one Smt H Santha and she sold the said property to 7th respondent herein and he (R5) purchased the said property from R7 and applied for regularization of title as per G O Ms. No. 455 Rev. (U C II) Department dated 29-7-2002, and notice under Section 10(3) of the Urban Land (Ceiling and Regulation) Act, 1976 was issued by 1st respondent that the petition schedule land is deemed to have been acquired with effect from 6-8-2005. It is also the case of the petitioner bank that it opposed the Claim Petition on the ground that the land owned by 7th respondent is an agricultural land and therefore it is not a vacant land within the meaning of Section 2 of the Urban Land (Ceiling and Regulation) Act 1976 and that the G O Ms No. 455 of 2002 is not applicable and therefore the entire proceedings in respect of the said land are illegal. It is also the case of the petitioner that the Recovery Officer allowed the claim petition on 29-08-2007 through a common order in respect of eight claim petitions in favour of the claimants. Aggrieved against the said order, the petitioner bank filed Recovery Appeals before Debts Recovery Tribunal, Hyderabad i.e., 9th respondent herein, but the same were dismissed on 30-06-2008 through a common order in 8 consecutive appeals. Questioning the said order of the Debts Recovery Tribunal, Hyderabad, in R.A.No. 6 of 2008, the present writ petition is filed.

5. It is stated by the petitioner/bank that it filed O.A. No. 398/2000

for recovery of all the dues and subsequent to the allowing of O.A, the Recovery Certificate was issued on 20-01-2004 for the amount of Rs. 41,04,40,050-79 p.s. A demand notice was also issued by the Recovery Officer published in the newspapers. Subsequently, the property covered under bit No.1 was claimed under C.P. Nos. 18, 19, 23, and 24 of 2007 corresponding to R.A. Nos.6, 7, 8 and 9 of 2008, and the property covered under bit No.3 was claimed under C.P. Nos. 20, 21, 22 and 25 of 2007 corresponding to Recovery Appeals Nos. 4, 5, 10 and 11 of 2008. However, the bit No.1 property was attached at the instance of petitioner bank on 11-1-2007 and bit No. 3 property on 5-12-2005 by the Recovery Officer on assumption that the said properties belonged to the 7th respondent in WP No.19857 of 2008 (2nd defendant in the main O.A), who is the certificate debtor No.2 in the recovery certificate.

6. The claimants in the claim petitions filed the claims seeking to raise the attachments on the ground that originally the property belonged to one Smt. H Santha, from whom one Jayadev (R7 herein) had purchased the property on 7-12-1994, who in turn sold the same to 5th respondent herein on 23-11-2004. The claim petitioner in C.P. No. 23 of 2007 (R5 herein) states that it purchased the schedule land for a valid consideration and was put in possession of the land in bit Nos.1 & 3, that thereafter it came to know that original owner of the schedule land H Shanta was determined as surplus holder and that by virtue of the notification issued under Section 10(3) of the ULC Act published in Gazette No.154 dated. 22.7.2005 the said surplus land including the schedule land was vested with the Government, that on coming to know of the same, the petitioner approached the Government for allotment of the land in its favour by virtue of the scheme for allotment of surplus land, on payment of land price as stipulated in G O Ms. No.455, Revenue (UC 1) dept., dated 29-7-2002, that after due process of enquiry, the government allotted the schedule land to it vide G O Ms. No.1882 (UC-2) dept. 8-11-2005, and the Special Officer

and Competent Authority ULC, Hyderabad issued endorsement proceedings dated. 18/11/2005 and therefore it perfected its title over the schedule land. It is also the case of the claim petitioner (R5) that it is not a party to the Recovery Proceedings and it does not suffer any decree in O.A.No.398 of 2000 and therefore the attachment order is not binding on it, and no charge was created over the schedule land in favour of writ petitioner bank. It is the further case of the claim petitioner that neither the Debt Recovery Tribunal nor the Recovery Officer has jurisdiction to attach the schedule land and therefore the attachment dated. 11.01.2007 and consequential proceedings are void, inoperative and without jurisdiction.

7. From the pleadings of both parties, it is seen that one Mrs. H Santha was the owner of certain land and she sold an extent of 3740 sq. yards equivalent to Ac 0.30.9 guntas to one Jayadev (R7) under sale deed dated. 7-12-1994. The said Jayadev (R7) subsequently sold the land to various claimants on 23-11-2004. However, it is contended that Recovery Certificates were issued by the Debts Recovery Tribunal in O.A. No. 398 of 2000 on 20-01-2004 and also demand notices were issued by the Recovery Officer under Rule 2 of Second Schedule to Income Tax Act 1993 on 30-01-2004. On 24-6-2005 the Notification was issued under Section 9 of Urban Land (Ceiling & Regulation) Act (hereinafter referred to as 'the Act') and the possession was taken over by the Government through G.O.Ms. No.154 dated 22-7-2005. As 5th respondent was in possession of the land in pursuance of its purchase of the same, it made an application through 2nd respondent for the allotment of the same under Section 23 of the Act on 27-2-2005 and after enquiry, the government after payment of the consideration, allotted the schedule land in its favour through G O Ms.No. 1882 (UC-2) Dept., dated 8-11-2005 and the Special Officer and Competent Authority, ULC, Hyderabad issued endorsement proceedings dated 18-11-2005 mentioning the details of the schedule land.

8. A counter has been filed on behalf of the 2nd respondent i.e., Spl.Deputy collector, Urban Land Ceiling, Hyderabad in W.P.No.19858 of 2008 stating that a certificate under Section 2(o) of the Act was issued in respect of the Sy.Nos. 122 to 125 situated at Gachibowli village in C.C.file No. C5/26/81 on 05-05-81, wherein it is mentioned that the declarant H Santha sold certain extents of land in Sy. No.124 and 125 in favour of Fertilizer Corporation of India Employees Co-operative Housing Society on 24-7-1981 and the said Society, in turn, sold the property to its member in the year 1981, in violation of the provisions U/s. 2(o). It is also stated that the declarant Smt. Santha has changed the use of the land and hence the sales of the land are not in consonance with the provisions of the ULC Act and as such it has to be declared as null and void even though the government has taken it as a surplus land.

9. It is also stated in the counter that the C.P.Nos 18, 19, 23 and 24 2007 were filed by objection petitioners pertaining to bit No.1 property admeasuring Ac 0-30.9 guntas and the subject matter in CP Nos. 20,21,22 and 25 of 2007 pertaining to bit 3 admeasuring Ac 0.31 guntas situated at Gachibowli area. It is contended that even though the recovery certificate dated 20-1-2004 was issued by the Debts Recovery Tribunal in O.A. No.398/2004 for Rs. 41,04,40,050-79, the remission notices under Rule 2 of Schedule-II of Income Tax Act were issued but the same were not served on the defendants (objection petitioners). The attachment order was passed at the request of applicant bank for bit No.3 property on 5-12-2005 and for bit no.1 property on 11-1-2007.

10. The respondent No.5 herein also filed a counter taking a similar stand to that taken by the 2nd respondent and states that it did not mortgage the disputed properties to the petitioner bank and hence the petitioner bank has no right to attach the properties. It is also stated in the counter that since the company had purchased the same from the

Government and possession was also taken from it and got title over the said properties, the petitioner bank has no right to seek the cancellation of the government orders issued in this regard from time to time.

10. It is submitted by Mr K Mallikarjuna Rao, learned counsel appearing on behalf of the petitioner bank that the declaration filed by Mrs. Santha is an invalid declaration and the Government should not have acted upon it and that it should not have issued G.O. Ms. No.154, dated. 22nd July 2005. The Notification, under sub-Sec. (1) of Section 10 stating that the land is deemed to have been acquired by the State Government, is without following the mandatory procedure prescribed under the Act, and that the procedure under Section 10 can only be invoked after compliance of Section 9 of U L C Act. It is also submitted by the learned counsel appearing on behalf of the petitioner bank that the claimants only to avoid repayment of debt due to the bank, took shelter under cover of the issue of GOMs No.1882 of 2005 which is illegal and issued without following the prescribed procedure and therefore the G.Os issued by the government in respect of the property in bit Nos.1 and 3 are illegal. The learned counsel also submitted that the Debt Recovery Tribunal failed to appreciate and consider these aspects and based on presumptions and assumptions, dismissed the appeals filed by the bank and therefore the impugned order of the Debts Recovery Tribunal is liable to be set aside.

11. The counsel for the petitioner bank has submitted that the declaration filed by Mrs. Santha for Survey Nos. 122 to 125 is not a valid declaration for the reason that she filed the declaration that the land in question only is an 'agricultural land' and the government in its Notification No.154 dated 22-7-2005 have determined under section 9 of the Act, as excess 'vacant land' under section 10(7) (3) in Sy.Nos. 122 to 125, situated at Gachi bowli and that the Government has no power to declare the agricultural land as a vacant land and the government should not have allotted the excess land under

G.O.Ms.No. No.455 dated. 29-7-2002 to 5th respondent and learned counsel also contended that even though it is not a mortgaged property but still the bank can question the proceedings under ULC Act and also the consequential allotment to 5th respondent by virtue of G.O.Ms.No. No.455 dated. 29-7-2002 and as the Debt Recovery Tribunal has no power what-so-ever to quash the said GOs the petitioner bank has chosen to file the present writ petition as the 7th respondent is due to it an amount of nearly rupees 41.00 crores and hence the property has to be attached.

12. It is also contended that in a prior instance, a notice was issued, but as no acknowledgment was received by the petitioner bank, the same was got published through 'Skyline' English newspaper by way of substituted service and therefore the attachment got by the bank is valid.

13. Learned senior counsel Mr C Prakash Reddy, appearing on behalf of the unofficial respondents/claim petitioners strenuously contended that when the attachment orders were issued, the claimants filed claim petitions seeking to raise the attachment on the ground that the properties were not mortgaged to the petitioner bank, more so, having purchased the lands from 5th respondent, on their requests the Government also regularized their sales by virtue of G.O.Ms.No. No.455, dated. 29-7-2002. Accepting the contention of all the claim petitioners, the R.As were rightly dismissed by the Debts Recovery Tribunal through the impugned proceedings and therefore, the writ petitions are liable to be dismissed.

14. Learned senior counsel also submitted that the claim petitions were filed to recall the attachment orders dated 5-12-2005 and 11-1-2007 against the properties covered by bit nos. 1 and 3 respectively. It is also submitted that Jayadev (R7) sold the properties to R5 and other claim petitioners through various sale deeds on 23-11-2004. Then, subsequent to the purchase only the claim petitioners came to know that ULC proceedings were issued by the Government

declaring the schedule land along with some other land as surplus vacant land and the authorities also issued Notification through G.O.Ms.No. No.154 under section 10(1) and (3) of the ULC Act and also declared that the surplus land is deemed to have been acquired by the State and vests absolutely with the State free from all encumbrances. It is also contended by the learned senior counsel for the respondents that the claim petitioners have made applications for allotment of the said land to them and accordingly Government had issued G.O.Ms. No.1882 dated 8-11-2005 allotting the same in their favour and therefore the allotment made by the Government shall be the conclusive proof of title of the claim petitioners. The name of claim petitioner i.e., respondent No.5 herein was mutated in revenue records and the claim petitioner i.e., unofficial respondent (R5) has availed term loan from State Bank of Mysore.

15. Learned senior counsel further submitted that the petitioner bank has no right what so ever to question the Urban Land Ceiling proceedings, which attained finality, as the said land has been vested with the Government absolutely and it has every power to distribute the land to any person. Further, as per the scheme formulated by the Government under G.O.Ms.No. No.455 dated 29-07-2002 for allotment of excess lands in favour of persons who are in possession of the said lands, by that date, the 5th respondent/claim petitioner approached the Government for allotment of the disputed land in its favour and the Government after satisfying the conditions mentioned in the said G.O., allotted the said land to 5th respondent and therefore the 5th respondent got perfected his title. The allotment has been made on payment of the value as fixed under G.O.Ms.No. No.455 and more so, it is not a mortgaged property and therefore the bank has no right what so ever to proceed against the property and also to question the declaration made by Santha.

During the course of hearing of the writ petitions, the petitioner

bank had filed a petition in WPMP No.30676/2008 to receive a material paper i.e., the letter dated 20-10-2008 issued by the Recovery Officer to the petitioner. In the said letter, the Recovery Officer has stated that the Demand Notices were ordered and sent to defendant No.1 and 3 i.e., M/s. Rank Industries ltd., and Shri K Srinivas Rao, but they were returned undelivered. In respect of demand notice sent to Defendant No.2 Shri S Jayadev, the Tribunal has not received the returned cover and subsequently publication of Demand Notices was ordered for all the three defendants and it was published in “Skyline” English Daily.

17. On the other hand, learned counsel for the respondent No.5 submitted that, for the first time, in the writ proceedings, the said contention has been raised by the petitioner bank stating that even though notices were sent, neither they were served nor acknowledgement was filed, but they did not raise the said point before the Debts Recovery Tribunal in the recovery proceedings or in the claim petitions and hence the contents of the said letter cannot be a basis to interfere with in the writ petition.

18. Learned Government Pleader for Revenue would rely on the provision under Section 23 of the Act, and submits that the Government has every right and power to dispose of the vacant land acquired under the Act and coming to the facts of the case on hand, the government, after acquiring the land from one H Santha, in excess of ceiling limit, by way of Notification under this Act, allotted the same to the claimants herein through the government orders after following the due procedure and therefore the petitioner bank has no right what so ever to challenge the G.Os issued by the government in this regard.

19. Heard the counsel on either side and also the learned Government Pleader for Revenue and perused the material available on record. From the material papers annexed to the writ petition it is seen that one Mrs. H Santha had filed declaration under Urban Land (Ceiling & Regulation) Act 1976 in Form No.I stating that an extent of

Ac 39.03 guntas in Sy.No. 122 to 125 belonging to her situate in Gachibowli village, apart from the lands in Sy.Nos. 79, 80, 89, 90, 91, 92 and 124 to an extent of Ac 12.00 situated at Nalagandla village is surplus agricultural land and thereafter the Government after due enquiry found that the said Santha sold away an extent of Ac 20.00 in Sy.Nos. 124 and 125 in favour of Fertilizer Corporation of India Employees Co-op. Housing Society on 24-07-1981, who in turn sold the property to its members, and that for the remaining extents, the government after issuing Section 8(1) draft notification and calling for objections from the declarant and after issuing final notification under section 8(4) of the Act, and following the procedure prescribed under the Act, determined the said land as surplus area. So far as the contention of the petitioner bank that Santha had no power what-so-ever to sell the agricultural land as a vacant land and the government to declare it as a vacant land, it is to be observed that the Supreme Court had an occasion to interpret the provisions of Section 2(o) of Urban Land Ceiling Act in *State of U.P vs., Nand Kumar Aggarwal and others*[1], and has observed that "agriculture" under the explanation to clause '(o)' has limited meaning but does not include cultivation of every type of vegetation or rearing of animals or birds. At para 6 of the above judgment, the apex court observed that ;

"***6.*** *In the master plan the area in question is no doubt shown as agriculture. If we refer to the Schedule mentioned in the definition of urban agglomeration it could be seen that the area in question falls within urban agglomeration as it is situated within the peripheral area of the Municipal Corporation of Lucknow (Lucknow Nagar Mahapalika). The land in question will not be urban land if though situated within the limits of an urban agglomeration, it is mainly used for the purpose of agriculture. Operating of a bhatta cannot certainly be an agriculture purpose. Mr Rohtagi, learned counsel for the 1st respondent, submitted that explanation to clause (o) shows as (sic) what is not included in agriculture and since bhatta is not one of the entries therein it would mean that operating bhatta would be an agriculture purpose. We do not find any substance in the submission. It is correct that the land in*

question is entered in the revenue record but at the same time the record shows that the land is being used for bhatta. The foremost question is: If the land in question though agricultural was being mainly used for the purpose of agriculture on the appointed day? Seeing the definitions as set out above and the affidavit of the 1st respondent dated 13-8-1976 the answer is obvious that the land in question is not being mainly used for the purpose of agriculture. Agriculture under the explanation to clause (o) has limited meaning. It includes horticulture but does not include cultivation of every type of vegetation or rearing of animals or birds. That apart, to hold that land is mainly used for the purpose of agriculture it is not enough even if the land is entered in the revenue records before the appointed day used for the purpose of agriculture or even if so entered the master plan gives purpose of the land other than agriculture. In the present case though (B) and (C) to the explanation are satisfied but (A) is not as the purpose to which the land, though agriculture and so entered in the revenue records, was being used for running of brick kiln. The High Court was not, therefore, correct in holding that the land was being mainly used for the purpose of agriculture merely on the strength of the purpose in master plan which is specified as agriculture (krishi bhumi) and that the land is entered in the revenue records. The High Court has wrongly applied Explanation B to clause (o) of Section 2 of the Act. Simply because land is entered in the revenue record would not mean that it is being used mainly for the purpose of agriculture. Here the land is mainly used for the purpose of brick kiln business of the 1st respondent. It is not material if a small portion of the land was being used for the purpose of agriculture as well.

In the light of the observations made by the Supreme Court, the above contention of the petitioner that the agricultural land cannot be sold as vacant land has no merit.

20. The further contention of the learned counsel for the petitioner is that procedure as contemplated under the Act is not followed before issuing the impugned G.Os. In this connection, it is necessary to state that the declarant in response to the draft statement under section 8(1), has stated ‘no objection’ by filing a petition on 21.05.2005 and hence the order under Section 8(4) and final statement under Section 9 of the U L C Act were issued on 04-06-2005,

confirming the draft notification without any alterations. It is also submitted that after completing the formalities under the U L (C&R) Act, 1976, the Notification under Section 10(1) of the Act was issued on 20-06-2005 and got published in A.P. Gazettee No. 123 dated 24-06-2005 and after publication of above notification, declaration under Section 10(3) of the Act, was issued on 21-07-2005 and got published in A.P. Gazettee No. 154 dated 22-07-2005 vesting the surplus land with the Government free from all encumbrances w. e. f. 6-8-2005. It is stated that the enquiry officer has taken possession of the surplus land on 30-01-2006 under section 10(6) of the Act and handed over it to the M.R.O. The material on record would go to show that the government after following due procedure as laid down under the Act only, determined the land as vacant land and thereafter as per the power vested with it, allotted the same in favour of the claimants since they are in possession of the land. Therefore, the contention of the petitioner bank has no force to stand.

21. In-so-far as the contention of the petitioner that agricultural land cannot be declared as vacant, and the certificate under section 2 (o) cannot be issued with regard to the usage of the land as agricultural land, which was sold as housing plots, the Government Pleader relied upon an unreported judgment in W.P. No. 10103 of 1985 (between *Sulakshana Bai vs., Government of A.P., Hyderabad,)* wherein it was held that change of user inevitably attracts explanation (2) to Section 6 read with section 2(q) and 2(o) of the Act. Further in the case between State of U.P and Nand Kumar, (cited supra) *the* Apex Court also held that merely because the land was entered in the revenue records and shown in Master Plan as agricultural land, it would not mean that it was being mainly used for agricultural purposes and it is not material if a small portion of the land was being used for the purpose of agriculture as well. So in the light of the above observations, the contention of the learned counsel for the petitioner bank that the Government should not have acted upon the declaration

filed by Mrs. H Santha, has no basis and accordingly fails.

The next question that remains is whether the Government has not followed the procedure laid down under Sections 3 to 8 of the Act in this case. It is seen from the record that the Government has issued section 8(1) Notification calling for the objections of the delcarant and the declarant H. Santha had filed petition on 21.2.1995 stating 'no objection' for determination of the surplus land and final order was issued confirming the draft statement under section 8(1) and a Notification under Section 10(1) was issued in G.O.Ms. No. No. 123 dated 24-06-2005 and after publication of Section. 10(1) Notification and 10(3) Notification and got published in A.P. Gazettee No. 154 dated 22-07-2005 vesting the surplus land with the Government, the Enquiry Officer had taken over possession and handed over the same to M.R.O 30.01.2006. Under the above circumstances and in view of the above procedure followed by the Government, it has to be observed that it is not open for the bank to contend that the Government has not followed the procedure as prescribed under U.L.C Act in determining the surplus land, more so, when there is no material placed before this Court by the petitioner bank that land purchased by 5th respondent and sold to 7th respondent is mortgaged to the bank. In the absence of such material that plots have been mortgaged to the bank, the bank cannot contend that they have power to attach the properties.

22. The main contention urged by the learned counsel for the petitioner bank is that if the G.Os as issued by the Government are quashed, it enables the bank to proceed against the attached properties. In this case, it is to be observed that R7 sold the property to R5 and more so the Government also has acted upon the declaration filed by Santha and the surplus land has been declared and possession was also taken by the Government and the said land vested absolutely with the Government. Therefore, the Government became the owner of the said property which is a part of land in Sy.

No. 122, 124 and 125 and R5 who is a subsequent purchaser was in possession of the land, and according to the 5th respondent, it paid the market fee for allotment of the land and accordingly the government has allotted the land in its favour and a certificate was also issued conferring the title. So, under the above facts and circumstances, even if the contention of the petitioner bank is accepted and if the G Os issued in this case under the Urban Land (Ceiling & Regulation) Act proceedings are quashed, no purpose would be served to the bank as the land vested with the Government and the government would become absolute owner. However, since at no point of time, the bank contended that allotment is bad, now at this stage, the bank cannot question the same.

23. As regards the power of the Government to allot the excess land, we have perused Section 23 of the U L (C&R) Act, 1976, which reads as follows:

> *"23. Disposal of vacant land acquired under the Act (1) It shall be competent for the State Government to allot, by order, in excess of the ceiling limit any vacant land which is deemed to have been acquired by the state Government under this Act or is acquired by the State Government under any other law, to any person for any purpose relating to, or in connection with, any industry or for providing residential accommodation of such type as may be approved by the State Government to the employees of any industry and it shall be lawful for such person to hold such land in excess of the ceiling limit.*
>
> Explanation: for the purpose of this section-
>
> (a)xxxxxxxxxx
>
> (b) xxxxxxxxxx
>
> (2), (3), (4), and (5) xxxxxxxxxxxxxxxxx"

In view of the above provision under the Act, the Government, by way of an order, is competent to allot any vacant land in excess of the ceiling limit which is deemed to have been acquired by the state Government under this Act or under any other law, to any person. Insofar as the disputed land relating to the case on hand, admittedly, the said land is acquired by the government from one H Santha, after

following the procedure as contemplated under the Act, and on an application made by the respective claim petitioners, who are in possession of the land having purchased bonafide from R7, who in turn purchased from the original owner Mrs. Santha, allotted certain extents to them through its orders, which, in our opinion, cannot be questioned by the petitioner bank. Further, the disputed land in bit No.1 and 3 are not mortgaged to the petitioner bank and therefore the petitioner bank cannot have any charge over the same and as such raising of attachment by the Tribunal is not illegal.

24. The next contention raised by Mr C Prakash Reddy, learned senior counsel for unofficial respondents is that for the first time, the petitioner brought to the notice of the Court in this writ petition, about notice issued by the Recovery Officer in D R T proceedings. But, however, there is no documentary evidence produced before this court that the notices have been issued and served on the respondents and the copy of the acknowledgment has been filed before the Tribunal. Though during the previous hearings the counsel for the petitioner bank has taken time to file documents to support his contention that notices have been issued, however, a letter addressed by the Recovery Officer to the Dy. General Manager, S.B.I, recovery and Reconciliation Branch, Secunderabad has been filed before this Court to show that the demand notices were ordered and sent to D1 and D3 and as the acknowledgements were not received by it, they got published the notice in “skyline” Engilsh newspaper by way of substituted service under the provisions of the Civil Procedure Code. It is to be observed that the procedure adopted for issuance of notice is the procedure laid down in C.P.C. and there is no material placed before this Court that the notices have been served on the present respondents and the respondents have not claimed the same. In the absence of such material, the said contention of the petitioner bank that they have issued notices and the same were not received by the other side cannot sustain. That apart, in the absence of any material

placed before this Court that the disputed property is mortgaged to the bank, the bank has no right what-so-ever to question the Urban Land Ceiling G.Os issued by the government from time to time.

26. For the aforesaid discussion, we do not find any illegality in the G.Os issued by the Government in this case from time to time and in the absence of any material that the disputed property is mortgaged to the petitioner bank, we have no hesitation to hold that the raising of the attachments by the Recovery Officer which is affirmed by the Debts Recovery Tribunal is perfectly legal and the impugned order needs no interference. No case is made out by the petitioner bank to quash the impugned G.Os.

In the result, this writ petition is dismissed. Each party do bear its own costs.

Further, W.P. Nos. 19858; 19859; 19991; 19993; 19996; 20002 and 20004 of 2008 are also filed challenging the common order dated 30-06-2008; the question arising in these writ petitions is similar to the question raised in W.P.No. 19857 of 2008. In view of the reasons mentioned in W.P.No. 19857 of 2008, these writ petitions are also liable to be dismissed. Accordingly, these writ petitions are also dismissed. No costs.

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T MEENA KUMARI J

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G BHAVANI PRASAD J

Date:31-12-2008
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THE HON'BLE SMT JUSTICE T.MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G BHAVANI PRASAD

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Writ Petition Nos.: 19857; 19858, 19859, 19991, 19993, 19996, 20002 and 20004 of 2008

(Common Order of the Division Bench delivered by
the Hon'ble Smt. Justice T Meena Kumari)

31st December 2008

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[1] 1977(2) SCC 754,