

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

+ WRIT PETITION No.24781 of 2006

% Date:07.03.2024

IMG Academies Bharata Private Limited
... Petitioner

vs.

\$ Government of Telangana, rep. by its Secretary,
Law and Legislative Department, Secretariat, Hyderabad
and others
... Respondents

! Counsel for the appellant : Mr. Vedula Venkataramana
Learned Senior Counsel

^ Counsel for the respondents : Mr. A.Sudarshan Reddy,
Learned Advocate General

< GIST:

➤ HEAD NOTE:

? CASES REFERRED:

1. (1952) 2 SCC 697
2. AIR 1958 SC 538
3. (1996) 3 SCC 709
4. (2017) 9 SCC 1
5. 1950 SCC 833 : 1950 SCC OnLine SC 49
6. (1976) 3 SCC 540
7. (1977) 4 SCC 145
8. (1978) 2 SCC 1
9. 1992 Supp (2) SCC 351
- 10.(2004) 1 SCC 712
- 11.(2011) 5 SCC 29

- 12.(2011) 6 SCC 125
- 13.(2019) 9 SCC 710
- 14.2023 SCC OnLine SC 598
- 15.2024 (1) ALT 85 (DB)
- 16.2024 (1) ALT 272 (DB)
- 17.(1971) 2 SCC 179
- 18.(1989) 3 SCC 488
- 19.(2011) 3 SCC 139
- 20.(2018) 14 SCC 408
- 21.AIR 1958 SC 538
- 22.AIR 1955 SC 191
- 23.AIR 1964 SC 1135
- 24.(1972) 1 SCC 421
- 25.(2007) 5 SCC 447
- 26.(2004) 12 SCC 673
- 27.(2006) 3 SCC 434
- 28.(2011) 9 SCC 286
- 29.(2017) 10 SCC 1
- 30.(2018) 11 SCC 1
- 31.(2016) 7 SCC 615

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION No.24781 of 2006

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

(i) FACTS:

The petitioner, a private limited company, in this writ petition has assailed the constitutional validity of the Telangana Government Property (Preservation, Protection and Resumption) Act, 2007. In order to appreciate the petitioner's grievance, the relevant facts need mention which are stated infra.

2. The petitioner is a company incorporated on 05.08.2003 under the provisions of the Companies Act, 1956. The composite State of Andhra Pradesh on 09.08.2003 had entered into a Memorandum of Understanding (MoU) with the petitioner. Under the aforesaid MoU, the State of Andhra Pradesh identified the petitioner as an expert organisation which can produce and train champions in various sports. The MoU

acknowledges the fact that the petitioner is renowned in the field of events, entertainment and marketing. The erstwhile Government of Andhra Pradesh (hereinafter referred to as, “the State”) under the MoU agreed that it shall sell Acs.400.00 of land in Survey No.25 of Gachibowli, Serlingampalli Mandal, Ranga Reddy District, to the petitioner to build, develop, own and operate sports academies.

3. The State further agreed to sell another extent of land measuring Acs.450.00 in Survey No.99/1 of Mamidipalli Village, Saroornagar Mandal, Ranga Reddy District to enable the petitioner to build, operate and for extension of facilities and activities relating to sports academies and also agreed to sell land measuring Ac.1.00 to Acs.5.00 in the area on main road from Banjara Hills, Hyderabad to Shilparamam, Madhapur, Ranga Reddy District to build an international class office headquarters with a condition that the petitioner shall not alienate such lands. Acting in furtherance of MoU dated 09.08.2003, the State executed a registered sale deed in favour of the petitioner on

10.02.2004 in respect of land measuring Acs.400.00 at the rate of Rs.50,000/- per acre, for a consideration of Rs.2.00 crores. Thereafter, the State Legislature initially issued an Ordinance, namely Ordinance No.12 of 2006, which was subsequently enacted as Act No.11 of 2007, namely the Andhra Pradesh Government Property (Preservation, Protection and Resumption) Act, 2007 (hereinafter referred to as “the 2007 Act”). Under the 2007 Act, the MoU dated 09.08.2003 and sale deed dated 10.02.2004 and other benefits available to the petitioner under the MoU were annulled. Consequent on annulment of transactions and instruments under Section 2 of the 2007 Act, the transferee i.e., the petitioner was held entitled to reasonable compensation along with interest @ 12% per annum. In the aforesaid factual background, the petitioner has assailed the constitutional validity of the 2007 Act.

(ii) SUBMISSIONS ON BEHALF OF PETITIONER:

4. Learned Senior Counsel for the petitioner, at the outset, submitted that the issue of validity of the 2007 Act be examined in the context of the provisions of the 2007

Act and cannot be examined on the basis of plea taken in the counter affidavit or subsequent pleading. It is urged that Section 2 of the 2007 Act does not lay down any legislative policy as to why only the two transactions to which petitioner was a party alone have been brought within the purview of the 2007 Act. It is contended that Article 298 of the Constitution of India expressly confers the executive power on the State to enter into an agreement in respect of its property and to dispose of the same. It is further contended that the MoU dated 09.08.2003 and the sale deed dated 10.02.2004 are protected under Article 298 of the Constitution of India and the impugned Act is akin to a legislation, which affects an individual as the petitioner alone is affected by the provisions of the 2007 Act.

5. It is also contended that the power to enact a law is confined to the Entries contained in List II and List III to the Seventh Schedule of the Constitution of India and therefore, the State Government lacks the legislative competence to enact the law. It is argued that unilateral cancellation of a sale deed by enacting a law is

impermissible in law and the 2007 Act suffers from manifest arbitrariness and is, therefore, violative of the mandate contained in Article 14 of the Constitution of India. In support of the aforesaid submissions, reliance has been placed on the decisions in **Ameerunnissa Begum vs. Mahboob Begum**¹, **Shri Ram Krishna Dalmia vs. Shri Justice S.R.Tendolkar**², **State of Andhra Pradesh vs. Mcdowell and Company**³ and **Shayara Bano vs. Union of India**⁴.

(iii) SUBMISSIONS ON BEHALF OF STATE:

6. On the other hand, learned Advocate General has taken this Court to various clauses of the MoU and has invited the attention of this Court to the Statement of Objects and Reasons for enacting the Act. It is pointed out that the MoU was signed without obtaining the approval of the Cabinet and value of the land at the relevant point of time was Rs.13 lakhs per acre, which had been sold to the petitioner for the paltry sum of Rs.50,000/- per acre

¹ (1952) 2 SCC 697

² AIR 1958 SC 538

³ (1996) 3 SCC 709

⁴ (2017) 9 SCC 1

without assigning any reason. It is contended that the petitioner is not even remotely connected to IMG, an American company and fraud has been played on the State Government. It is submitted that in view of the stipulation contained in the MoU, it is not open for the petitioner to assail the validity of the impugned legislation and remedy of the petitioner, if any, lies in seeking damages.

7. It is contended that the 2007 Act does not affect the petitioner alone and any other transaction which has been entered into by the State, which may be prejudicial to the public exchequer as well as public interest can be put in schedule. Even otherwise, it is contended that the legislation affecting an individual is valid and the State has legislative competence under Entry 18 of List II and Entries 6 and 7 of List III of the Seventh Schedule of the Constitution of India. It is also pointed out that the Act has been enacted after obtaining the assent of the President of India. It is also submitted that there is a presumption in favour of constitutionality of the statute and no factual foundation has been made in the pleadings to challenge

the 2007 Act on the ground that it violates Article 14 of the Constitution of India.

8. It is pointed out that the petitioner was incorporated on 05.08.2003 and within a short span of four days, MoU was executed in favour of the petitioner on 09.08.2003 by the caretaker Government. It is also urged that the State Legislature is competent to enact a law against an individual and there are no pleadings in the writ petition on the ground that the same is manifestly arbitrary.

9. In support of the aforesaid submissions, reliance has been placed on the decisions in **Charanjit Lal Chowdhury vs. Union of India**⁵, **Shri Ram Krishna Dalmia** (supra), **Excise Commissioner, U.P., Allahabad vs. Ram Kumar**⁶, **The Bihar Eastern Gangetic Fishermen Cooperative Society Limited vs. Sipahi Singh**⁷, **Pathumma vs. State of Kerala**⁸, **State of Himachal Pradesh vs. Kailash Chand Mahajan**⁹, **Dharam Dutt vs. Union of India**¹⁰,

⁵ 1950 SCC 833 : 1950 SCC OnLine SC 49

⁶ (1976) 3 SCC 540

⁷ (1977) 4 SCC 145

⁸ (1978) 2 SCC 1

⁹ 1992 Supp (2) SCC 351

Akhil Bhartiya Upbhokta Congress vs. State of Madhya Pradesh¹¹, Humanity vs. State of West Bengal¹², Kerala State Beverages (M and M) Corporation Limited vs. P.P.Suresh¹³, C.S.Gopalakrishnan vs. State of Tamil Nadu¹⁴, Dr. Urmila Pingle vs. State of Telangana¹⁵ and M/s.Invecta Technologies Private Limited vs. Government of Andhra Pradesh¹⁶.

(iv) SUBMISSIONS BY WAY OF REJOINDER:

10. By way of rejoinder, learned Senior Counsel for the petitioner has submitted that the validity of the statute is required to be decided on the basis of context of the statute and the clauses contained in the MoU cannot be considered for adjudication of validity of the statute. It is contended that the statute does not define the expressions ‘unconscionable, grossly low value price, public interest and non-transparent manner’. It is further submitted that

¹⁰ (2004) 1 SCC 712

¹¹ (2011) 5 SCC 29

¹² (2011) 6 SCC 125

¹³ (2019) 9 SCC 710

¹⁴ 2023 SCC OnLine SC 598

¹⁵ 2024 (1) ALT 85 (DB)

¹⁶ 2024 (1) ALT 272 (DB)

Section 2 of the 2007 Act which is heart and soul of the statute is declaratory in nature and the entries namely, entry 18 of List II and entries 6 and 7 of List III of Seventh Schedule of the Constitution do not confer any legislative competence on the State to enact the 2007 Act. It is contended that unlike the Parliament the State Legislature has no residuary power to enact the law. It is further contended that the decision relied on by the learned Advocate General in **Pathumma** (supra) is distinguishable and is not applicable to the facts of the case.

11. We have considered the rival submissions made on both sides and have perused the record.

(v) BACKGROUND FACTS LEADING TO 2007 ACT:

12. Before proceeding further, it is apposite to take note of background facts leading to the impugned legislation. The petitioner, namely IMG Academies Bharata Private Limited was incorporated on 05.08.2003. Immediately the next day, i.e. on 06.08.2003 a note was put up by the then Youth Advancement, Tourism and Culture Department for

approval by circulation. The note was approved on 06.08.2003 itself by four ministers in the State cabinet and the then Chief Secretary to the Government. Thereafter within three days, a Memorandum of Understanding was executed with the petitioner on 09.08.2003. The relevant terms and conditions read as under:

2. IMG Academies Bharata Private Limited (henceforth, "IMGB"), a company incorporated under the provisions of the Companies Act, 1956 – a 100% subsidiary of IMG Academies East, Ltd., LLC, organized under the laws of the State of Delaware, United States (henceforth "IMGAF") and a part of IMG Worldwide, with headquarters located in Florida, United States of America (henceforth "IMG"), represented by IMGB's Chairman Mr. Andrew J. Krieger duly authorized to execute this MoU and bind IMGB to the terms and conditions of this MoU;

Clause 2(B)(I) : Payment for Lands allocated: Upon sale and at the time of registration of lands allocated to IMGB pursuant to Clause 2(A)(I)(i), IMGB shall pay to the GoAP Indian Rupees Twenty Million (INR 20,000,000- or INR Two Crores) and upon sale and registration of lands pursuant to clause 2(A)(I)(iii), IMGB shall pay Indian Rupees Eleven Million Two Hundred and Fifty Thousand (INR 11,250,000.00 or INR 1 Crore Twelve Lakhs and Fifty Thousand). IMGB shall also pay an additional sum of Indian Rupees Eleven Million, Two Hundred and Fifty Thousand (INR

11,250,000.00) with respect to the development of roads and facilities all as provided for in Clause 2(A)(I)(xii). Payment for land allocated and sold pursuant to Clause 2(A)(I)(v) shall be at the time of registration in favour of IMGB. IMGB's payments at the time of registration of the lands shall only be with respect of the sale price and IMGB shall not be obligated to pay any registration fees, stamp duties or any other levies in connection with the transfer of ownership and registration of the lands in favour of IMGB and the GoAP has undertaken to waive the payment of such registration fees, stamp duties or levies or registration charges with respect of the lands described in Clauses 2(A)(I)(i), Clause 2(A)(iii) and Clause 2(A)(I)(v) only.

Clause 2(A)(1)(vi) : IMGB acknowledges that the lands sold to its pursuant to clauses 2(A)(I)(i), 2(A)(I)(iii) and 2(A)(I)(v) are being sold by the GoAP in order that IMGB accomplishes the objectives set forth in Clause 1 of this Memorandum of Understanding. Hence, IMGB acknowledges that it shall not alienate such lands in a crude real estate venture in which the whole lands are converted into plots and sold to the general public.

Clause 2(A)(I)(x) : IMGB shall be the sole and complete owner of the lands allocated and purchased pursuant to clauses 2(A)(I)(i), 2(A)(I)(iii) and 2(A)(I)(v) above and shall possess all the rights appurtenant to such complete and total ownership including but not limited to rights of alienation, sale, use and peaceful

possession of such lands and all other rights related to such lands as provided elsewhere in this Memorandum of Understanding.

Clause 2(A)(II)(v) : The GoAP will have to bear the cost of maintenance and upkeep of the Stadia Property, with respect to those component properties still being lease by IMGB and not having been bought by IMGB under its option to purchase. Such burden of the GoAP shall be Indian Rupees 25 Million (INR 25,000,000.00 or INR 2.5 Crores) per year or such actual amounts that the GoAP has been expending on maintenance activities, whichever is higher, for a term of five years from the first day that the lease term becomes effective. The specific details of what the line item costs are shall be detailed in the lease agreement. In addition, the GoAP shall be responsible to promptly repair and bear the cost of any and all repairs associated with unforeseen or hidden structural damages or structure defects in the Stadia Property that may arise within two years of the effective date of the lease between APEC and IMGB, if IMGB exercises its option to purchase and so purchases any of the Stadia Property within five years of the effective date of the lease, then the burden of the GoAP under this Clause shall be reduced pro rata to the extent of the Stadia Properties purchased by IMGB.

Clause 2(A)(V) : The GoAP shall contribute towards defrayment of a small portion of substantial costs that IMGB shall be incurring to market, promote

and bring events to the Stadia Properties in Hyderabad, on a half yearly basis and at the beginning of each half year period, a sum of US Dollars Five Hundred Thousand Dollars (USD \$ 500,000). The said obligation of the GoAP shall be for a period of five (5) years following the execution of this MoU. For the purposes of this clause, the expression/word of “year” or “yearly” shall refer to and be based on the fiscal year of IMGB which runs from April 1 of any calendar year to March 31 of the next calendar year. With regard to the first payment of USD \$ 500,000 it shall be made within 90 days of the execution of this MoU and then the subsequently the next payment shall be made on March 31, 2004 so that the remaining half yearly payments shall.

Clause 2(A)(XV) : In addition, the GoAP shall ensure that IMGB receives all the concession, subsidies and incentives that are normally provided by the GoAP to educational institutions in the State of A.P. Furthermore, the GOAP shall also ensure that IMGB receives the following:

(i) Continued and uninterrupted power supply and the power supplied to IMGB shall be of the highest quality without substantial voltage fluctuations and further, the GoAP shall reimburse to IMGB, on a quarterly basis, 100% of the power bill amounts paid for by IMGB in the first three years following the execution of this MoU and then for the next four years 25% of the power bill amounts paid for by the IMGB with the further proviso that in the case

where the GoAP or A.P.Transco (or any other successor organization) is providing a better rate to any other educational institution in the GoAP, the IMGB shall be eligible for such lower rate.

(ii) Continued and uninterrupted supply of clean and potable water and the GoAP shall reimburse, on a quarterly basis, to IMGB 100% of the bill amounts paid for by IMGB in the first three years after the MoU and then for the next four years 25% of the bill amounts paid for by IMGB with respect to water.

(iii) With respect to sewage and drainage charges, the GoAP shall reimburse, on a quarterly basis, to IMGB 100% of the bill amounts paid for by IMGB and in the subsequent four years, 25% of bill amounts paid for by IMGB.

(iv) In addition to the above, the GoAP shall ensure that there shall be no entertainment taxes levied, for a period of ten years, on any of the events held in any of the facilities related to the Stadia Property, training academies set up and operated by IMGB and any other facilities set up in connection with such training academies, lifestyle, leisure and entertainment center to be set up and operated in Phase II and any related facilities thereof. Such concession are needed in order to make Hyderabad attractive and competitive, to host major national and international events.

13. Thus, from perusal of the aforesaid clauses, it is evident that under the MoU the erstwhile Government of Andhra Pradesh has agreed to bear the cost of maintenance and upkeep of the stadia area property to the extent of Rs.2.50 crores per year or such actual amounts that incurred on maintenance activities whichever is higher for a period of five years. The erstwhile Government under the MoU has also agreed for sharing of the revenue and has agreed to contribute towards defrayment US \$ 5,00,000/- half yearly basis for five years. The clauses of MoU allows the petitioner to seek reimbursement of 100% of power bills, water bills and sewer and drainage charges for first three years and to the extent of 25% for the next four years, apart from its entitlement to claim supply of electricity for the concessional rate. There is no material on record to show either petitioner is subsidiary of M/s.IMG (E) or IMG or it has any experience in the field of sports, and within four days of its incorporation, MoU was signed in favour of the petitioner.

14. On 14.11.2003, the Legislative Assembly of erstwhile State of Andhra Pradesh was dissolved at the request of the then Chief Minister and the caretaker Government was in existence. On 10.02.2004, a registered sale deed was executed in favour of the petitioner, by which land measuring Acs.400.00 was transferred at the rate of Rs.50,000/- per acre, for a sum of Rs.2 crores much below the market price of Rs.13 lakhs per acre.

15. The State Legislature promulgated Andhra Pradesh Government Property Government Property (Preservation, Protection and Resumption) Ordinance, 2006 which was subsequently enacted as Act No.11 of 2007. The 2007 Act has received the assent of the President on 26.03.2007 by which transactions mentioned in Schedule I and Schedule II of the Act, including MoU dated 09.08.2003 and sale deed dated 10.02.2004 have been annulled. The composite State of Andhra Pradesh was bifurcated under the Andhra Pradesh Reorganisation Act, 2014 with effect from 02.06.2014 and successor State of Telangana came into existence. The State of Telangana adopted Act No.11 of

2007, vide Telangana Adaptation of Laws Order, 2016 and G.O.Ms.No.45 dated 01.06.2016 was issued.

(vi) ISSUES:

16. The issues which arise for consideration in this writ petition are as follows:

(1) Whether the State Legislature has competence to enact the law?

(2) Whether the Telangana Government Property (Preservation, Protection and Resumption) Act, 2007 is an Act, which affects petitioner alone, is liable to be struck down on the ground that it pertains to an individual i.e., the petitioner only?

(3) Whether the Act suffers from manifest arbitrariness and is violative of Article 14 of the Constitution of India?

17. We now deal with the first issue, namely the issue with regard to competence of the State Legislature to enact the impugned law. It is well settled rule of interpretation of entries in the Seventh Schedule of the Constitution that

entries in the legislative lists are not sources of power but merely demarcate the fields of legislation. A seven-Judge Bench of Supreme Court in **Union of India vs. Harbhajan Singh Dhillon**¹⁷ and Constitution Benches of Supreme Court in **Ujagar Prints (2) vs. Union of India**¹⁸ and **Offshore Holding Private Limited vs. Bangalore Development Authority**¹⁹ have reiterated the aforesaid well settled legal position. The aforesaid principle was again reiterated by a three-Judge Bench of the Supreme Court in **Bimolangshu Roy vs. State of Assam**²⁰ and it was further held that any construction which runs counter to the scheme of the Constitution relevant in the context must be avoided.

18. In the backdrop of well settled legal principles, we may refer to Articles 246 and the relevant entries in List II and List III of the Seventh Schedule of the Constitution of India.

¹⁷ (1971) 2 SCC 179

¹⁸ (1989) 3 SCC 488

¹⁹ (2011) 3 SCC 139

²⁰ (2018) 14 SCC 408

246. Subject-matter of laws made by Parliament and by the Legislatures of States:- (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the “Union List”).

(2) Notwithstanding anything in clause (3), Parliament and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the “Concurrent List”).

(3) Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the “State List”).

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.

LIST – II STATE LIST

18. Land, that is to say, right in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization.

LIST – III CONCURRENT LIST

6. Transfer of property other than agricultural land; registration of deeds and documents.

7. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.

19. The Constitution divides the topics of legislation to three categories – (a) entries enabling laws to be made, (b) entries enabling taxes to be imposed and (c) entries enabling fees and stamp duties to be collected. Thus, under Entry 18 of the State List, the State Legislature has the power to enact a law with regard to land including right in or over the land. Similarly, under Entry 6 of the Concurrent List, law can be enacted in relation to transfer of property other than agriculture land, other than registration of deeds and documents. The 2007 Act is clearly referable to the fields of legislation as mentioned in the said entries. It is noteworthy that the 2007 Act has received the assent of the President of India. Therefore, the contention that the State Legislature has no legislative competence to enact the 2007 Act does not deserve

acceptance. It is held that the State Legislature is competent to enact the 2007 Act.

20. Now we deal with the second issue, namely whether the Telangana Government Property (Preservation, Protection and Resumption) Act, 2007 is an Act, which affects petitioner alone, is liable to be struck down on the ground that it pertains to an individual i.e., the petitioner only. The Telangana Government Property (Preservation, Protection and Resumption) Act, 2007 is, as is evident from the Preamble, an Act enacted with an object to preserve and resume certain properties of the State in public interest and to annul the transactions affecting the title and interest of the State therein. The Statement of Objects and Reasons further state that valuable pieces of land and stadia have been either transferred or agreed to be transferred to a private party in a non-transparent manner at abnormally low prices and on such terms and conditions which are unconscionable and not in public interest. The Preamble further states that the transferees have not fulfilled the essential terms and conditions, forming the

basis of such transactions except for paying unconscionable low price. The Act is reproduced for the facility of reference:

**THE ANDHRA PRADESH GOVERNMENT PROPERTY
(PRESERVATION, PROTECTION AND RESUMPTION)**

ACT, 2007

ACT NO. 11 OF 2007

[11th April, 2007]

An act to Preserve, Protect And Resume Certain Property of the State in Public Interest and Annul the Transactions Adversely affecting the Title and interest of the State therein.

Whereas, valuable pieces of land and stadia belonging to Government of Andhra Pradesh have been either transferred or agreed to be transferred to a private party in a non-transparent manner at abnormally low prices and on such terms and conditions which are unconscionable and not in public interest;

And whereas, the transferees have also not fulfilled the essential terms and conditions forming the basis of such transactions except for paying the unconscionable low price;

And whereas, the land though given in possession of the transferees remain as they were without anything done or raised thereon;

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fifty-Eighth Year of the Republic of India as follows:-

1. Short title, extent and commencement – (1) This Act may be called the Andhra Pradesh Government Property (Preservation, Protection and Resumption) Act, 2007.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall be deemed to have come into force with effect on and from the 20th November, 2006.

2. Annulment of certain transactions - With effect from the date of coming into force of this Act, the following consequences shall follow: -

(a) the transactions as enumerated in Schedule-I and any instrument including a deed of sale, memorandum of understanding and agreement relating to property enumerated in Schedule-II entered into by or on behalf of the State of Andhra Pradesh in exercise of its executive power and which have the effect of transferring or agreeing to transfer by way of sale, lease or otherwise, the State ownership or interest therein to any private party shall stand annulled and be deemed to be void from the date on which they were entered into or executed as being unconscionable and not in public interest;

(b) any arbitration clause forming part of any agreement being a part of such instrument as is referred to in clause (a) shall also stand annulled and be deemed to be void from its inception;

(c) possession over property enumerated in Schedule-II shall forthwith stand resumed and restored to the Government of Andhra Pradesh;

(d) all rights and liabilities arising out of or incidental to the said transaction or instrument shall cease and determine except for payment of compensation as provided by Section 3.

3. Payment of compensation – (1) Consequent upon the annulment of transactions and instruments under Section 2, the transferee shall be entitled to be paid a reasonable compensation by the Government of Andhra Pradesh.

(2) The amount of consideration recited in any instrument enumerated in Schedule 1 with interest calculated at the rate of 12% per annum shall be deemed to be the reasonable compensation within the meaning of subsection (1).

4. Overriding effect – The provisions of this Act shall be given effect to notwithstanding anything contained in any instrument or enactment for the time being in force.

5. Repeal of Ordinance No. 12 of 2006 – The Andhra Pradesh Government Property (Preservation, Protection and Resumption) Ordinance, 2006 is hereby repealed.

SCHEDULE-I

(See Section 2)

Transactions of property entered into by State of Andhra Pradesh annulled hereby:-

1. Memorandum of Understanding entered into on August 9, 2003 between Government of Andhra Pradesh represented by Miss Chandana Khan, Principal Secretary to Government of Andhra Pradesh for Sports, Youth Affairs, Tourism and Cultural Affairs.

And

IMG Academies Bharatha Private Limited, a company incorporated under the provisions of the Companies Act, 1956 claiming to be 100% subsidiary of IMG Academies East Limited and a part of IMG World Wide with headquarter located in Florida, USA represented by Mr. Andrew J. Krieger, Chairman, IMGB.

2. Deed of Sale executed on February 10, 2004 and registered on the same day between the Government of Andhra Pradesh represented by Vice-Chairman and Managing Director, Sports Authority of Andhra Pradesh and M/s. IMG Academies Bharatha Pvt. Ltd, in respect of 400 acres of land in Survey No. 25 situate at Kancha Gachibowli village, Serilingampally Mandal, Rangareddy District more specifically described in Schedule of Property forming part of the sale deed.

3. Agreement to sell in respect of 450 acres of land situate in Survey No. 99/1 of Mamidipally village, Rangareddy District near new International Airport.

4. Agreement to sell one to five acres of land in the area on the main road from Banjara Bills, Hyderabad to Shilparamam, Madhapur, Rangareddy District.

5. Agreement to lease with right to purchase the land and buildings and equipments comprised in stadia and agreement to manage and utilize SAAP facilities and share revenues.

SCHEDULE -II

(See Section 2)

Description of property transferred or agreed to be transferred through transactions annulled hereby:-

1. 400 acres of land in Survey No. 25 situate at Kancha Gachibowli Village, Serilingampally Mandal, Ranga Reddy District;

2. 450 acres of land in Survey No. 99/1 of Mamidipally village, Ranga Reddy District, near new International Airport.

3. Stadia situate in the city of Hyderabad which include GMC Balayogi Sports Complex, Gachibowli, Indoor stadium Gachibowli, Acquatics Stadium Gachibowli, KVB Reddy Indoor Stadium Yousufguda, Hockey Stadium Gachibowli, Indoor Stadium Saroornagar, SAAP Veldrome Osmania University, L.B. Stadium Tennis Complex and Indoor Stadium, Shooting Range, University of Hyderabad etc.

4. One to five acres of land in the area on main road from Banjara Hills, Hyderabad to Shilparamam, Madhapur, Ranga Reddy District.

21. A Constitution Bench of Supreme Court in **Ram Krishna Dalmia vs. S.R.Tendolkar**²¹ after taking note of decision rendered by seven-Judge Bench of Supreme Court in **Budhan Choudhry vs. State of Bihar**²² while dealing with the issue of constitutionality of law even if it relates to a single individual held in paragraphs 11 and 12 as under:

11. The principal ground urged in support of the contention as to the invalidity of the Act and/or the notification is founded on Article 14 of the Constitution. In *Budhan Choudhry v. State of Bihar* [(1955) 1 SCR 1045] a Constitution Bench of seven Judges of this Court at p. 1048-49 explained the true meaning and scope of Article 14 as follows;

“The provisions of Article 14 of the Constitution have come up for discussion before this Court in a number of cases, namely, *Chiranjit Lal Choudhuri v. Union of India* [1950 SCC 833 : (1950) SCR 869], *State of Bombay v. F.N. Balsara* [1951 SCC 860 : (1951) SCR 682], *State of West Bengal v. Anwar Ali Sarkar* [(1952) 1 SCC 1 : (1952) SCR 284], *Kathi Raning Rawat v. State of Saurashtra* [(1952) 1 SCC 215 : (1952) SCR 435], *Lachmandas Kewalram Ahuja v. State of Bombay* [(1952) 1 SCC 726 : (1952) SCR 710], *Qasim Razvi v. State of Hyderabad* [(1953) SCR 581] and *Habeeb*

²¹ AIR 1958 SC 538

²² AIR 1955 SC 191

Mohamad v. State of Hyderabad [(1953) SCR 661]. It is, therefore, not necessary to enter upon any lengthy discussion as to the meaning, scope and effect of the article in question. It is now well established that while article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and (ii) that that differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases, namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is also well established by the decisions of this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure.”

The principle enunciated above has been consistently adopted and applied in subsequent cases. The decisions of this Court further establish—

(a) that a law may be constitutional even though it relates to a single individual if, on account of some special circumstances or reasons applicable to him and not applicable to others, that single individual may be treated as a class by himself;

(b) that there is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles;

(c) that it must be presumed that the legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds;

(d) that the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest;

(e) that in order to sustain the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation; and

(f) that while good faith and knowledge of the existing conditions on the part of a legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the court on which the classification may

reasonably be regarded as based, the presumption of constitutionality cannot be carried to the extent of always holding that there must be some undisclosed and un-known reasons for subjecting certain individuals or corporations to hostile or discriminating legislation.

The above principles will have to be constantly borne in mind by the court when it is called upon to adjudge the constitutionality of any particular law attacked as discriminatory and violative of the equal protection of the laws.

12. A close perusal of the decisions of this Court in which the above principles have been enunciated and applied by this Court will also show that a statute which may come up for consideration on a question of its validity under Article 14 of the Constitution, may be placed in one or other of the following five classes:

(i) A statute may itself indicate the persons or things to whom its provisions are intended to apply and the basis of the classification of such persons or things may appear on the face of the statute or may be gathered from the surrounding circumstances known to or brought to the notice of the court. In determining the validity or otherwise of such a statute the court has to examine whether such classification is or can be reasonably regarded as based upon some differentia which distinguishes such persons or things grouped together from those left out of the group and whether such differentia has a reasonable relation to the object sought to be achieved by the statute, no

matter whether the provisions of the statute are intended to apply only to a particular person or thing or only to a certain class of persons or things. Where the court finds that the classification satisfies the tests, the court will uphold the validity of the law, as it did in *Chiranjitlal Chowdhri v. Union of India* [1950 SCC 833 : (1950) SCR 869] *State of Bombay v. F.N. Balsara* [1951 SCC 860 : (1951) SCR 682] *Kedar Nath Bajoria v. State of West Bengal* [(1954) SCR 30], *S.M. Syed Mohammad & Company v. State of Andhra* [(1954) SCR 1117], and *Budhan Choudhry v. State of Bihar* [(1955) 1 SCR 1045] .

(ii) A statute may direct its provisions against one individual person or thing or to several individual persons or things but no reasonable basis of classification may appear on the face of it or be deducible from the surrounding circumstances, or matters of common knowledge. In such a case the court will strike down the law as an instance of naked discrimination, as it did in *Ameerunnissa Begum v. Mahboob Begum* [(1952) 2 SCC 697 : (1953) SCR 404] and *Ramprasad Narain Sahi v. State of Bihar* [(1953) SCR 1129].

(iii) A statute may not make any classification of the persons or things for the purpose of applying its provisions but may leave it to the discretion of the Government to select and classify persons or things to whom its provisions are to apply. In determining the question of the validity or otherwise of such a statute the court will not strike down the law out of hand only because no classification appears on its face or

because a discretion is given to the Government to make the selection or classification but will go on to examine and ascertain if the statute has laid down any principle or policy for the guidance of the exercise of discretion by the Government in the matter of the selection or classification. After such scrutiny the court will strike down the statute if it does not lay down any principle or policy for guiding the exercise of discretion by the Government in the matter of selection or classification, on the ground that the statute provides for the delegation of arbitrary and uncontrolled power to the Government so as to enable it to discriminate between persons or things similarly situate and that, therefore, the discrimination is inherent in the statute itself. In such a case the court will strike down both the law as well as the executive action taken under such law, as it did in *State of West Bengal v. Anwar Ali Sarkar* [(1952) 1 SCC 1 : (1952) SCR 284] *Dwarka Prasad Laxmi Narain v. State of Uttar Pradesh* [(1954) SCR 803] and *Dhirendra Krishna Mandal v. Superintendent and Remembrancer of Legal Affairs* [(1955) 1 SCR 224].

(iv) A statute may not make a classification of the persons or things for the purpose of applying its provisions and may leave it to the discretion of the Government to select and classify the persons or things to whom its provisions are to apply but may at the same time lay down a policy or principle for the guidance of the exercise of discretion by the Government in the matter of such selection or classification, the court will uphold the law as

constitutional, as it did in *Kathi Raning Rawat v. State of Saurashtra* [(1952) 1 SCC 215 : (1952) SCR 435].

(v) A statute may not make a classification of the persons or things to whom their provisions are intended to apply and leave it to the discretion of the Government to select or classify the persons or things for applying those provisions according to the policy or the principle laid down by the statute itself for guidance of the exercise of discretion by the Government in the matter of such selection or classification. If the Government in making the selection or classification does not proceed on or follow such policy or principle, it has been held by this Court e.g. in *Kathi Raning Rawat v. State of Saurashtra* that in such a case the executive action but not the statute should be condemned as unconstitutional.

In the light of the foregoing discussions the question at once arises : In what category does the Act or the notification impugned in these appeals fall?

22. The Supreme Court in **State of Himachal Pradesh vs. Kailash Chand Mahajan** (supra) dealt with the issue of validity of Electricity (Supply) (HP Amendment) Act, 1990. Section 2 of the Act fixed the age of superannuation for Chairman and Members of the Board as 65 years. The validity of the aforesaid Act was challenged on the ground

that it affects a single individual. It was held that even though only an individual came to be affected by the legislation, the same cannot be a reason to render the legislation as arbitrary and violative of Article 14 of the Constitution of India. In paragraphs 90, 91 and 95, it was held as under:

90. Then the question will be whether it is a single person's legislation. The argument and the counter arguments proceed thus. Mr Shanti Bhushan would urge that it happened at the time of enactment only the first respondent had attained the age of 65 years and, therefore, it could not be called a single man's legislation since it affects everyone. On the contrary, the argument of Kapil Sibal is that only the first respondent alone could be affected and, therefore, it is a single person's legislation being violative of Article 14 of the Constitution. We will look at the relevant case-law which deals with single person's legislation and how far they are violative of Article 14. In *Chiranjit Lal Chowdhuri v. Union of India* [1950 SCC 833 : 1950 SCR 869 : AIR 1951 SC 41], the headnote reads:

“Held also per Kania, C.J., Fazl Ali, and Mukherjea, JJ. (Patanjali Sastri and Das, JJ. dissenting). that though the Legislature had proceeded against one company only and its shareholders inasmuch as even one corporation or a group of persons can be taken to be a class by itself for the purposes

of legislation, provided there is sufficient basis or reason for it and there is a strong presumption in favour of the constitutionality of an enactment, the burden was on the petitioner to prove that there were also other companies similarly situated and this company alone had been discriminated against, and as he had failed to discharge this burden the impugned Act cannot be held to have denied to the petitioner the right to equal protection of the laws referred to in Article 14 and the petitioner was not therefore entitled to any relief under Article 32.”

In *Ram Krishna Dalmia v. Justice S.R. Tendolkar* [1959 SCR 279 : AIR 1958 SC 538] , it has been held thus: (SCR pp. 296-99)

“... It is now well established that while Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and, (ii) that that differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases, namely, geographical, or according to objects or

occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is also well established by the decisions of this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure.

The principle enunciated above has been consistently adopted and applied in subsequent cases. The decisions of this Court further established —

- (a) that a law may be constitutional even though it relates to a single individual if, on account of some special circumstances or reasons applicable to him and not applicable to others, that single individual may be treated as a class by himself;
- (b) that there is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles;
- (c) that it must be presumed that the legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds;

- (d) that the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest;
- (e) that in order to sustain the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation; and
- (f) that while good faith and knowledge of the existing conditions on the part of a legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the court on which the classification may reasonably be regarded as based, the presumption of constitutionality cannot be carried to the extent of always holding that there must be some undisclosed and unknown reasons for subjecting certain individuals or corporations to hostile or discriminating legislation.

The above principles will have to be constantly borne in mind by the court when it is called upon to adjudge the constitutionality of any particular law attacked as discriminatory and violative of the equal protection of the laws.

A close perusal of the decisions of this Court in which the above principles have been enunciated and applied by this Court will also show that a statute which may come up for consideration on a question of its validity under Article 14 of the Constitution, may be placed in one or other of the following five classes:

- (i) A statute may itself indicate the persons or things to whom its provisions are intended to apply and the basis of the classification of such persons or things may appear on the face of the statute or may be gathered from the surrounding circumstances known to or brought to the notice of the court. In determining the validity or otherwise of such a statute the court has to examine whether such classification is or can be reasonably regarded as based upon some differentia which distinguishes such persons or things grouped together from those left out of the group and whether such differentia has a reasonable relation to the object sought to be achieved by the statute, no matter whether the provisions of the statute are intended to apply only to a particular person or thing or only to a certain class of persons or things. Where the court finds that the classification satisfies the tests, the court will uphold the validity of the law, as it did in *Chiranjit Lal Chowdhuri v. Union of India* [1950 SCC 833 : 1950 SCR 869 : AIR 1951 SC 41], *State of Bombay v. F.N. Balsara* [1951 SCC 860 : 1951 SCR 682 : AIR 1951 SC 318], *Kedar Nath Bajoria v. State of W.B.* [1954 SCR 30 : AIR 1953 SC 404], *V.M. Syed Mohammad v. State of Andhra* [1954 SCR 1117 : AIR

1954 SC 314] and *Bhudhan Choudhry v. State of Bihar* [(1955) 1 SCR 1045 : AIR 1955 SC 191] .

- (ii) A statute may direct its provisions against one individual person or thing or to several individual persons or things but no reasonable basis of classification may appear on the face of it or be deducible from the surrounding circumstances, or matters of common knowledge. In such a case the court will strike down the law as an instance of naked discrimination, as it did in *Ameerunnissa Begum v. Mahboob Begum* [(1952) 2 SCC 697 : 1953 SCR 404 : AIR 1953 SC 91] and *Ram Prasad Narayan Sahi v. State of Bihar* [1953 SCR 1129 : AIR 1953 SC 215] .

91. From the proposition it is clear that there could be a legislation relating to a single person. Assuming for a moment, that Section 3 applies only to the first respondent even then, where it is avowed policy of the State to introduce an age of superannuation of 65 years of age, there is nothing wrong with the same.

95. We are unable to agree with this argument. No doubt, in this case Lalit Narayan Mishra Institute alone was taken over by the Legislature. That was the only institution affected thereby. In spite of this the Court held this enactment is not violative of Article 14, since the institution of like nature would fall within the ambit of the statute, notwithstanding the fact that only one institute has been specified in the schedule. The attempt of the learned counsel for the

first respondent that in all these cases legislative intervention became necessary because there were some other reasons namely, mismanagement requiring taking over the banks and temples etc. and therefore, the single person's legislation was upheld is not tenable. We also hold that in order to justify a legislation of this character, no extraordinary situation need be disclosed. The contention that this is not in furtherance of the legislative object, cannot also be accepted because it has already been seen that the legislative object is to introduce an age of superannuation. Beyond this nothing more need be established by the State. The possibility of this legislation applying to one or more persons exists *in principle*. The fact that only one individual came to be affected cannot render the legislation arbitrary as violative of Article 14. This is because Section 3 is general in terms and the incidence of its applying to one individual does not render the legislation invalid.

23. Thus, from aforesaid enunciation of law, it is evident that there could be a legislation relating to a single individual on account of some special circumstances or reasons applicable to him and not applicable to others. It is equally well settled proposition that the burden was on the person to assail the validity of the legislation that there were also other persons similarly situate and he alone was

discriminated against (see **Chiranjit Lal Choudhuri** (supra)).

24. We have carefully perused the pleadings of the petitioner. There is no averment that there is any other similarly situate company/entity/organisation like that of the petitioner to which several hundreds of acres of land has been allotted within a period of five days of its incorporation. The petitioner is a class by itself and is entitled under the 2007 Act to seek compensation. Therefore, the contention that the Act is liable to be struck down on the ground that it affects petitioner alone does not deserve acceptance.

25. Now we advert to the issue whether the impugned legislation suffers from manifest arbitrariness and is violative of Article 14 of the Constitution of India. It is well settled legal proposition that party invoking the protection of Article 14 has to make an averment with details to sustain such a plea and has to adduce the material to establish allegations made and the burden is on the party to plead and prove that its right under Article 14 of the

Constitution of India has been infringed. The ground of challenge must be based on factual foundation and for attracting Article 14, necessary facts are required to be pleaded (see **State of Uttar Pradesh vs. Kartar Singh**²³, **Dantuluri Ram Raju vs. State of Andhra Pradesh**²⁴ and **Southern Petrochemical Industries Company Limited vs. Electricity Inspector**²⁵). It is equally well settled legal proposition that in the absence of any pleading, the challenge to the constitutional validity of a provision has to be rejected *in limine* (See **State of Haryana vs. State of Punjab**²⁶).

26. In the backdrop of aforesaid legal position, we may advert to averments made in the pleadings. Admittedly there is no challenge to the impugned legislation on the ground that the same suffers from manifest arbitrariness. The challenge to the impugned legislation is pleaded in paragraph 5 of the writ affidavit, which is extracted below for the facility of reference:

²³ AIR 1964 SC 1135

²⁴ (1972) 1 SCC 421

²⁵ (2007) 5 SCC 447

²⁶ (2004) 12 SCC 673

I submit that the impugned Ordinance is invalid and unconstitutional. I submit that the impugned ordinance is designly aimed against the petitioner and none else. It is settled law that promulgation of law is supposed to be for a defined class of citizens. While class legislation is prohibited, a reasonable classification is permissible as per the exposition of law laid down by the Apex Court. It is now well settled that when the vires of a legislation (Ordinance is a legislation under Article 13 of the Constitution of India), which is directed against a single individual is challenged, the burden of sustaining the legislation is on the State. A perusal of the impugned Ordinance does not suggest any rational or reasonable classification for exclusively directing the impugned Ordinance against the petitioner. The preamble of the Ordinance itself is contradictory in terms. On one hand it professes to say that the terms and conditions of the bargain are unconscionable and not in public interest, on the other hand it says that the transferee (petitioner herein) has not fulfilled the essential terms and conditions of the transaction. As already stated, the Memorandum of Understanding dated 09.08.2003 has contained a dispute resolution mechanism in the form of an Arbitration and the impugned Ordinance has gone to the extent of annulling the said arbitration clause also. How the impugned Ordinance suggests that the Memorandum of Understanding dated 09.08.2003 is not in the public interest, is un-understandable. To say the least, the impugned Ordinance is backed up by the political considerations and malafides. I submit that as per Article 162 of the

Constitution of India, the executive power of the State is co-extensive with its legislative power and as a corollary, the converse should necessarily be true. The Memorandum of Understanding dated 09.08.2003 was entered into by the State and performed the same to some extent while executing sale deed dated 10.02.2004, obviously in exercise of its executive power. The principles of promissory estoppels and legitimate expectation would have come in the way of rescinding the said administrative action and in order to avoid compliance with rule of law, the impugned Ordinance is promulgated as such it is vitiated by the principle of fraud on legislative power or fraud on constitution. The impugned Ordinance does not even require to be made a law since the moment it is promulgated, the purpose is served, which is another circumstance to urge that the impugned Ordinance is malafide. A Constitution Bench of the Apex Court in S.R.Bommai's case 1994 (3) SCC 1 has laid down that while testing the validity of a legislation, malafides can also be a ground of challenge. I further submit that the impugned Ordinance is confiscatory in nature and oppose to Rule of Law, in particular Article 14 of the Constitution of India. The right of the petitioner under Article 300-A is taken away by the impugned Ordinance which again renders the same unconstitutional. The impugned ordinance sub-serve the equality class contained in Article 14 of the Constitution of India. It does not comply with the well defined tests to withstand the wrath of Article 14 of the Constitution of India. Thus, in any view of the matter, the impugned Ordinance is arbitrary,

irrational and unconstitutional. Under these circumstances, the petitioner is constrained to file this writ petition.

27. The Supreme Court dealt with the issue of permissibility of invalidation of a legislation on the ground of its being manifestly arbitrary in **Bombay Dyeing and Manufacturing Company Limited vs. Bombay Environmental Action Group**²⁷. Thereafter, the aforesaid principle was reiterated with approval in **A.P.Dairy Development Corporation Federation vs. B.Narasimha Reddy**²⁸ and another Constitution Bench decision of Supreme Court in **Shayara Bano** (supra) and nine-Judge Bench decision in **K.S.Puttuswamy vs. Union of India**²⁹ and **Nikesh Tarachand Shah vs. Union of India**³⁰. In the instant case, twin tests of Article 14 i.e., there has to be reasonable basis for classification and there has to be nexus with the purpose sought to be achieved are fulfilled. The 2007 Act annuls the transactions which are a class in itself and the same has nexus with the object i.e.,

²⁷ (2006) 3 SCC 434

²⁸ (2011) 9 SCC 286

²⁹ (2017) 10 SCC 1

³⁰ (2018) 11 SCC 1

protection and preservation of public interest. The petitioner has not been able to demonstrate that any other person similarly situated like it has been subjected to a different treatment. Therefore, the plea of discrimination under Article 14 is not attracted to the facts of the case. Even otherwise, no discernible grounds have been made out in the pleadings to assail the validity of the impugned legislation. Therefore, the contention that the impugned legislation, in the absence of any pleading in the writ petition, suffers from manifest arbitrariness is negated and accordingly, the issue is answered.

28. Now we deal with the contentions that unilateral annulment of the sale deed is not permissible by taking recourse to the legislative powers and the MoU, dated 09.08.2003 and the Sale Deed, dated 10.02.2004, are protected under Article 298 of the Constitution of India. Section 20 of Kerala Agriculturists (Debt Relief) Act, 1970 provided the mode in which sale in favour of a creditor and the conditions on which the sale can be set aside. The validity of the aforesaid provision was upheld by Supreme

Court in **Pathumma** (supra). We have already held that State Legislature is competent to enact the 2007 Act. Therefore, the contention that annulment of a sale deed is not permissible by taking recourse to legislative powers does not deserve acceptance.

29. It is trite law that under the constitutional scheme, the executive power of the State Government is co-extensive and co-terminus with its legislative power (see **Nidhi Kaim vs. State of Madhya Pradesh**³¹). Merely because the sale deeds were executed in favour of the petitioner, in exercise of powers under Article 298 of the Constitution of India, the same does not prohibit the State Legislature to enact a law in exercise of its legislative powers. Therefore, the contention that the MoU dated 09.08.2003 and the sale deed dated 10.02.2004 are saved by Article 298 of the Constitution of India does not deserve acceptance.

³¹ (2016) 7 SCC 615

(vii) CONCLUSION:

30. In view of preceding analysis, we do not find any merit in the writ petition. The same fails and is hereby dismissed. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

ALOK ARADHE, CJ

ANIL KUMAR JUKANTI, J

07.03.2024

Note: LR copy be marked.

(By order)

Pln/vs