2025 INSC 884

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7777/2023

VISHNU VARDHAN @ VISHNU PRADHAN ... APPELLANT

VS.

THE STATE OF UTTAR PRADESH & ORS. ... RESPONDENT(S)

With

W.P. (C) No. 673/2023

VISHNU VARDHAN @ VISHNU PRADHAN ... PETITIONER

VS.

THE STATE OF UTTAR PRADESH & ORS. ... RESPONDENT(S)

With

MA No. 1737/2023 in MA 255/2023 in C.A. No. 3636/2022

With

CONMT. PET. (C) No. 23-24/2024 in W.P. (C) No. 673/2023

With

Diary No(s). 6013/2024

With

SMC (C) No. 3/2024

J U D G M E N T

DIPANKAR DATTA, J.

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INTRODUCTION

1. In ***Nidhi Kaim v. State of Madhya Pradesh***[1], a three-Judge Bench of this Court emphatically asserted "*… stated simply, nothing … nothing … and nothing, obtained by fraud, can be sustained, as fraud unravels everything*."

2. At the end of the last century, this Court in ***S.P. Chengalvaraya Naidu v. Jagannath***[2] noticed the growing trend of abuse of the process of law by dishonest litigants playing fraud on courts. Fraud was held to be an act of deliberate deception with the design of securing something by taking unfair advantage of another: a deception in order to gain by another's loss. The opening paragraph of such decision reads as follows:

> "Fraud avoids all judicial acts, ecclesiastical or temporal" observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment/decree — by the first court or by the highest court — has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings.

This Court then warned that:

> **5.** The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation.

3. "Fraud unravels everything" was famously said by Lord Denning in ***Lazarus Estates Ltd. v. Beasley***[3], emphasising that fraud can invalidate judgments,

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[1] (2017) 4 SCC 1
[2] (1994) 1 SCC 1
[3] (1956) 1 Q.B. 702

contracts and all transactions. The principle highlights the importance of honesty and transparency in legal proceedings and transactions. However, it is a cardinal principle of law that fraud has to be pleaded and proved. Order VI Rule 4, of the Code of Civil Procedure, 1908[4] may be referred to ordaining that particulars, *inter alia*, of fraud have to be stated in the pleadings.

4. From the multiple decisions of this Court on 'fraud', what follows is that fraud and justice cannot dwell together, the legislature never intends to guard fraud, the question of limitation to exercise power does not arise, if fraud is proved, and even finality of litigation cannot be pressed into service to absurd limits when a fraud is unravelled.

5. The issue of fraud unravelling everything is pertinent here due to the nature of dispute we are tasked to adjudicate; hence, its reference at the beginning of our judgment.

6. The primary parties involved in these proceedings are the appellant-writ petitioner-applicant, Vishnu Vardhan[5], and the respondent no.7, Reddy Veeranna[6]. Vishnu has alleged that fraud has been played by Reddy on courts to reap benefits behind Vishnu's back. The tangled facts involved in these proceedings, the complex web of activities of the primary parties and their associates and the relief claimed in the civil appeal as well as the writ petition by Vishnu would have to be examined in great depth to ascertain whether fraud, as alleged by him, is established; and, if so, how it has affected the flow of judicial proceedings and the manner in which the same has to be dealt with.

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[4] CPC
[5] Vishnu
[6] Reddy

In the process, other petitions/applications that are on record would also require due consideration.

7. In the civil appeal, by special leave, Vishnu has assailed the judgment and order[7] of the High Court of Judicature at Allahabad[8] dated 28th October, 2021, whereby the High Court allowed a writ petition[9] filed by Reddy.

8. Concurrently with the civil appeal, Vishnu has presented a writ petition under Article 32 of the Constitution. He has prayed for diverse relief therein, which we propose to notice a little later.

9. The present *lis* concerns rival claims in respect of ownership of a land[10] situated in Gautam Budh Nagar, Uttar Pradesh, which was acquired by the New Okhla Industrial Development Authority[11] in 2005 and now forms a part of Sector 18, NOIDA. The land was jointly purchased in 1997 by Reddy, one T. Sudhakar[12] and Vishnu[13]. Relying on their joint ownership, the trio initiated various legal proceedings seeking multiple relief from time to time, before and after the acquisition of the land by NOIDA. Vishnu alleges that Reddy made several attempts to assert his exclusive ownership in proceedings where Vishnu and Sudhakar were not joined as parties. He further alleges that in one such proceeding, Reddy succeeded and the High Court, by the impugned order, declared him the sole owner. Aggrieved by the conduct of Reddy (which,

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[7] impugned order
[8] High Court
[9] Civil Misc. Writ Petition No. 2272/2019
[10] referred to as land, subject land or property, interchangeably, hereafter
[11] NOIDA
[12] Sudhakar
[13] the trio, wherever referred to collectively

according to Vishnu, is fraudulent) and the impugned order, Vishnu has sought relief from this Court by presenting the civil appeal.

10. While the relief claimed in the civil appeal is for setting aside of the impugned order, what is prayed in the writ petition is (i) a declaration that Reddy is not the sole owner of the subject land, (ii) an order setting aside NOIDA's decision (reflected in its letter dated 17th January, 2023) to sanction full compensation for acquisition of the land to Reddy, (iii) a declaration that the trio, as co-owners of the land, be jointly awarded compensation for acquisition thereof and (iv) ordering an inquiry to unearth the fraud and to initiate appropriate legal proceedings against the persons responsible.

11. *Inter alia*, there is a petition for review (defective) and an application for recall, both at the instance of Vishnu. While the former seeks review of the judgment and order dated 5th May, 2022 of this Court in C.A. No. 3636/2022, the latter seeks recall of an order dated 30th January, 2023 in MA 255/2023 in Civil Appeal 3636/2022.

FACTS

12. Since it is essential to delve deep into the facts for a proper determination of the claims raised by Vishnu against Reddy and the officials of NOIDA, for the sake of clarity and convenience, the full factual details are set out in the table below.

17th April, 1976	*Vide* Notification No. 4157 dated 17th April, 1976 issued under the provisions of the Uttar Pradesh Industrial Area Development Act, 1976, NOIDA was constituted by

	declaring large tracts of land comprising of several villages in Gautam Budh Nagar District, including lands in the village of Chhalera Banger.
1985-1986	Between 1985 and 1986, NOIDA acquired a certain portion of land from one Banwari and Bansha Singh and compensation was received by them.
24th April, 1997	The trio jointly purchased a land measuring 5-13-10 Bighas at Khasra No. 422 and 427M of Village Challera Banger, Gautam Budh Nagar, for a sum of Rs. 1 crore from Bansa and Banwari Singh. Only 2-18-10 Bighas of land[14] which was un-acquired by NOIDA is the subject of the present proceeding. The names of the trio were entered in the revenue records and the record of rights.
1998 **First Suit**	The trio instituted a suit[15] seeking a permanent injunction against NOIDA from disturbing their possession and title in the subject land.
16th February, 2000	The trial court by its decree restrained NOIDA from interfering with the possession of the unacquired land admeasuring 2-18-10 bighas.
26th June, 2000	*Vide* an agreement to sell, Sudhakar purportedly relinquished his share in the subject land to Reddy for Rs. 10 lakh.

[14] subject land
[15] Civil Suit No. 416/1998

2001	Aggrieved, NOIDA carried an appeal[16] from the trial court's decree dated 16th February, 2000 before the First Appellate Court.
30th March, 2001	The First Appellate Court dismissed the civil appeal filed by NOIDA and this decision not being challenged, attained finality.
30th May, 2001	Sudhakar instituted a civil suit[17] against Reddy, seeking
Second Suit	a declaration of his 1/3rd share in the subject land.
31st May, 2001	Reddy filed his written statement in the said suit. On the same day, a compromise agreement was signed by and between Sudhakar and Reddy, conceding that Reddy was the absolute owner of the land.
12th September, 2002	The trial court, declaring that the compromise agreement was not *bona fide*, refused to act upon it.
5th December, 2002	The civil suit instituted by Sudhakar was dismissed for default by the trial court.
2003-2004	NOIDA introduced a scheme for development of a commercial hub at Sector 18, NOIDA.
11th November, 2003	Sudhakar requested the Deputy CEO to convert the subject land for use from agricultural to commercial, which was denied on 13th January, 2004.

[16] Civil Appeal No. 61/2000
[17] Civil Suit No. 283/2001

27th March, 2004	An office order set the rates for commercial land at Rs. 1,10,000 per sq. metre and for residential land at Rs. 4000 per sq. metre.
2003 – 2005	NOIDA allegedly made several attempts to dispossess the trio from the subject land.
12th April, 2004	NOIDA issued an acceptance letter to DLF Universal for allotment of the commercial hub.
2005	The trio filed Execution Petition No. 2/2005 for execution of the decree of the trial court dated 16th February, 2000, restraining NOIDA from dispossessing them from the land.
3rd February, 2005 **Agreement for Sale**	Vishnu purportedly executed an Agreement for Sale for his share of the land with Reddy for a sum of Rs. 25 lakh.
3rd February, 2005 **PoA**	Vishnu executed a General Power of Attorney (PoA) in favour of one Venkataramana.
25th February, 2005	NOIDA and DLF Universal entered into a lease deed for Plot No. M-3, Sector 18, NOIDA for a total premium of Rs. 173 crore for an area admeasuring 54,320.18 sq. metre.
2nd August, 2005	Execution Petition No. 2/2005 was rejected.
4th August, 2005	The trio, through their power of attorney holders, except for Reddy who was himself present, agreed to sell land

	measuring 5-13-10 Bighas in favour of M/s Prabhat Home Pvt. Ltd. for 50% of the undivided share of the entire land, for a consideration of Rs. 13.15 crore.
2nd September, 2005	A Notification under Section 4 of Land Acquisition Act,
Land Acquisition	1894[18] in respect of the subject land was issued.
3rd October, 2005	The trio had filed another execution application bearing Execution Application No. 6/2005. This application was rejected on 3rd October, 2005.
November/December 2005	WP(C) 66797/2005 was filed before the High Court by the trio, challenging the orders dated 2nd August, 2005 and 3rd October, 2005 whereby Execution Petition No. 2/2005 and Execution Application No. 6/2005, respectively, were rejected.
22nd November, 2005	A notification under Section 6 of the 1894 Act in respect of the subject land was issued.
21st December, 2005	The General Power of Attorney dated 3rd February, 2005
PoA - Cancellation	was purportedly cancelled by Vishnu.
December 2005	Vishnu filed WP(C) No. 75152/2005, challenging the land acquisition proceedings initiated by NOIDA authorities.

[18] 1894 Act

28th April, 2006	WP(C) 66797/2005 filed by the trio was allowed, and the matter was remanded to the executing court to decide whether the land in question stood acquired by NOIDA.
31st May, 2006	Reddy filed a civil suit[19] against Vishnu, praying for a
Third Suit	declaration that he was the sole owner of the land.
7th June, 2006	Vishnu executed a registered agreement for sale, agreeing to sell his 1/3rd share of the subject land to one Ranbir Singh Narag for Rs. 3 crore.
4th October, 2006	Vishnu, through his Power of Attorney holder (Venkataramana), filed a written statement in Civil Suit No. 370/2006, admitting Reddy's claims.
4th October, 2006	A Joint Compromise Application was filed by Reddy and the PoA holder of Vishnu. **Note**: Vishnu argues that Venkataramana had no authority to file the written statement or a compromise application, as the PoA had already been cancelled on 21st December, 2005.
17th November, 2006	Civil Suit No. 370/2006, i.e., the third suit, was decreed as per the compromise.
18th December, 2006	Execution Petitions, which had been remanded, were rejected by the executing court on 1st August, 2008 because the lands were already acquired by NOIDA.

[19] Civil Suit No. 370/2006

	Challenging the rejections, the trio filed WP(C) 70088/2006 on 18th December, 2006. At paragraph 3 (three) of this WP, the trio pleaded that they are the co-owners of the property.
10th December, 2009	While WP(C) No. 75152/2005, filed by Reddy, challenging the land acquisition proceedings was pending, Sudhakar and Vishnu filed impleadment application claiming themselves to be the co-owners of the property. The said application was allowed.
10th December, 2009	WP(C) No. 75152/2005 for compensation was allowed by the High Court in light of the decision of the Uttaranchal High Court in ***Bhoopendra Singh & Ors. v. Awas Vikas Parishad***[20]***.*** **Note:** This Court has upheld the decision of the Uttaranchal High Court in ***Avas Evam Vikas Parishad v. Bhoopendra Singh***[21].
2010	NOIDA challenged the order of the High Court dated 10th December, 2009 in SLP (C) No. 20196-97/2010.
1st September, 2010	Reddy had Vishnu's name deleted from the land records *qua* the subject land using the compromise decree dated 17th November, 2006. In this regard, Khatauni Entry of

[20] 2005 (2) Uttaranchal Decision 295
[21] (2022) 14 SCC 277

	Fasli Year 1407-1412 dated 26th September, 2010 shows Reddy as the sole owner.
10th January, 2011	Notice was issued by this Court in the SLP filed by NOIDA, and operation of the impugned judgment dated 10th December, 2009 in WP(C) No. 75152/2005 was stayed. On leave being granted, this SLP was numbered as Civil Appeal No. 731/2013.
30th January, 2011	An award for compensation of the subject land was made. This award has not been placed on record.
4th January, 2013	Vishnu was served by paper publication but did not enter appearance before this Court.
4th November, 2015	Civil Appeal No. 731/2013 filed by NOIDA was dismissed by this Court.
2015-17	Reddy made representations to NOIDA and the District Magistrate seeking compensation in terms of the judgment dated 4th November, 2015 passed by this Court.
8th January, 2018	The District Magistrate rejected Reddy's representation.
22nd October, 2018	Reddy initiated action for contempt by filing Contempt Petition No. 1841-42/2018 in Civil Appeal No. 731/2013 and alleged wilful and deliberate non-compliance with the order dated 4th November, 2015. The petition was

	withdrawn with liberty to avail appropriate remedies before the High Court.
17th January, 2019	Pursuant to the liberty granted by this Court, Reddy filed WP(C) 2272/2019 before the High Court praying for: 1. quashing of the order dated 8th January, 2018. 2. quashing of the award dated 31st January, 2011. 3. a declaration that the land acquisition proceedings have lapsed and to direct NOIDA to either initiate fresh land acquisition proceedings or pass a fresh award or hand over possession to Reddy.
7th August, 2020 **Fourth Suit**	Vishnu instituted Civil Suit No. 471/2020 before the trial court claiming that the compromise decree dated 17th November, 2006, was null and void.
11th October, 2021	Served with summons, Reddy filed his written statement in Civil Suit No. 471/2020. However, it has not been placed on record.
28th October, 2021 **Impugned order in C.A. No. 7777/2023**	The High Court allowed WP(C) 2272/2019 filed by Reddy and accepted the plea that he was the sole owner of the property. The compensation was enhanced from Rs.181.87 per sq. yard (or Rs.152.04 per sq. metre) to Rs.1,10,000 per sq. metre, with a deduction for development charges at 50%, i.e., Rs. 55,000 per sq. metre, along with a 30% solatium and interest @ 15%.

30th October, 2021	Aggrieved by the order of the High Court, Reddy challenged the same in SLP (C) No. 19035/2021 which, on leave being granted, was numbered as Civil Appeal No. 3636/2022.
8th March, 2022	NOIDA filed a counter in Civil Appeal No. 3636/2022.
24th March, 2022	Aggrieved by enhancement of compensation by the order dated 28th October, 2021 of the High Court, NOIDA too challenged the same in SLP (C) No. 5500/2022. Upon leave being granted, the SLP was numbered as Civil Appeal No. 3637/2022.
5th May, 2022 **Challenge to the impugned order was dismissed by this Court**	This Court *vide* a common judgment and order, dismissed the civil appeal filed by NOIDA (C.A. No. 3637/2022) and partly allowed the civil appeal filed by Reddy (C.A. No. 3636/2022), setting aside deduction of the development charges ordered by the High Court.
10th August, 2022	Review Petition (C) Nos. 874-875/2022 filed by NOIDA were dismissed by this Court.
15th September, 2022	Due to the financial implications arising out of the order dated 5th May, 2022, the then CEO, NOIDA issued a letter to the Deputy Secretary, Govt. of Uttar Pradesh seeking guidance from for filing a curative petition.
19th September, 2022	Vishnu filed IA No. 155895/2022 in C.A. No. 3636/2022 seeking modification of the order dated 5th May, 2022.

30th September, 2022	Pursuant to letter dated 15th September, 2022, the matter was examined by the Law Department and letter dated 30th September, 2022 was issued to NOIDA requesting that instead of filing a curative petition, an attempt be made to negotiate the compensation amount with Reddy.
7th October, 2022	A meeting/negotiation took place between NOIDA and Reddy, where they agreed to have the compensation payable reduced from Rs.359 crore to Rs.295 crore, which was paid to Reddy on 28th December, 2022.
30th January, 2023	IA No. 155895/2022 in C.A. No. 3636/2022 was disposed of by a Bench of two-Judges [of which one of us (Surya Kant, J.) was a member], granting Vishnu liberty to agitate his claim regarding co-ownership before the Reference Court.
3rd July, 2023	Vishnu approached this Court with the civil appeal and the writ petition, which are under consideration.
3rd July, 2023	Vishnu filed MA 1737/2023 in MA 255/2023 in Civil Appeal 3636/2022 seeking recall of order dated 30th January, 2023.
13th August, 2023	Vishnu filed a defective Review Petition Diary no. 33040/2023 praying for review of the judgment dated 5th May, 2022. As the defects were not cured within

MA Diary No. 6013/2024

(tagged with the present set of matters)	time, registration thereof was declined[22] by the Registrar (J-A) *vide* order dated 4th January, 2024. Vishnu filed an appeal[23] against the Registrar's order, registered as MA Diary No. 6013/2024 in Review Petition Diary No. 33040/ 2023. On 24th October, 2024, the Chamber Judge ordered that the said appeal be tagged with Civil Appeal 7777/2023 and the other connected matters.

PROCEEDINGS BEFORE THIS COURT

14th August, 2023 **Notice and stay by this Court**	Notice on the special leave petition, writ petition, miscellaneous application as well as on the application seeking condonation of delay was issued by a bench of this Court (cor. Surya Kant and Dipankar Datta, JJ.). Reddy was directed to keep the compensation amount received by him in an FDR and to file affidavits with details of such FDR along with an undertaking not to encash the FDR without prior permission of this Court.
21st November, 2023 **Reference to a larger bench**	After noting his pleading that the compensation amount had been invested in immovable properties, Reddy was directed to furnish details of the immovable properties/lands and investments in the business within three weeks. The two-Judge Bench (cor. Surya Kant and

[22] under Order VIII Rule 6(3) and 6(4) of Supreme Court Rules, 2013
[23] under Order VIII Rule 6 (5) of the Supreme Court Rules, 2013

	Dipankar Datta, JJ.) condoned the delay in filing the SLP, granted leave to appeal, issued Rule Nisi in the writ petition and considering the issues likely to be raised in the civil appeal directed that these matters be placed before a larger Bench after obtaining necessary orders from the Hon'ble the Chief Justice of India.
10th January, 2024	Vishnu filed Contempt Petition No. 23-24/2024 in WP (C) 673/2023 for violation of the orders dated 14th August, 2023 and 21st November, 2023.
8th May, 2024	This Court disposed of the IAs filed by Reddy seeking recall/modification of orders dated 21st November, 2024 and 14th August, 2023 by directing him to file details of the investments made by him (out of the compensation amount) in a sealed cover, duly signed by him, along with an affidavit/undertaking *inter alia* stating : (i) that he shall not create any third-party rights in respect of the said properties; (ii) that the compensation amount has been invested only in the assets to be disclosed by him in the sealed cover; (iii) that the said assets have been disclosed in his Income Tax Returns; and (iv) that there are no third-party interests or encumbrances on the said assets, and if any exist, the same shall be disclosed.

August 2024	Suo Moto Contempt Petition (C) No. 3 of 2024 was registered against NOIDA for not having filed the counter affidavit within the time prescribed as per order dated 8th May, 2024.
SMC (C) No. 3/2024 (tagged with the present set of matters)	
September 2024	The civil appeal, the writ petition and the connected matters were heard on several dates.
3rd October, 2024	This Bench, during the final hearing, opened the sealed cover and, upon perusal of its contents, noted that instead of making full disclosures, Reddy had submitted a vague and misleading certificate from Pradeep Reddy & Co., Chartered Accountants, omitting essential details regarding the parties involved, the nature and manner of the investments, the terms securing such investments, and the particulars of the properties and loans. Accordingly, the affidavit submitted by Reddy was rejected and he was granted one final opportunity to deposit a sum of Rs. 300 crore with the Registry. Reddy was further restrained from entering into any agreement to sell and/or creating any third-party rights in respect of immovable assets owned by him, his family and the companies created by him or his family members. He was also directed to furnish details of all the movable/

	immovable assets owned by him, his family and the said companies.
4th November, 2024	Pursuant to the order dated 3rd October, 2024, Reddy filed IAs praying for deposit of title deeds of immovable properties instead of cash deposit.
22nd January, 2025	This Bench allowed Reddy to furnish securities through his partnership firm Manyata-Pristine. Upon conclusion of hearing, judgment was reserved.

IMPUGNED ORDER

13. The impugned order, as noted above, was passed on 28th October, 2021 partly allowing Reddy's writ petition.

14. Reddy, in paragraph 7 of his writ petition, asserted that as on the relevant dates, he owned the subject land privately in light of the decree in Civil Suit No. 416 of 1998 and that the respondents therein had no 'right, title and interest' over the subject land.

15. A reply affidavit was filed by the State of U.P. and its officers; but as is usual with official respondents, they did not go beyond averring that contents of paragraph 7 of the writ petition are not admitted and that the entire land acquisition proceedings, for planned development of NOIDA, were in observance of the 1894 Act.

16. Before the High Court, the parties (namely Reddy as writ petitioner, the State of Uttar Pradesh and seven others as respondents) advanced several arguments and placed various documents on record. Preliminary objections on

the maintainability of the writ petition including, *inter alia,* suppression of facts as well as the locus of Reddy to claim compensation for the subject land without there being a decree in his favour were raised by the respondents therein.

17. Regarding the preliminary objections to the maintainability of the writ petition:

a. the High Court rejected the same on the ground that Reddy had become the sole owner of the subject land. This observation was premised on the order of the trial court dated 17th June, 2010 under Section 34 of the "Land Revenue Act, 1996" and Reddy's name was, accordingly, entered in the Khatauni.

b. On the same premise, the allegation that Reddy had suppressed the order dated 12th September, 2002 whereby the trial court denied to act on the compromise decree was overruled by the High Court in view of the finding of the trial court dated 17th June, 2010.

c. The objection of the respondents in the writ petition to the maintainability of the writ petition asserting that a remedy is available under Section 18 of the 1894 Act was overruled by the High Court holding that the writ petition was filed in view of the liberty given by this Court to approach the High Court *vide* order dated 22nd October, 2018.

18. Regarding the quantum of compensation:

a. The High Court repelled the submission of Reddy that compensation was not determined as per the direction of the High Court and, therefore, the award is to be treated as a nullity so as to apply Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013[24] in view of the decision of this Court in ***Indore Development Authority v. Manoharlal (LAPSE-5 J.)***[25].

b. *Qua* the challenge to the award and the prayer for determination of compensation in accordance with law, the High Court held that the award dated 31st January 2011 had been made subject to the final outcome of the appeal filed by NOIDA. Since that appeal was dismissed by this Court on 4th November 2015, the State ought to have passed a fresh award in compliance with the High Court's judgment dated 10th December 2009.

c. The High Court then proceeded to determine the compensation by referring to the circle rate of Sector 18, NOIDA, i.e., Rs. 1,10,000/- per sq. metre. The High Court also determined that development charges can be to the extent of maximum 50% (fifty percent) and, therefore, held that the State should have taken Rs. 55,000/- per sq. metre as the market value of the land. It was, therefore, ordered accordingly.

BEFORE THIS COURT IN CIVIL APPEAL NO 3636-37 OF 2022

19. When the impugned order was challenged before this Court in separate appeals, *vide* ***Reddy Veerana v. State of U.P.***[26], the civil appeal filed by NOIDA was dismissed and the civil appeal filed by Reddy was allowed in part. Learned senior counsel representing Reddy before us asserted that this decision has therefore upheld the impugned order. However, on a closer perusal of the case records, it is clear that the adjudication stands on a much

[24] 2013 Act
[25] (2020) 8 SCC 129
[26] (2022) 14 SCC 252

narrower footing. This Court in paragraph 39 of its decision in ***Reddy Veerana*** (supra) noted that it is merely deciding on the quantum of compensation and not the title of Reddy on the scheduled piece of land. For ease of reference, paragraph 39 is quoted below:

> **39.** In the instant case, since the title of the appellant on the scheduled piece of land has not been contested by the respondents and the adjudication is confined only to the quantum of compensation, we deem it appropriate not to interfere with the findings of the High Court with respect to the ownership…

20. In view of the decision rendered in ***Bhoopendra Singh*** (supra), this Court held that NOIDA must determine the compensation by taking into consideration the circle rate which has been determined as per the market value, i.e., Rs. 1,10,000/- per square metre. Further, dealing with the issue of deduction of the development charges, this Court held that the High Court failed to consider the contextual circumstances in its decision. Therefore, applying the ratio of previous decisions, this Court concluded that NOIDA's actions, i.e., the passing of the award after a delay of five years from the date of taking possession, was a violation of Article 300-A of the Constitution, leading to a constitutional tort. Thus, taking note of the aforesaid and in the peculiar facts of the case, it was directed that in addition to the statutorily paid interest, the additional amount of penal interest must be paid in place of shifting the date for determination of the amount of compensation or to determine the compensation as per the 2013 Act**,** as demanded by Reddy.

CONTENTIONS

ARGUMENTS BY VISHNU

21. The principal submission advanced by learned senior counsel for Vishnu is that the impugned order, along with all other orders obtained by Reddy through misrepresentation and suppression of material facts, ought to be treated as *void ab initio*, relying on the settled legal proposition that *"fraud unravels everything".*

a. Our attention was drawn to various documents on record indicating that Reddy has taken inconsistent and mutually contradictory positions regarding the extent of his ownership over the property. While he jointly prosecuted various litigation from 2001 till 2019 along with Vishnu and Sudhakar, he asserted sole ownership in other proceedings.

b. The written statement filed by Venkataramana, acting as Vishnu's power of attorney holder, admitting Reddy's sole ownership of the property, was without authority, as such power granted in Venkataramana's favour had been cancelled long before institution of Civil Suit No. 370/2006. It has also been shown that Venkataramana is a partner of Reddy in the partnership firm that offered securities before this Court.

c. Using this fraudulent decree dated 17th November 2006, Reddy managed to have his name mutated in the revenue records.

d. Even after the decree, Reddy filed several pleadings claiming to be the joint owner of the land.

e. The existence of the said decree was consistently suppressed by Reddy before the courts.

22. As regards the quantum of compensation for the acquisition, it was submitted on behalf of Vishnu that relegating the matter back to the Collector or the Reference Court for computation after a lapse of two decades would be unjust. It has been urged that the subject land should be treated as commercial in nature, and compensation should be awarded accordingly.

23. On this basis, Vishnu has sought that the impugned order, insofar as it records findings with respect to the ownership of the subject land, be set aside.

ARGUMENTS BY REDDY

24. At the outset, maintainability of this civil appeal and the connected writ petition has been challenged by Reddy on various grounds including the fact that:

a. Vishnu has sought apportionment of the subject land prior to getting the registered Power of Attorney dated 3rd February 2005, full settlement agreement dated 3rd February 2005 and decree of the Trial Court dated 17th November, 2006, nullified. Even though Vishnu instituted CS No. 471/2020 praying that the compromise decree dated 17th November, 2006 be declared null and void, he has not sought any monetary compensation in the aforesaid suit and has, therefore, bypassed the Trial Court in approaching the Supreme Court only to save the payment of the court fee which smacks of *mala fide*;

b. Vishnu has engaged in 'forum shopping' as he has been pursuing various types of proceedings before this Court as well as instituted a civil suit before the Trial Court;

c. This Court does not have the original jurisdiction to adjudicate complicated questions of fact under Article 131 of the Constitution;

d. Relying on the decision in ***Nidhi Kaim*** (supra), it is submitted that this Court does not have the jurisdiction to decide an "intra-court appeal";

e. The order dated 21st November, 2023 of this Court referring the matter to a three-Judge Bench is against the established principle of *stare decisis* as the reference order included not just questions of law but complicated questions of fact;

f. The writ petition filed by Vishnu is not maintainable as against the order of this Court dated 5th May, 2022 - much less when there is no violation of any Fundamental Right alleged in the said writ petition - since judicial orders of the Supreme Court cannot be challenged in the writ jurisdiction before this Court itself;

g. The order of the High Court has now merged with the final order of this Court and, therefore, the civil appeal filed by Vishnu is not maintainable, and that the doctrine of merger would apply;

h. This Court does not have the jurisdiction to conduct a review of a judgment through a miscellaneous application, much less in a second miscellaneous application, by placing reliance on Order XLVII, Rule 5 of the Supreme Court Rules, 2013[27];

i. The listing of the review and chamber appeal is in clear violation of Order XLVII, Rule 3 of the SC Rules, 2013; and

[27] SC Rules, 2013

j. Vishnu is a chronic litigant coming with unclean hands as he has engaged in supressing material documents before this Court and has played fraud upon this Court.

25. On merits, it has been argued before us that:

a. Reddy has perfected his title through the decree of the Trial Court dated 17th November, 2006 in CS No. 370 of 2006. Moreover, Vishnu sold off his entire property to a third party, Ranbir Singh, *vide* a registered agreement to sell dated 7th June, 2006 while supressing the earlier sale made to Reddy;

b. The principle that fraud vitiates every proceeding is subservient to the principle of *interest rei publicae, ut sit finis litium*. It was specifically contended that Reddy has not played any fraud by not making Vishnu a party to the previous litigation;

c. On the contrary, fraud has been played upon Reddy as Vishnu has not disclosed material documents;

d. *Vide* decree dated 17th November, 2006, the interest in the subject land passed from Vishnu to Reddy which to this day stands as a valid instrument;

e. The three deeds, namely, the full settlement sale agreement, Affidavit/declaration and the Registered Power of Attorney must be read together as part of the same transaction;

f. A registered document can only be cancelled/modified by another registered document; in the instant case, the registered irrevocable Power of Attorney dated 3rd February, 2005 could not have been cancelled without registering the document of cancellation;

g. Moreover, no notice of cancellation was provided to Venkataramana and, therefore, it is not a valid cancellation as per Section 208 of the Indian Contract Act, 1872 and Section 3 of the Power of Attorney Act, 1882;

h. Furthermore, a registered Power of Attorney cannot be revoked unilaterally;

i. Vishnu is estopped from re-agitating the issue on title as he has relinquished his entire share of the property; and

j. Lastly, NOIDA has no right to re-agitate the dispute on merits collaterally.

ARGUMENTS BY NOIDA

26. NOIDA has argued before us that:

a. The doctrine of merger is not applicable when the order of the Court is vitiated by fraud and that fraud is an exception to the rule of *stare decisis*;

b. This Court exercises plenary powers to prevent the abuse of process and to meet the ends of justice under Article 129 of the Constitution;

c. The landowners must be relegated to the reference court under Section 18 of the 1894 Act for determining compensation; and

d. The High Court and this Court committed a grave legal and factual error by ignoring vital evidence in the form of exemplar sale deeds of the subject land for determining the true and actual market value for assessment of quantum of compensation.

27. In consequence thereof, NOIDA has prayed for recalling the orders of the High Court dated 28th October, 2021 and of this Court dated 5th May, 2022 in exercise of the powers under Article 142 of the Constitution and to revisit the enhanced compensation of Rs.1,10,000/- per sq. metre or to direct the landowners to approach the appropriate court under the 1894 Act.

REPLY BY VISHNU REGARDING OBJECTIONS TO MAINTAINABILITY

28. In response to the objections raised regarding the maintainability of the present set of petitions, Vishnu submitted that:

a. Through the present proceedings, he is not seeking to appeal the judgment dated 5th May 2022 and is, therefore, not invoking the appellate jurisdiction of this Court but rather its inherent jurisdiction to prevent a gross miscarriage of justice;

b. The provisions of the SC Rules—particularly Order LV Rule 6—preserve the inherent powers of this Court to prevent the abuse of the court's process;

c. Fraud constitutes an exception to the doctrine of merger;

d. The doctrine of merger is also inapplicable in the present case, as Vishnu was not a party before the High Court; and

e. The writ petition is maintainable not only on the basis of infringement of the right under Article 300-A of the Constitution of India, 1950[28], but also because Vishnu's rights of access to justice and to a fair, equal, and transparent judicial process are at stake.

ISSUES

29. On maintainability,

a. whether the impugned order having merged with this Court's order dated 5th May 2022 in ***Reddy Veerana*** (supra), as claimed by Reddy, renders the present appeal – which, so to say, lays a collateral challenge to an order of this Court itself – not maintainable?

[28] Constitution

b. whether the present writ petition is not maintainable, as it seeks to challenge a judicial order which, by its very nature, can never be said to violate Fundamental Rights?

c. whether Vishnu can pursue a civil appeal against the impugned order as well as a petition for review of the decision of this Court in which the impugned order has merged, as claimed, simultaneously?

d. Whether Vishnu has engaged in forum shopping?

30. Whether Reddy obtained the impugned order, as well as this Court's order dated 5th May 2022 in ***Reddy Veerana*** (supra), by practising fraud and deception upon the courts and, therefore, the same deserve to be set aside/recalled?

31. Should the answer to the above issues be in favour of Vishnu and against Reddy, what would be the appropriate order to be passed in these proceedings having regard to the peculiar facts and circumstances?

ANALYSIS

32. We begin with recording the realisation that undoubtedly, there seems to be much more than what have met our eyes. However, like all courts, we are bound to decide cases based on the evidence on record, judicially noticeable facts, and the applicable law. Despite Reddy and Vishnu – and to certain extent Sudhakar – having used the judicial process obviously to secure their personal interests, we cannot be a bystander. If things have happened with a telling effect on public interest, resulting in public funds from the public exchequer being drained, the same has to be dealt with within the bounds of our

jurisdiction. In our pursuit for the truth and to uphold the rule of law, we must adhere to established principles unless a valid reason warrants deviation.

33. Vishnu, as can be gathered from the narrative of events, has not left any stone unturned to have the benefits accruing in favour of Reddy undone. The sheer number of proceedings instituted by Vishnu bear testimony to his struggle to set at naught all such orders that operate to his detriment. Apart from the civil appeal against the impugned order and a writ petition under Article 32 seeking enforcement of what, Vishnu calls infringement of his Fundamental Rights, he has *inter alia* pursued the alternate channel of filing a petition (which is defective) for review of the decision in ***Reddy Veerana*** (supra), an application for modification/recall of the order of this Court relegating him to the remedy under the 1894 Act and a petition for contempt of this Court's order. The multiplicity of proceedings in this particular case raises a reasonable apprehension that the legal process, including this Court's, is being potentially abused by Vishnu. While, in no uncertain terms has Reddy asserted that Vishnu has indulged in abuse, we need to carefully assess whether it is Vishnu or Reddy, or both, who is/are the real abuser(s).

34. While judicial consuetude ordinarily mandates that we begin with a threshold examination of the issue of maintainability, the *sui generis* features of the present case impel us to first address the core allegation levelled by Vishnu of fraud having been committed by Reddy. We find that the question of maintainability, in the present case, is a mixed question of fact and law which, ideally, ought to be determined after adjudicating the question of alleged fraud played by Reddy on the courts. We draw support for this approach from the

decision of this Court in ***Ramesh B. Desai v. Bipin Vadilal Mehta***[29] where, dealing with Order XIV, CPC, it was observed as under:

> **13.** Sub-rule (2) of Order 14 Rule 2 CPC lays down that where issues both of law and of fact arise in the same suit, and the court is of the opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to (*a*) the jurisdiction of the court, or (*b*) a bar to the suit created by any law for the time being in force. The provisions of this Rule came up for consideration before this Court in *Major S.S. Khanna* v. *Brig. F.J. Dillon* [(1964) 4 SCR 409 : AIR 1964 SC 497] and it was held as under: (SCR p. 421)
>
> > "Under Order 14 Rule 2, Code of Civil Procedure where issues both of law and of fact arise in the same suit, and the court is of opinion that the case or any part thereof may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined. The jurisdiction to try issues of law apart from the issues of fact may be exercised only where in the opinion of the court the whole suit may be disposed of on the issues of law alone, <u>but the Code confers no jurisdiction upon the court to try a suit on mixed issues of law and fact as preliminary issues. Normally all the issues in a suit should be tried by the court; not to do so, especially when the decision on issues even of law depend upon the decision of issues of fact, would result in a lopsided trial of the suit</u>."
>
> Though there has been a slight amendment in the language of Order 14 Rule 2 CPC by the amending Act, 1976 but the principle enunciated in the above quoted decision still holds good and <u>there can be no departure from the principle that the Code confers no jurisdiction upon the court to try a suit on mixed issues of law and fact as a preliminary issue and where the decision on issue of law depends upon decision of fact, it cannot be tried as a preliminary issue</u>.
>
> (emphasis ours)

35. Recently in ***Sathyanath v. Sarojamani***[30], this Court after analysing judgments rendered by various High Courts and also ***Ramesh*** (supra) made the following observations:

> **21.** The provisions of Order 14 Rule 2 are part of the procedural law, but the fact remains that such procedural law had been enacted to ensure expeditious disposal of the lis and in the event of setting aside of findings on preliminary issue, the possibility of remand can be avoided, as was the language prior to the unamended Order 14 Rule 2. <u>If the issue is a mixed issue of law and fact, or issue of law depends upon the decision of fact, such issue cannot be tried as a preliminary issue.</u> In other words, preliminary issues can be those where no evidence is required and on the basis of reading of the plaint or the applicable

[29] (2006) 5 SCC 638
[30] (2022) 7 SCC 644

> law, if the jurisdiction of the court or the bar to the suit is made out, the court may decide such issues with the sole objective for the expeditious decision. Thus, if the court lacks jurisdiction or there is a statutory bar, such issue is required to be decided in the first instance so that the process of civil court is not abused by the litigants, who may approach the civil court to delay the proceedings on false pretext.
> * * *
> **23.** The different judgments of the High Court referred to above are in consonance with the principles laid down by this Court in *Ramesh B. Desai* [*Ramesh B. Desai* v. *Bipin Vadilal Mehta*, (2006) 5 SCC 638] that not all issues of law can be decided as preliminary issues. Only those issues of law can be decided as preliminary issues which fell within the ambit of clause (*a*) relating to the "jurisdiction of the Court" and (*b*) which deal with the "bar to the suit created by any law for the time being in force". The reason to substitute Rule 2 is to avoid piecemeal trial, protracted litigation and possibility of remand of the case, where the appellate court differs with the decision of the trial court on the preliminary issues upon which the trial court had decided.
>
> (emphasis ours)

36. We shall therefore decide the issue of maintainability after examining the allegation of fraud.

I. HAS REDDY PLAYED FRAUD ON THE COURTS?

37. Upon due consideration of the entire factual matrix, some notable facts stand out which, we believe, are appropriate to highlight.

38. At the inception, the trio – Vishnu, Reddy and Sudhakar – stood as a united front. They consistently projected themselves as co-owners of the property in question in multiple judicial proceedings:

a. in 1998, claiming to be the owners of the property, the trio jointly instituted a suit[31] seeking a permanent injunction against NOIDA.

b. upon securing a decree, they together filed an execution application[32].

c. they jointly pursued a writ petition[33] challenging rejection of their execution application.

[31] Civil Suit No. 416/1998
[32] Execution Application No. 6/2005
[33] WP (Civil) 66797/2005

d. even when Vishnu singly assailed the land acquisition proceedings in a writ petition[34], Reddy and Sudhakar filed an impleadment application reaffirming the narrative of joint ownership.

e. NOIDA, in its appeal[35] before this Court, arrayed the trio as respondents and not once did Reddy assert exclusive ownership during these proceedings.

39. Contrary to the consistent earlier stance, Reddy, in a complete *volte-face*, asserted his sole ownership of the property in not one but multiple judicial proceedings:

a. in 2001, Sudhakar sued[36] Reddy, seeking his 1/3rd share in the land. Curiously, the written statement was filed the very next day, and even more curiously, a compromise agreement was filed a day later. The Trial Court, sceptical of this sudden turn of events, rejected the compromise finding its *bona fides* questionable. Ultimately, the suit was dismissed for default as Sudhakar did not pursue it further.

b. in 2006, Reddy sued[37] Vishnu, claiming to be the sole owner. This suit took a particularly curious turn when one Venkataramana, claiming to be Vishnu's Attorney, filed a written statement admitting the claim. However, records reveal that the Power of Attorney had already been cancelled on 21st December, 2005, a full six months prior to the suit being instituted. Worse still, pursuant to the documents having been filed in the Court by Reddy, it

[34] WP (Civil) 75152/2005
[35] Civil Appeal No. 731/2013
[36] Civil Suit No. 283/2001
[37] Civil Suit No. 370/2006

has surfaced that Venkataramana is also a partner of Reddy in the firm Manyata-Pristine.

c. Finally, in January 2019, Reddy once again laid exclusive claim to the subject land asserting himself as the sole owner in a writ petition[38] before the High Court, challenging the District Magistrate's decision to deny him compensation. *Vide* the impugned order, his claim was allowed by the High Court.

40. In a judicial landscape that values consistency and candour, this case strikes a discordant note. This trajectory of the contradictory claims made by Reddy can hardly be ignored by this Court.

41. The impugned order was passed on a writ petition presented by Reddy, wherein he challenged the District Magistrate's refusal to grant compensation for the acquired land and simultaneously sought a declaration of his exclusive ownership. The High Court accepted his claim *albeit* based on material which was scant, information that was incomplete and knowledge appearing to be fragmentary.

42. Considering Reddy's consistent stance in earlier proceedings that the property was jointly owned with Vishnu and Sudhakar, his failure to implead them in the writ petition is appalling, if not more. This, in our view, was a calculated attempt by Reddy to wrongfully appropriate the entire property keeping the other two – Vishnu and Sudhakar – in the dark.

[38] WP (Civil) 2272/2019

43. Although the provisions of the CPC do not apply to writ proceedings *ex proprio vigore*, the principles flowing therefrom, as far as practicable, can be made applicable. Order I Rule 9, CPC, as originally enacted, ordained that a suit shall not be defeated by reason of misjoinder or non-joinder of parties; however, after its amendment in 1976 introducing the proviso, the implication is that non-joinder of a party could, in a given case, prove fatal for the right to relief claimed by the plaintiff, more so when a necessary party is not impleaded, and defeat the suit. Although Order I Rule 10 does empower a court to implead at any stage of the proceedings a party who should have been joined as a defendant, either upon or without the application of either party, a decree passed by the court in the absence of a necessary or proper party to the suit and affecting his interest could be avoided by such party; however, if the decree is such that it acknowledges and declares the right of the decree-holder to the subject matter of the suit and entitles him to its benefits, such a decree has to be carried either in appeal or review by the affected non-party to divest the decree-holder of whatever the decree entitles him to.

44. Insofar as writ proceedings are concerned, it is no longer *res integra* that any order made on a writ petition affecting the interest of a party who has not been arrayed as a respondent could be invalidated on the ground of breach of natural justice.

45. We may profitably refer to the decision in ***Poonam v. State of U.P.***[39]*.* Although the decision was rendered in connection with a selection process for

[39] (2016) 2 SCC 779

allotment of a fair price shop, this Court after analysing various previous decisions emphasised:

> **21.** We have referred to the aforesaid passages as they state the basic principle behind the doctrine of natural justice, that is, no order should be passed behind the back of a person who is to be adversely affected by the order. The principle behind the proviso to Order 1 Rule 9 that the Code of Civil Procedure enjoins it and the said principle is also applicable to the writs. An unsuccessful candidate challenging the selection as far as the service jurisprudence is concerned is bound to make the selected candidates parties.

46. A reference may further be made to the decision in ***Ajay Ishwar Ghute and Ors. v. Meher K. Patel and Ors.***[40] wherein a Bench of two-Judges [of which one of us (Ujjal Bhuyan, J.) was a member] in an appeal against an order made under Article 226 of the Constitution, held thus:

> **21.** In the facts of the case, the senior district-level officials of the State had stated on oath that the construction of the compound wall, in respect of which relief was sought in the Writ Petition, would affect the rights of several third parties. However, the Court completely ignored the same. Even in clause 6(iii) of the "Minutes of Order", there was enough indication that the compound wall, if not appropriately constructed, would affect the rights of owners of the other lands. Therefore, it was the duty of the Court to have called upon the 1st and 2nd respondents to implead the persons who were likely to be affected. The 1st and 2nd respondents could not have pleaded ignorance about the names of the concerned parties as they have referred to the owners of the other lands in the "Minutes of Order". However, the Division Bench of the High Court has failed to make even an elementary enquiry whether third parties will be affected by the construction of the compound wall under police protection. Hence, the order dated 16th March 2022 passed in the Writ Petition in terms of the "Minutes of Order" is entirely illegal and must be set aside. The Writ Petition will have to be remanded to the High Court to decide the same in accordance with the law.

47. More generally, there are umpteen number of decisions of this Court wherein the rights of a third party have been protected in civil litigation. This principle was specifically noted in respect of claims arising out of land acquisition in the

[40] 2024 SCC OnLine SC 681

case of ***Neyvely Lignite Corpn. Ltd. v. Special Tahsildar (Land Acquisition) Neyvely***[41] as follows:

> **12.** It is true that Section 50(2) of the Act gives to the local authority or the company right to adduce evidence before the Collector or in the reference under Section 18 as it was specifically stated that in any proceedings held before the Collector or the Court, the local authority or the company may appear and adduce evidence for the purpose of determining the amount of compensation. However, it has no right to seek reference. Based thereon, the contention is that the limited right of adduction of evidence for the purpose of determining the compensation does not carry with it the right to participate in the proceedings or right to be heard or to file an appeal under Section 54. We cannot limit the operation of Section 3(*b*) in conjunction with sub-section (2) of Section 50 of the Act within a narrow compass. The right given under sub-section (2) of Section 50 is in addition to and not in substitution of or in derogation to all the incidental, logical and consequential rights flowing from the concept of fair and just procedure consistent with the principles of natural justice. The consistent thread that runs through all the decisions of this Court starting from *Himalayan Tiles case* [(1980) 3 SCC 223 : (1980) 3 SCR 235] is that the beneficiary, i.e., local authority or company, a cooperative society registered under the relevant State law, or statutory authority is a person interested to determine just and proper compensation for the acquired land and is an aggrieved person. It flows from it that the beneficiary has the right to be heard by the Collector or the Court. If the compensation is enhanced it is entitled to canvass its correctness by filing an appeal or defend the award of the Collector. If it is not made a party, it is entitled to seek leave of the court and file the appeal against the enhanced award and decree of the Civil Court under Section 26 or of the judgment and decree under Section 54 or is entitled to file writ petition under Article 226 and assail its legality or correctness. When the award made under Section 11 of the Collector is vitiated by fraud, collusion or corruption, the beneficiary is entitled to challenge it in the writ petition apart from the settled law that the conduct of the Collector or Civil Judge is amenable to disciplinary enquiry and appropriate action. These are very valuable and salutary rights. Moreover in the language of Order 1 Rule 10 CPC, in the absence of the beneficiary who ultimately is to bear the higher compensation, no complete and effectual determination of binding just and proper compensation to the acquired land would be made. So it is concomitantly a proper party if not a necessary party to the proceedings under Order 1 Rule 10 CPC. The denial of the right to a person interested is in negation of fair and just procedure offending Article 14 of the Constitution.
>
> **13.** The reasons are not far to seek. It is notorious that though the stakes involved are heavy, the Government plead or the instructing officer do not generally adduce, much less proper and relevant, evidence to rebut the claims for higher compensation. Even the cross-examination will be formal, halting and ineffective. Generally, if not invariably the governmental agencies involved in the process take their own time and many a time in collusion, file the appeals after abnormal or inordinate delay. They remain insensitive even if the States

[41] (1995) 1 SCC 221

(*sic* Stakes)involved run into several crores of public money. The courts insist upon proper explanation of every day's delay. In this attitudinal situation it would be difficult to meet strict standards to fill the unbridgeable gaps of the delay in filing the appeals and generally entails dismissal of the appeals at the threshold without adverting to the merits of the hike in the compensation. On other hand if the notice is issued to the local authority etc. it/they would participate in the award proceedings under Sections 11 and 18, adduce necessary and relevant evidence and be heard before the Collector and the court before determining compensation. For instance that without considering the evidence in the proper perspective, the court determined the compensation.

14. If there is no right of hearing or appeal given to the beneficiary and if the State does not file the appeal or if filed with delay and it was dismissed, is it not the beneficiary who undoubtedly bears the burden of the compensation, who would be the affected person? Is it not interested to see that the appellate court would reassess the evidence and fix the proper and just compensation as per law? For instance the reference court determined market value at Rs 1,00,000 while the prevailing market value of the land is only Rs 10,000. Who is to bear the burden? Suppose State appeal was dismissed due to refusal to condone the delay, is it not an unjust and illegal award? Many an instance can be multiplied. But suffice it to state that when the beneficiary for whose benefit the land is acquired is served with the notice and brought on record at the stage of enquiry by the Collector and reference court under Section 18 or in an appeal under Section 54, it/they would be interested to defend the award under Section 11 or Section 26 or would file an appeal independently under Section 54 etc. against the enhanced compensation. As a necessary or proper party affected by the determination of higher compensation, the beneficiary must have a right to challenge the correctness of the award made by the reference court under Section 18 or in appeal under Section 54 etc. Considered from this perspective we are of the considered view that the appellant-Company is an interested person within the meaning of Section 3(*b*) of the Act and is also a proper party, if not a necessary party under Order 1 Rule 10 of the CPC. The High Court had committed manifest error of law in holding that the appellant is not a person interested. The orders of the High Court are accordingly set aside.

48. However, it is clarified that we do not seek to make any opprobrious remarks against the High Court as it was incumbent upon Reddy to implead Vishnu and Sudhakar as respondents in his writ petition and the High Court could not have been expected to know the long-standing disputes or the fact that Reddy had procured change in the revenue records on the basis of the compromise decree whereupon further proceedings between Vishnu and Reddy in the shape of a suit were pending unless the same was brought to its notice.

49. In any event, having regard to the events preceding presentation of the writ petition by Reddy, out of which the present proceedings have arisen, we have no hesitation to hold that Reddy tailored a situation to suit his convenience by not impleading Vishnu as a party with the sole intention of obtaining an order in respect of not only the quantum of compensation payable for acquisition of the subject land but also a declaration as to his entitlement thereto – all, behind Vishnu's back. An attempt by Reddy to steal a march over Vishnu is clearly discernible which, without reference to anything more, does border on fraud.

50. Moving ahead, it is equally well settled that suppression of even a single material fact can be fatal before writ courts. In this context, one may usefully refer to the decision of this Court in ***S.J.S. Business Enterprises (P) Ltd. v. State of Bihar***[42] where the law has succinctly been stated as follows:

> **13**. As a general rule, suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of the need of the courts to deter a litigant from abusing the process of court by deceiving it. But the suppressed fact must be a material one in the sense that had it not been suppressed it would have had an effect on the merits of the case. It must be a matter which was material for the consideration of the court, whatever view the court may have taken …
>
> (emphasis ours)

51. In the present case, Reddy's failure before the High Court to disclose the earlier series of litigation - where he consistently asserted joint ownership with Vishnu and Sudhakar - being a fact having a bearing on the merits of the case, is alone sufficient to vitiate the impugned order.

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[42] (2004) 7 SCC 166

52. However, the concealment runs deeper. It stems from the suit[43] that Vishnu had instituted on 7th August, 2020, referred to hereafter.

53. During the pendency of the writ petition (in which the impugned order was passed), Vishnu instituted the suit praying to declare the compromise decree dated 17th November, 2006 as null and void on the ground that the written statement (admitting Reddy's sole ownership over the property) filed by Venkataramana on his behalf was without any authority as the Power of Attorney in his favour already stood cancelled. Reddy filed his written statement in that suit on 11th October 2021 – which is 17 (seventeen) days before the High Court disposed of the writ petition. Despite being a party to the suit, Reddy chose not to inform the writ court of pendency of the suit. Notably, the decree dated 16th February, 2000 in the suit[44] instituted by the trio and the change in the land records based on the compromise decree dated 17th November, 2006 in the suit[45] instituted by Reddy were relied on by Reddy to have a ruling in his favour. As per the records available from the website of the High Court, it is noted that judgment was reserved on 6th October, 2021. Therefore, between 7th August, 2020 (date of institution of the fourth suit) and 28th October, 2021 (date of the impugned order), ample opportunity was available for Reddy to disclose the factum of a suit having been instituted by Vishnu. This deliberate suppression, of a material fact, further highlights the fraudulent intent behind Reddy's claim.

[43] Civil Suit No. 471/2020
[44] Civil Suit No. 416/1998
[45] Civil Suit No. 370/2006

54. As discerned above, suppression of material facts before the High Court by Reddy is writ large; however, his fraudulent conduct is not confined to that forum alone.

55. It has not been shown to us by Reddy that during the course of the proceedings before this Court leading to the decision in ***Reddy Veeranna*** (supra), this Court was informed of institution of the suit by Vishnu. In fact, this Bench discovered the pendency of such suit solely through examination of the related documents and proceedings.

56. Another instance – though ultimately unsuccessful – that underscores Reddy's fraudulent conduct is the suit[46] instituted on 30th May, 2001, i.e., the first suit. In this suit, which was filed just two days before the summer vacation of the court, Sudhakar sought a declaration of his 1/3rd ownership in the land. Curiously, despite acknowledging in paragraph 3 of the plaint that the property was jointly owned by three individuals, Vishnu, the third co-owner, was not made a party to the suit. What followed reveals the dubious conduct of Reddy. The very next day, Reddy filed his written statement, outright denying Sudhakar's claims and asserting exclusive ownership. He contended that he alone paid the full sale consideration, and that Sudhakar's name was included in the sale deed merely due to his status as a practicing advocate, whose help was needed in official dealings.

57. Interestingly, on the very same day, Reddy and Sudhakar filed a compromise agreement in which Sudhakar unconditionally admitted Reddy's sole

[46] Civil Suit No. 283/2001

ownership. However, the trial court, rightly suspicious of the extraordinary speed at which the pleadings and the compromise agreement were filed, questioned the *bona fides* of the agreement and refused to act upon it. Subsequently, neither party pursued the matter, and the suit was dismissed for default on 5th December 2002.

58. It is almost unprecedented for a written statement and a compromise to be filed the day after a suit is instituted. Even more astonishing is Sudhakar's complete and unopposed surrender of his claim without any explanation, and notably, without impleading the third co-owner, Vishnu. The moment the trial court declined to endorse the compromise, both of them lost interest in the case and the suit was ultimately dismissed for default. This sequence: rapid pleadings, exclusion of a necessary party, and abandonment of the suit clearly reflects a collusive effort by Reddy to manufacture support for his claim of sole ownership (emphasis ours). While Reddy's conduct before the High Court reveals fraud, this episode confirms that his deceptive practices date back over two decades.

59. Another instance of somewhat shady dealings stem from the fact of filing of a written statement before the trial court by Venkataramana, acting as Vishnu's Attorney, whereas it is Vishnu's claim that the Power of Attorney was cancelled by the time the written statement was filed. Having regard to the ultimate order proposed to be passed, we do not wish to make any factual determination as to whether the Power of Attorney stood cancelled or not as on the relevant date or even if cancelled, whether the due procedure was followed; however, suffice it to note that Venkataramana, in course of the

proceedings before this Court, has been discovered to be a partner with Reddy in their firm Manyata – Pristine and it is this firm which offered securities before this Court as recorded in the order dated 21st January, 2025.

60. Be that as it may, obtaining of the impugned order by Reddy in his favour by playing fraud on the High Court is conspicuous by its presence. Thus, we find Vishnu's core argument to be creditworthy and compelling for us to hold that judicial orders procured by Reddy by subverting the judicial process through fraud and concealment of material facts cannot be permitted to stand.

61. In decisions abound, the Courts have consistently nullified orders obtained through fraudulent means. Key excerpts from some of these decisions read thus:

a. In ***United India Insurance Co. Ltd. v. Rajendra Singh***[47], this Court reiterated that fraud unravels everything:

> **3.** "Fraud and justice never dwell together" (fraus et jus nunquam cohabitant) is a pristine maxim which has never lost its temper over all these centuries. Lord Denning observed in a language without equivocation that "no judgment of a court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for, fraud unravels everything" (Lazarus Estates Ltd. v. Beasley [(1956) 1 QB 702 : (1956) 1 All ER 341 : (1956) 2 WLR 502 (CA)]).

b. In ***Shrisht Dhawan (Smt) v. Shaw Bros.***[48], it was held:

> **20.** Fraud and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It is a concept descriptive of human conduct. Michael Levi likens a fraudster to Milton's sorcerer, Comus, who exulted in his ability to, 'wing me into the easy-hearted man and trap him into snares'. It has been defined as an act of trickery or deceit. In *Webster's Third New International Dictionary* fraud in equity has been defined as an act or omission to act or concealment by which one person obtains an advantage against conscience over another or which equity or public policy forbids as being prejudicial to another. In *Black's Legal Dictionary*, fraud is defined as an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or surrender a legal

[47] (2000) 3 SCC 581
[48] (1992) 1 SCC 534

right; a false representation of a matter of fact whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury……..

c. In ***A.V. Papayya Sastry v. Govt. of A.P.***[49], this Court held:

> **21.** Now, it is well-settled principle of law that if any judgment or order is obtained by fraud, it cannot be said to be a judgment or order in law. Before three centuries, Chief Justice Edward Coke proclaimed:
> "Fraud avoids all judicial acts, ecclesiastical or temporal."
> **22.** It is thus settled proposition of law that a judgment, decree or order obtained by playing fraud on the court, tribunal or authority is a nullity and non est in the eye of the law. Such a judgment, decree or order—by the first court or by the final court—has to be treated as nullity by every court, superior or inferior. It can be challenged in any court, at any time, in appeal, revision, writ or even in collateral proceedings.
> **23. *****
> **24.** In *Duchess of Kingstone, Smith's Leading Cases*, 13th Edn., p. 644, explaining the nature of fraud, de Grey, C.J. stated that though a judgment would be res judicata and not impeachable from within, it might be impeachable from without. In other words, though it is not permissible to show that the court was "mistaken", it might be shown that it was "misled". There is an essential distinction between mistake and trickery. The clear implication of the distinction is that an action to set aside a judgment cannot be brought on the ground that it has been decided wrongly, namely, that on the merits, the decision was one which should not have been rendered, but it can be set aside, if the court was imposed upon or tricked into giving the judgment.
> **25.** It has been said : fraud and justice never dwell together (*fraus et jus nunquam cohabitant*); or fraud and deceit ought to benefit none (*fraus et dolus nemini patrocinari debent*).

d. The judgment by Denning, L.J. in ***Lazarus Estates Ltd.*** (supra), which has since been quoted with approval by this Court in a catena of decisions including ***Nidhi Kaim*** (supra), asserted intolerance for fraud in legal proceedings in the following words:

> No court … will allow a person to keep an advantage which he has obtained by fraud. […] Fraud unravels everything. The court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved, it vitiates judgments, contracts and all transactions whatsoever….

[49] (2007) 4 SCC 221

62. We are also mindful of the legal principle that if a fact could have been discovered through the exercise of due diligence, its non-disclosure does not constitute *suppressio veri* or *suggestio falsi*. Profitable reference may be made to the decision in ***Shri Krishnan v. Kurukshetra University***[50] where this Court observed that "where a person on whom fraud is committed is in a position to discover the truth by due diligence, fraud is not proved". It would neither be a case of *suggestio falsi* nor *suppressio veri.*

63. However, the circumstances of the present case clearly indicate that the fact of Vishnu being a co-owner of the property could not have been discovered by either the High Court or this Court unless the same were placed before such courts. Reddy having conducted himself throughout in a fraudulent manner and with intent to deceive not only Vishnu but also the High Court could not be expected to lay bare all previous transactions and proceedings. As is usual with statutory authorities, not much was also expected of NOIDA. Corruption of a large scale in payment of compensation has not gone unnoticed by this Court for which a *suo motu* contempt action has been initiated. Since proceedings are pending, we wish to leave it at that. However, what is important for the present purpose is the overarching element of fraud in which Reddy indulged with impunity.

64. In light of the above discussion, we feel no hesitation to hold that given the deception involved, the impugned order and the decision of this Court dated

[50] (1976) 1 SCC 311

5th May, 2022 in ***Reddy Veerana*** (supra) procured by Reddy are tainted by fraud and, thus, lack legal sanctity and validity.

II. MAINTAINABILITY

65. We now propose to deal with the arguments raised by learned senior counsel for Reddy relatable to maintainability of this writ petition and civil appeal as well as the other applications filed by Vishnu. We propose to deal with them in detail considering the labyrinthine and peculiar facts presented before us.

A. MAINTAINABILITY OF THE WRIT PETITION

66. Learned senior counsel for Reddy has vociferously contended that the writ petition under Article 32 presented by Vishnu is not maintainable on the twin grounds that (i) the writ petition makes no mention of violation of any Fundamental Right and (ii) no writ petition can lie against a judicial order.

67. Writ jurisdiction in India, as is well known, emanates from two articles of the Constitution – Articles 32 and 226. The latter pertains to writ jurisdiction exercisable by the various High Courts in the country while the former confers jurisdiction on the Supreme Court to issue writs/orders/directions for enforcement of the Fundamental Rights, guaranteed by the Constitution. Since the High Courts are empowered under the Constitution to enforce legal rights, apart from Fundamental Rights, the power conferred under Article 226 is considered to be more expansive compared to the power under Article 32.

68. It is axiomatic that merely because a litigant barely pleads in his writ petition before this Court that any of his Fundamental Rights has been breached would not entitle him to maintain a petition under Article 32 of the Constitution. What is additionally necessary for him to plead is the nature of breach of

Fundamental Right, actual or apprehended, and the (likely) consequence thereof.

69. The importance of pleadings in a writ petition under Article 32 was highlighted by this Court in ***Amina Marwa Sabreen v. State of Kerala***[51] as follows:

> **14.** Reverting to the preliminary objections raised by the respondent State, as already mentioned above, there is no reference to the G.O. in the entire writ petition. This document is not even part of the writ petition. Therefore, there are no foundational facts and/or pleadings in the writ petition challenging this G.O. as unconstitutional. More importantly, there is no prayer in the writ petition seeking quashing of this G.O. Even when the learned counsel for the State had pointed out fundamental infirmity in the writ petition, no attempt was made by the petitioners to amend the writ petition so as to incorporate challenge to the said G.O. as well. In the absence of any pleadings and the prayer seeking quashing of the said G.O., it is not permissible for the petitioners to seek a relief by making oral submissions in this behalf.
>
> (emphasis ours)

70. For a writ petition under Article 32 of the Constitution to be entertained, the petitioner has to run a case establishing *prima facie* violation or imminent threat of violation of any Fundamental Right. In this context, some relevant judicial pronouncements are discussed below.

a. In ***D.A.V. College* v. *State of Punjab***[52], this Court held:

> **44.** We have already found that none of the provisions of the Act offend any fundamental rights of the petitioners. But it is contended on behalf of the petitioners that in a petition under Article 32 once it is alleged and a prima facie case is made out that the fundamental rights of a citizen are threatened or violated this Court is not only bound to entertain it for determining to what extent the allegation is valid but is also bound to go into the question, if raised, that the law under which it is alleged that his fundamental right is infringed is invalid on the ground of want of legislative competence. There are two facets to this submission. Firstly, whether ultimately any fundamental right in fact is threatened or violated, so long as a prima facie case of such a threat or violation is made out a petition under Article 32 must be entertained. Secondly, once it is entertained irrespective of whether it is found ultimately that in fact no fundamental rights of the petitioners are invaded the vires of the legislation or the competence of the legislature to enact the impugned legislation must be gone into and determined. While the first proposition is valid, the second is not.

[51] (2018) 14 SCC 193
[52] (1971) 2 SCC 269

> **46.** It is apparent therefore that the validity or the invalidity of the impugned law, on the ground of legislative competence should purport to infringe the fundamental rights of the petitioner as a necessary condition of its being adjudicated. But if in fact the law does not, even on the assumption that it is valid, infringe any fundamental rights, this Court will not decide that question in a petition under Article 32. The reason for it is obvious, namely, that no petition under Article 32, will be entertained if fundamental rights are not affected and if the impugned law does not affect the fundamental rights it would be contrary to this principle to determine whether that law, in fact, has legislative competence or not.
>
> (emphasis ours)

b. In ***Amrit Lal Berry v. CCE***[53], a coordinate Bench of this Court had the occasion to rule that:

> **11.** […] But, we may point out here that a mere failure to apply a rule which ought to have been applied may not, by itself, justify an invocation of the powers of this Court under Article 32 of the Constitution. In order to succeed in a petition under Article 32 of the Constitution the petitioner has to disclose how his fundamental right has been infringed by a particular rule or decision or its application. The impact of the Rule or decision upon the facts of each petitioner case has to be clearly brought out.
>
> **12.** In the cases before us, the fundamental rights alleged to be violated could only be the general ones embraced by Article 16(1) of the Constitution which reads:
>
> "There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State."
>
> Where a petitioner alleges that he has been denied equality of opportunity for service, during the course of his employment as a government servant, it is incumbent upon him to disclose not only the Rule said to be infringed but also how this opportunity was unjustifiably denied on each particular occasion. The equality of opportunity in a matter relating to employment implies equal treatment to persons similarly situated or in the same category as the petitioner. It postulates equality of conditions under which a number of persons belonging to the same category compete for the same opportunities and a just and impartial application of uniform and legally valid standards in deciding upon competing claims. It does not exclude justifiable discrimination.
>
> (emphasis ours)

c. In ***Ramdas Athawale (5)* v. *Union of India***[54]*,* it was observed by this Court that:

> **46.** It is equally well settled that Article 32 of the Constitution guarantees the right to a constitutional remedy and relates only to the enforcement of the right conferred by Part III of the Constitution and unless a question of enforcement

[53] (1975) 4 SCC 714
[54] (2010) 4 SCC 1

> of a fundamental right arises, Article 32 does not apply. It is well settled that no petition under Article 32 is maintainable, unless it is shown that the petitioner has some fundamental right. In *Northern Corpn.* v. *Union of India* [*Northern Corpn.* v. *Union of India*, (1990) 4 SCC 239] this Court has made a pertinent observation that when a person complains and claims that there is a violation of law, it does not automatically involve breach of fundamental right for the enforcement of which alone Article 32 is attracted.
>
> (emphasis ours)

d. In ***Harbhajan Singh v. State of Haryana***[55], this Court referring to the decisions in ***D.A.V. College*** (supra) and ***Ramdas Athawale*** (supra) observed as follows:

> **11.** But the above decisions do not wholly support the stand of the respondents. This Court in *D.A.V. College* [*D.A.V. College* v. *State of Punjab*, (1971) 2 SCC 269] has held that there are two aspects. The first is whether ultimately any fundamental right in fact is threatened or violated. So long as a prima facie case of such a threat or violation is made out, a petition under Article 32 must be entertained. Second, once it is entertained, irrespective of whether it is found ultimately that in fact no fundamental rights of the petitioners are invaded, the vires of the legislation or the competence of the legislature to enact the impugned legislation must be gone into and determined. [The Constitution Bench in *D.A.V. College* [*D.A.V. College* v. *State of Punjab*, (1971) 2 SCC 269], further held that while the first proposition is valid, the second is not. Thus, the entertainment of the writ petition does not mean that this Court has to examine the impugned legislation or legislative competence if the same is not found to be infringing fundamental rights.

71. Furthermore, the right to seek an effective legal remedy for an infringed right is part of the right to life enshrined under Article 21 of the Constitution. One may make a profitable reference to the decisions in ***Anita Kushwaha v. Pushap Sadan***[56] and ***Kishan Chand Jain v. Union of India***[57] for the same.

72. Since the 1970s, interpretation of the Constitution, particularly Fundamental Rights, has undergone a significant transformation. Through dynamic and evolving interpretations, various aspects of equality, life and freedom have been recognised and expanded to reflect the changing needs of society.

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[55] (2023) 11 SCC 693
[56] (2016) 8 SCC 509
[57] 2023 SCC OnLine SC 1334

73. We are, at this stage, reminded of what this Court held in ***Express Newspapers (P) Ltd. v. Union of India***[58] while negating a challenge to the interpretation placed on Article 14 in ***E.P. Royappa* v. *State of T.N.***[59], ***Maneka Gandhi* v. *Union of India***[60] and ***Ramana Dayaram Shetty* v. *International Airport Authority of India Ltd.***[61] that all governmental actions, which are not supportable by law, would be *per se* violative of Article 14 of the Constitution. Excerpts from paragraph 70 read as follows:

> **70.** […] it is urged that the content of Article 19(1)(*a*) of the Constitution would not include the right which is guaranteed by other clauses of Article 19. According to the learned counsel, it must therefore logically follow that what facilitated the exercise of a fundamental right did not for that reason become a part of the fundamental right itself. He read out different passages from the judgments of Bhagwati. J. in *E.P. Royappa* v. *State of T.N.*, *Maneka Gandhi* v. *Union of India* and *Ramana Dayaram Shetty* v. *International Airport Authority of India Ltd.* and endeavoured to show, to use his own language, that "in spite of some literal flourish in the language here and there, they did not and could not depart from the ambit of Article 14 which deals with the principle of equality embodied in the Article". He was particularly critical of the *dictum* of Bhagwati, J. in *International Airport Authority case*[5] that "arbitrariness was the antithesis of Article 14" and commented that this would mean that all governmental actions which are not supportable by law were per se violative of Article 14. I am afraid, it is rather late in the day to question the correctness of the landmark decision in *Maneka Gandhi case* and the innovative construction placed by Bhagwati, J. on Article 14 in the three cases *of Royappa*, *Maneka Gandhi* and *International Airport Authority* which have evolved new dimensions in judicial process.

74. As we read the above passage acknowledging the declaration of law that arbitrariness in State action is an antithesis of Article 14, we are also reminded of decisions of high authority of this Court that a violation of a principle of natural justice by a State action is a violation of Article 14 [see ***Union of India***

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[58] (1986) 1 SCC 133
[59] (1974) 4 SCC 3
[60] (1978) 1 SCC 248
[61] (1979) 3 SCC 489

v. Tulsiram Patel[62]] and that natural justice is an antithesis of arbitrariness [see ***Basudeo Tiwary v. Sido Kanho University***[63]].

75. Article 14's guarantee against arbitrariness is fundamental to all State actions. Since equality and natural justice are antithesis of arbitrariness, nowadays it has become customary to style a petition as one filed under Article 32 and vaguely allege either arbitrariness or violation of the traditional principles of natural justice [the rules that none should be condemned unheard and no one should be a judge of his own cause] as well as a third principle developed in India, which also includes the right to be afforded a fair hearing and a reasoned order should the outcome of the proceedings be adverse to the person proceeded against. Question is, should the Supreme Court entertain writ petitions under Article 32 without clear and specific pleadings as to how the right of equality or any other Fundamental Right has been infringed and what is the impact thereof on the suitor without clear, specific, and definite pleadings? The answer must be an emphatic 'NO'. If the principles deducible from the authorities referred to above are of any guidance and help, a loosely drafted writ petition under Article 32 ought not to be entertained in the absence of the requisite pleadings. Even where violation of a statutory right is sought to be camouflaged as violation of a Fundamental Right, or where a statutory right is found to have been predominantly violated with only an incidental infringement of a Fundamental Right, this Court may, in the judicious exercise of its discretion, refuse to entertain the writ petition while

[62] (1985) 3 SCC 398
[63] (1998) 8 SCC 194

safeguarding the liberty of the suitor to pursue his writ remedy before the High Court under Article 226 of the Constitution.

76. Having said that, we now proceed to decide the contentions raised by Reddy.

77. The first contention is that the writ petition does not disclose violation of any Fundamental Right. In this regard, reference may be made to the first paragraph of the writ petition which reads:

> This Writ Petition under Article 32 seeks to enforce Petitioner's fundamental Rights under Article 14, 19(1)(g) & Article 21 together with 300-A of the Constitution of India. This Writ Petition is necessitated on account of an extraordinary and brazen fraud upon this Hon'ble Court…

This appears to be a general statement regarding the particular Fundamental Rights which, according to Vishnu, stand breached. It is of no help to him. Furthermore, a perusal of paragraph 6(h) of the writ petition reveals averments to the effect that the rights of Vishnu under Articles 19(1)(g) and 21 have been severely impaired insofar as it relates to access to appropriate legal remedies, as the remedy available under Section 30 of the 1894 Act is only illusory in nature, considering that the question of title has already been declared in favour of Reddy.

78. A plain reading of the writ petition together with the prayer clauses, noted in paragraph 6 (supra), makes it evident that none of Vishnu's Fundamental Rights were invaded to enable him maintain a writ petition under Article 32 of the Constitution. To recapitulate, Vishnu prayed in his writ petition that (i) Reddy be declared as not the sole owner of the subject land, (ii) NOIDA's decision (reflected in its letter dated 17th January, 2023) to sanction full compensation for acquisition of the land to Reddy be set aside, (iii) the trio be declared as co-owners of the land and jointly awarded compensation for

acquisition thereof and (iv) an inquiry be ordered to unearth the fraud and to initiate appropriate legal proceedings against the persons responsible. The case set up in the writ petition by Vishnu does not, in our opinion, constitute breach of any of his Fundamental Rights; although, it cannot be gainsaid that his property rights are definitely in jeopardy leading to violation of Article 300A of the Constitution for which a petition under Article 226 could have been entertained regard being had to the law laid down by a five-Judge Constitution Bench of this Court in ***Shivdev Singh v. State of Punjab***[64]. However, Vishnu sought to project that the writ petition had to be filed due to concerns that even if a sound case on merits were presented, other courts would feel hesitant to entertain the grievance given this Court's decision in ***Reddy Veerana*** (supra). It was as if apart from the remedy of a writ petition before this Court, no other remedy was available to Vishnu.

79. That is, however, not the case before us. Vishnu has sought to avail the appellate remedy against the impugned order as well as a review of the decision in ***Reddy Veerana*** (supra) which, if undisturbed by us, would incidentally seal his fate. In any event, if Vishnu were to succeed in the civil appeal and the petition for review considered bearing in mind the decision on this civil appeal, the resulting relief would likely address his grievance arising from the fraud, of which he has claimed to be a victim.

80. In our view, there is no *prima facie* infringement of Vishnu's Fundamental Rights including, *inter alia*, the right to have access to an effective legal

[64] AIR 1963 SC 1909

remedy, since all the available options for relief are being sought to be explored by him. Accordingly, we uphold the first argument advanced by Reddy that the writ petition did not disclose violation of any of the Fundamental Rights and, hence, is not maintainable.

81. Having regard to the aforesaid finding, we are not required to deal with the second ground; however, for completeness of decision, we are *ad idem* with the contention that a writ petition cannot lie against a judicial order. In this context, reference may be made to the nine-Judge Constitution Bench decision of this Court in ***Naresh Shridhar Mirajkar v. State of Maharashtra***[65] where it was pertinently observed as follows:

> **18.** On these facts, the question which arises for our decision is whether a judicial order passed by the High Court prohibiting the publication in newspapers of evidence given by a witness pending the hearing of the suit, is amenable to be corrected by a writ of certiorari issued by this Court under Article 32(2). This question has two broad facets; does the impugned order violate the fundamental rights of the petitioners under Article 19(1)(*a*), (*d*) and (*g*); and if it does, is it amenable to the writ jurisdiction of this Court under Article 32(2)? Thus, in the present proceedings, we will limit our discussion and decision to the points which have a material bearing on the broad problem posed by the petitions before us.
>
> * * *
>
> **37.** The next question which calls for our decision is : does the impugned order contravene the fundamental rights of the petitioners under Article 19(1)? In dealing with this question, it is essential to bear in mind the object with which the impugned order has been passed. As we have already indicated, the impugned order has been passed, because the learned Judge was satisfied that the interests of justice required that Mr Goda should not be exposed to the risk of excessive publicity of the evidence that he would give in court. This order was passed by the learned Judge after hearing arguments from both the parties to the suit. Thus, there is no doubt that the learned Judge was satisfied that in order to be able to do justice between the parties before him, it was essential to grant Mr Goda's request for prohibiting the publication of his testimony in the newspapers from day to day. The question is : can it be said that an order which has been passed directly and solely for the purpose of assisting the discovery of truth and for doing justice between the parties, infringes the fundamental rights of the petitioners under Article 19(1)?

[65] AIR 1967 SC 1

> **38.** The argument that the impugned order affects the fundamental rights of the petitioners under Article 19(1), is based on a complete misconception about the true nature and character of judicial process and of judicial decisions. When a Judge deals with matters brought before him for his adjudication, he first decides questions of fact on which the parties are at issue, and then applies the relevant law to the said facts. Whether the findings of fact recorded by the Judge are right or wrong, and whether the conclusion of law drawn by him suffers from any infirmity, can be considered and decided if the party aggrieved by the decision of the Judge takes the matter up before the appellate court. But it is singularly inappropriate to assume that a judicial decision pronounced by a Judge of competent jurisdiction in or in relation to a matter brought before him for adjudication can affect the fundamental rights of the citizens under Article 19(1). What the judicial decision purports to do is to decide the controversy between the parties brought before the court and nothing more. If this basic and essential aspect of the judicial process is borne in mind, it would be plain that the judicial verdict pronounced by court in or in relation to a matter brought before it for its decision cannot be said to affect the fundamental rights of citizens under Article 19(1).
>
> (emphasis ours)

82. Interestingly, a perusal of the prayer clauses of the writ petition presented by Vishnu does not show that a challenge has been laid to any judicial order. He has prayed for a writ in the nature of certiorari, to quash and set aside the decision of NOIDA dated 17th January, 2023 and a writ of declaration to declare Reddy to not have an exclusive right to claim compensation. There being evidently no challenge to any judicial order, this ground of challenge is liable to be rejected.

B. MAINTAINABILITY OF CIVIL APPEAL/JURISDICTION OF THE SUPREME COURT

83. A variety of objections regarding the jurisdiction of this Court in determining the questions arising for decision have been raised.

INTRA-COURT APPEAL

84. Firstly, we wish to clarify that we do not possess and are not exercising any "intra-court appeal" jurisdiction, as contended by learned senior counsel representing Reddy. The Constitution does not confer any such jurisdiction on us and we are conscious of the legal position. However, having so clarified, it

is important to note that the principle of "fraud unravels everything" is not confined only to examining judgments rendered by the courts below but could include the unravelling of judgments of this Court as well, if at all the justice of the case before us so demands. In the former moiety of this judgment, we have discussed that Reddy has with impunity indulged in playing fraud on the courts and, therefore, his challenge to the jurisdiction of this Court must fail.

85. In ***Inderjit Singh Grewal v. State of Punjab***[66], this Court held that:

> **17.** It is a settled legal proposition that where a person gets an order/office by making misrepresentation or playing fraud upon the competent authority, such order cannot be sustained in the eye of the law as fraud unravels everything. "Equity is always known to defend the law from crafty evasions and new subtleties invented to evade law." It is trite that "fraud and justice never dwell together" (*fraus et jus nunquam cohabitant*). Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. Fraud and deception are synonymous. "Fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine." An act of fraud on court is always viewed seriously. [Vide *Meghmala* v. *G. Narasimha Reddy* [(2010) 8 SCC 383, para 34.]
>
> **18.** However, the question does arise as to whether it is permissible for a party to treat the judgment and order as null and void without getting it set aside from the competent court. The issue is no more res integra and stands settled by a catena of decisions of this Court. For setting aside such an order, even if void, the party has to approach the appropriate forum. [Vide *State of Kerala* v. *M.K. Kunhikannan Nambiar Manjeri Manikoth* [(1996) 1 SCC 435] and *Tayabbhai M. Bagasarwalla* v. *Hind Rubber Industries (P) Ltd.* [(1997) 3 SCC 443].

86. Moreover, as noted hereinabove, the decision in ***A.V. Papayya Sastry*** (supra) delineated that every Court, either superior or inferior – first or final – has jurisdiction in cases where a judgment of the court has been obtained by fraud to treat it as nullity.

87. Acceptance of the contention of Reddy would lead to a situation akin to a juridical *cul-de-sac*, where no option is available to Vishnu to assert his legal

[66] (2011) 12 SCC 588

rights. Adopting a hands-off approach weighed down by the fact of existence of a judicial order of this Court of competent jurisdiction and thereby keeping it untouched (despite proof of such judicial order having been procured by fraud), would be a travesty of justice. Much of what has been said by this Court on the aspect of fraud vitiating even the most solemn of proceedings, in that case, would seem to be dead letter. On the contrary, ends of justice demand that such order(s), as might have been procured based on established fraud, must not be retained on the record of Courts of Record.

88. Another challenge to the maintainability of the civil appeal is on the ground that the reference of the case, by this Court using its "intra-court appeal" jurisdiction to the present bench of three judges violate the established principle of *stare decisis* as it refers not only a question of law but also questions of fact. While the High Court and any subsequent Bench of this Court would no doubt continue to exercise jurisdiction on the basis of the dicta in ***A.V. Papayya Sastry*** (supra), in reality, for the purposes of judicial propriety and abundant caution, this Court in a coordinate configuration deemed it inappropriate to examine whether the decision of this Court in ***Reddy Veerana*** (supra), in which it is contended that the impugned order has merged into, ought to be examined in greater depth for ascertaining whether it was obtained by fraud. Therefore, the only plausible option open to the Bench of coordinate strength was to refer the matter to a larger bench to decide whether fraud has been played on this Court and this is precisely what has been done in the present case by the order dated 21st November, 2023. The said order was open-ended in the sense that who should constitute the

larger bench was not specified. It was left open for the master of the roster to decide on constitution of the larger bench; and it could have included the available member(s) of the two-Judge Bench, which decided ***Reddy Veerana*** (supra). However, this Bench having been constituted by the Hon'ble the Chief Justice and Reddy having participated in the proceedings before us without raising any demur regarding coram, we see the contention as one raised in desperation. Even otherwise, to put it straight, we do not wish to spill much ink regarding this misconceived contention since by way of this judgment, we have kept our focus limited to the point of "fraud" and have exercised caution and circumspection in not making any determination regarding the merits pertaining to the dispute at hand. We, therefore, see no merit in the contention urged on behalf of Reddy that placement of the civil appeal and the writ petition before us is in violation of any law.

89. Lastly, *ex abundanti cautela*, as pointed out above, this Court in ***Reddy Veerana*** (supra) made no determination on the title of Reddy and only made the decision with respect to the compensation on the basis of the circle rate. Therefore, this larger bench is not strictly sitting in "appeal" on any point of law/fact but is concerned only with whether this Court's judgment was procured through fraud.

MERGER

90. Learned senior counsel for Reddy has also assiduously argued that the present civil appeal is not maintainable, as it effectively challenges an order of the Supreme Court, into which the impugned order has merged. It is contended that no appeal lies before the Supreme Court against its own order.

91. Since arguments *in extenso* were advanced on the aspect of non-applicability/applicability of the doctrine of merger, we need to notice what it means, how this Court has applied it or declined to apply it to the cases before it, and finally how relevant it is to the present exercise.

92. As per Black's Law Dictionary (10th Edition), 'merger' means *"the act or an instance of combining or uniting; Civil Procedure. the effect of a judgment for the plaintiff, which absorbs any claim that was the subject of the lawsuit into the judgment, so that the plaintiff's rights are confined to enforcing the judgment"*.

93. A brief overview of English law on the doctrine of merger by judgment reveals that when an action prevails, the cause of action, along with all attendant rights emanating from it, merge into the judgment and thereby stand extinguished.

94. To trace the origin of the doctrine of merger in English law, we must journey back to the nineteenth century. Almost two centuries ago, the Court of Exchequer Chamber, in the case of ***King v. Hoare***[67], articulated the following principles:

> If there be a breach of contract, or wrong done, or any other cause of action by one against another, and judgment be recovered in a court of record, the judgment is a bar to the original cause of action, because it is thereby reduced to a certainty, and the object of the suit attained, so far as it can be at that stage; and it would be useless and vexatious to subject the defendant to another suit for the purpose of obtaining the same result. Hence the legal maxim, 'transit in rem judicatam'—the cause of action is changed into matter of record, which is of a higher nature, and the inferior remedy is merged in the higher.

[67] (1844) 13 Meeson and Welsby 494

95. Similarly, in ***Kendall v. Hamilton***[68], the House of Lords, endorsing the decision in ***Hoare*** (supra), stated thus:

> The doctrine of merger is quite intelligible. Where a security of one kind or nature has been superseded by another of a higher kind or nature, it is reasonable to insist that the party seeking redress should rest only upon the latter. So when what was once a mere right of action has become a judgment of a court of record, the judgment is a bar to the original cause of action.

96. In ***Virgin Atlantic Airways Ltd v. Zodiac Seats UK Ltd***[69], the Supreme Court of the United Kingdom, summarised the doctrine of merger as follows:

> 17. […] [Merger] treats a cause of action as extinguished once judgment has been given upon it, and the claimant's sole right as being a right upon the judgment. Although this produces the same effect as the second principle, it is in reality a substantive rule about the legal effect of an English judgment, which is regarded as 'of a higher nature' and therefore as superseding the underlying cause of action: see King v Hoare […].

97. Perhaps one of the earliest Indian decisions exploring the doctrine of merger is that of the High Court of Bombay in ***Commissioner of Income-Tax v. Tejaji Farasram Kharawalla***[70] wherein a Division Bench held thus:

> It is a well-established principle of law that when an appeal is provided from a decision of a Tribunal and the appeal Court after hearing the appeal passes an order, the order of the original Court ceases to exist and is merged in the order of the appeal Court and although the appeal Court may merely confirm the order of the trial Court, the order that stands and is operative is not the order of the trial Court but the order of the appeal Court.

98. A three-Judge Bench of this Court in ***Natvarlal Punjabhai v. Dadubhai Manubhai***[71], laid down that the English doctrine of merger, while it might have

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[68] (1879) 4 App. Cas. 504
[69] [2013] UKSC 46
[70] (1953) SCC OnLine Bom 28
[71] (1953) 2 SCC 489

influenced certain judicial pronouncements in our country, it essentially has no relevance to a Hindu widow's estate.

99. In ***State of Madras v. Madurai Mills Co. Ltd.***[72], another three-Judge Bench observed that the application of the doctrine of merger depends on the nature of the appellate or revisional order in each case and the scope of the statutory provisions conferring the appellate or revisional jurisdiction. It was observed thus:

> 5. […] But the doctrine of merger is not a doctrine of rigid and universal application and it cannot be said that wherever there are two orders, one by the inferior Tribunal and the other by a superior Tribunal, passed in an appeal on revision, there is a fusion of merger of two orders irrespective of the subject-matter of the appellate or revisional order and scope of the appeal or revision contemplated by the particular statute.

100. The question arising for decision before a Constitution Bench of five-Judges of this Court in ***Collector of Customs, Calcutta v. East India Commercial Co. Ltd. and others***[73] was whether the order of the original authority merged in the order of the Appellate Authority even where the Appellate Authority merely dismissed the appeal without any modification of the order of the original authority. Answering the question posed before it, the Bench observed thus:

> 4. [..] It is obvious that when an appeal is made, the Appellate Authority can do one of three things, namely, (i) it may reverse the order under appeal, (ii) it may modify that order, and (iii) it may merely dismiss the appeal and thus confirm the order without any modification. It is not disputed that in the first two cases where the order of the original authority is either reversed or modified it is the order of the Appellate Authority which is the operative order and if the High Court has no jurisdiction to issue a writ to the Appellate Authority it cannot issue a writ to the original authority. The question therefore is whether there is any difference between these two cases and the third case where the Appellate Authority dismisses the appeal and thus confirms the order of the original

[72] (1967) 1 SCR 732
[73] (1963) 2 SCR 563

> authority. It seems to us that on principle it is difficult to draw a distinction between the first two kinds of orders passed by the Appellate Authority and the third kind of order passed by it. In all these three cases after the Appellate Authority has disposed of the appeal, the operative order is the order of the Appellate Authority whether it has reversed the original order or modified it or confirmed it. In law, the appellate order of confirmation is quite as efficacious as an operative order as an appellate order of reversal or modification.
>
> (emphasis ours)

101. At the turn of this century, the decision in ***Kunhayammed v. State of Kerala***[74] was rendered by a three-Judge Bench of this Court. Since this decision stands out as a guiding light wherein this Court summarized the law on the doctrine of merger and appears to be the sheet anchor of the claim of Reddy, it would be apt to examine the decision closely.

102. The question that arose for decision in ***Kunhayammed*** (supra) was whether upon dismissal of a special leave petition under Article 136 of the Constitution of India carried from an order of the High Court, a review petition would still be maintainable before such Court. The decision begins with the following words:

> **1.** A question of frequent recurrence and of some significance involving the legal implications and the impact of an order rejecting a petition seeking grant of special leave to appeal under Article 136 of the Constitution of India has arisen for decision in this appeal.

The coordinate Bench had the occasion to examine the doctrine of merger in great depth. Briefly, what was held is this. If special leave were not granted (either by an unreasoned or a reasoned order) and the petition dismissed, the order under challenge would not merge in the order of dismissal. However, if upon grant of leave the Court dismissed an appeal in exercise of its appellate

[74] (2000) 6 SCC 359

jurisdiction, notwithstanding that the order is unreasoned, the doctrine would apply resulting in merger of the order under challenge in the order dismissing the appeal. In paragraph 7 the Court noted that the doctrine of merger is neither a doctrine of constitutional law nor a doctrine statutorily recognized and that it is a common law doctrine founded on principles of propriety in the hierarchy of the justice delivery system. Paragraph 12 of the decision has aptly captured the logic underlying the doctrine of merger. It was observed thus:

> **12.** The logic underlying the doctrine of merger is that there cannot be more than one decree or operative orders governing the same subject-matter at a given point of time. When a decree or order passed by an inferior court, tribunal or authority was subjected to a remedy available under the law before a superior forum then, though the decree or order under challenge continues to be effective and binding, nevertheless its finality is put in jeopardy. Once the superior court has disposed of the lis before it either way — whether the decree or order under appeal is set aside or modified or simply confirmed, it is the decree or order of the superior court, tribunal or authority which is the final, binding and operative decree or order wherein merges the decree or order passed by the court, tribunal or the authority below. However, the doctrine is not of universal or unlimited application. The nature of jurisdiction exercised by the superior forum and the content or subject-matter of challenge laid or which could have been laid shall have to be kept in view."
>
> (emphasis ours)

The Bench then proceeded to sum up its conclusions thus:

> **42.** 'To merge' means to sink or disappear in something else; to become absorbed or extinguished; to be combined or be swallowed up. Merger in law is defined as the absorption of a thing of lesser importance by a greater, whereby the lesser ceases to exist, but the greater is not increased; an absorption or swallowing up so as to involve a loss of identity and individuality. (See Corpus Juris Secundum, Vol. LVII, pp. 1067-68.)
>
> * * *
>
> **44.** To sum up, our conclusions are:
>
> (i) Where an appeal or revision is provided against an order passed by a court, tribunal or any other authority before superior forum and such superior forum modifies, reverses or affirms the decision put in issue before it, the decision by the subordinate forum merges in the decision by the superior forum and it is the latter which subsists, remains operative and is capable of enforcement in the eye of law.

(ii) The jurisdiction conferred by Article 136 of the Constitution is divisible into two stages. The first stage is upto the disposal of prayer for special leave to file an appeal. The second stage commences if and when the leave to appeal is granted and the special leave petition is converted into an appeal.

(iii) The doctrine of merger is not a doctrine of universal or unlimited application. It will depend on the nature of jurisdiction exercised by the superior forum and the content or subject-matter of challenge laid or capable of being laid shall be determinative of the applicability of merger. The superior jurisdiction should be capable of reversing, modifying or affirming the order put in issue before it. Under Article 136 of the Constitution the Supreme Court may reverse, modify or affirm the judgment-decree or order appealed against while exercising its appellate jurisdiction and not while exercising the discretionary jurisdiction disposing of petition for special leave to appeal. The doctrine of merger can therefore be applied to the former and not to the latter.

(iv) An order refusing special leave to appeal may be a non-speaking order or a speaking one. In either case it does not attract the doctrine of merger. An order refusing special leave to appeal does not stand substituted in place of the order under challenge. All that it means is that the Court was not inclined to exercise its discretion so as to allow the appeal being filed.

(v) If the order refusing leave to appeal is a speaking order, i.e., gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the declaration of law, whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by way of judicial discipline, the Supreme Court being the Apex Court of the country. But, this does not amount to saying that the order of the court, tribunal or authority below has stood merged in the order of the Supreme Court rejecting the special leave petition or that the order of the Supreme Court is the only order binding as res judicata in subsequent proceedings between the parties.

(vi) Once leave to appeal has been granted and appellate jurisdiction of Supreme Court has been invoked the order passed in appeal would attract the doctrine of merger; the order may be of reversal, modification or merely affirmation.

(vii) On an appeal having been preferred or a petition seeking leave to appeal having been converted into an appeal before the Supreme Court the jurisdiction of High Court to entertain a review petition is lost thereafter as provided by sub-rule (1) of Rule 1 of Order 47 CPC.

(emphasis ours)

103. A subsequent three-Judge Bench in ***Khoday Distilleries Limited v. Sri Mahadeshwara Sahakara Sakkare Karkhane Limited, Kollegal***[75] succinctly summarized what was held in ***Kunhayammed*** (supra) in the following words:

> **20.** The Court thereafter analysed number of cases where orders of different nature were passed and dealt with these judgments by classifying them in the following categories:
>
> (i) Dismissal at the stage of special leave petition—without reasons—no res judicata, no merger.
>
> (ii) Dismissal of the special leave petition by speaking or reasoned order—no merger, but rule of discipline and Article 141 attracted.
>
> (iii) Leave granted—dismissal without reasons—merger results.

104. It is discernible from the aforesaid decisions that although the doctrine of merger has its roots in common law principles, it has firmly been integrated within the contours of Indian jurisprudence.

105. Having discussed the law on the doctrine of merger, we must acknowledge that with rules come with exceptions. The doctrine of merger does not apply universally or without limit. There are certain decisions of this Court which, in the exceptional situations before it, declined to apply the doctrine of merger. It would be appropriate to notice the same now.

106. A two-Judge Bench of this Court in ***Commissioner of Sales Tax v. Vijai International Udyog***[76] emphasized that the doctrine of merger finds no application where the maxim *"actus curiae neminem gravabit"* is applicable. It was observed thus:

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[75] (2019) 4 SCC 376
[76] (1984) 4 SCC 543

> **4.** On the facts of the case, we do not accept the view of the High Court that the doctrine of merger applied. Both the assessee and the Commissioner had a statutory right of appeal to the Tribunal against the decision of the Assistant Commissioner and in exercise of that right two separate appeals had been filed. On account of the mistake of the Tribunal in not clubbing the two appeals the statutory right of appeal of one party could not be negatived. It is a well-settled proposition of law that no party should suffer on account of the mistake of the Court or the Tribunal. That apart in a situation like this, the doctrine of merger has no application and the High Court was in error in throwing out the Commissioner's appeal by applying the doctrine of merger.

107. Yet again, the two-Judge Bench in ***A.V. Papayya Sastry*** (supra) laid down fraud as an exception to the doctrine of merger while observing thus:

> **38.** The matter can be looked at from a different angle as well. Suppose, a case is decided by a competent court of law after hearing the parties and an order is passed in favour of the plaintiff applicant which is upheld by all the courts including the final court. Let us also think of a case where this Court does not dismiss special leave petition but after granting leave decides the appeal finally by recording reasons. Such order can truly be said to be a judgment to which Article 141 of the Constitution applies. Likewise, the doctrine of merger also gets attracted. All orders passed by the courts/authorities below, therefore, merge in the judgment of this Court and after such judgment, it is not open to any party to the judgment to approach any court or authority to review, recall or reconsider the order.
>
> **39.** The above principle, however, is subject to exception of fraud. Once it is established that the order was obtained by a successful party by practising or playing fraud, it is vitiated. Such order cannot be held legal, valid or in consonance with law. It is non-existent and non est and cannot be allowed to stand.
>
> (emphasis ours)

108. In ***MRF Ltd. v. Manohar Parrikar***[77], a two-Judge Bench held that the doctrine of merger does not apply when the higher court has not adjudicated the issues on merits, and the controversy between the parties has not been looked into.

[77] (2010) 11 SCC 374

In applying this doctrine to the specifics of the case, the Court had the occasion to observe:

> **39.** The issue of merger has no bearing in the facts and circumstances of the present petitions, since, the issue that was decided by the High Court in the earlier batch of writ petitions and the issue that was raised and considered in the subsequent public interest litigation is entirely different. Secondly, in our view, the principles of res judicata are also not attracted since the issue raised and considered in the subsequent public interest litigation had not been raised and considered in the earlier round of litigation.

109. The decision rendered by another Bench of two Judges of this Court in ***Commissioner of Central Excise, Delhi v. Pearl Drinks Ltd.***[78] is also worth consideration because it deals with a situation different from those considered by this Court in the aforementioned decisions. It was held thus:

> **21.** The Tribunal obviously failed to notice this distinction and proceeded to apply the doctrine of merger rather mechanically. It failed to take into consideration a situation where an order may be partly in favour and partly against a party in which event the part that goes in favour of the party can be separately assailed by them in appeal filed before the appellate court or authority but dismissal on merits or otherwise of any such appeal against a part only of the order will not foreclose the right of the party who is aggrieved by the other part of this order. If the doctrine of merger were to be applied in a pedantic or wooden manner it would lead to anomalous results inasmuch as a party who has lost in part can by getting his appeal dismissed claim that the opposite party who may be aggrieved by another part of the very same order cannot assail its correctness no matter the appeal earlier disposed of by the court or authority had not examined the correctness of that part of the order.

110. The upshot of the aforesaid discussion is that when an appeal is limited to a specific part of the judgment and order of the first-instance court, the merger occurs only to that extent, leaving the rest intact and available for future consideration. The extent of merger is determined by the subject matter of the

[78] (2010) 11 SCC 153

appeal. The merger can only operate on issues which were the subject-matter of the appellate court's judgment and order and cannot have any application to issues which are not being taken on appeal by either party or which had not been touched upon by the appellate court.

111. What happens in situations where an appeal is limited to a specific portion of the judgment of the first-instance court or where the issues decided by the court therein remain unaddressed in the appellate court's judgment: can it still be asserted that the entire original judgment of the first-instance court ceases to exist upon merging with the appellate court's judgment?

112. In ***S. Shanmugavel Nadar v. State of T.N.***[79], a Bench of two Judges laid down that it is only the operative part of an original judgment that merges in the judgment of the appellate forum and not the whole of the judgment. The relevant paragraph of the decision is extracted hereunder:

> **10.** Firstly, the doctrine of merger. Though loosely an expression merger of judgment, order or decision of a court or forum into the judgment, order or decision of a superior forum is often employed, as a general rule the judgment or order having been dealt with by a superior forum and having resulted in confirmation, reversal or modification, what merges is the operative part i.e. the mandate or decree issued by the court which may have been expressed in a positive or negative form. For example, take a case where the subordinate forum passes an order and the same, having been dealt with by a superior forum, is confirmed for reasons different from the one assigned by the subordinate forum, what would merge in the order of the superior forum is the operative part of the order and not the reasoning of the subordinate forum; otherwise there would be an apparent contradiction. However, in certain cases, the reasons for decision can also be said to have merged in the order of the superior court if the superior court has, while formulating its own judgment or order, either adopted or reiterated the reasoning, or recorded an express approval of the reasoning, incorporated in the judgment or order of the subordinate forum.

[79] (2002) 8 SCC 361

113. It is clear that what gets merged is the operative part of the original judgment and order, not its entirety, unless the appellate court adopts, reiterates the reasoning, or expressly approves the reasoning contained in the first-instance court's judgment and order. Put differently, a 'declaration of law' by the appellate court regarding the issues before the first-instance court is necessary, which can only be inferred from a detailed, analytical order rather than a mere dismissal seeking closure of the case without clear discussion or analysis. Therefore, it becomes imperative to discern whether the appellate court's judgment and order indeed 'declares' the law on the issues presented before the first-instance court.

114. At the cost of repetition, we may note that placing heavy reliance on ***Kunhayammed*** (supra) learned senior counsel for Reddy argued that the impugned order of the High Court having merged with the decision in ***Reddy Veerana*** (supra), the former ceases to exist, and it is the latter which subsists, remains operative, and is capable of enforcement in the eye of the law.

115. Reverting to ***Kunhayammed*** (supra), we bear in mind what the coordinate Bench expressed in paragraphs 12 and 44(iii) extracted supra. While wholeheartedly concurring with the law laid down in ***Kunhayammed*** (supra), we also notice that ***Kunhayammed*** (supra), on its own terms, has recognized that the doctrine of merger has limited application; hence, the same decision does carve out an exception requiring every matter coming before the courts, where the point of merger is raised, to be decided on case-to-case basis.

116. There can be no doubt that a review petition before the court which passed the decree/order would be barred by reason of application of the doctrine of merger if despite dismissal of a civil appeal by this Court, be it by a reasoned or an unreasoned order, the appellant chooses to approach the court (whose decree/order was impugned) once again with a review petition. Notably, the issue that has engaged our attention in this appeal did not arise for decision in ***Kunhayammed*** (supra).

117. We preface our discussion on the next point by reiterating that a party to the proceedings affected by a judgment/order may appeal as of right within the prescribed period of limitation, if such a right is created by a statute. However, insofar as a stranger, i.e., a non-party to the proceedings is concerned, if an appeal from the judgment/order is allowed, he too can appeal provided a leave/permission is granted by the appellate court. Law is well-settled that much is not required to obtain leave/permission. If a stranger, dissatisfied with a judgment/order, can make out even a *prima facie* case that he, being bound by such judgment/order, is aggrieved by it or prejudicially affected by it, there could arise little reason for declining leave/permission. We may usefully refer to the decisions in ***Jatan Kumar Golcha v. Golcha Properties (P) Ltd.***[80] and ***State of Punjab v. Amar Singh***[81] in this behalf. Precisely for this reason, the two-Judge Bench (cor. Surya Kant and Dipankar Datta, JJ.) granted permission to Vishnu to appeal against the impugned order.

[80] (1970) 3 SCC 573
[81] (1974) 2 SCC 70

118. Without reading and understanding the ratio laid down in ***Kunhayammed*** (supra) in light of the issue that was decided by it and blindly placing reliance on such ratio, as if it were a one-size-fits-all situations, could produce a result which may not be what the interest of justice of a given case would demand. A couple of situations can be conceived of where the principle of merger, as enunciated and in the manner understood as well as applied, could bring about undesirable and pernicious results.

119. One of the situations, akin to the present case, could be where the judgment and order of a high court upon a challenge being laid before this Court is upheld in the course of disposal of a civil appeal by way of its dismissal. As a result of merger of the operative directions contained in the order of the high court in the appellate order of this Court, it is such appellate order which would partake the character of the only operative order. Now, if the order of the high court prejudicially affects a third party or even has the effect of binding such party but such party was deliberately not included in the array of respondents and, in fact, it is proved that he was unaware of the proceedings before the high court or this Court, the remedy of such affected party to appeal against the order of the high court with the permission of this Court as and when he derives knowledge of the same would not be available if the contention sought to be raised on behalf of Reddy, based on the merger doctrine, is accepted. The affected party would, thus, be disabled from applying for a review before the High Court per ***Kunhayammed*** (supra), its order having merged in this Court's order. No doubt, remedy by way of review followed by a curative petition is made available before this Court by the SC Rules, 2013 but the

same are not as wide as the remedy of appeal. Even in cases of such remedies, the party approaching this Court cannot urge, as a matter of right, that he be heard before an order is passed. The contention that Reddy has urged based on the merger doctrine, if accepted, might lead to highly unjust and inequitable consequences which, in cases, could be irreversible.

120. Let us consider another situation. This Court by enactments made by the Parliament exercises appellate jurisdiction over orders passed by several Tribunals. Suppose, one respondent in an original proceeding before a Tribunal considers itself aggrieved by an order passed by it and carries it in an appeal before this Court, which is dismissed by a Bench of two Judges in exercise of appellate jurisdiction *vide* a reasoned order without notice to the respondents on the first day it is listed. However, while such appeal was pending before this Court, another respondent in the original proceeding before the Tribunal is also desirous of carrying the same order in appeal but, for sufficient cause, is unable to appeal readily. By the time such respondent upon completion of all formalities presents its appeal and the same comes up for consideration before a Bench of this Court, whatever be the strength of the Bench, the respondent in the appeal being the successful applicant before the Tribunal and before this Court too brings to its notice that the appeal presented first in point of time has been listed and dismissed by a Bench of two Judges of this Court. Should the appellant (in the appeal, which was filed later) be told off at the gates on the sole ground that the order under appeal has ceased to be the operative order, having merged with the appellate order of this Court? If the situation unfolds to be such where the Bench of greater strength is inclined to admit the

appeal disagreeing with the view of the Bench of two Judges, can it be said that the said Bench would be disabled from exercising their appellate jurisdiction since, per the doctrine of merger, the order under appeal does not exist? The answers to the aforesaid questions, in our considered opinion, cannot but be in the negative. A right of hearing that accompanies every proceeding decided publicly, unless such hearing is barred, cannot be cast aside for no better reason than that of a merger having occurred.

121. There is one other exception to the doctrine of merger. Nowadays, it is not a rarity to find that petitions involving similar, though not identical, issues are clubbed together and disposed of by a common judgment and order. If such a judgment and order is unsuccessfully challenged before a superior court by one of the petitioners to the proceedings, and such a challenge fails, the doctrine of merger may not apply when another set of petitioners challenges the same (common) judgement and order; if the second set of petitioners are able to demonstrate that the case run by them is not identical (though bearing resemblance) with the proceedings already decided, it would still be open for the superior court to entertain the challenge and rule in a manner different from the earlier proceedings.

122. Thus, the application of the doctrine of merger, in every case, should be accompanied by an awareness of its limitations and should not be wielded to close avenues for addressing genuine concerns. Prioritizing justice and fairness should supersede an absolute insistence on finality. While the latter is commendable, the former is superior. These doctrines, even though are grounded in sound and justifiable public policy arguments, yet, do not limit the

powers of the courts in cases where larger public interest is at stake. They have been adapted to accommodate exceptions and qualifications, leaving room for acknowledging special circumstances, particularly in matters of public significance.

123. On a conspectus of the authorities, we are inclined to the view that the doctrine of merger may not have any application in all cases of cognate civil appeals being carried from the same order (obviously at the instance of a party different from the appellant who approached this Court first in point of time), if it is convincingly demonstrated that (i) his right of appeal should not be foreclosed because of the very rare or special circumstance(s) that is/are projected before the court; or (ii) his appeal raises an issue of seminal public importance, which was not available to be raised by the appellant who approached this Court in its appellate jurisdiction in the earlier round of litigation, and also that such issue in the greater public interest requires a resolution by this Court; or (iii) since an act of court ought to prejudice none, refusal to interfere by this Court would invariably result in offending the principle of *actus curiae neminem gravabit*; or (iv) the earlier appellate decision is vitiated because of fraud having been practiced on this Court by a party in whose favour the ruling had been made, as in this case; or (v) that public interest would be put to extreme jeopardy by reason of irretrievable consequences ensuing, if interference which is otherwise found to be warranted in law were declined solely based on the doctrine of merger.

124. Having noted that fraud is an exception to the doctrine of merger and considering that the impugned order of the High Court and the decision of this

Court in ***Reddy Veerana*** (supra) have been found by us to be vitiated by fraud, the argument by learned senior counsel for Reddy as regards the non-maintainability of the present proceedings based on the merger doctrine is of no significance.

PROCEDURE, IF AN IMPEDIMENT TO EXERCISE JURISDICTION

125. Procedural law is a sentinel of non-arbitrariness; it not only provides a safeguard against the individual vagaries of a judge but also establishes a structured framework for litigants to approach the legal system for redressal of their issues. However, procedural law cannot foresee all situations that may arise. Procedure must facilitate justice, not detract from it. In special cases, the letter of procedural law must yield to the ends of justice. Courts are, of course, duty-bound to apply procedural law in its entirety, save where such application would result in manifest absurdity.

126. The contention advanced by learned senior counsel for Reddy is that the procedure undertaken by the Registry and the Division Bench of this Court violates the SC Rules, 2013. We are in complete disagreement with such a proposition since the provisions of the SC Rules, 2013, highlighted by learned senior counsel for Reddy, are applicable in the course of normal action. Once fraud, on the face of the record, is proved, the procedural law laid down by the SC Rules, 2013 must support the actualisation of justice, not the continued perpetuation of wrongs. We quite agree with the contention of learned senior counsel for Vishnu that Order LV, Rule 6 of the SC Rules, 2013 specifically recognises the inherent powers of this Court in the exercise of jurisdiction to secure justice. When the Court has been the victim of fraud, it's hands cannot

be tied down by procedural laws in a manner to defeat the interests and rights of other parties.

127. In the case of ***State of Punjab v. Shamlal Murari***[82], this Court with reference to Rule 3 of the Punjab and Haryana High Court Rules and Orders, Vol. 5, Chap. 1-A held:

> **8.** …This omission or default is only a breach which can be characterised as an irregularity to be corrected by condonation on application by the party fulfilling the condition within a time allowed by the court. We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice. Where the non-compliance, tho' procedural, will thwart fair hearing or prejudice doing of justice to parties, the rule is mandatory. But, grammar apart, if the breach can be corrected without injury to a just disposal of the case, we should not enthrone a regulatory requirement into a dominant desideratum. After all, courts are to do justice, not to wreck this end product on technicalities. Viewed in this perspective, even what is regarded as mandatory traditionally may, perhaps, have to be moderated into wholesome directions to be complied with in time or in extended time… .

128. In ***M.V. "Vali Pero" v. Fernandeo Lopez***[83], this Court in a case regarding Rule 4 of Chapter XXII of the Calcutta High Court Rules, 1914, as applicable to the Original Side, held that:

> **18.** Rules of procedure are not by themselves an end but the means to achieve the ends of justice. Rules of procedure are tools forged to achieve justice and are not hurdles to obstruct the pathway to justice. Construction of a rule of procedure which promotes justice and prevents its miscarriage by enabling the court to do justice in myriad situations, all of which cannot be envisaged, acting within the limits of the permissible construction, must be preferred to that which is rigid and negatives the cause of justice. The reason is obvious. Procedure is meant to subserve and not rule the cause of justice. Where the outcome and fairness of the procedure adopted is not doubted and the essentials of the prescribed procedure have been followed, there is no reason to discard the result simply because certain details which have not prejudicially affected the result have been inadvertently omitted in a particular case. In our view, this appears to be the pragmatic approach which needs to be adopted while construing a purely procedural provision. Otherwise, rules of procedure will become the mistress instead of remaining the handmaid of justice, contrary to the role attributed to it in our legal system.

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[82] (1976) 1 SCC 719
[83] (1989) 4 SCC 671

129. We have no hesitation to hold that a similar interpretation can be applied to the SC Rules, 2013.

130. The contention of Reddy under consideration can also be dealt with by applying the maxim *actus curiae neminem gravabit*. No act of Court should harm a party being the foremost principle in the mind of any Court, it would be a travesty of justice if such court, feeling bound by the shackles of technicalities, were to decline interference to set things right despite arriving at a definitive conclusion of being tricked by fraud; and, it is a fallacy to urge such a contention before the Supreme Court, which has vast and pervasive powers to remedy any wrong that might have occasioned to a litigant owing to sharp and fraudulent practices of another litigant, more particularly in a case of proven fraud.

131. This contention of Reddy, therefore, must fail owing to our satisfaction of the impugned order and the decision in ***Reddy Veerana*** (supra) having been vitiated by fraud.

C. VISHNU PURSUING THE CIVIL APPEAL AS WELL AS THE REVIEW PETITION AND APPLICATION FOR MODIFICATION/RECALL, SIMULTANEOUSLY

132. That Vishnu has spared no effort to explore every option has been noticed by us above.

133. An appeal against a decree or order, passed or made by an inferior court, before a superior court and a review of the same decree/order before the court which passed/made it cannot simultaneously be pursued by the same party. The logic behind it is that there cannot be a parallel challenge to the same decree or order by the same party before two different fora – that is, in the

courts of appellate jurisdiction and original jurisdiction. On the very terms of Section 114 read with Order XLVII Rule 1, CPC, such a course of action is not permissible.

134. However, there is an absence of a two-pronged assail in two different proceedings by Vishnu to the same decree or order: whereas the civil appeal is directed against the impugned order, a petition has subsequently been filed by Vishnu for review of the decision in ***Reddy Veerana*** (supra) [which had the occasion to modify the impugned order]. Therefore, neither Section 114 nor Order XLVII Rule 1, CPC would create a legal bar for entertaining the two proceedings [appeal and review] that have been initiated by Vishnu.

135. Nevertheless, it does seem to us to be a well thought out endeavour on the part of Vishnu to file the petition for review even after he had carried the impugned order in an independent appeal before this Court. Uncertainty was looming large and Vishnu, not content to rest on his oars by simply appealing to the conscience of this Court, also sought a review to remedy the wrong caused to him by Reddy. If indeed the appeal against the impugned order were to fail on the ground that the same had merged in the decision in ***Reddy Veerana*** (supra), as argued by Reddy, or even if the same appeal were to succeed and the impugned order set aside, Vishnu would have very little to salvage since the decision in ***Reddy Veerana*** (supra) would still hold the field. Filing of the review by Vishnu, thus, appears to have been intended to ensure that he is either not non-suited or that even after achieving success in appeal, he is not left in the lurch. However, we are of the considered opinion that even if Vishnu had not applied for a review - as a logical corollary of the aforesaid

discussions - the decision in ***Reddy Veerana*** (supra) too having been obtained by Reddy by playing fraud, has to be erased from the records being a nullity.

136. Turning to the order under appeal declining registration of the petition for review, which has been directed to be tagged with these proceedings and also requires simultaneous disposal, we find that the petition was marked as defective. The grounds based whereon the Registrar declined registration have been perused.

137. The occasion has now arisen for considering the grounds urged in support of the appeal against the Registrar's order. Apart from an objection that appropriate quantum of court fees has not been deposited, which Vishnu has disputed, the Registrar noted certain technical defects concerning array of parties and the like. The same are certainly curable defects. We, therefore, find it necessary to allow the appeal by requiring the Registry to notify the additional quantum of court fees payable by Vishnu, which has not been notified to him, as well as grant liberty to Vishnu to cure the other technical defects within a fortnight from this date. It is only upon curing of such defects that the petition for review shall be treated to be in order.

138. As already discussed above, due to fraud having been played by Reddy, the doctrine of merger does not apply and, thus, the impugned order is open to interference notwithstanding the decision of this Court in ***Reddy Veerana*** (supra). For reasons already discussed, the civil appeal has to be allowed and the impugned order set aside.

139. As a logical corollary of the impugned order being set aside, it would follow that the decision of this Court in ***Reddy Veerana*** (supra), upholding the same, which too was obtained by playing fraud, will also be a nullity, and thus stand recalled in exercise of our inherent powers.

140. Furthermore, based on the aforesaid discussion, we are also inclined to allow the application (MA 1737/2023 in MA 255/2023 in C.A. No. 3636/2022) for recall of the order dated 30th January, 2023 whereby this Court directed Vishnu to approach the court under Section 30 of the 1894 Act for appropriate relief.

D. FORUM SHOPPING

141. The contention that Vishnu has engaged in forum shopping is premised on the fact that he instituted Civil Suit No. 471/2020 on 7th August, 2020 before the trial court claiming that the compromise decree dated 17th November, 2006 was null and void and, therefore, it is contended that the present proceedings are instituted to bypass the jurisdiction of the trial court.

142. This contention has been urged to be rejected. When the High Court has already ruled in a proceeding that directly affects Vishnu's right and when such decision, on appeal, is replaced by the decision of the higher court in ***Reddy Veerana*** (supra), Vishnu invariably was left with no other option but to approach this Court by way of these proceedings. After the decision in ***Reddy Veerana*** (supra), it is obvious that no court, far less the trial court, would venture to make any order having the effect of upsetting what this Court had directed rendering Vishnu's endeavour to approach any other court useless before first attempting to have the order operating against him in ***Reddy Veerana*** (supra) vacated/recalled.

143. Pertinently, we wish to point out that considering the long-standing set of disputes between the trio, it would have been appropriate if the High Court were urged to implead those third parties whose rights could specifically be affected. However, the High Court proceeded unaware of the fact that there was one other party (read Vishnu) who was claiming joint ownership and had even instituted a suit to have the decree obtained by Reddy declared void. Now, in view of the order that we propose to pass, we hope and trust that all the necessary parties would be brought on record and extended the opportunity to place their respective versions to facilitate an appropriate decision to be rendered to terminate the present *lis* by a just and proper redetermination of the compensation payable to the rightful claimant(s).

CONCLUSION

144. In the wake of the unbecoming conduct of the trio, we do not feel bound by the nature of relief claimed by Vishnu. We, therefore, consider it appropriate to order/direct as under:

i. the impugned order of the High Court dated 28th October, 2021 passed in WP (Civil) 2272/2019 [Reddy Veeranna v. State of Uttar Pradesh & ors.] stands set aside, since fraud has vitiated the entire proceedings;

ii. as a corollary to the above, the judgment and order dated 5th May, 2022 in ***Reddy Veerana*** (supra) (which too was obtained by playing fraud) is declared to be a nullity and stands recalled in exercise of our inherent powers;

iii. the order dated 30th January, 2023 passed by this Court in MA 255/2023 in C.A. No. 3636/2022 is recalled, also in exercise of our inherent powers;

iv. WP (Civil) 2272/2019 [Reddy Veeranna v. State of Uttar Pradesh & ors.] is remanded in its entirety to the High Court;

v. as a consequence of (iv) supra, WP (Civil) 2272/2019 will stand revived and restored on the file of the High Court with direction to implead Vishnu Vardhan and T. Sudhakar as additional respondents;

vi. WP (Civil) 2272/2019 will be decided afresh by the High Court in accordance with law, upon hearing all interested parties;

vii. should any disputed question of fact arise for decision disabling it to decide the same based on affidavit evidence, the High Court may in its discretion permit the parties to lead oral and documentary evidence regarding the claim for compensation as well as re-determination and apportionment thereof amongst the rightful claimants, as if it were exercising powers under Section 54 of the 1894 Act.

viii. till such time a decision is given by the High Court, the interim order dated 21st January 2025, whereby we allowed Reddy to furnish securities through his partnership firm Manyata-Pristine instead of cash deposit, shall continue meaning thereby that the securities furnished by him in the form of title deeds of immovable properties shall remain deposited with this Court and shall be subject to and abide by further orders of the High Court;

ix. however, the interim order dated 3rd October, 2024 restraining Reddy from entering into any agreement to sell and/or to create third party rights in respect of the immovable assets owned by him (except those for which

security has been furnished), his family and the companies created by him or his family members shall remain in abeyance subject to his cooperating with the High Court for early disposal of the writ petition;

x. in the event of non-cooperation from the side of Reddy, the High Court may pass such restraining order as it may deem fit and proper.

xi. having regard to the magnitude of fraud which we have detected in course of consideration of these proceedings, we find it just and proper to request the Chief Justice of the High Court to preside over the Division Bench for finally deciding the writ petition as early as possible, and subject to the convenience of the Bench, preferably by the year end;

xii. all questions on merits, other than those decided *vide* this judgment, including re-determination of fair and just compensation for the acquired land and apportionment thereof, are kept open for being urged before the High Court;

xiii. having regard to the track record of the trio, the possibility of a compromise cannot be totally ruled out and if they file terms of settlement, we hope and trust that the High Court will carefully examine such terms to ensure that public interest is not hindered in its acceptance; and

xiv. pending suits/proceedings, if any before any judicial fora / administrative authority, shall be taken to its logical conclusion in accordance with law.

145. The civil appeal (CA 7777 of 2023), the appeal against the order of the Registrar (MA Diary No. 6013/2024 in Review Petition Diary No. 33040/ 2023), and the application for recall of the order dated 30th January, 2023 (MA 1737/2023 in MA 255/2023 in C.A. No. 3636/2022) are allowed and shall

stand disposed of on the above terms together with all other connected applications. The writ petition [WP (C) 673 of 2023] is, however, dismissed.

146. As indicated in paragraph 137, Vishnu shall be at liberty to cure the defects upon due communication of the additional court fees to be put in by him for making the petition for review in order. Thereafter, the petition for review (Dy. No. 33040/2023) shall be registered, appropriately numbered, and shown to have been disposed of by this order. Should Vishnu fail to cure the defects, the petition shall stand dismissed as infructuous.

147. SMC (C) No. 3/2024 will be heard separately.

148. In view of the remand ordered by us, we observe that the parties shall bear their own costs.

.....J
(SURYA KANT)

.....J
(DIPANKAR DATTA)

.....J
(UJJAL BHUYAN)

NEW DELHI;
JULY 23, 2025.