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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 1448 of 2026
CNR No. ODHC010837802026

M/s. Paltronics Allied Industries Pvt. Ltd. …. **Appellant**

-Versus-

State of Odisha and others …. **Respondents**

Advocates appeared in this case:

For Appellant : Mr. Manoj Mishra, Sr. Advocate &
Mr. Subir Palit, Sr. Advocate
assisted by
Mr. N. Dadhichi &
Mr. T. Mishra, Advocates

For Respondents : Mr. Debasish Tripathy,
Addl. Government Advocate

CORAM:

HON' BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

J U D G M E N T

Date of Judgment: 12th November, 2026

HARISH TANDON, CJ.

1. The instant appeal arises from a judgment dated 09.10.2026 passed by the Single Bench in W.P.(C) No. 33186 of 2025 by which

the order dated 22.07.2025 passed by the Additional District Magistrate, Bhubaneswar in OLR Appeal No. 15 of 2024 was set aside and the matter was relegated to the said authority with liberty to file an application for condonation of delay to be decided at the first instance before the said appellate authority undertakes an exercise of deciding the matter on merit.

2. In course of hearing of the instant appeal two seminal issues arose with regard to the competence of the appeal under Section 58 of the Odisha Land Reforms Act, 1960 ("OLR Act", for short) at the behest of the Tahasildar assailing the order passed by the Additional Tahasildar and whether the plea of fraud without there being any foundation laid in the appeal can be permitted to be raised.

3. At the very outset we must record that those pleas do not appear to have been raised before the Single Bench nor the findings and reasons written in the impugned judgment on its bare look appears to have been decided therein. The first and foremost question that arose before us is whether the question of *locus standi* of the Tahasildar in preferring an appeal under the aforesaid provision can be gone into as a pure question of law.

4. The counsels were invited to address the aforesaid issue taken for the first time in the instant appeal to ascertain whether such point raised for the first time in the instant appeal can be entertained and/or gone into. A prelude to the litigation is succinctly narrated in pursuit of determining the said question becomes inevitable not only as a plea of demur, but determination of such question as a pure question of law raised for the first time without there being any specific objection taken either before the appellate authority or the Single Bench.

5. It is undisputed that the land admeasuring an area of Ac.5.00 decimals pertaining to Plot No. 309/1694 under Khata No. 474/5 of Mouza-Patia in Bhubaneswar was originally demised unto one Tejpal Singh, Proprietor of M/s. Paltronics Allied Industries by the State in W.L. Case No. 1019/1979 upon execution of a lease deed duly registered on 13.12.1979. The Record of Right was also corrected in favour of said Tejpal Singh as *Sthitiba*n status disclosing the nature of the land as *Patita*. Subsequently, the said proprietorship concern was incorporated and all the assets and liabilities of the proprietorship concern were transmitted into a company and the Record of Right was also duly corrected and recorded as such.

6. The said Tejpal Singh was inducted as one of the Directors of the said company and on the application made by the company, Mutation Case No. 7114 of 2022 was initiated and the Additional Tahasildar, Bhubaneswar allowed the conversion of the land from *Patita* Kisam to Homestead Kisam under Section 8A of the OLR Act by passing an order dated 30.04.2022. Undisputedly, the conversion fees was deposited by the appellant company and the said order of conversion was subsequently approved and affirmed by the Sub-Collector, Bhubaneswar leading to correction of the Record of Right in favour of the appellant.

7. Interestingly the Tahasildar, Bhubaneswar challenged the said order of conversion before the Additional District Magistrate, Bhubaneswar which gave rise to registration of OLR Appeal No. 15 of 2024 without accompanying application for condonation of delay. The Additional District Magistrate, Bhubaneswar allowed the said appeal on 22.07.2025; thereby set aside the order of conversion dated 30.04.2022. The appellant challenged the said order by filing the writ petition before the Single Bench and the said writ petition was disposed of solely on the ground that whether the said impugned order is not legally sustainable in absence of any application for

condonation of delay by taking shelter under Section 17 of the Limitation Act, 1963.

8. Since a plea is taken whether the Tahasildar is competent or has a *locus standi* to challenge the order of the Additional Tahasildar by filing an appeal under Section 58 of the said Act, the appearing counsels are at variance. According to the counsel for the appellant such point being a pure question of law can be raised for the first time in the instant writ appeal, but the counsel for the respondent-State contended that the plea not taken before the authority nor in the writ petition filed before the Single Bench, cannot be permitted to be agitated for the first time.

9. It is undisputed that the Right of Appeal is a statutory right and in the event the statute does not provide such right, it cannot be assumed. Section 58 of the Act provides a right of Appeal to any person aggrieved by an order under any of the sections mentioned therein before the prescribed authority. Section 58 of the OLR Act imbibed within the fold of Section 8A and there is no misnomer that the right of appeal is reserved and preserved under the said provision. The said section is quoted as under:

> **"58. Appeal**- (1) Any person aggrieved by an order passed under any of the following sections may prefer an appeal to the prescribed authority, namely:
> Sections 4, 8-A, 9(4), 10, 12(2), 15, 16, 17, 18, 19(1)(c), 20, 21, 22(1), 22-A(5), 23(2), 23-A, 27, 28, 34-A, 35, 36-A, 36-C, 42, 45-B (1), 52, 55-A, 56-B and 57-B (4).
> (2) The procedure of filing and disposal of appeals shall be as may be prescribed.
> (3) Any tenant aggrieved by an order passed under Section 27, Section 35 or Section 36-A (other than an order dismissing the case for default or non-prosecution) prior to the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 may, if he has not preferred an appeal as provided in sub-section (1), prefer the same within one year from the said date."

10. Rule-42 of the Odisha Land Reforms (General) Rules, 1965 provides a forum of appeal in the following:

> **"42. An appeal under sub-section (1) of Section 58**-
> An appeal under Section 58 shall lie to –
> (1) The Sub-divisional Officer or an officer specially appointed by Government in this behalf who is suitable for appointment as Sub-divisional Officer if the order appealed against was passed by a Revenue Officer

below the rank of a Sub-divisional Officer and is against any order other than an order passed under Sections 22, 23 and 23-A of the Act and any appeal against any such order pending on the date of commencement of the Orissa Land Reforms (General) (Amendment) Rules, 1980 shall be transferred to the Sub-divisional Officer for hearing and disposal.

(2) The Additional District Magistrate of the District or an Officer specially appointed by Government in this behalf who is suitable for appointment as Additional District Magistrate if the order appealed against was passed by a Revenue Officer not below the rank of Sub-divisional Officer or against an order passed under Sections 22, 23 and 23-A :

Provided that any such appeal pending on the date of commencement of the Orissa Land Reforms (General) (Amendment) Rules, 1980 shall be heard and disposed of as if the said rules had not come into force."

11. Section 63 of the Odisha Land Reforms Act, 1960 engulfed within itself the applicability of the provisions of the Limitation Act by way of specific reference in relation to an appeal or the revision filed before the competent authority. However, it restricts the applicability of certain provisions of the Limitation Act thereby eliminating the other provisions of

the Limitation Act and, therefore, it can be reasonably inferred that the provisions contained in the Limitation Act in its entirety is not applicable. Before we proceed further it would be apposite to quote the provision contained under Section 63 of the said Act, which runs thus:

> **"63. Limitation.**
>
> (1) The State Government may, by notification from time to time for sufficient reasons, extend the period of limitation provided under second proviso to sub-section (2) or the second proviso to sub-section (5) of Section 4 or under Section 36-A by such further period as they deem proper, so, however, that the total period of extension shall in no event exceed two years.
>
> (2) Every appeal or application for revision under this Act unless specifically provided elsewhere in the Act shall be filed, within a period or thirty days from the date of the order against which such appeal or revision is preferred. The provisions of Section 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal or application for revision."

12. Sub-section 2 of the said Section 63 encompasses the applicability of Sections 4, 5, 12 and 14 of the said Limitation Act, thereby keeping the other provisions of the Limitation Act outside the

purview of the said appeal. It is no longer *res integra* that the legislature may imbibe an Act to apply while legislating another Act by way of a reference, thereby the applicability of such Act can be clearly envisioned. It is also pertinent that once the legislature has restricted certain provisions of the Act to apply in another Act legislated subsequently, it eliminates the other provisions of the said Act and, therefore, the recourse thereunder is not permissible.

13. Taking a clue from the aforesaid provision, which assumes significance in addressing the point on the maintainability of appeal at the behest of the Tahasildar against the order of the Additional Tahasildar, whether can be raised for the first time as a pure question of law.

14. In ***Gurucharan Sing v. Kamla Sing and others,*** reported in ***(1976) 2 SCC 152***, an identical question arose when a plea being a pure question of law was raised for the first time before the Court and objection was raised that such point cannot be agitated for the first time. The Apex Court noticed the judgment rendered by Lord Watson in ***Connecticut Fire Insurance Company v. Kavanath*** reported in ***1892 AC 473,*** wherein it was held that when a question of law is raised for the first time even in a Court of last resort, it would be

prudent and expedient in the interest of justice to entertain such plea. Placing reliance upon such observation, it is held that the Court shall permit the parties to raise a pure question of law, which strikes at the root of the jurisdiction based upon undisputed and/or proven facts, provided it does not surprise the other party in the following:

> **"11.** Before we examine this quintessential aspect presented before us with complex scholarship by Shri S.C. Misra we had better make short shrift of certain other questions raised by him. He has desired us, by way of preliminary objection, not to give quarter to the plea, founded on Section 6 of the Act, to non-suit his client, since it was a point raised de novo at the Letters Patent stage. The High Court gave thought to this objection but overruled it, if we may say so, rightly. The Court narrated the twists and turns of factual and legal circumstances which served to extenuate the omission to urge the point earlier but hit the nail on the head when it held that it was well-settled that a pure question of law going to the root of the case and based on undisputed or proven facts could be raised even before the Court of last report, provided the opposite side was not taken by surprise or otherwise unfairly prejudiced. Lord Watson, in *Connecticut Fire Insurance Company* v. *Kavanagh* [1892 AC 473, 480] , stated the law thus:
>
> > "When a question of law is raided for the first time in a Court of last resort upon the construction of a document or upon facts either admitted or proved beyond controversy, it is not only competent but expedient in the interest of justice to entertain the plea. The expediency of adopting that course may be doubted when the plea cannot be disposed of without deciding nice questions of fact in considering which the Court of ultimate review is placed in a much less advantageous

> position than the courts below. But Their Lordships have no hesitation in holding that the course ought not in any case to be followed unless the court is satisfied that the evidence upon which they are asked to decide establishes beyond doubt that the facts if fully investigated would have supported the new plea.
>
> We agree with the High Court that the new plea springs from the common case of the parties and nothing which may work injustice by allowance of this contention at the late stage of the Letters Patent appeal has been made out to our satisfaction. Therefore, we proceed to consider the impact and applicability of Section 6 of the Act to the circumstances of the present case."

15. In ***Greater Mohali Area Development Authority and other v. Manju Jain and others***, reported in ***(2010) 9 SCC 157***, the apex Court made a distinction between new plea of fact or mixed question of fact and/or law to be raised for the first time and a plea of pure question of law. It is categorically held that the plea which is founded upon a new fact or essentially a mixed question of fact and law cannot be permitted to be raised for the first time before the higher forum, but if the plea is pure question of law founded upon the existing facts can be raised for the first time in the following:

> "26. Respondent 1 raised the plea of non-receipt of the letter of allotment first time before the High Court.

Even if it is assumed that it is correct, the question does arise as to whether such a new plea on facts could be agitated before the writ court. It is settled legal proposition that pure question of law can be raised at any time of the proceedings but a question of fact which requires investigation and inquiry, and for which no factual foundation has been laid by a party before the court or tribunal below, cannot be allowed to be agitated in the writ petition. If the writ court for some compelling circumstances desires to entertain a new factual plea the court must give due opportunity to the opposite party to controvert the same and adduce the evidence to substantiate its pleadings. Thus, it is not permissible for the High Court to consider a new case on facts or mixed question of fact and law which was not the case of the parties before the court or tribunal below. [Vide State of U.P. v. Dr. Anupam Gupta [1993 Supp (1) SCC 594 : AIR 1992 SC 932] , Ram Kumar Agarwal v. Thawar Das [(1999) 7 SCC 303] , Vasantha Viswanathan v. V.K. Elayalwar [(2001) 8 SCC 133] , Anup Kumar Kundu v. SudipCharan Chakraborty [(2006) 6 SCC 666 : 2006 SCC (L&S) 1521] , Tirupati Jute Industries (P) Ltd. v. State of W.B. [(2009) 14 SCC 406 : (2010) 2 SCC (L&S) 338] and Sanghvi Reconditioners (P) Ltd. v. Union of India [(2010) 2 SCC 733] .]

16. The similar view was expressed in ***V.L.S. Finance Limited v. Union of India and others***, reported in ***(2013) 6 SCC 278*** in the following:

> **"7.** Mr Shankaranarayanan has taken an extreme stand before this Court and contends that the Company Law Board has no jurisdiction to compound an offence punishable under Section 211(7) of the Act as the punishment provided is imprisonment also. Mr Bhushan, however, submits that imprisonment is not a mandatory punishment under Section 211(7) of the Act and, hence, the Company Law Board has the authority to compound the same. He also points out that this submission was not at all advanced before the Company Law Board and, therefore, the appellant cannot be permitted to raise this question for the first time before this Court. We are not in agreement with Mr Bhushan in regard to his plea that this question cannot be gone into by this Court at the first instance. In our opinion, in a case in which the facts pleaded give rise to a pure question of law going to the root of the matter, this Court possesses discretion to go into that. The position would have been different had the appellant for the first time prayed before this Court for adjudication on an issue of fact and then to apply the law and hold that the Company Law Board had no jurisdiction to compound the offence.

> **8.** Here, it is an admitted position that the allegation made exposed the Company and its Managing Director for punishment under Section 211(7) of the Act which provides for imprisonment or fine or with both. In the face of the same, no fact needs to be adjudicated and the point being a pure question of law going to the root of the matter, the same can be permitted to be raised before this Court for the first time. But that does not help the appellant as we are inclined to accept the submission of Mr Bhushan on merit."

17. In a subsequent judgment rendered in ***Ariane Orgachem Private Limited v. Wyeth Employees Union and others***, reported in ***(2015) 7 SCC 561*** a plea was taken by the appellant therein on the competency of the Deputy Labour Commissioner in passing the order of reference for the first time before the apex Court, which was admittedly not raised before the High Court. The objection was raised that such point having not been raised at the earliest opportunity cannot be raised for the first time before the Apex Court. The Apex Court repelled the aforesaid contention and held that if the question partakes a character of pure question of law and strikes at the root of the competence and/or jurisdiction based on the available facts, there is no fetter on the part of the Court of last resort to take up such point

after affording an opportunity of hearing to the other side in the following:

> **"36.** The appellant Company has also contended that the respondent Union has also raised the legal question regarding the competency of the Deputy Labour Commissioner in passing the order of reference for the first time before this Court and the same was not raised before the High Court, therefore, the same shall not be permitted to be raised in these proceedings and this Court need not go into this aspect of the matter, which is wholly untenable in law. This contention raised by the learned Senior Counsel for the appellant is rejected as the said contention is contrary to the issues/principles laid down by the Privy Council and this Court in the following judgments:
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> **36.1.** In *Connecticut Fire Insurance Co.* v. *Kavanagh* [1892 AC 473 (PC)] , Lord Watson has observed as under : (AC p. 480)
>
> > "… When a question of law is raised for the first time in a court of last resort, upon the construction of a document, or upon facts either admitted or proved beyond controversy, *it is not only competent but expedient, in the interests of justice, to entertain the plea*."
> >
> > *(emphasis supplied)*

The aforementioned view of the Court of Appeal has been relied upon by this Court in *Gurucharan Singh* v. *Kamla Singh* [(1976) 2 SCC 152] . Therefore, with regard to the abovementioned aspect regarding the plea of the competency of the Deputy Labour Commissioner to pass an order of refusal to make a reference, although is being raised before this Court for the first time, is based on admitted facts. Hence, in accordance with the view taken by the Court of Appeal in *Connecticut Fire Insurance Co. case* [1892 AC 473 (PC)] and this Court in *Gurucharan Singh case* [(1976) 2 SCC 152] , the argument advanced by the first respondent Union deserves to be considered by this Court.

36.2. A similar view has also been taken by this Court in *V.L.S. Finance Ltd.* v. *Union of India* [(2013) 6 SCC 278] and *Greater Mohali Area Development Authority* v. *Manju Jain* [(2010) 9 SCC 157 : (2010) 3 SCC (Civ) 639] , wherein it has been held that pure question of law can be raised at any stage of litigation.

36.3. In *National Textile Corpn. Ltd.* v. *Nareshkumar Badrikumar Jagad* [(2011) 12 SCC 695 : (2012) 2 SCC (Civ) 791] , it has been held by this Court that a new ground raising pure legal issue for which no inquiry or proof is required, can be raised at any stage.

36.4. Further, in *Madras Port Trust* v. *Hymanshu International* [(1979) 4 SCC 176] , this Court has held thus : (SCC p. 177, para 2)

> "*2.* … The plea of limitation based on this section is one which the court always looks upon with disfavour and it is unfortunate that a public authority like the Port Trust should, in all morality and justice, take up such a plea to defeat a just claim of the citizen. It is high time that Governments and public authorities adopt the practice of not relying upon technical pleas for the purpose of defeating legitimate claims of citizens and do what is fair and just to the citizens. Of course, if a Government or a public authority takes up a technical plea, the court has to decide it and if the plea is well founded, it has to be upheld by the court, but what we feel is that such a plea should not ordinarily be taken up by a Government or a public authority, unless of course the claim is not well founded and by reason of delay in filing it, the evidence for the purpose of resisting such a claim has become unavailable."

18. Recently, the apex Court in ***Shri Saurav Jain and Anr. v. M/s. A.B.P. Design & Anr***, reported in ***(2022) 18 SCC 633*** considering the point when a plea of power or jurisdiction was raised for the first time

which was repelled on the score that once the plea partakes a character of pure question of law and strikes at the competency and jurisdiction of the Court, it may be raised. The observations made in paragraphs-37 to 39 are quoted as under:

> **"37.** In *P.M.A. Metropolitan* v. *Moran Mar Marthoma* [*P.M.A. Metropolitan* v. *Moran Mar Marthoma*, 1995 Supp (4) SCC 286] as well, a three-Judge Bench of this Court entertained an objection as to maintainability of the suit under Section 9 CPC, despite the plea not having been raised before the courts below. The Court observed that the plea of a bar or lack of jurisdiction can be entertained at any stage, since an order or decree passed without jurisdiction is nonest in law.
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> **38.** The position of law has been consistently applied even in criminal proceedings under Article 136 of the Constitution. In *Masalti* v. *State of U.P.* [*Masalti* v. *State of U.P.*, 1964 SCC OnLine SC 30 : AIR 1965 SC 202] , the confirmation of the death sentence of a number of accused persons by the High Court was under challenge before this Court. Gajendragadkar, C.J., speaking for a four-Judge Bench of this Court, observed that : (SCC OnLine SC para 11)

"*11*. We are not prepared to accept Mr Sawhney's argument that even if this point was not raised by the appellants before the High Court, they are entitled to ask us to consider that point having regard to the fact that 10 persons have been ordered to be hanged. *It may be conceded that if a point of fact which plainly arises on the record, or a point of law which is relevant and material and can be argued without any further evidence being taken, was urged before the trial court and after it was rejected by it was not repeated before the High Court, it may, in a proper case, be permissible to the appellants to ask this Court to consider that point in an appeal under Article 136 of the Constitution; after all in criminal proceedings of this character where sentences of death are imposed on the appellants, it may not be appropriate to refuse to consider relevant and material pleas of fact and law only on the ground that they were not urged before the High Court*. If it is shown that the pleas were actually urged before the High Court and had not been considered by it, then, of course, the party is entitled as a matter of right to obtain a decision on those pleas from this Court. But even otherwise no hard-and-fast rule can be laid down

prohibiting such pleas being raised in appeals under Article 136."

(emphasis supplied)

39. Based on the position of law, we find it just to allow the appellant to raise the ground of jurisdiction before us. Allowing the ground to be raised would not require the submission of additional evidence since it is a pure question of law and strikes at the heart of the matter. We shall now turn to the merits of this argument."

19. On the proposition of law enunciated in the above report, it leaves no ambiguity in our mind that any point which assumes a character of a pure question of law and can be conveniently decided on the basis of the undisputed and/or available facts from the record, can be permitted to be raised even at the Court of last resort. Every question of law, if based upon facts, which cannot be deciphered from the record, is not amenable to be raised for the first time when the party did not take such plea before the forum of first instance. The question of law, which raises a doubt on the *locus standi* of a person to maintain a proceeding or the competence and jurisdiction of the Court to entertain a proceeding, if it strikes at the exercise of such

jurisdiction, it partakes a character of pure question of law and amenable to be raised for its determination.

20. Having perceived such proposition of law, the solitary question raised in the instant writ appeal is whether the Tahasildar can be regarded as a "person aggrieved" against the order of Additional Tahasildar, when such authority exercises the power of the Tahasildar by virtue of an inclusive definition assigned in the statute. By Rule 2(e) of the Odisha Land Reforms (General) Rules, 1965, the word 'Tahasildar' has been defined to include an Additional Tahasildar. As succinctly adumbrated hereinabove, the appeal under Section 58 of the Odisha Land Reforms Act, 1960 is filed by the Tahasildar assailing the order of the Additional Tahasildar passed under Section 8-A of the said Act. Hence, the question is, can he be regarded as a person aggrieved? The expression "any person aggrieved" is not defined in any statutes, nor in the Act under consideration and, therefore, it is an ardent duty of the Court to ascertain the meaning of such expression judicially determined.

21. Before we proceed to ascertain the meaning of the words "any person aggrieved", the emphasis is pressed upon a coordinate Bench decision of this Court in ***Pabani Barik v. Tahasildar, Bhubaneswar***

and others, reported in ***86 (1998) CLT 853***. In the said case, the Tahasildar preferred an appeal under Rule 42 of the Odisha Survey and Settlement Rules, 1962 assailing the order of the Additional Tahasildar exercising the powers of the Tahasildar in mutating the name in the Record of Rights and a plea was taken whether the Tahasildar can be regarded as "person aggrieved" to maintain an appeal before the appellate authority. Rule 2(d) of the said Rules ascribes the meaning of the word 'Tahasildar', which includes Additional Tahasildar. Such plea of demur was taken before the coordinate Bench which upon taking note of the letter issued by the Revenue and Excise Department, Government of Odisha dated 21.11.1992 held that the appeal at the instance of the Tahasildar is maintainable against the order of Additional Tahasildar. The said letter vividly reflects that the Tahasildar can file an appeal against the order of the Additional Tahasildar and *vice versa* not in his such capacity, but on behalf of the Government subject, however, to an approval from the concerned Collector.

22. We find a significant distinct feature in the language employed in the statutory provision relating to right to appeal in the said Rules and the Act and Rule applicable in the present case. Rule

42 of the Odisha Survey and Settlement Rules, 1962 does not contain the expression "person aggrieved", but exposits the right of an appeal from any final order made under Rule 41 thereof, if the original order is passed by the Assistant Settlement Officer exercising power of Tahasildar or any other Officer exercising such power of Tahasildar. The said Rule 42 is reproduced hereunder:

> *"**42. Appeal-** (1)An appeal from any final order made under Rule 41 shall lie –*
>
> *(i) if the original order was made by an Assistant Settlement Officer exercising the powers of the Tahasildar under those rules and working under the administrative control of the Settlement Officer, to the Settlement Officer; and*
>
> *(ii) if the original order was made by any other officer exercising the powers of the Tahasildar under these rules, to Sub-divisional Officer.*
>
> *(2) Every such appeal shall be presented within 180 (one hundred eighty days) from the date of order appealed against.*
>
> *Provided that the appeal period shall not be a bar for correction of records in respect of mutation case, where all co-sharers or recorded tenants sell the plot part or in full."*

23. It is, thus, evident from the language and the expression used in the said Rule that even if the Additional Tahasildar is included in the definition of a Tahasildar, yet he exercises the power that of a Tahasildar and it is clearly stipulated that such order is amenable to be challenged by way of an appeal before the authorities mentioned therein. Though the coordinate Bench held that the appeal at the instance of a Tahasildar is competent against the order of the Additional Tahasildar, but in view of the said letter dated 21.11.1992, it was in effect an appeal by the Government and not by the Tahasildar *per se*.

24. It is no longer *res integra* that the ratio of the judgment is to be culled out in the context it is so used. A little difference or an additional fact may invite a different conclusion and, therefore, the Court must read the judgment in its entirety in order to find out the ratio *decidendi*. The Court should not use a sentence or word from the judgment to decipher the ratio, nor the judgment should be read in a piecemeal manner. It is no gainsaying that the judgment rendered by the Court cannot be read as a statute and every word or expression used therein is to be interpreted under the rigour of the interpretative

tools. See paragraph 12 of ***Union of India v. Arulmozhi Iniarasu, (2011) 9 SCR 1***.

25. Section 58 of the Odisha Land Reforms Act, 1960 confers a right of an appeal to a person aggrieved by an order passed under any of the sections mentioned therein and, therefore, any person who does not satisfy the ingredients of the "person aggrieved" has no right to appeal. The aforesaid expression has been used since time immemorial in various British statutes and there is also a long list of the statutes enacted in our country.

26. Lord Parker attempted to give definition of the expression "person aggrieved" in ***Ealing Corporation v. Jones,*** reported in ***1959-1 QB 384*** having perceived to be an expression which often create conflict as made in a different context and involved the special standing of the party claiming the right of appeal. Drawing an inspiration from the *fons et origo* of the discussion of the said phrase propounded by James L. J. in ***In Re Sidebotham Ex p. Sidebotham, (1880) 14 Ch D 458*** in relation to the Bankruptcy Act of 1869, observed that a person would not satisfy the definition of a person aggrieved simply on a disappointment of the benefit, but must be a person who has suffered a legal grievance and be a man against whom

a decision has been pronounced wrongfully depriving him of something or wrongfully refusing him of something or wrongfully affecting the title to something.

27. In ***In Re Kitson; Ex. p. Sugden (Thomas) and Sons Ltd., (1911) 2 KB 109***, an attempt was made to explain the said expression "person aggrieved" to mean that mere fact that an order is wrongly made does not by itself give a grievance to a petitioner not otherwise aggrieved. The five Judge Bench decision of the Supreme Court in ***Adi Pherozshah Gandhi v. H.M. Seervai, Advocate General of Maharashtra, Bombay*** reported in ***AIR 1971 SC 385*** fortifies the aforesaid principles in the following:

> ***"12.*** *From these cases it is apparent that any person who feels disappointed with the result of the case is not a "person aggrieved". He must be disappointed of a benefit which he would have received if the order had gone the other way. The order must cause him a legal grievance by wrongfully depriving him of something. It is no doubt a legal grievance and not a grievance about material matters but his legal grievance must be a tendency to injure him. That the order is wrong or that it acquits some one who he thinks ought to be convicted does not by itself give rise to a legal grievance. These principles are gathered from the cases cited and do not, as I shall show later, do violence to the context in which the phrase occurs in the Advocates' Act. Although I am aware that in Seven Oaks Urban District Council v. Twynam (1929) 2 KB 440 at 443, Lord Hewart, C.J., uttered words of caution, again emphasised by Lord*

Parker, C.J. in 1959-1 QB 384 (supra), in applying too readily the definitions given in relation to other statutes but I do not think I am going beyond what Lord Hewart, C.J., said and what Lord Parker, C.J., did in the case. Lord Parker observed:

"... As Lord Hewart, C.J., pointed out in 1929-2 KB 440: 'But as has been said again and again there is often little utility in seeking to interpret particular expressions in one statute by reference to decisions given upon similar expressions in different statutes which have been enacted alio intuitu. The problem with which we are concerned is not, what is the meaning of the expression 'aggrieved' in any one of a dozen other statutes, but what is its meaning in this part of this statute? Accordingly, I only look at the cases to which we have been referred to see if there are general principles which can be extracted which will guide the court in approaching the question as to what the words 'person aggrieved' mean in any particular statute."

If I may say respectfully I fully endorse this approach. I am now in a position to examine the Advocates' Act but before I do so I must refer to a case near in point to this case, than any case considered before."

28. The case before the five Judge Bench relates to a *locus standi* of the Advocate General of the State challenging the decision of the disciplinary committee of the Bar Council as he felt that the order is erroneous. In the backdrop of the above, it is held as under:

***"64.** A decision by the Disciplinary Committee cannot necessarily be said to raise a point of public interest merely because the Advocate-General feels that it is erroneous or that he himself would have arrived at a different conclusion. That at best is his personal opinion as regards the conduct of an advocate who has to deal with the public and the non-acceptance thereof does not*

make him a person aggrieved. An Advocate-General in India is not the guardian angel of the Bar, nor is he the champion of public interest in any matter save as specified in a statute."

29. It is, thus, evident from the exposition of law laid down in the five Judge Bench decision of the Supreme Court that a person cannot satisfy the definition of "person aggrieved" merely he felt that the order annoys him or disappoints him unless he has a substantial interest, not only affecting his right, but prejudicial to his interest. Any other connotation to the said expression would create an anomalous situation where an authority in succession would continue to challenge the order of the predecessor as he is dissatisfied with the decision or the manner in which such decision has been arrived. What is important in this regard is whether he is personally affected or prejudiced by an order or any other person who can be regarded as a person aggrieved. It is no misnomer to suggest that the Government might felt aggrieved by any decision of the quasi-judicial authority and might invest the power upon any of the officer to act on behalf of the Government and challenge the said order as if the Government is an aggrieved person. The appeal is not maintainable in its personal capacity or a capacity *de hors* the concurrence of the Government. In the case of ***Pabani Barik*** (supra), the Government authorized the

Tahasildar to challenge the said order and, therefore, it was always regarded as an appeal at the instance of a Government and not the Tahasildar in its *persona designata.* The said case is distinguished on such scope and, therefore, lend in support thereof is not permissible.

30. In the instant case, the Tahasildar, in individual capacity, filed the appeal against the order of the Additional Tahasildar, who is admittedly discharging the functions of the Tahasildar without any such power having conferred by the Government, nor any approval in this regard is obtained.

31. The matter can be viewed from another angle as well. The language employed in Rule 42 of the Odisha Survey and Settlement Rules, 1962 is distinct and different from the language employed in Section 58 of the Odisha Land Reforms Act, 1960. It would not be wrong to suggest that the right of appeal emanates from the statute and, therefore, is regarded as a statutory right. Unless the right to appeal is inferred from the statutory provision either expressly or by necessary implication, no person can exhaust such right of appeal as he felt that the manner in which the order is passed disappoints him. Rule 42 of the Odisha Survey and Settlement Rules, 1962 does not expressly contain the words “person aggrieved” which is evidently

incorporated in Section 58 of the Odisha Land Reforms Act, 1960. Rule 42 of the Odisha Survey and Settlement Rules, 1962 contains the right of an appeal against any final order made by an authority mentioned therein exercising the powers of the Tahasildar and, therefore, a clear stipulation was made that even if an authority exercises the power of the Tahasildar, the right of appeal is reserved to a forum and if the Government intends to file the appeal, it may vest power into any authority including the Tahasildar to prefer the appeal. However, in Section 58 of the Odisha Land Reforms Act, 1960, the expression "any person aggrieved" is explicitly and clearly incorporated therein and, therefore, the first and foremost endeavour should be made to ascertain whether the person appealing against the order is an aggrieved person. Even if, the Additional Tahasildar is included within the definition of 'Tahasildar' given under Rule 2(e) of the Odisha Land Reforms (General) Rules, 1965, it would be regarded as an order passed by a Tahasildar. The person who passed the order cannot be regarded as a person aggrieved against his own order unless a different intention appears from the statutory provision as we found in the case of Rule 42 of the Odisha Survey and Settlement Rules, 1962.

32. In absence of any express stipulation in the statute, the order passed by the Additional Tahasildar by virtue of an inclusive definition of the word 'Tahasildar' shall be regarded as an order passed a Tahasildar and, therefore, the Tahasildar cannot be regarded as a person aggrieved solely on the ground that the order disappoints him or the manner in which such order is passed, does not conform to his understanding of law.

33. In view of the law so enunciated in the above reports, we do not find that the appeal at the instance of the Tahasildar in absence of any conferment of powers by the Government is competent and, therefore, he lacks *locus standi* as a person aggrieved. Though the impugned order is silent on the above aspect and was restricted to the powers of the appellate authority in deciding the matter on merit without condonation of delay, but such being a pure question of law strikes at the root of the competency of the appeal at the behest of the Tahasildar, we feel it prudent to decide the same and having held that the Tahasildar is not a person aggrieved, the appeal is not maintainable.

34. Accordingly, the impugned order passed by the single Bench is hereby set aside. As a consequence whereof, the appeal filed by the

Tahasildar before the appellate authority is not maintainable and, therefore, is dismissed.

35. The writ appeal is, thus, disposed of. There shall be no order as to costs.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Arun Mishra
S.K. Guin

Signature Not Verified
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