

**IN THE HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

**THE HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

**WRIT PETITION No.835 of 2018 & 12155 of 2020**

**DATED: 08.06.2026**

**Between:**

V.Yashoda

**...Petitioner**

**AND**

The State of Telangana,  
Rep. by its Principal Secretary,  
Revenue Department,  
Secretariat Buildings, Hyderabad and others.

**...Respondents**

**COMMON ORDER:**

W.P.No.835 of 2018 is filed to declare the Orders passed by respondent No.2/District Collector, Kamareddy District, *vide* file No.D3/302/2017, dated 08.12.2017, as illegal, arbitrary and in violation of Article 14, 16 and 300-A of Constitution of India and consequently, to set aside the notice of attachment issued by the Tahsildar, Nagireddypet Mandal, Kamareddy District, *vide* proceedings No.A2/200/2011, dated 06.01.2014.

2. W.P.No.12155 of 2020 is filed to declare the Form No.1/Distrait Order under Section 8 issued by the Mandal Girdawar, Nagireddypet Mandal, Kamareddy District, as illegal,

arbitrary and in violation of Article 300-A of Constitution of India and for consequential relief.

3. Heard Sri Ashok Reddy Kanathala, learned Counsel for the petitioner and learned Assistant Government Pleader for Revenue.

4. Since the parties in both the writ petitions is one and the same and the subject matter is interconnected, both the writ petitions are heard together and are disposed of by way of Common Order.

5. Brief facts of the case as averred in the writ affidavit are that petitioner's husband is the absolute owner and possessor of agricultural lands admeasuring Ac.1-12 gts in Sy.No.14/1 and an extent of Ac.0-34 gts in Sy.No.14/2, situated at Jalalpur Village, Nagireddypet Mandal, Kamareddy District (hereinafter referred to as 'subject property'), having inherited the same from his ancestors; that while petitioner's husband was working as Post Master, at Jalalpur Branch, he misappropriate an amount of Rs.14,89,096/- from the funds under National Rural Employment Guarantee Scheme and he expired on 17.06.2010; that respondent No.4-Tahsildar has issued Form No.5-notice of attachment, dated 06.01.2014, under Section 27 of Revenue Recovery Act, 1864 (for short 'the Act, 1864'), to the petitioner, stating that the subject property will be brought to sale, in case, if the petitioner fail to deposit an amount of

Rs.14,89,096/- on or before 22.01.2014; that petitioner made a representation dated 20.01.2014 before respondent No.2 stating that she did not know about the misappropriation of funds by her husband and the properties proposed to put to sale are ancestral properties and that her two sons are successors of the said properties as per the Hindu Succession Act, 1956, except the subject property, there is no other property to her family, therefore, requested to direct the respondent No.4 to withdraw the notice of attachment dated 06.01.2014; that respondent No.3 gave reply *vide* letter No.A6/1757/2013, dated 29.01.2014, denying the request of the petitioner.

6. Aggrieved by the notice of attachment dated 06.01.2014, petitioner filed a writ petition *vide* W.P.No.7379 of 2014 and this Court *vide* interim Order dated 12.03.2014, directed the respondents that attachment should continue, however, no action for realization of property be taken. Subsequently, the writ petition was disposed of *vide* Order dated 29.06.2017, directing the respondent No.2 to examine the reply dated 29.01.2014 and communicate the Order to the petitioner within a period of three months from the date of receipt of Order and granted liberty to the petitioner to file additional material/documents within four weeks from the date of Order and

further extended the interim Order dated 12.03.2014, till a decision is taken by respondent No.2 and communicate the same to the petitioner.

7. It is further averred that petitioner submitted a representation dated 18.07.2017 to respondent No.2, seeking to withdraw the attachment of notice dated 06.01.2014, along with a copy of Pahani for the year 1973-74, Khasra Pahani for the year 1954-55, establishing that subject properties are ancestral properties. Despite the same, respondent No.2 *vide* Proceedings No.D3/302/2017, dated 08.12.2017, directing the respondent No.4 to recover an amount of Rs.15,71,296/-, without considering the representation of the petitioner dated 18.07.2017. Aggrieved by the same, petitioner filed W.P.No.835 of 2018.

8. It is further averred that during the pendency of W.P.No.835 of 2018, before this Court, the respondent No.5-Mandal Girdawar, Nagireddypet Mandal, issued Form No.1/Distrait Order under Section 8 of the Act, 1864, informing that the amount due, if not paid, the subject property will be immediately brought to public auction. Aggrieved by the same petitioner filed W.P.No.12155 of 2020.

9. Learned Assistant Government Pleader for Revenue would submit that petitioner's husband while working as Post Master has misappropriated the funds and on enquiry, the same has been established and the misappropriated amount arrived at Rs.14,89,096/-. The respondents' authorities have rightly invoked the provisions of the Act, 1864, for recovery of misappropriated amount by duly following the procedure as contemplated under the Act, 1864. Learned Assistant Government Pleader for Revenue further submitted that the contentions raised by the petitioners against the sale of subject property is untenable, as the petitioner failed to place on record, any material to substantiate their claim that the subject property is the ancestral property and finally prayed to dismiss the writ petition.

10. From the material placed on record, it appears that petitioner's husband was involved in misappropriation of funds under National Rural Employment Guarantee Scheme to the tune of Rs.14,89,096/-, while he was working as Post Master, at Jalalpur branch; and that a criminal case was registered against him and the said amounts are sought to be recovered under the Act, 1864, treating the same as arrears of land revenue; that a notice of attachment in Form-V was issued on 06.01.2014 and respondent No.4 initiated steps for

attachment and sale of property belonging to the petitioner's husband.

11. It is the specific case of the petitioner that subject property is the ancestral property and not self-acquired property of the petitioner's husband i.e., defaulter, therefore, the action of respondent No.4 to sell the entire subject property and recover the misappropriated amount is *per se* illegal. In support of her contention, petitioner placed on record, a copy of Khasra Pahani for the year 1945-55 and Pahanies for the years 1969-70 to 1978-79 and 1983-84, as per which, it is evident that one Bucchi Reddy purchased the subject property from one Anji Reddy, and Bucchi Reddy has two sons i.e., Ganga Reddy and Nagi Reddy; that after the death of Nagi Reddy, his son Srinivas Reddy, succeeded to the subject property and after death of Srinivas Reddy i.e., defaulter, the subject property devolved on to petitioner and her two sons namely Nagarjun Reddy and Harsha Vardhan Reddy, thus, it is not in dispute that the subject property is the ancestral property.

12. It is pertinent to note that the Hindu Succession Act, 1956, which applies to Hindus governed by both the schools, has brought about some radical changes in the law of succession without abolishing the joint family, coparcenary, and joint family property.

The effect of that enactment is very far-reaching, having repercussions also on the rights of coparceners and their legal position. So far as the liability of the specified heirs to satisfy the debt of ancestors on the ground of pious obligation is concerned, it was not initially disturbed by the Act, 1956. However, an amendment to Section 6 by the Hindu Succession (Amendment) Act, 2005 makes radical changes in the pious obligation.

13. The Hindu Succession (Amendment) Act, 2005 has finally abolished the doctrine of son's pious obligation. Amended Section 6(4) reads as under:-

**“Section 6:- Devolution of interest in coparcenary property —**

.....

*(4) After the commencement of the Hindu Succession (Amendment) Act, 2005, no court shall recognize any right to proceed against a son, grandson or great-grandson for the recovery of any debt due from his father, grandfather or great-grandfather solely on the ground of the pious obligation under the Hindu law, of such son, grandson or great-grandson to discharge any such debt: Provided that in the case of any debt contracted before the commencement of the Hindu Succession (Amendment) Act, 2005, nothing contained in this subsection shall affect (a) the right of any creditor to proceed against the son, grandson or great-grandson, as the case may be; or (b) any alienation made in respect of or in satisfaction of, any such debt, and any such right or alienation shall be enforceable under the rule of pious obligation in the same manner and to the same extent as it would have been enforceable as if the Hindu Succession (Amendment) Act, 2005 had not been enacted.*

As per the amended Section 6(4), after the commencement of the amendment, no court shall recognize the right of a creditor to proceed against the son, grandson or great-grandson of a debtor, for debts contracted by the father, grandfather or great-grandfather solely on the ground of pious obligation. The proviso to the subsection stipulates that the right of a creditor to proceed against the specified heirs, or any alienations made in respect of, or in satisfaction of any such debts or obligations, before coming into force of the amendment, are protected. An Explanation has been added to the effect that the expressions "son", "grandson" or "great-grandson" would be deemed to refer to such specified heirs who were born or adopted prior to the commencement of the amendment.

14. The doctrine of pious obligation thus stands abrogated to the extent that the specified heirs are not liable to satisfy such debts solely on the ground of pious obligation. Thus, now the liability of the legal heirs to discharge debts of their father or ancestor extends only to the extent of the assets inherited by them as per the Mitakshara Law and the same has not been disturbed by the Hindu Succession Act. The children cannot be made to pay the debts out of their personal assets.

15. It is also necessary refer to the following provisions of Code of Civil Procedure relating to the liability of the Legal representatives:-

**50. Legal representative-**(1) *Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.*

(2) *Where the decree is executed against such legal representative, he has come shall be liable only to the extent of the property of the deceased which to his hands and has not been duly disposed of; and, for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as it thinks fit.*

**52. Enforcement of decree against legal representative-**

(1) *Where a decree is passed against a party as the legal representative of a deceased person, and the decree is for the payment of money out of the property of the deceased , it may be executed by the attachment and sale of any such property.*

(2) *Where no such property remains in the possession of the judgment-debtor and he fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment- debtor to the extent of the property in respect of which he has failed so to satisfy the Court in the same manner as if the decree had been against him personally.*

**53. Liability of ancestral property-** *For the purposes of section 50 and section 52, property in the hands of a son or other descendant which is liable under Hindu law for the payment of the debt of a deceased ancestor, in respect of which a decree has been passed, shall be deemed to be property of the deceased which has come to the hands of the son or other descendant as his legal representative.*

16. A debt may be contracted by a Hindu male for his own private purpose, or it may be contracted by him for the purposes of the joint family. A Hindu may possess separate property and he may also be entitled to an undivided interest in coparcenary property. The property of a Hindu, whether it is joint or separate, is liable for the payment of his debts both in his lifetime and after his death. The undivided interest of a coparcener in coparcenary property is always liable for the payment of his debts in his lifetime. His undivided coparcenary interest is also liable after his death, so far it is in the hands of his legal heirs. Where a father or paternal grandfather or paternal great-grandfather dies leaving private debts, in such a case, if the debts are not of an immoral character, the entire joint family property, including his son's undivided interest therein, is liable for the payment of his debts even after his death. This liability, however, is not a personal liability, i.e., the separate property of the legal heir is not liable to pay the personal debts of the ancestor. Thus, a son/descendant as a legal heir has liability to the creditor to satisfy the debt contracted by his deceased father/ancestor to the extent of the property of the deceased which has come to his/her hands and has not been disposed of and also from their own interest in the joint family property.

17. It is settled principle of law that sons, grandsons and great-grandsons are liable to pay the lawful debts of their ancestor to the extent of their interest in the coparcenary property, a creditor of the ancestor is entitled to attach and sell not only the interest of the ancestor, but also the interest of the sons, grandsons and great-grandsons in the joint family property in execution of a decree obtained by him against the ancestor alone.

18. As per the settled legal position, legal heirs of the deceased are under obligation to satisfy the debts of the deceased father and if the same are not contracted for immoral purposes. In the present case, the respondent authorities have initiated steps for recovery of misappropriated amounts invoking the provisions of the Act, 1864, against the property of the deceased. The petitioners have challenged the said proceedings, on the ground that the recovery proceedings can only be initiated against the share of the deceased in the ancestral property, but not from the undivided share that is devolved upon share of petitioner and her two sons, as the legal heirs are not liable to pay the debt of the deceased. It is not the case of the petitioner that deceased incurred the debts for immoral purposes and no such plea has been taken by the petitioner. It is also not the case of the petitioner that subject property is the self-acquired property of

the petitioner and her children and in fact, it is also the admitted case of the petitioner that subject property is the ancestral property.

19. In the light of Section 6 of Hindu Succession Act, 1956, and settled legal position, the contention of the petitioner that the proceedings under the Act, 1864, have to be confined to the extent of share of deceased and that the share of petitioner and her children is not amenable to the proceedings under the Act, 1864, is untenable. The petitioner and her children cannot escape from the statutory obligation of satisfying the debt contracted by the deceased.

20. In view of above discussion, writ petitions are dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

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**JUSTICE LAXMI NARAYANA ALISHETTY**

**DATE: 08.06.2026**

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