SUPREME COURT OF INDIA

Hamza Haji

Vs

State of Kerala and Another

Appeal (Civil) 3535 of 2006 (Arising Out of S.L.P. (C) No.5600-5601 of 2004)

(Dr. Ar. Lakshmanan and P. K. Balasubramanyan, JJ)

18.08.2006

JUDGMENT

P. K. BALASUBRAMANYAN, J.

1. Leave granted.

2. In the year 1968, the appellant herein claims to have purchased an extent of 22.25 hectares of land blocked in Survey No.2157 in Palakkayam Village, Mannarghat Taluk. The deed was accompanied by a sketch showing the property conveyed. It is seen that the appellant disposed of almost the entire property by way of assignments mostly in the years 1971 and 1972 and by way of a gift of 5 acres to his brother. Thus, he was left with no property allegedly acquired under the sale deed No. 2685 of 1968 of the Mananarghat sub Registry.

3. On 10.5.1971, The Kerala Private Forests (Vesting and Assignment) Act, 1971 (for short "the Act") came into force. In the year 1979, the appellant filed an application, O.A. No.247 of 1979, before the Forest Tribunal, Manjeri, under Section 8 of the Act seeking a declaration that the application scheduled property was not a private forest liable to be vested in the Government. He scheduled 8.10 hectares equivalent to 20 acres in Sy. No. 2157, Agali Village, Mannarghat Taluk in the application. He claimed exemption under Section 3(2) of the Act and in the alternative, claimed that even if the land was private forest, the same was held by him as owner under his personal

cultivation and with intent to cultivate and that it is within the ceiling limit applicable to him under the Kerala Land Reforms Act and hence the same may be declared to be exempt from vesting under Section 3(3) of the Act. Through the forest authorities, the State of Kerala filed objections to the original application. It was contended that the land was private forest; that the Madras Preservation of Private Forests Act applied to the same; and it continued to be a forest under the Act and hence the prayer under Section 3(2) of the Act was unsustainable. The claim under Section 3(3) of the Act was also opposed on the plea that the appellant had no valid title to the land, that it was not cultivated and that the appellant had no intention to cultivate the same. By order dated 17.12.1980, the Forest Tribunal held that the land was forest to which the Madras Preservation of Private Forests Act applied immediately prior to 10.5.1971, the appointed day and it continued to be forest under the Act. The Tribunal accepted the evidence of the officer examined on behalf of the State to find that the area was full of forest tree growth. Thus, the claim of the appellant under Section 3(2) of the Act was negatived. The claim of the appellant was upheld by the Tribunal under Section 3(3) of the Act by rejecting the plea of absence of title in the appellant based on a pending litigation as set up by the State. It upheld the title and possession of the appellant as per the deed of purchase, Document No. 2685 of 1968 put forward by him. It held that the extent claimed did not exceed the extent of ceiling area applicable to the appellant under Section 82 of the Kerala Land Reforms Act. It, therefore, excluded the 20 acres scheduled to the application and declared it as not vested in view of Section 3(3) of the Act. The State filed an appeal, MFA No.328 of 1981, against the said decision in the High Court under Section 8A of the Act. The High Court, on 8.3.1983, dismissed the appeal at the stage of admission on the ground that a specific ground of challenge to the finding based on Section 3(3) of the Act had not been raised in the memorandum of appeal. The order of the Forest Tribunal in that sense became final.

4. Due to widespread complaints and emerging public opinion, the Government realised that quite a number of applications before Forest Tribunals for exemption or exclusion were got allowed by unscrupulous elements with the connivance of the Forest Authorities and even of counsel engaged by the State before Forest Tribunals and before the High Court. Hence, an amendment to the Act was brought about with effect from 19.11.1983, conferring a right on the Custodian of Vested Forests to apply for review of the decisions of Forest Tribunals and conferring power on the State Government to file appeals or applications for review in certain other cases before the concerned court and for other incidental matters. Pursuant to this availability of power, the State filed R.P. No.219 of 1987 on 14.3.1987, before the Forest Tribunal seeking a review of the decision of the Forest Tribunal dated 17.12.1980. It is seen that a commission was taken out in these proceedings presumably on the dispute whether the property scheduled was under cultivation or was part of a dense forest. On 14.3.1988, the Forest Tribunal dismissed the review petition on the ground that its order sought to be reviewed, had merged with the judgment of the High Court in MFA No.328 of 1981, which, as we have already noticed, was dismissed at the admission stage. Whether the view of the Forest Tribunal that it could not review the order in exercise of power under Section 8B of the Act, notwithstanding the dismissal of the appeal from its decision at the stage of admission, need not be considered at this stage. The fact remains that the Forest Tribunal dismissed the review petition.

5. On 30.3.1989 the appellant approached the High Court with O.P. No.2926 of 1989 invoking Article 226 of the Constitution of India praying for a writ of mandamus directing the State and the Forest Officials to restore to him the 20 acres of land in implementation of the order of the Forest Tribunal in O.A. No.247 of 1979. Though the State and the Forest Authorities opposed the prayer, by order dated 28.8.1990, the High Court allowed the writ petition and issued a writ of mandamus

directing the State to restore to the appellant the 20 acres of land. It may be noted that the forest authorities had not filed a counter-affidavit in that writ petition, though at the hearing, the Government pleader appearing on behalf of the State had submitted that there was difficulty in surveying and identifying the land to be restored. Since the land could not be restored within the time fixed by the High Court, the State and the forest officers obtained an extension of time to comply with the writ of mandamus issued by the High Court.

6. It appears that at this stage the Custodian realised that the very approach of the appellant to the Forest Tribunal was a fraudulent attempt to knock off forest land vested in the State and on the date he made the application before the Forest Tribunal, the appellant had no vestige of right in the application schedule property, he having sold or transferred the entire extent of land allegedly purchased by him under document No.2685 of 1968, the title he put forward when he approached the Forest Tribunal. On 1.1.1991, nearly eight years after the dismissal of MFA No.328 of 1981 by the High Court at the stage of admission, the State filed RP No.17 of 1991 for a review of the order in the appeal, accompanied by an application for condoning the delay of seven years eight months and twenty six days in filing the review. Without considering the merits of the case or the nature of the attempt made by the appellant as put forward by the State in the petition for review, the High Court on 18.11.1993, dismissed the petition for condoning the delay in filing the review petition on the ground that no sufficient cause had been made out for condoning such a long delay. Consequently, the High Court dismissed the review petition without going into the merits of the same. Though the State of Kerala filed an application for special leave to appeal in this Court as a SLP) No.16318 of 1994, the same was not entertained by this Court and it was rejected on 3.10.1994.

7. The appellant thereafter moved an application under the Contempt of Courts Act before the High Court, which was numbered as CCC 274 of 1997. He complained of non-restoration of the land. In the face of the contempt of court proceedings initiated and entertained by the High Court, the State and the forest authorities purported to handover as per a mahazar and plan, 20 acres of land to the appellant and produced the mahazar and the plan before the High Court. Taking note of this, the High Court by order dated 24.10.1997, closed the contempt of court proceedings recording that the mandamus earlier issued by the High Court had been obeyed.

8. The attempt to handover 20 acres of fragile forest to the appellant, generated considerable public opinion and protest that it ultimately forced the State and the forest authorities, to approach the High Court again with a petition for review. On 2.11.2000, a petition for review was filed as CMP No.456 of 1991 in RP No.17 of 1991 in MFA No.328 of 1981 to review the order of the Division Bench dated 18.11.1983, whereby the High Court refused to condone the delay in filing the review petition against the order in MFA No.328 of 1981. Another review petition was filed to review the order in OP No.2926 of 1989 issuing the writ of mandamus directing restoration. Yet another review petition was filed to review the order in the contempt of court case CCC No.274 of 1997. One other review petition was filed to review the order in MFA No.328 of 1981 itself which was not numbered presumably on the objection that it was really a petition to review an order on a review petition. Meanwhile a body of citizens filed a writ petition, OP No.20946 of 1997 praying for the issue of a writ of mandamus directing the respondent State not to assign, release or surrender 20 acres of evergreen forest to the appellant, and for a writ of prohibition restraining the appellant from

carrying on any felling activity in the property including the clearing of natural growth. One other writ petition was filed allegedly by the assignees from the appellant. The Division Bench of the High Court heard all these review petitions together along with the two writ petitions filed by strangers. The High Court found that the appellant had secured an order from the Forest Tribunal by playing a fraud on it and since fraud vitiates the entire proceedings it was a fit case where the High Court should exercise its jurisdiction invoking Article 215 of the Constitution of India and set at naught, the order of the Forest Tribunal found to be vitiated by fraud. Thus, the High Court allowed the claim of the State and that of the writ petitioners and setting aside the order of the Forest Tribunal in OA No.247 of 1979, dismissed that application filed by the appellant before the Forest Tribunal. The High Court also directed the State to take back the 20 acres of land said to have been put in the possession of the appellant during the pendency of the contempt of court case. This decision of the High Court is challenged by the appellant, the applicant before the Forest Tribunal, in these appeals.

9. It is contended on behalf of the appellant that the High Court had far exceeded its jurisdiction and has acted illegally in setting aside the order of the Forest Tribunal which had become final long back and which had been given effect to, that too, by the intervention of the High Court. It is submitted that the High Court had no jurisdiction or authority to set at naught the two earlier orders of Division Benches of co-equal strength and that too at this belated stage and thus the order suffered from patent illegality. On facts it was contended that the finding that the order was procured by the appellant by playing a fraud on the Tribunal was not justified and no occasion arose for the High Court to exercise its jurisdiction under Article 215 of the Constitution of India, assuming it had such a jurisdiction to interfere with the earlier orders. On behalf of the State it is contended by learned senior counsel that fraud vitiates everything, that if an order is vitiated by fraud, it does not attain finality and it can be set at naught by a proper proceeding and on the facts and in the circumstances of the case, the High Court was fully justified in setting aside the order of the Forest Tribunal. It is submitted that the High Court has only followed the ratio of the decisions of this Court and there is nothing illegal in the decision rendered by the High Court. On facts, fraud was writ large and this was a case where the High Court ought to have interfered and the interference made was fully justified. Counsel further submitted that since the appellant had come with unclean hands and had obtained a relief by playing a fraud on the court, this was a fit case where this Court should decline to exercise its discretionary jurisdiction under Article 136 of the Constitution of India, sought to be invoked by the appellant. It was submitted that the appeals deserve to be dismissed.

10. It is true, as observed by De Grey, C.J., in Rex Vs. Duchess of Kingston [2 Smith L.C. 687] that:

"'Fraud' is an intrinsic, collateral act, which vitiates the most solemn proceedings of courts of justice. Lord Coke says it avoids all judicial acts ecclesiastical and temporal". In Kerr on Fraud and Mistake, it is stated that: "in applying this rule, it matters not whether the judgment impugned has been pronounced by an inferior or by the highest Court of judicature in the realm, but in all cases alike it is competent for every Court, whether superior or inferior, to treat as a nullity any judgment which can be clearly shown to have been obtained by manifest fraud."

It is also clear as indicated in Kinch Vs. Walcott 1929 AC 482 that it would be in the power of a party to a decree vitiated by fraud to apply directly to the Court which pronounced it to vacate it. According to Kerr, "In order to sustain an action to impeach a judgment, actual fraud must be shown; mere constructive fraud is not, at all events after long delay, sufficient but such a judgment will not be set aside upon mere proof that the judgment was obtained by perjury."

(See the Seventh Edition, Pages 416-417)

11. In Corpus Juris Secundum, Volume 49, paragraph 265, it is acknowledged that, "Courts of record or of general jurisdiction have inherent power to vacate or set aside their own judgements".

In paragraph 269, it is further stated,

"Fraud or collusion in obtaining judgment is a sufficient ground for opening or vacating it, even after the term at which it was rendered, provided the fraud was extrinsic and collateral to the matter tried and not a matter actually or potentially in issue in the action."

It is also stated:

"Fraud practiced on the court is always ground for vacating the judgment, as where the court is deceived or misled as to material circumstances, or its process is abused, resulting in the rendition of a judgment which would not have been given if the whole conduct of the case had been fair".

12. In American Jurisprudence, 2nd Edition, Volume 46, paragraph 825, it is stated,

"Indeed, the connection of fraud with a judgment constitutes one of the chief causes for interference by a court of equity with the operation of a judgment. The power of courts of equity in granting such relief is inherent, and frequent applications for equitable relief against judgments on this ground were made in equity before the practice of awarding new trials was introduced into the courts of common law.

Where fraud is involved, it has been held, in some cases, that a remedy at law by appeal, error, or certiorari does not preclude relief in equity from the judgment. Nor, it has been said, is there any reason why a judgment obtained by fraud cannot be the subject of a direct attack by an action in equity even though the judgment has been satisfied."

13. The law in India is not different. Section 44 of the Evidence Act enables a party otherwise bound by a previous adjudication to show that it was not final or binding because it is vitiated by fraud. The provision therefore gives jurisdiction and authority to a Court to consider and decide the question whether a prior adjudication is vitiated by fraud. In Paranjpe Vs. Kanade [ILR 6 BOMBAY

148], it was held that it is always competent to any Court to vacate any judgment or order, if it be proved that such judgment or order was obtained by manifest fraud. In Lakshmi Charan Saha Vs. Nur Ali [ILR 38 Calcutta 936], it was held that the jurisdiction of the Court in trying a suit questioning the earlier decision as being vitiated by fraud, was not limited to an investigation merely as to whether the plaintiff was prevented from placing his case properly at the prior trial by the fraud of the defendant. The Court could and must rip up the whole matter for determining whether there had been fraud in the procurement of the decree.

14. In Manindra Nath Mittra Vs. Hari Mondal [24 Calcutta Weekly Notes 133], the Court explained the elements to be proved before a plea of a prior decision being vitiated by fraud could be upheld. The Court said "with respect to the question as to what constitutes fraud for which a decree can be set aside, two propositions appear to be well established. The first is that although it is not permitted to show that the Court (in the former suit) was mistaken, it may be shown that it was misled, in other words where the Court has been intentionally misled by the fraud of a party, and a fraud has been committed upon the Court with the intention to procure its judgment, it will vitiate its judgment. The second is that a decree cannot be set aside merely on the ground that it has been procured by perjured evidence".

The position was reiterated by the same High Court in Esmile- Ud-Din Biswas and Anr. Vs. Shajoran Nessa Bewa & Ors. [132 INDIAN CASES 897]. It was held that it must be shown that fraud was practised in relation to the proceedings in the Court and the decree must be shown to have been procured by practising fraud of some sort upon the Court. In Nemchand Tantia Vs. Kishinchand Chellaram (India) Ltd. [63 Calcutta Weekly Notes 740], it was held that a decree can be re-opened by a new action when the court passing it had been misled by fraud, but it cannot be re-opened when the Court is simply mistaken; when the decree was passed by relying on perjured evidence, it cannot be said that the court was misled.

15. It is not necessary to multiply authorities on this question since the matter has come up for consideration before this Court on earlier occasions. In S.P. Chengalvaraya Naidu (Dead) by LRs. Vs. Jagannath (Dead) by LRs & Ors. 1993 (S3) SCR 422, this Court stated that,

"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."

The Court went on to observe that the High Court in that case was totally in error when it stated that there was no legal duty cast upon the plaintiff to come to Court with a true case and prove it by true evidence. Their Lordships stated,

"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, whose case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation".

In Ram Preeti Yadav Vs. U.P. Board of High School and Intermediate Education & Others 2003 (S3) SCR 352, this Court after quoting the relevant passage from Lazarus Estates Ltd. Vs. Beasley 1956 Indlaw CA 60 and after referring to S.P. Chengalvaraya Naidu (Dead) by LRs. Vs. Jagannath (Dead) by LRs & Ors. (supra) reiterated that fraud avoids all judicial acts. In State of A.P. & Anr. Vs. T. Suryachandra Rao , this Court after referring to the earlier decisions held that suppression of a material document could also amount to a fraud on the Court. It also quoted the observations of Lord Denning in Lazarus Estates Ltd. Vs. Beasley (supra) that, "No judgment of a Court, no order of a minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything."

16. According to Story's Equity Jurisprudence, 14th Edn., Volume 1, paragraph 263: *"Fraud indeed, in the sense of a Court of Equity, properly includes all acts, omissions, and concealments which involve a breach of legal or equitable duty, trust, or confidence, justly reposed, and are injurious to another, or by which an undue and unconscientious advantage is taken of another."*

In Patch Vs. Ward [1867 (3) L.R. Chancery Appeals 203], Sir John Rolt, L.J. held that: *"Fraud must be actual positive fraud, a meditated and intentional contrivance to keep the parties and the Court in ignorance of the real facts of the case, and obtaining that decree by that contrivance."*

This Court in Bhaurao Dagdu Paralkar Vs. State of Maharashtra & Ors. held that: "Suppression of a material document would also amount to a fraud on the court. Although, negligence is not fraud, it can be evidence of fraud."

17. Thus, it appears to be clear that if the earlier order from the Forest Tribunal has been obtained by the appellant on perjured evidence, that by itself would not enable the Court in exercise of its power of certiorari or of review or under Article 215 of the Constitution of India, to set at naught the earlier order. But if the Court finds that the appellant had founded his case before the Forest Tribunal on a false plea or on a claim which he knew to be false and suppressed documents or transactions which had relevance in deciding his claim, the same would amount to fraud. In this case, the appellant had purchased an extent of about 55 acres in the year 1968 under Document No. 2685 of 1968 dated 2.6.1968. He had, even according to his evidence before the Forest Tribunal, gifted 5 acres of land to his brother under a deed dated 30.1.1969. In addition, according to the State, he had sold, out of the extent of 55.25 acres, an extent of 49.93 acres by various sale deeds during the years 1971 and 1972. Though, the details of the sale deeds like the numbers of the registered documents, the dates of sale, the names of the transferees, the extents involved and the considerations received were set out by the State in its application for review before the High Court, except for a general denial, the appellant could not and did not specifically deny the transactions. Same is the case in this Court, where in the counter affidavit, the details of these transactions have been set out by the State and in the rejoinder filed by the appellant, there is no specific denial of these transaction or of the extents involved in those transactions. Therefore, it stands established without an iota of doubt as found by the High Court, that the appellant suppressed the fact that he

had parted with almost the entire property purchased by him under the registered document through which he claimed title to the petition schedule property before the Forest Tribunal. In other words, when he claimed that he had title to 20 acres of land and the same had not vested in the State and in the alternative, he bona fide intended to cultivate the land and was cultivating that land, as a matter of fact, he did not have either title or possession over that land. The Tribunal had found that the land was a private forest and hence has vested under the Act. The Tribunal had granted relief to the appellant only based on Section 3(3) of the Act, which provided that so much extent of private forest held by an owner under a valid registered document of title executed before the appointed day and intended for cultivation by him and that does not exceed the extent of the ceiling area applicable to him under Section 82 of the Kerala Land Reforms Act, could be exempted. Therefore, unless, the appellant had title to the application schedule land and proved that he intended to cultivate that land himself, he would not have been entitled to an order under Section 3(3) of the Act. It is obvious that when he made the claim, the appellant neither had title nor possession over the land. There could not have been any intention on his part to cultivate the land with which he had already parted and of which he had no right to possession. Therefore, the appellant played a fraud on the Court by holding out that he was the title holder of the application schedule property and he intended to cultivate the same, while procuring the order for exclusion of the application schedule lands. It was not a case of mere perjured evidence. It was suppression of the most vital fact and the founding of a claim on a non-existent fact. It was done knowingly and deliberately, with the intention to deceive. Therefore, the finding of the High Court in the judgment under appeal that the appellant had procured the earlier order from the Forest Tribunal by playing a fraud on it, stands clearly established. It was not a case of the appellant merely putting forward a false claim or obtaining a judgment based on perjured evidence. This was a case where on a fundamental fact of entitlement to relief, he had deliberately misled the Court by suppressing vital information and putting forward a false claim, false to his knowledge, and a claim which he knew had no basis either in fact or on law. It is therefore clear that the order of the Forest Tribunal was procured by the appellant by playing a fraud and the said order is vitiated by fraud. The fact that the High Court on the earlier occasion declined to interfere either on the ground of delay in approaching it or on the ground that a Second Review was not maintainable, cannot deter a Court moved in that behalf from declaring the earlier order as vitiated by fraud.

18. The High Court, as a court of record, has exercised its jurisdiction to set at naught the order of the Forest Tribunal thus procured by the appellant by finding that the same is vitiated by fraud. There cannot be any doubt that the court in exercise of its jurisdiction under Article 215 of the Constitution of India has the power to undo a decision that has been obtained by playing a fraud on the court. The appellant has invoked our jurisdiction under Article 136 of the Constitution of India. When we find in agreement with the High Court that the order secured by him is vitiated by fraud, it is obvious that this Court should decline to come to his aid by refusing the exercise of its discretionary jurisdiction under Article 136 of the Constitution of India. We do not think that it is necessary to refer to any authority in support of this position except to notice the decision in Ashok Nagar Welfare Association and another vs. R.K. Sharma and others.

19. The order of the Forest Tribunal in the case on hand had merged in the decision in MFA No.328 of 1981 rendered by the High Court. The governing decision, therefore, was the decision of the High Court. When seeking to question the decision as being vitiated by fraud, the proper course to adopt was to move the court that had rendered the decision, by an application. In a case where an appeal is possible, an appeal could be filed. The House of Lords indicated in Kinch Vs. Walcott

(supra) that it will be in the power of the party to the decision complaining of fraud to apply directly to the court which pronounced the judgment to vacate it. The Full Bench of the Bombay High court in Guddappa Chikkappa Kurbar and another vs. Balaji Ramji Dange 1941 AIR(Bom) 274 observed that no Court will allow itself to be used as an instrument of fraud and no Court, by the application of rules of evidence or procedure, can allow its eyes to be closed to the fact that it is being used as an instrument of fraud. In Hip Foong Hong vs. H. Neotia and Company 1918 AC 888 the Privy Council held that if a judgment is affected by fraudulent conduct it must be set aside. In Rex vs. Recorder of Leicester 1947 (1) KB 726 it was held that a certiorari would lie to quash a judgment on the ground that it has been obtained by fraud. The basic principle obviously is that a party who had secured a judgment by fraud should not be enabled to enjoy the fruits thereof. In this situation, the High Court in this case, could have clearly either quashed the decision of the Forest Tribunal in OA No.247 of 1979 or could have set aside its own judgment in MFA No.328 of 1981 dismissing the appeal from the decision of the Forest Tribunal at the stage of admission and vacated the order of the Forest Tribunal by allowing that appeal or could have exercised its jurisdiction as a court of record by invoking Article 215 of the Constitution to set at naught the decision obtained by the appellant by playing a fraud on the Forest Tribunal. The High Court has chosen to exercise its power as a court of record to nullify a decision procured by the appellant by playing a fraud on the court. We see no objection to the course adopted by the High Court even assuming that we are inclined to exercise our jurisdiction under Article 136 of the Constitution of India at the behest of the appellant.

20. In the view that we have taken as above, the plea that the second review was not maintainable, that the Division Bench could not have ignored the earlier orders of the High Court dismissing the appeal at the stage of admission and the dismissing of the petition for condonation of delay in filing the first review, are all of no avail to the appellant. In this case, the Forest Tribunal had also been moved by way of review and that tribunal refused to exercise its jurisdiction under Section 8B of the Act and nothing stands in the way of the High Court setting aside that order on a finding that the original order from the Forest Tribunal was secured by playing a fraud on the Tribunal. Equally, nothing stood in the way of the High Court reviewing the judgment in O.P. No. 2926 of 1989 in which a mandamus was issued by the High Court to restore possession of the application schedule property to the appellant. Similarly, nothing stood in the way of the High Court in allowing O.P. No. 20946 OF 1997 filed by a body of citizens challenging the restoration of 20 acres of virgin forest to the appellant in presumed enforcement of the order in O.A. No. 247 of 1979 and passing the necessary order nullifying the original order. The fact that the High Court has chosen to review the earlier order on the petition for condonation of delay in filing the first review petition and then to exercise the power of review cannot be of any moment in the light of the what we have stated. In any event, as we have indicated, this is a fit case where we should clearly decline to exercise our jurisdiction under Article 136 of the Constitution of India to come to the aid of the appellant to secure to him the fruits of the fraud practiced by him on the Forest Tribunal and the High Court. Thus, we find no merit in the argument that the High Court had exceeded its jurisdiction in setting aside the order of the Forest Tribunal at this distance of time.

21. We thus confirm the decision of the High Court and dismiss these appeals with costs. We hope that this judgment will act as an eye opener to the Forest Tribunals and the High Court exercising appellate jurisdiction in dealing with claims, (obviously now they are belated claims) for exemption or exclusion under Section 8 of the Act. It behoves the Forest Tribunals and the appellate court to carefully scrutinise the case of title and possession put forward by claimants as also the identities of

the lands sought to be claimed, while entertaining applications under Section 8 of the Act.