
(2002) 06 AP CK 0079

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 3388, 3602, 3629 and 3630 of 2002

B. Venkateswarlu and Another

APPELLANT

Vs

District Collector, Hyderabad District, Hyderabad

RESPONDENT

Date of Decision : 28-06-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 4 ALD 730 : (2002) 6 ALT 153

Hon'ble Judges : T. Meena Kumari, J

Bench : Single Bench

Advocate : Satyanarayana Rao Adiraju, in WP No. 3388 of 2002 and E. Ayyapu Reddy, in WP Nos. 3602, 3629 and 3630 of 2002, for the Appellant; Government Pleader for Revenue, for the Respondent

Final Decision : Allowed

Judgement

T. Meena Kumari, J.—As the subject-matter in all the writ petitions is one and the same, these writ petitions are disposed of by a common order.

2. At the time of hearing the vacate stay petitions, both the counsel agree that the writ petitions themselves may be disposed of finally.

3. The present writ petitions have been filed seeking a writ of mandamus to declare the impugned Memo Nos. 12/2191/01; 12/ 2192/2001; 12/2190/01 and 12/2186/01 dated 19-11-2001 of the respondent, i.e., the District Collector, Hyderabad in refusing to issue No Objection Certificate in respect of plot admeasuring 500,500,1050 and 500 square yards respectively in Premises No. 8-2-693, Banjara Hills. Hyderabad i.e., correlating to TS Nos. 19/2 and 20/part/ corresponding to the defunct Jubilee Hills Municipality Plot No. 129/45/D situated at Road No. 12, Banjara Hills. Hyderabad as illegal, improper and unconstitutional, and consequently direct the respondents to issue "No Objection Certificates" in pursuance of the applications dated 6-4-2001.

4. The main case of the petitioners is that they are the registered owners of a

plot admeasuring 500, 500, 1050 and 500 square yards respectively in premises No. 8-2-693 correlating to TS No. 19/2 and 20/part, corresponding to the defunct Jubilee Hills Municipality Plot No. 129/45/D situated at Road No. 12, Banjara Hills, Hyderabad, having purchased the same by way of a registered instrument bearing Document No. 4039 of 2000 dated 29-11-2000. It is submitted that the plot described above was purchased by the petitioners for the purpose of construction of a residential house and for that purpose they have to obtain Clearances/Permissions/No Objection Certificates from various departments including the respondent herein. It is stated that they applied for the said certificate on 6-4-2001 but the same was rejected by the respondent by the impugned Memo Nos. 12/ 2191/2001; 12/2192/2001; 12/2190/2001 and 12/2186/2001 dated 19-11-2001. It is also the case of the petitioners in these writ petitions that the Plot No. 129/45/D admeasuring Ac.3.21 guntas was originally purchased by one Md. Taqiuddin from the defunct Jubilee Hills Municipality in the year 1356 F for valuable sale consideration paid by him vide Challan No. 100 dated 2nd Dai 1356 F and ever since he was in peaceful possession and enjoyment of the property as lawful owner. It is stated that in the year 1951, on account of some third party interference with his peaceful possession and enjoyment of the Plot. Mohd. Taqiuddin filed a Civil Suit for title and declaration in OS No. 98/1 of 1951-52 on the file of the Subordinate Judge, Hyderabad District which was decreed in his favour. In the said suit, Gulam Mohd. Abul Hasan and the Municipal Corporation of Hyderabad were the defendants. The suit was carried in appeal to this Court in appeal Suit No. 18/4 of 1953-54 and latter in Second Appeal in SA No. 354/2 of 1954/55 and ultimately the matter ended in compromise. It is stated that this Court in CMP No. 9587 of 1961 dated 13.8.1961 passed decree in terms of the compromise memo filed by the parties, which reads as follows :-

"The plaintiff i.e., Mohd. Taqiuddin is the absolute owner and is in possession of 2 acres and 22 1/2 guntas and he shall continue in possession thereof, more particularly delineated in the plan annexed hereto marked with blue boundary. Gulam Mohd. Abul Hasan was declared to be the owner of 0.38 1/2 guntas".

5. It is also further stated that Md. Taqiuddin after the affirmation of his title executed a Registered Sale Deed bearing Document No. 1020/1962 dated 16-7-1962 for an extent of 10106 square yards in favour of Mrs. Mercy Sonabai Chellappa. It is also further stated in the affidavit by the petitioners that as mere was confusion prevailing with regard to the plots assigned by the Jubilee Hills Municipality, the Government of Andhra Pradesh appointed a committee headed by Mr. Sundareshan, IAS to enquire and to submit a report with regard to the claims being made by various persons in respect of the plot of the erstwhile Jubilee Hills Municipality. It is stated that on receipt of the recommendations of the said committee, the Government of Andhra Pradesh (Revenue Department) issued Memo No. 3933/02/64-17 dated 6-12-1967 enlisting therein 41 cases which were declared as genuine. It is stated that the name of the said Md. Taqiuddin was shown in the list of genuine assignees in the Memo No.

3933/02/64-17 dated 6-12-1967 of the Government of Andhra Pradesh at Serial No. 34.

6. It is stated that after the Urban Land (Ceiling and Regulation) Act, 1976 came into force, Mrs. Mercy Sonabai Chellappa filed a declaration u/s 6(1) of the said Act in File No. El/10320/76 dated 14-9-1976 declaring the property held by her in premises No. 8-2-693, Road No. 12, Banjara Hills, Hyderabad which corresponds to Plot No. 129/45/D. While the said proceedings are pending, Mrs. Chellappa died and her five children were brought on record as her legal representatives.

7. It is also further stated that when the Special Officer and Competent Authority vide letter No. E/10302/76 dated 22-5-1995 addressed to the District Collector. Hyderabad had sought clarification about plot No. 129/45/D, the District Collector in his reply vide Lr. No. A3 3587/94 dated 12-7-1995 informed that Plot No. 129/45/D at Road No. 12 is recognised Plot in the name of Sri Taquiddin as per the Government Memo No. 3933/Q2/64-77 Revenue (Q) Department dated 6-12-1967 to an extent of Ac.3.21 guntas.

8. Further it is stated that after due enquiry, final orders u/s 8(4) of the Urban Land (Ceiling and Regulation) Act, 1976 were passed by the Special Officer and Competent Authority in File No. El/ 10320/76 dated 27-6-2000 holding that since all the five legal representatives of Mrs. Mercy Sona Bai Challappa became majors as on the date on which ULC Act came into force, each one of them were held to be entitled to retain an area of 1000 square meters and each Legal Representative was declared as surplus land holder to an extent of 241.14 square meters.

9. It is also submitted in the affidavit that a notice dated 2-9-2000 was issued by the Special Officer and the Competent Authority u/s 10(1) of the Urban Land Ceiling Act in File No. El/10320/76 seeking to acquire the land determined as surplus in 8(4) proceedings in the above file which was published in Andhra Pradesh Gazette No. 44 dated 2-11-2000. In the said Gazette Notification, all the five legal representatives of Mrs. Mercy Sonabai Chellappa i.e., the Vendors of the petitioners herein have been shown as the Registered holders of the property in Premises No. 8-2-693, Plot No. 129/45/D, Banjara Hills, Hyderabad. It is also further stated by the proceedings in letter No. F4/ 6629/81 dated 27-1-1982 addressed by the District Collector to the Deputy Director, Survey and Land Records. Hyderabad District while confirming the recognition of the plot in question, he requested for identifying and demarcating plot No. 129/45 /D to an extent of Ac.2.22 1/2 and Ac.0.38 1/2 guntas. It is stated that pursuant to the above referred letter, the Deputy Director, Survey and Land Records, after identification of the recognised plot on the ground, has taken necessary action and after completion of all the requisite formalities issued supplementary Sethwar in respect of the recognised Plot No. 129/45/D to an extent of Ac.3.21 guntas after obtaining orders from the Joint Collector in File No. B1/212/83. It is further stated that those plots have already been incorporated in Town Survey

Records, which falls in Town Survey No. 19/2 and 20 of Ward No. 12, Block "K" of Shaikpet village of Shaikpet Mandai and recognised that those plots are under possession of the petitioners.

10. It is also further stated in the affidavit that the rejection of issuance of No Objection Certificate by the respondent is in a mechanical manner and basing on the order of this Court in Writ Petition No. 1751 of 1998. It is also further stated that the Government has filed LGC No. 74 of 1991 against Mr. R. Bhaskar Rao who was the successor in interest of Mr. Gulam Mohd. Abul Hassan who in turn had acquired title over 0.38 1/2 guntas of land in terms of the compromise decree between Mohd. Taquiddin and Gulam Mohd. Abul Hasan. It is stated that the said Land Grabbing Case has been withdrawn against Mr. Bhaskar Rao and that order has become final. It is also stated in the affidavit that LGC Nos. 118 of 1989, 16 of 1990 and 87 of 1996 were clubbed and a common judgment was delivered on 16-10-1997. It is stated that there is no reference to Plot No. 129/45/D or correlating to TS Nos. 19/2 or 20 in the judgment of the Court dealing with the Land Grabbing matters. It is stated that the petitioner has nothing to do with the judgment in Writ Petition No. 1751 of 1998 which was filed against the judgment in LGC No. 118 of 1989 and the pendency of that writ petition and the LGC has nothing to do with the petitioners' land. Finally, it is stated that the cases in LGC and Writ Petition No. 1751 of 1998 are in no way related to the land of the petitioners in question and hence rejection to issue No Objection Certificate is bad since it is not supported by the material on record.

11. A counter has been filed on behalf of the respondent, inter alia stating as follows;

12. A Town Survey was conducted from 1964 to 1971 under the provisions of the Andhra Pradesh Survey and Boundaries Act, 1923 (for short "Survey Act") and notification to that effect u/s 6(1) of the Survey Act was also issued. Notification u/s 13 of the Survey Act was published in A.P. Gazette No. 13 dated 29.10.1979 after completing the survey. It is stated that anybody, who is aggrieved by the entries in Town Survey Records have to file a civil suit within three years from the date of Gazette Notification u/s 13 of the Survey Act. But in the instant case, nobody filed a civil suit within three years though the land in question in TS No. 19, Block-K, Ward No. 12 is classified as Government land.

13. In the counter, it is stated that the Mandai Revenue Officer, Golconda (presently Shaikpet Mandai) has filed Land Grabbing Case in LGC No. 118 of 1989 in special Court under A.P. Land Grabbing (Prohibition) Act, 1982 against Sk. Ahmed Bin Mohammed Amoodi to an extent of 15 acres in Survey No. 403 correlated to TS Nos. 7/3 part, 18 and 19, 20, 21, 23 and 24, Block ? Ward No. 12 of Shaikpet village. It is stated that considering the location, the value and the extent of the land alleged to have been grabbed, the special Court has taken cognizance of the case. It is stated that the special Court after conducting elaborate trial and examining documents and hearing the arguments of both Counsel, allowed LGC in favour of the Government on 16-10-1997 while

declaring Shaik Ahmed Bin Mohammed Amoodi and others as Land Grabbers. Aggrieved by the above judgment, Shaik Ahmed Bin Mohammed Amoodi filed Writ Petition No. 1751 of 1998 and this Court on 2-2-1998 passed interim orders of status quo and further directed the Collector, Hyderabad to take necessary steps to prevent any encroachments or constructions being made on the disputed land until further orders. It is also made clear in the said order that the petitioners therein shall not make any alienation or construction on the disputed land until further orders. It is stated that in pursuance of the interim orders of this Court in Writ Petition No. 1751 of 1998 and to protect the vacant land from encroachers, fence was erected and the same was done through the Executive Engineer (Social Welfare), Hyderabad. It is stated that the Executive Engineer (Social Welfare) has started fencing work on 4-7-1998 and completed fencing of the entire vacant land covered by LGC No. 118 of 1989 on 15-7-1998 and the same was informed to the respondent vide his letter dated 16-7-1998.

14. It is also stated in the counter that the Writ Petitioners Vendors" have not filed any objections in response to the Gazette Notification Extraordinary 226 dated 2-9-1989 in LGC No. 118 of 1989 though the land is part of the land claimed by them. It is further submitted that under Sub-section (6) of Section 8 of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 every judgment of the special Court with regard to the determination of title and ownership of any land grabbed shall be binding on all persons having interest on such land. Therefore the judgement in LGC No. 118 of 1989 is also binding on the writ petitioners in view of the Notification inviting objection from the interested persons. Since no objections have been filed and after passing orders, it is not open to the petitioners to question the order of the Land Grabbing Court without seeking for review and filing of writ petition under Article 226 of the Constitution of India questioning the judgment in LGC. It is further submitted that one M.N. Reddy, on behalf of 27 persons has filed an application for regularisation of their possession of Government land in Survey No. 403 of Shaikpet village. Out of which, 8 plots fall in the land for which NOC was sought for by the applicant therein. M.N. Reddy has filed representation in this office with a request not to issue No Objection Certificate to any other party as their case is still pending with the Government over the same Survey Numbers correlating to same TS Nos. The said land is part of the petition schedule land of the present writ petition and in respect of very same land, this Court has granted status quo on 2-2-1998 and the same is pending.

15. In the counter, it is further stated that A. Sambasiva Rao and 47 others have filed individual applications in this office with a request to regularise their land, which was purchased in Plot No. 129/45/D of Shaikpet village to an extent of 200 square yards each. During the pendency of their applications, the said Sambasiva Rao and 15 others filed Writ Petition No. 20324 of 1998 before this Court against the District Collector, Hyderabad. Revenue Divisional Officer, Hyderabad and the Mandai Revenue Officer, Shaikpet and the respondents herein to regularise the plots bearing Plot Nos. 1 to 16 respectively each plot admeasuring 200 square

yards occupied by them in Survey No. 129/45/D of Road No. 12, Banjara Hills, Hyderabad in pursuance of G.O. Ms. No. 508 dated 20-10-1995 and the said writ petition was disposed of at the admission stage directing the first respondent to consider the representations, if any made by the petitioners in this regard and dispose of them expeditiously as per law.

16. In the counter, it is also stated that one K. Koteswara Rao and 15 others have filed Writ Petition No. 20364 of 1998 before this Court seeking a direction to the respondents to regularise the plots bearing Plot Nos. 17 to 32 respectively each plot admeasuring 200 square yards occupied by them in Survey No. 129/45/D of Road No. 12, Banjara Hills, Hyderabad in pursuance of G.O. Ms. No. 508, dated 20-10-1995. The said writ petition was also disposed of at the admission stage on 24-7-1998 with the following observations:

"In the circumstances, I am of the opinion that this matter can be disposed of at the admission stage itself with a direction to the respondents to consider the case of the petitioners in accordance with G.O. Ms. No. 508 Revenue (Assn.I) Department, dated 20-10-1995 and any other appropriate law, which is applicable to the case of the petitioners and to dispose of their applications in accordance with law, within a period of three months from the date of the receipt of the copy of this order. Pending disposal of the said applications, the petitioners may not be dispossessed from the lands in dispute and however the petitioners are directed to maintain status quo and not to alter the character of the lands, pending such decision".

17. It is further stated in the counter that one G. Chakaravarthi Naidu and 16 others have filed Writ Petition No. 20382 of 1998 seeking a direction to the respondents therein to regularise the plots bearing Nos.33 to 48/2 respectively i.e., 200 square yards occupied by them in Survey No. 129/45/D of Road No. 12, Banjara Hills, Hyderabad, in pursuance of G.O. Ms. No. 508, dated 20-10-1995 and the said writ petition was disposed of at the admission stage on 24-7-1998 with the same observations as were made in Writ Petition No. 20364 of 1998. It is stated that the K. Koteswara Rao and G. Chakravarthi Naidu filed contempt cases and the same have been dismissed on 2-9-1998. It is stated that all the 48 applications were rejected on 19-3-1999 by the District Collector, Hyderabad . It is also stated that the land sought for regularisation in Writ Petition Nos.20324 of 1998, 20364 of 1998 and 20382 of 1998 are part of the total extent of Ac. 15.00 covered by LGC No. 118 of 1989 and as such covered by the direction of this Court in Writ Petition No. 1751 of 1998 dated 2-2-1998 since the lands are vacant on ground and the same was fenced.

18. It is further stated that one Gulam Mohd. Abul Hasan has filed OS NO.98/1 of 1951-52 on the file of the Subordinate Judge against Mohd. Taqiuddin and the Municipal Corporation of Hyderabad which was allowed in favour of Gulam Mohd. Abul Hasan and aggrieved by the above judgment, Md. Taqiuddin has filed SA No. 354/2 of 1954-55 before this Court. But, the plaintiff therein has not impleaded the State authorities as party respondents and as such any order

passed by the civil Court is not binding on the Government. It is also a compromise decree between the private parties. Further, it is submitted that Smt. Kaneez Khairunnisa w/o. late Md. Taqiuddin and Sri Fareeduddin Farooq S/o. late Mohd. Taqiuddin have filed OS No. 609 of 1994 before the II Addl. Judge, CCC, Hyderabad against Sk. Ahmed Bin Mohd. Amoodi, M.N. Reddy and 29 others to grant perpetual injunctions restraining the defendants in respect of land admeasuring Ac.2.05 1/2 guntas in Survey No. 129/45/D at road No. 12, Banjara Hills, Hyderabad. It is stated that Kaneez Khairunnisa and Fareeduddin Farooq have stated that the land to an extent of Ac.0.38 1/2 guntas kept with them and Smt. Kaneez Khairunnisa has never stated that her husband had sold the property to the predecessor-in-interest of the writ petitioners. In the said suit also, the State Government was not impleaded as party defendant.

19. Further it is stated in the counter that as per the original file in respect of allotment of Plot No. 129/45/D available in Collectorate, Hyderabad, the signature of Md. Taqiuddin is completely different with the sale deed stated to have been executed in favour of Smt. Mercy Sona Bai Chellappa and as seen from the compromise memo stated to be filed by Md. Taqiuddin also, the signature is different when compared with the signature available in Collectorate Hyderabad and hence the sale is not valid one.

20. It is stated that Smt. Mercy Sona Bai Chellappa filed a declaration before the Special Officer and Competent Authority, Urban Land Ceilings, Hyderabad in which Smt. Sona Bai Chellappa had purchased 10,606 square yards (8866.61 square meters) in Plot No. 129/45/D from Md. Taqiuddin.

The Special Officer and Competent Authority, Urban Land Ceilings, Hyderabad vide Proceedings dated 27-6-2000 declared the five legal representatives of late Smt. Sona Bai Chellappa as surplus land holders u/s 8(4) finally to an extent of 1.205.68 square meters i.e., 241.14 square meters each retaining an extent of 5000 square meters i.e., 1000 square meters vacant land each. It is also stated that the Mandai Revenue Officer, Shaikpet has reported that "all the properties of Mr. Mohd. Taqiuddin, Ex-Secretary to Government, Hyderabad Deccan was declared as Evacuee Property vide Notification No. 5 dated 15-9-1949, it is also stated in the counter that the writ petitioners herein have filed an application before the respondent stating that they have purchased the house plot to an extent of 500, 500, 1050 and 500 square yards from the legal heirs of Smt. Mercy Sona Bai Chellappa on 29-11-2000 and requested to issue NOC for construction of building in the land. After examining the matter, their request for issuance of No Objection Certificate was rejected on 19-11-2001 stating that the land in question is covered by the judgment in Writ Petition No. 1751 of 1998 and also it is an evacuee property. In the counter, it is also stated that the plot No. 129/45/D is not shown in Jubilee Hills Layout Plan and the Jubilee Hills Municipality Layout Plan is the basis for identification of location of Defunct Jubilee Hills Municipality Plots and as such the location of the said plot cannot be identified.

21. Both the sides have filed chronology of events which were made as part of the record.

22. The learned senior Counsel - Sri E. Ayyapureddy appearing on behalf of the petitioners argued that the impugned order of the respondent rejecting to issue "No Objection Certificate" is not supported by any material on record. The learned senior Counsel submits that the petitioners; vendors have purchased the land admeasuring an extent of Ac.3.21 guntas from one Md. Taquiuddin who has purchased the land from the erstwhile Jubilee Hills Municipality in the year 1956 in Plot No. 129/45-D corresponding to Municipal Premises No. 8-2-693, old No. G-2-693. It is also further argued that the title and possession of Mohd. Taquiuddin was confirmed by a Division Bench of this Court in SA No. 354/ 2 by virtue of the compromise entered into between the parties. A decree has been passed holding that the said Md. Taquiuddin is owner to an extent of Ac.2.22 1/2 guntas. It is also further argued that the said Md. Taquiuddin executed a registered sale deed bearing No. 1020/62 dated 16-7-1962 in favour of Mrs. Chellappa who happened to be the mother of the petitioners' vendor. It is also further argued that the Government of Andhra Pradesh has appointed a committee headed by one Mr. Sundaresan, IAS to submit a report in respect of plots of Jubilee Hills Municipality and the recommendations of the, said committee have been accepted by the Government of Andhra Pradesh and the Government of Andhra Pradesh has issued Memo No. 3933/D2/64-17 dated 6-12-1967 along with the list of 41 identifying genuine assignees and the said Md. Taquiuddin has been shown as one of the assignees at Serial No. 34. The learned senior Counsel has also further argued that the Urban Land Ceiling Authority also while dealing with a matter has observed that the said Md. Taquiuddin's name finds a place in the Memorandum No. 3933/D2/64-17 dated 6-12-1967 as owner to an extent of Ac.3.21 guntas. It is also further argued that the petitioners' vendors Mrs. Mercy Sonabi Chellappa has filed a declaration u/s 6(1) of the Urban Land (Ceiling and Regulation) Act and since she died during the pendency of the proceedings, her legal representatives were brought on record and a Gazette Notification was also issued on 2-11-2000 wherein the petitioners have been shown as the owners. The learned Counsel also further argued that the said findings of the Urban Land Ceiling Authority have become final. It is also argued by the learned senior Counsel with regard to evacuee property that even assuming that it is of the evacuee property, the property in dispute has nothing to do with the property of the said Md. Taquiuddin. The learned Counsel has further argued that the Collector of Hyderabad has sought a clarification from the Chief Commissioner of Land Administration regarding the details of the property whether the said property is a evacuee property or not. The Chief Commissioner of Land Administration in its Letter No. 56 SEP3/260/2001 dated 5-12-2001 has clarified that on verification of the records, it is found that the premises No. G-2-693 cannot be presumed as evacuee property as it did not find in the Valuation Register. It is also further clarified that on verification of the records received from the Government of India. Sri Syed

Taqiuddin was notified as an evacuee vide Notification No. 5 dated 15-9-1949 and he owns only one house which is known as BOOSTAN situated at Berban, Golconda of Hyderabad District. The learned senior Counsel also argued that the said Md. Taqiuddin died on 26-12-1990 and the name of his father is Md. Sirajuddin and the said clarification issued by the Chief Commissioner of Land Administration shows that the said Md. Taqiuddin is not an evacuee.

23. The learned senior Counsel has submitted that the State Government have also filed Land Grabbing Cases against some of the persons in LGC Nos. 118 of 1989, 16 of 1990 and 87 of 1996 in respect of lands in TS No. 19, Ward No. 12 Block K, TS No. 19/1, Ward No. 12, Block K, TS No. 7/3 Part, Ward No. 12, Block K, and the special Court under AP Land Grabbing (Prohibition) Act delivered a common judgment on 16-10-1997. The learned Counsel has also argued that the land in question i.e., Plot No. 129/45/D (correlating to TS Nos. 19/2 or 20) has not been referred to in the common judgment of the special Court. The learned senior Counsel also submits that according to the application filed by the MRO, the boundary on the east is shown as TS No. 19 part which proves that the whole of TS No. 19 is not included in the LG Case. It is further argued that since the TS Nos. 19/2 and TS No. 20 are not included in any of the said LG Cases, the rejection of the respondent to issue No Objection Certificate on the ground that the matter is subjudice is not correct. The learned senior Counsel has also argued that though the Government have filed a Land Grabbing Case i.e., LGC No. 74 of 1991 against Mr. R. Bhaskar Rao, who was the successor in interest of Mr. Gulam Mohd Abul Hasan who in turn had acquired title over 0.38 1/2 guntas of land in terms of the compromise decree between Md. Taqiuddin and Gulam Mohd Abul Hassan in respect of property in Plot No. 129/45/D, correlating to TS No. 20/ part, the same was withdrawn against Mr. Bhaskar Rao since the land was a private land.

24. The learned counsel has also argued that the pendency of WP No. 1751 of 1998, which was filed by one Sk. Ahmed Bin Mohammed Amoodi and granting of interim orders therein not to make any alienations until further orders, has nothing to do with the issuance of No Objection Certificate to the petitioners and the petitioners are not parties to the said proceedings and hence the order passed in the said LGC is not binding on the petitioners as the petitioners' vendor is not Sk. Ahmed Bin Mohammed Amoodi.

25. On the other hand, the learned Advocate-General, Mr. Anantababu has also argued on behalf of the respondents that Town Survey was conducted from 1964-71 under AP Survey and Boundaries Act, 1923 and a notification was also issued on 29-10-1976. The learned Advocate-General has also argued that LGC No. 118 of 1989 was filed against Sk. Ahmed Bin Mohammed Amoodi and LGC No. 16 of 1990 was also filed against AS. Bose, correlating to TS No. 7/3 part, 18, 19, 20, 21, 23 and 24, Block-K Ward No. 12 of Shaikpet Village. It is further argued that the special Court in LGC No. 118 of 1999 has given a finding that the land belongs to the Government and that challenging the said findings, WP No.

1751 of 1998 has been filed. It is also argued by the learned Advocate-General that while admitting the writ petition, this Court granted status quo making it clear that the Collector is free to take steps to prevent any encroachment or constructions on the disputed land. It is also further argued that pursuant to the said order, the District Collector has got fencing erected. It is also further argued by the learned Advocate-General that different writ petitions i.e., WP No. 20324 of 1998, 20364 of 1998, 20382 of 1998 have been filed by different persons seeking regularization of the plots. It is also argued that in the said writ petitions, this Court directed the respondents therein to regularise the plots occupied by the petitioners therein in terms of G.O. Ms. No. 508 dated 20-10-1995.

26. In this case, the material available on record shows that the said Md. Taquiuddin has executed the sale deed in favour of Smt. Mercy Sonabai Chellappa to the extent of 10606 square yards in Plot No. 129/45/D, which factum has been admitted in the counter filed by the respondents. Therefore, it has to be held that the execution of the sale deed by the said Md. Taquiuddin in favour of Smt. Mercy Sonabai Chellappa is genuine and true and the said sale deed is a valid document.

27. Secondly, it is pertinent to notice that the Urban Land Ceiling Authority in its proceedings No. El/10320/76 dated 27-6-2000 after having a detailed enquiry and also after going through the documents referred to in these writ petitions, has held at para 22 as follows:

"From the above, it is evident that Md. Taquiuddin is the absolute owner of house site old No. G-2-693, New No. 8-2-693, Plot No 129/45 D and the recitals to the effect are also found in the sale deed executed on the sixteenth day of July, 1962. Thus, from the above registered sale deed and encumbrance certificates besides the receipts of MCH it is crystal clear that Md. Taquiuddin transferred all his rights, title, possessions and enjoyment to Mrs. Mercy Sona Bai Chellappa and as such it is held u/s 2 (1) of the ULC Act that Mrs. Mercy Sona Bai Chellappa is the absolute owner property of old No. G-2/693 New No. 8-2-693, plot 129/45D, Jubilee Hills, Hyderabad.... Accordingly, it is held that in this case, verification of the registered sale deed and the encumbrance certificates satisfies the above requirements as to ownership of patta in favour of the declarant and subsequently in favour of legal heirs of the declarant. Further- it is observed that as per the report of IOS dated 17-5-2000 showing sketch of the land in respect of declarations referred to above, wherein, it is reported that lands in TS No. 19/2/A&B CC No. 9996/76/El in respect of Plot No. 12/45/D Mohd. Taquiuddin's house site new built up area is available and accordingly these are no more vacant lands as on the date of the above report."

28. It has also further observed that:

"In view of the above and also in view of Government of India Memo as already discussed above also, all the legal representatives of deceased declarant Mrs.

Mercy Sona Bai Chellappa are eligible to get equal share in the property held by the declarant. As per the report of IOS and the sketch and record of enquiry total extent of Plot No. 129/45D (Ac.3.21 guntas) 14289 square meters and out of that 8866/61 square meters was purchased by late Mercy Sona Bai Chellappa and out of that 2599 square meters is Government land in TS No. 19/1 an extent to 61.93 covered with Road in TS No. 19/2/A and the vacant land is 6205.68 square meters $=8866.61-2599/61.93=6205.68$ square meters. Thus, the share of each LR of the deceased declarant Mrs. Sona Bai Chellappa is only 6205.68 divided by 5 = 1241.14 square meters and as per Section 4(1)(b) of the ULC Act each elders are entitled to hold an extent of 1000 square meters towards retainable area"

29. Further, the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad in para 15 observed as follows:

"In reference sixth (supra) (This office even number letter dated 22-5-1995 addressed to the District Collector, Hyderabad), it was requested to inform whether Plot No. 129/ 45D, Road No. 12, Banjara Hills is a recognized Plot or de-recognised or whether any Government land is involved. The sketch of land was also enclosed with above letter. In response to the above letter, the District Collector and Magistrate, Hyderabad vide reference seventh (supra) (District Collector. Hyderabad Letter No. A3/3587/94 dated 12-7-1995 addressed to the SO & CA, ULC, Hyderabad) informed this authority that the Plot No. 129/45D in Road No. 12 is a recognised Plot in the name Mr. Mohd. Taquiuddin vide Government Memo No. 3933/ 22/6477 Rev (4) Department dated 6-12-1967 to an extent to Ac.3.21 guntas."

30. It is further argued by the learned senior Counsel for the petitioners that the said order of the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad has become final since it has been notified by the Government by Gazette Notification No. 44 dated 2-11-2000 holding that the Legal Representatives of the said Mercy Sonabai Chellappa are entitled to hold 1000 square meters each. The record also shows that the said order of the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad in Proceedings No. El/10320/76 dated 27-6-2000 has become final and the respondent has not disputed the findings of the above authority. As the said order of the Special Officer and Competent Authority has become final and since no appeal is filed, it is binding on the respondent as it was notified in Andhra Pradesh Gazette.

31. The material papers filed along with the writ petitions show that the Government of Andhra Pradesh, Revenue Department issued Memo No. 3933/ Q2/64-17 dated 6-12-1967 in which it has been stated that the Collector of Hyderabad while inviting the attention of the Government to the Notification No. 44 of 1358 F through which, the area comprising the Jubilee Hills Municipality was merged within the limits of the Municipal Corporation of Hyderabad, has stated that the reasons for confusion regarding the ownership of lands in Shaikpet village was the existence of the Jubilee Hills Municipality in the years

1942 to 1948, which had allotted plots of land to various private individuals without reference to the revenue records. It has also been observed that various plots have been allotted to the individuals without reference to the revenue records. The Government also further observed in the said memo that the Commissioner of Municipal Corporation of Hyderabad was requested to transfer all the papers to the Collector of Hyderabad for verification. It is stated that the Commissioner, Municipal Corporation of Hyderabad has sent 110 files to the Collector of Hyderabad and the Collector has classified those files into two categories viz., (i) Those in which action regarding allotment was completed and orders for transfer of plots were issued; (ii) Those in which action regarding allotment was not finalised on account of nonpayment of the land value by the allottee. It has also been observed by the Government in the said memo that the Collector has thoroughly scrutinized and finalised the above cases after verifying the documentary evidence. It was further observed that the Board of Revenue has recommended that orders may be issued permitting the Collector to incorporate necessary changes in the revenue records in respect of 41 cases. It was also stated that the Government has accepted the recommendations of the Board of Revenue in permitting the Collector to get the lands demarcated and issue supplementary sethwars and incorporate necessary changes in the revenue records in respect of 41 cases recommended by the Collector. From the list of all the persons in whose favour assignment orders have been issued, the vendor of the said Smt. Mercy Sonabai Chellappa i.e., Md. Taquiddin is shown at serial No. 34 bearing plot No. 129/45/D to an extent of Ac.3.21 guntas situated at Road No. 12 adjacent to Madhiyar Jung Bungalow. It has also to be further observed that in the said memo, it has been stated that the area comprising was merged within the limits of the Municipal Corporation of Hyderabad.

32. It has also to be further observed that in the LGC cases filed by the Government, the petitioners' vendors are not the parties and WP No. 1751 of 1998 has been filed by one Sk. Ahmed Bin Amoodi questioning the proceedings of the Special Court under Land Grabbing (P) Act holding that the land of the petitioner's therein is a Government land in TS No. 19 etc., but the petitioners herein has nothing to do with that list. It has to be seen that the petitioners' vendors are not the parties nor any land grabbing case is filed against the petitioners' vendor. It has also to be further observed that the Urban Land Ceiling Authority in its elusive order has observed that Md. Taquiddin is the owner and the said finding has become final since it is not challenged in appeal and hence the same is binding.

33. It is also to be seen that the Special Officer and Competent Authority also observed that the District Collector and Magistrate, Hyderabad in reference Letter No. A3/3587/94 dated 12-7-1995 informed that the plot No. 129/45D in road No. 12 is a recognised plot in the name of Mr. Mohd. Taquiddin. The said Special Officer also observed that the property in the above case was assessed by the MCH way back in the year 1974 with the following documents:

Name Number

1.

Dr. Christanand Chellappa

MCH No.8 2 693/M/I

2.

Mr. Paul Chilran/an CM/appa

MCHN0.8-2-6931MI2

3.

Dr. Yesumlthran Chellappa

MCH N0.8-2-693IM/3

4.

Dr. Grace Sathyai/atH Chehppa

MCH N0.8-2-693IMI4

5.

Mrs. Esther Punithavathy Chellappa

MCH No.8 2-693/M/5

Thus, it has to be seen that the said land in question has been assessed by the Municipal Corporation of Hyderabad way back in 1974 wherein the Legal Representatives of Mrs. Mercy Sona Bai Chellapa are the assesseees.

34. The other factor to be noted is that though a case in LGC No. 74 of 1991 against R. Bhaskar Rao in respect of Ac.0.381/2 cents was filed by the Government, subsequently the said LGC has been withdrawn. In this connection, it has to be observed that the Collector of Hyderabad in proceedings dated 26-8-1983 addressed to the Special Officer, Municipal Corporation of Hyderabad stated that the land in question i.e., TS No. 20, Ward No. 12 Block-K is not a Government land but it is a private land. The said Bhaskar Rao is the vendee who has become the successor-in-interest in respect of the land which he purchased from Gulam Mohd. Abul Hasan, who is the first respondent in the Second Appeal, and this factum was also recorded by the Urban Land Ceiling Authority by his proceedings dated 27-6-2000. In view of the above material and in view of the fact that the Government of Andhra Pradesh, Revenue Department has accepted the ownership of the assignment of Md. Taqiuddin at serial No. 34 in its proceedings dated 6-12-1967 in Memo No. 3933/A2/64-7, the contention that the land in TS No. 19/2 and 20/part in Plot No. 129/45/D situated at Road No. 12, Banjara Hills, Hyderabad belongs to the Government, has no force.

35. Further, it has to be observed that the State Government have not filed any LGC Cases against any of the petitioner's predecessor in title over the subject-matter of the land in question. The Government however filed the following LGC Cases in respect of various lands:

1. LOG 118 of 1989: TS No.19, WARD No. 12 Block-K
2. LGC 16 of 1990: TS No.19/1, Ward No. 12, Block-K
3. LGC 87 of 1996: TS No.7/3/Part. Ward No.12, Block-K

It has to be noted that questioning the orders of the Special Court under Land Grabbing (P) Act in LGC No. 118 of 1989 dated 16-10-1997, SK. Ahmed Bin Amoodi filed WP No. 1751 of 1998 and this Court granted interim direction not to make any alienation or construction on the disputed land until further orders. It is to be seen that the land in LGC No. 118 of 1989 is related to TS No. 19, Ward No. 12, Block-K, whereas the subject-matter of the land in these writ petitions has no connection with the lands covered by LGC No. 118 of 1989.

36. At this juncture, it has to be observed that the Government in Memo No. 3933/A2/64-7 dated 6-12-1967 accepted the recommendations of the Mr. Sundaresan Committee and the respondent also in his letter No. A3/35/87/94 dated 12-7-1995 addressed to the Special Officer and Competent Authority, ULC, Hyderabad informed that the Plot No. 129/45D in Road No. 12 is a recognised plot in the name of Mr. Mohd. Taqiuddin. The Special Officer and Competent Authority, ULC, Hyderabad in Proceedings No. Ei/10320/76 dated 27-6-2000 also observed that the ownership with regard to the subject land has been dealt with in the following Government files:

1. File No. 18/12 of 1356 F Office of the Collector, Hyderabad (West Revenue)
2. Amalgamated file of Tahsil West Loani No. 393/14/1358F
3. File of Jubilee Hills Municipality No. 339/ 6/1355 F
4. File of Jubilee Hills Municipality No. 280 of 1356 F
5. File of Office of the Special Deputy Collector No. 12293/62 which shows the list of persons who had purchased 41 plots
6. File of office of the Special Deputy Collector No. F/2/3494/6
7. File of Tahsil Urban No. B/3/15288 dated 4-1-1967 wherein Mohd. Taqiuddin has been instructed to pay revenue from 1356 Fasli to 1966.

Thus, the contention of the learned Advocate-General that the subject land in TS No. 19/2 and 20/part, corresponding to the defunct Jubilee Hills Municipality Plot No. 129/45/D situated at Road No. 12 Banjara Hills, Hyderabad belongs to the Government is not tenable in view of the above observations.

37. Now, it has to be observed that the District Collector. Hyderabad was asked

by the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad in Proc. No. El/10320/76 dated 27-6-2000 to inform whether Plot No. 129/45/D. Road No. 12, Banjara Hills is a recognized plot or de-recognised and whether any Government land is involved. In response to the said letter, the District Collector, Hyderabad in his letter No. A3/3587/94 dated 12-7-1995 informed that the said plot is a recognised plot in the name of Mr. Mohd. Taqiuddin vide Government Memo No. 3933/Q2/6477 Rev. (4) Department dated 6-12-1967 to an extent of Ac.3.21 guntas. The Government did not file any appeal on the observations of the Special Officer and Competent Authority, ULC, Hyderabad in Proc. No. El/10320/76 dated 27-6-2000. Moreover, the respondent never withdrew the said Memo dated 6-2-1967 and it is in existence and, therefore, it is very much binding on the respondent. It is also to be noticed that the name of the petitioners' predecessor-in-title is found place at serial No. 34 in the Government Memo No. 3933 Q2/64/17 dated 6-12-1967 wherein it is stated that Mr. Md. Taqiuddin is the assignee to an extent of Ac.3.21 guntas in Plot No. 129/45/D. The said fact is within the knowledge of the respondent and therefore, the contention of the learned Advocate-General that the land in question is of the Government is not tenable.

38. Nextly, the contention of the learned Advocate-General that the land is classified as Government land in Town and Survey records is not tenable for the reason that the Special Officer, Competent Authority, ULC observed in its final order dated 27-6-2000 that in Proc. No. F4/6629/81 dated 27-1-1982, the District Collector has requested the Dy. Director, Survey and Land Records for identifying and demarcating plot No. 129/45 D to an extent of Ac.2.22 1/2 guntas and 0.38 1/2 guntas. The Deputy Director, Survey and Land Records have replied that after completion of all formalities issued supplementary sethwar in respect of the recognized Plot No. 129/45/ D to an extent of Ac.3.21 guntas after obtaining orders from the Joint Collector in File No. B 1/212/83. It is also further stated that those plots have already been incorporated in Town and Survey Records which fall in TS No. 19/2 and 20 of Ward No. 12-B, Block-K of Shaikpet village of Shaikpet Mandai and recognized that those plots are under possession of petitioner. It has also to be further observed that neither the respondent nor the Government contended in the proceedings before the Urban Land Ceiling Authority that the subject land belong to the Government. It is also to be noted that the proceedings of the Urban Land Ceiling Authority dated 27-6-2000 have been notified by the Government in AP Gazette Notification No. 44 dated 2-11-2000. As the proceedings by the Urban Land Ceiling Authority dated 27-6-2000 became final and have been published in AP Gazette Notification No. 44 dated 2-11-2000 notifying the extent of the land of the petitioners' predecessors-in-title, there is no force in the argument of the learned Advocate-General that it is a Government land. From the foregoing discussion, it has to be held that the land in Premises No. 8-2-693. Banjara Hills, Hyderabad i.e., correlating to TS Nos. 19/2 and 20/part, corresponding to the defunct Jubilee Hills Municipality Plot No. 129/45/D situated at Road No. 12, Banjara Hills,

Hyderabad originally belongs to Mr. Taqiuddin who sold the same to Mrs. Mercy Sona Bee Chellappa

39. The learned senior Counsel for the petitioners also submits that originally the Plot N0.129/45/D admeasuring Ac.3.21 guntas was purchased by Mohd. Taqiuddin from the defunct Jubilee Hills Municipality in the year 1356 F by paying valuable consideration by Mohd. Taqiuddin vide Challan No. 100 dated 2nd Dai 1356 F. When there was interference, Mohd. Taqiuddin filed OS No. 98/1 of 1951-52 on the file of the Subordinate Judge, Hyderabad District and the same was decreed. Later, the matter was carried in appeal to this Court in Appeal Suit No. 18/4 of 1953-54 and later in Second Appeal in SA No. 354/2 of 1954-55. However, the matter was compromised and a compromise decree was passed, which reads as follows:

"The Plaintiff (i.e., Mohd. Taqiuddin) is the absolute owner and is in possession of Ac.2.22 1/2 guntas and he shall continue in possession thereof, more particularly delineated in the plan annexed hereto marked with blue boundary"

40. The learned Counsel for the petitioners submits that even as per the judgment in SA No. 354/2 of 1954-55, Mr. Md. Taqiuddin is the absolute owner of the property in question.

41. The learned Advocate-General in this connection submits that the said judgment is not binding since the Government is not a party" to the said judgment.

42. It is to be seen that the Hyderabad Municipal Corporation, Branch Jubilee Hills, Hyderabad Deccan is the first respondent to the said civil litigation. The defunct Jubilee Hills Municipality has been merged with the Municipal Corporation of Hyderabad and hence the findings of this Court in its judgment in SA No. 354/2 of 1954-55 on the file of this Court are binding on the respondent which is reported in Mohamed Taqiuddin Vs. Gulam Mohamed Abdul Hasan and Another, , in the said Second Appeal, it was ordered and decreed that the Mohd. Taqiuddin was the absolute owner of the land in question and hence the contention of the respondent that it is not binding on the respondent is not tenable.

43. The next ground urged by the learned Advocate-General is that the subject-matter of the land is an evacuee property. But, no material has been placed in support of his contention that the subject matter of the land is an evacuee property. Further, the Government in none of the LGC cases referred to above raised any contention to the effect that any portion of the property is an evacuee property. The learned senior Counsel Sri E. Ayyapu Ready on the other hand contends that if it is an evacuee property, it should be vested with the Deputy Custodian General of Evacuee properties i.e., the Chief-Commissioner of Land Administration. It is to be noticed that in Proceedings No. CCLA's Ref. No. 56 SEP. 3/260/2001 dated 5-12-2001 addressed by the Office of the Chief Commissioner of Land Administration to the respondent, it is clarified that the subject property is not an evacuee property and that Mohd. Taqiuddin was not an

evacuee at all and one Syed Taqiuddin was notified as an evacuee in Notification No. 5 dated 35-9-1949 and he owns only one house known as "Boostan" situated at Berban, Golconda of Hyderabad District.

44. The other thing remains that the observations made by the Chief Commissioner of Land Revenue in his letter in CCLA's Ref/MP/SEP3/260/2001 dated 5-12-2001 that the Premises No. G-2-693 is not in the valuation Register and as such it cannot be presumed as evacuee property. It was clarified that on verification of the records received from the Government of India Sri Syed Taqiuddin was notified as an evacuee vide Notification No. 5 dated 15-9-1949 and he owns only one house which is known as "BOOSTAN" situated at Berban, Golconda of Hyderabad District. The said order has become final as it is not questioned by the respondent. From the above, it could safely inferred that the property is not an evacuee property. Thus, the contention of the learned Advocate-General that the property is an evacuee property is negated.

45. The learned senior Counsel for the petitioner also submits that the action of the respondents in rejecting to issue No Objection Certificate is arbitrary in view of the fact that the petitioners are not parties to the Land Grabbing proceedings and that the land in question i.e., TS Nos. 19/2 and 20/part corresponding to the defunct Jubilee Hills Municipality Plot No. 129/45/D situated at Road No. 12, Banjara Hills, Hyderabad is not the subject-matter in WP No. 1751 of 1998.

46. I find force in the said contention of the learned senior Counsel for the petitioner. As seen from the records, the land in question in these writ petitions is not the subject matter in the said writ petition nor in the Land Grabbing Case and moreover the District Collector in his Letter No. A3/ 3587/94 dated 12-7-1995 informed the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad that Plot No. 129/45/D in Road No. 12 is a recognised plot in the name of Mr. Mohd Taqiuddin vide Government Memo No. 3933/Q2/6477 Rev. (4) Department dated 6-12-1967 to an extent of Ac.3.21 guntas. When the respondent himself has specifically stated that the land in question belongs to Mr. Mohd. Taqiuddin, now the respondent cannot reject to issue No Objection Certificate in respect of the above land in view of the interim orders passed in WP No. 1751 of 1998 dated 2-2-1998, for the reason that the Government has not filed any Land Grabbing Case against petitioners' vendors and the Government has filed LGC No. 118 of 1989 relating to Survey No. 19/1. The petitioners' vendors are obviously not parties in any of the Land Grabbing Cases or in the writ petition and in view of the fact that no land grabbing case is filed by the Government and also in view of the fact that survey numbers relating to TS No. 19/2 and 20 part has nothing to do with LGC, the action of the respondent-Collector in rejecting to issue No Objection Certificates has to be termed as "Arbitrary action". In this context it is relevant to note the observations made by the Apex Court in the case of Ramana Dayaram Shetty Vs. International Airport Authority of India and Others, has observed as follows:

"It is a rule of Administrative Law which has been judiciously evolved as a check

against exercise of arbitrary power by the executive authority. If we turn to the judgment of Mr. Justice Frankfurter and examine it, we find that he has not sought to draw support for the rule from the equality clause of the United States Constitution but evolved it purely as a rule of administrative law. Even in England, the recent trend in administrative law is in that direction as is evident from what is stated at page 540-41 in Prof. Wade's Administrative Law 4th edition. There is no reason why we should hesitate, to adopt this rule as a part of our continually expanding administrative law. Today, with tremendous expansion of welfare and social service functions increasing control of material and economic resources and large scale assumption of industrial and commercial activities by the State the power of the executive Government to affect the lives of the people is steadily growing. The attainment of socio-economic justice being a conscious end of State Policy, there is a vast and inevitable increasing in the frequency with which ordinary citizens come into relationship of direct encounter with State Power holders. This renders it necessary to structure and restrict the power of the executive Government so as to prevent its arbitrary application or exercise. Whatsoever be the concept of the rule of law, whether it be the meaning given by Dicey in his "The Law of the Constitution" or the definition given by Hayek in his "Road to Serdom" and "Constitution of Liberty" or the exposition set forth by Herry Jones in his "The Rule of Law and the Welfare State" there is , as pointed out by Mathew, J., in his article on "The Welfare of State, Rule of Law and Natural Justice" in Democracy, Equality and Freedom" substantial agreement in justice thought that the great purpose of the rule of law notion is the protection of the individual against arbitrary exercise of power, whether it is found". It is indeed unthinkable that in a democracy governed by the rule of law, the executive Government or any of its officers should possess arbitrary power over the interests of the individual. Every action of the executive Government must be informed with reason and should be free from arbitrariness. That is the very essence of the rule of law and its bare minimal requirement. And to the application of this principle, it makes no difference whether the exercise of the power involves affectation of some right or denial of some privilege."

47. By adopting the above principle, the action of the respondent in rejecting to issue "No Objection Certificate" to the petitioners for the land in Premises No. 8-2-693, Banjara Hills, Hyderabad i.e., correlating to TS Nos. 19/2 and 20 part, corresponding to the defunct Jubilee Hills Municipality Plot No. 129/45/D situated at Road No. 12, Banjara Hills, Hyderabad has to be held arbitrary.

48. It is also to be further observed that the orders of the Special Officer and Competent Authority in EI/10320/76 dated 27-6-2000 have become final as no appeal has been filed against the said orders. The petitioners have acquired right to their lands in view of the publication made in A.P. Gazette No. 44 dated 2-11-2000 and the said notification having become final and the excess land notified in the said Gazette notification vested with the State Government. Further, the possession of the said land was taken over by the State Government. Thus, it has to be held that by the arbitrary action, the rights of the

petitioners who are the purchasers of the land in question in these writ petitions over the land are affected. Applying the principle laid down by the Supreme Court in the case of Ramana Dayaram Shetty (supra), it has to be held that the action of the respondent in rejecting to issue "No Objection Certificates" is arbitrary.

49. The learned Advocate-General also argued that as the matter involves disputed questions of fact, this Court has no jurisdiction whatsoever to decide the same under Article 226 of the Constitution of India. The learned Advocate-General also submits that this Court under Article 226 of the Constitution of India cannot decide the title between the parties and in support of his contentions, the learned Advocate-General relies on the following judgments.

1. Union of India (UOI) Vs. T.R. Varma, .

2. State of Rajasthan Vs. Bhawani Singh and others, .

50. The learned Advocate-General appearing on behalf of the respondent has argued that in view of the above judgments and also in view of the interim orders passed by the Division Bench of this Court in WP No. 1751 of 1998 dated 2-2-1998, the action of the respondent is legal and perfectly valid and hence these writ petitions are liable to be dismissed.

51. The Supreme Court in the case of Century Spinning and Manufacturing Company Ltd. and Another Vs. The Ulhasnagar Municipal Council and Another, , has held that merely because a question of fact is raised, the High Court will not be justified in requiring the party to seek relief by the somewhat lengthy, dilatory and expensive process by a civil suit against a public body. In these cases, the alleged questions of fact in this case are elementary.

52. From the material available on record, it is to be seen that the petitioners' predecessors-in-title's right to the land has been recognised by the Government in Memo No. 3933/Q2/6477 Rev (4) Department dated 6-12-1967 and in view of the Gazette Notification No. 44 dated 2-11-2000, there is no dispute over the land in question and when the title over the subject matter of the land is clear in view of the proceedings of the Special Officer and Competent Authority, Urban Land Ceiling Authority, Hyderabad in Proc. No. El/10320/76 dated 27-6-2000. It cannot be said that these writ petitions involve only disputed questions of fact. The Apex Court in the cases of State of Orissa and Ram Chandra AIR 1964 SC 686, State of Punjab Vs. Suraj Parkash Kapur etc., , and Godde Venkateswara Rao Vs. Government of Andhra Pradesh and Others, , has held that the writ petitions could be maintainable if the existence of legal right is infringed.

53. Applying the above principle, it could be held that these writ petitions are maintainable since this Court will reach a definite conclusion that the land in question belongs to the petitioners' predecessor-in-title from the material available on record and the action of the respondent in rejecting to issue No Objection Certificates by the respondent, amounts to infringing the legal rights of

the petitioners. Hence, the contention of the learned Advocate-General that these writ petitions are not maintainable, is hereby negated.

54. From the foregoing discussion, it has to be held that WP No. 1751 of 1998 filed by Sk. Ahmed Bin Amoodi has nothing to do with the property in question and that the property in question is not related to the issue involved in the said writ petition or in LGC No. 118 of 1989 and therefore the interim orders of this Court in Writ Petition No. 1751 of 1998 shall not come in the way of the respondent to issue, No Objection Certificates to the petitioners in respect of plots admeasuring 500,500, 1050 and 500 square yards in premises No. 8-2-693, Banjara Hills, Hyderabad i.e., correlating to TS Nos. 19/2 and 20/part, corresponding to the defunct Jubilee Hills Municipality Plot No. 129/45/D situated at Road No. 12. Banjara Hills, Hyderabad and therefore the Memo Nos. 12/2191/01; 12/2192/2001, 12/2190/01 and 12/2386/01 dated 19-11-2001 of the respondent are set aside and accordingly the respondent is directed issue "No Objection Certificates" to the petitioners within two months from the date of receipt of a copy of this order.

55. Accordingly, these writ petitions are allowed. No costs.