

(1999) 11 AP CK 0016

In the Andhra Pradesh High Court

Case No : Writ Petition No. 22323 of 1996 and Batch and WP No. 28402 of 1998

C.P. Roy

APPELLANT

Vs

Special Court, under A.P. Land Grabbing Act and another

RESPONDENT

Date of Decision : 17-11-1999

Acts Referred:

Andhra Pradesh Land Encroachment Act, 1905 — Section 6, 7
Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 — Section 13, 14, 2, 6(1), 6(2)
Andhra Pradesh Land Grabbing Rules, 1965 — Rule 23
Andhra Pradesh Record of Rights in Land Act, 1971 — Section 15(2)
Central Provinces Land Revenue Act, 1881 — Section 45(2), 80(3)
Civil Procedure Code, 1908 (CPC) — Section 80
Evidence Act, 1872 — Section 114

Citation : (2000) 3 ALD 766

Hon'ble Judges : N.Y. Hanumanthappa, J;A.S. Bhate, J

Bench : Division Bench

Advocate : Mr. M.V. Durga Prasad, Mr. Vilas V. Afzalpurkar, Mr. P.R. Prasad and Mr. M. Sreeramulu Reddy, for the Appellant; Government Pleader for Assignments, for the Respondent

Judgement

N.Y. Hanumanthappa, J.—Since the questions of facts and law involved in all these writ petitions are common, they are clubbed and disposed of by this common order.

2. Writ Petition Nos.22323, 22334 and 23999 of 1996 are filed challenging the common order passed by the Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad, in LGC Nos.45 of 1991 and 12 of 1992 dated 25-9-1996.

3. LGC No.45 of 1991 was filed under the provisions of Section 8(1) of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 by the State against (1) C.P. Roy (2) Jagapathi Rao (deleted) (3) M.H. Chinoy (4) Anil Kundal (5) Smt. Cherukuri Srilaxmi (6) M/s. Meenakshi Constructions represented by its Managing Director Sivarama Prasad (7) Jamuna and (8) Shaik Ismail before the

Special Court.

4. LGC No.12 of 1992 was filed by the applicants viz., Cherukuri Srilaxmi and M/s. Meenakshi Constructions Company, represented by its Managing Director, Sivarama Prasad in the Court of the Additional Chief Judge-cum-Vacation Judge (Additional Judge), City Civil Court, Hyderabad, in OS No. 520 of 1992. It was later transferred to the Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad, where LGC No.45 of 1991 was pending. Since the facts and law involved in both the cases are similar, on transfer the same was numbered as LGC No.12 of 1992. The said case was filed against the State of Andhra Pradesh represented by its Secretary to Government, Revenue Department (2) District Collector, Hyderabad (3) Revenue Divisional Officer, Hyderabad and (4) Mandal Revenue Officer, Golconda.

5. Aggrieved by the common order passed in LGC Nos.45 of 1991 and 12 of 1992 dated 25-9-1996, Writ Petition No.22323 of 1996 is filed by C.P. Roy represented by General Power of Attorney Vasantha Rai and the Writ Petition No.22334 of 1996 is filed by M.H. Chenoy, son of Hoshang Chenoy and also the Writ Petition No.23999 of 1996 is filed by M/s. Meenakshi Constructions represented by its Managing Director C. Srirama Prasad (2) Cherukuri Srilakshmi (died) by LRs., Cherukur Suryanarayana Murthy and (3) Cherukuri Ramakrishna (died) son of late Veeraju.

6. Writ Petition No.28402 of 1998 is filed by one Dr. Y.S. Rajeshekar Reddy, the then Member of Parliament, son of Y.S. Raja Reddy against the State of Andhra Pradesh represented by the Revenue Divisional Officer, Hyderabad, and the Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad.

7. The reliefs sought in the first three writ petitions are that the common order passed by the Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad, shall be quashed as illegal and to grant such other reliefs.

8. The reliefs sought in the Writ Petition No.28402 of 1998 are to declare the proceedings in LGC No.88 of 1998 as illegal.

9. For disposal of these cases to avoid confusion, the rank of the parties has been referred to as State, Subordinates and the Purchasers.

10. The facts involved in all the writ petitions are almost identical. The following are the few facts which gave rise for initiation for proceedings.

11. LGC No.45 of 1991 was filed against the purchasers mentioned in the application for the eviction and to pay compensation and also for mesne profits in respect of an extent of 4096 square meters of land in TS No.1/1/1, block H, Ward 10 correlating to Sy. No.403/P of Shaikpet village, Golconda Mandal. The said application was filed u/s 8(1) of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (hereinafter referred to as 1982 Act). According to the State, the application schedule land is situated in Shaikpet village, Golconda mandal which was formerly a Sarfekhas village. The survey of the land was

conducted in the year 1326 F; the revision survey in the year 1340 F and the town survey during the year 1965-79 under the Andhra Pradesh Survey and Boundaries Act, 1923 (hereinafter referred to as 1923 Act). As per the town survey, Shaikpet village was divided into four wards and 52 blocks and the application schedule land was classified as Government land. According to the State, the persons mentioned below grabbed the schedule property namely, Government property to the extent shown against their names and also unauthorisedly constructed pucca houses along with compound walls for the residential purpose and they are enjoying the said land for the last five years.

Sl. No. Name Extent Grabbed

1. C.P. Roy 836 sq.m.

2. Jagapathirao 1735 sq.m.

3. M.S. Chenoy 805 sq.m.

4. Anil Kundal 702 sq.m.

4096 sq.m.

12. According to the State, the pahani for the year 1978-79 filed by the purchasers at Ex.B12, the names of Smt. Venkala Laxtni and Vijayamani are shown in the column No.11 of the said pahani. According to the purchasers, one Shaik Ahmed was the pattadar of Sy. No.403/1/paiki ad measuring 7 acres of land in Shaikpet village. No boundaries were shown about the survey number in any of the documents filed by the occupants. It is an admitted fact that there is no evidence whether the patta was granted prior to merger of Sarfekhas with Diwani or by the State Government. As per the survey record, no such Sy. No.403/1/paiki is existing and as such the said survey number is a fictitious one. Shaik Ahmed was never the owner of the property. Mention of the said survey number is not even shown in Supplementary Sethwar of Shaikpet village. During the Revision survey in the year 1352 F, the Sy. No. 403 is alone correlated to RS Nos. 120, 151 and 343 and there is no mention about the Sy. No.403/1/paiki. Obviously Shaik Ahmed seized this property without any lawful title. The purchasers while purchasing have also not made any enquiries about the title of the Shaik Ahmad. Regarding the District Revenue Officer's order dated 25-5-1991 marked at Ex.B13, it is averred by the State that the District Revenue Officer has no jurisdiction to pass such an order. Secondly, the said District Revenue Officer has not gone into the question whether the patta was granted in favour of Shaik Ahmad in respect of Sy. No.403/1/paiki ad measuring 7 acres of land. Thirdly, the District Revenue Officer has not verified any survey record otherwise to identify the disputed land and lastly the District Revenue Officer has not issued any directions. Thus, the only document relied upon by the purchasers has no probative value. The truth and validity of the said patta purported to be granted in favour of Shaik Ahmad has to be established by the purchasers. The existence of Sy, No.403/1/ paiki is a fictitious one. After institution of the

proceedings before the Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, a notification inviting objections from any interested persons as required under first proviso of the subsection (6) of Section 8 of the Act, was issued and the same was got published in the Andhra Pradesh Gazette Part-II Extraordinary bearing No.87 notification, but no objections were received. Thus, the State sought that the purchasers are all land grabbers and they shall be evicted forthwith; compensation be ordered to the Government for the illegal occupation of the purchasers and to pay mesne profits for the period for which the purchasers were in occupation.

13. The petitioner in Writ Petition No.22323 of 1996 viz., C.P. Roy filed his counter on 10-7-1992 and additional counters as 18-11-1992 and 3-8-1994 respectively. He denied the allegations made by the State. According to him, there was no town survey at all. He denied the contention of the State that the old Sy. Nos. 129/11 to 87 are alone patta lands. He denied the correctness of town survey alleged to have made in the year 1979 and that the schedule land which has been classified as Government land in town survey No.1/1/1, block H, Ward 10 of Shaikpet village corresponding to Sy. No.403/P situated at Road No.2, Banjara hills, Hyderabad. He denied that he has grabbed the Government land to the extent of 835 sq. meters and constructed a pucca house unauthorisedly as well as compound wall for the residential purpose and enjoying for the last five years. According to him, he is a bona fide purchaser for valid consideration of the land from its original owners and constructed the house and compound wall in the year 1982 after obtaining necessary permission from Municipal Corporation of Hyderabad. According to him, he purchased an extent of 1000 sq. yards equivalent to 836.12 sq. meters in Ward No.8, Road No.2 of Banjara Hills, in Sy. No.403/1/paiki situated in Shaikpet village from one Nageswara Rao under a registered sale deed dated 22-7-1980. His vendor Nageswara Rao obtained his title and possession from Smt. Vijayamani under a registered sale deed dated 6-9-1965. Smt. Vijayamani along with one Smt. Venkatalakshmi, who are sisters obtained title and possession of this land and the remaining extent comprising in an area of Ac.5.00 in Sy, No.403/1 paiki from its original owner and pattedar Shaik Ahmad under a registered sale deed dated 15-6-1964. Thereafter, there was a partition among the two sisters under a registered partition deed dated 10-5-1995, thereby Smt. Vijayamani got the land, of which the petitioner is in possession. The Pahani for the year 1968-69 discloses that Smt. Venkatalaxmi and Vijayamani were in possession of the said land as pattedars. The order of the District Revenue Officer, Hyderabad, vide B/9587/82 dated 25-3-1991 shows that the land in Sy. No.403/1/paiki is not a Government land. On the other hand, it belongs to one Shaik Ahmad as is evident from Khasara Pahani for the year 1954-55 and the mutation in favour of Venkatalaxmi and Vijayamani was effected vide file No.05/2178/65. The petitioner and his predecessors in title have been in open, continuous and uninterrupted possession and enjoyment of the land of 100 sq. yards as absolute owners for more than 35 years. Thus, he perfected his title over the schedule

property. His further case is that he obtained permission from the Municipality for construction of building vide permit No.169/ 30/82 dated 20-2-1982. According to him, the town survey, if any, conducted does not reveal the true facts. He denied that the town survey was conducted in the year 1965 and the issuance of notice u/s 6(1) of the Act. The notification under Sections 6(1) or 6(2) was not valid as no notice was served on persons having an interest. No notice as required u/s 9(2) of the Act was served on the persons in occupation of the land. Therefore, the question of challenging such notification u/s 14 of the Act does not arise. Further, the petitioner averred that he did not grab the Government land, as such the application is not maintainable. His further case is that the dispute is only in respect of identity of the property. In the Khasra Pahani prepared by the revenue authorities for the year 1954-55, the title of Shaik Ahmad has been admitted. The Khasra Pahani is a title document. In the subsequent proceedings of the revenue department of the year 1964, Faisal patti, the title of Shaik Ahmad is also admitted. The applicant is trying to dispute the ownership of Shaik Ahmad for the first time which is contrary to the earlier pleadings. According to him, it is incorrect to state that Sy. No.403/1/ paiki is a fictitious one. The Revenue Divisional Officer who conducted an enquiry on the application submitted by one D.T. Kapadia and on the basis of the revenue record viz., Khasra pahani, Faisal patti and Jamabandhi, found the title of Shaik Ahmad as the original owner and also upheld the subsequent sales. The said documents are not produced before the Court by the applicant. The said Shaik Ahmad has been in possession and enjoyment of the property since 1954. When once his predecessor's possession has been admitted, it is not proper for the State to dispute the title after four decades. The sketch plan filed by the State cannot be admitted in evidence as the same is prepared on the basis of town survey. The Revenue Divisional Officer's order dated 25-5-1991 was passed after issuance of notice to all the interested persons. The Deputy Director of Survey and Settlement had also participated during the enquiry. The concerned authorities having participated in the enquiry, it is not open to them to dispute the validity of the order. As the order passed by the Revenue Divisional Officer is a just one, the same cannot be challenged at a later stage. It is his further case that adjacent to the disputed lands, there is other property owned by Mrs. Mela Bajaj to an extent of 1000 sq. yards. Adjacent to the land of M.H. Chenoy i.e., the petitioner in WP No.22334 of 1996, there is a land of one C. Rajendra Kumar and Y.S. Rajasekhar Reddy. All these persons purchased the said property from one Vedprakash Dusaj, who in turn purchased the same from Vijayamani, who in turn purchased the property from one Shaik Ahmad. Therefore, when once the title of the part of the property has been admitted by the State, the subsequent challenge is not permissible. Thus, urged that the application filed by the State has to be rejected.

14. The case filed against Jagapathirao was later deleted.

15. The case of M.H. Chenoy as mentioned in his counter, who is the petitioner in Writ Petition No.22334 of 1996, reads as follows : He denied the claim of the State. According to him, the land in question is a patta land and has been

recognised as such by the revenue authorities and he is a bona fide purchaser for valuable consideration of an extent of 1000 sq. yards under a registered sale deed dated 30-10-1978 from one Vedhprakash Dusaj who in turn purchased the same from one Vijayamani under a registered sale deed dated 2-9-1965. According to him, Smt. Vijayamani and Smt. Venkalalaxmi had purchased an extent of Ac.5.00 in Sy.No.403/1/paiki under a registered sale deed dated 15-5-1964 from one Shaik Ahmad and the mutation in their favour was effected. Later the said land was divided by metes and bounds between the said Vijayamani and Venkata Laxmi by a deed of partition dated 10-5-1965. Under the said partition deed Smt. Vijayamani was entitled to the land ad measuring 6000 sq. yards. Out of 6000 sq. yards of land, 1000 sq. yards was sold by Smt. Vijayamani to Sri Vedprakash Dusaj, who in turn sold the same to this petitioner. According to him, he has been in peaceful possession and enjoyment of the said land ever since it is purchased and he obtained permission for construction of the house from the municipality by an order dated 31-8-1979 after grant of relaxation of Rule 23 of the Municipal Corporation of Hyderabad lay out rules vide G.O. Ms. No.765 (MA) dated 23-7-1979. As such the allegation that the house has been illegally constructed is not correct. According to him, the District Revenue Officer, Hyderabad district conducted enquiry under Record of Rights in Land Act at the instance of the Deputy Director, survey and Settlement Department, Hyderabad and passed the order dated 20-5-1991 and after going through the Jamabandhi and other records, he found that Shaik Ahmad was the absolute owner of the land in Sy. No.403/1/paiki and he sold the said property in favour of one Vijayamani and Venkatalaxmi under a registered sale deed dated 15-6-1964. Subsequently, the name of the purchaser was included in the revenue record by way of mutation and accordingly Nazim Jamabandhi sanctioned the mutation to the extent of Ac.5.00 of land. In such circumstances, the Government filing a case against the petitioners suppressing the title deeds of the predecessors in title is quite illegal. He denied the correctness of town survey in Shaikpet village under A.P. Survey and Boundaries Act, 1923. No notice u/s 9(2) of the said Act was served on the petitioner. Thus, he sought that the writ petition be allowed.

16. Anil Kundal, another purchaser filed his counter denying the allegations made by the State. According to him, he never grabbed the land admeasuring 720 sq. yards. The survey that was conducted in the year 1965 under the provisions of the A.P. Survey and Boundaries Act, 1923 does not bind this purchaser as no notice of such survey was given either to this purchaser or to his predecessors-in-title. As to the title of the property, his stand is almost similar to the stand taken by C.P. Roy, the petitioner in Writ Petition No.22323 of 1996. He further contended that after purchase, Vijayamani and Venkatalaxmi had filed an application before the then Tahsildar for sanction of mutation in their names and that the Tahsildar sanctioned mutation vide file No.D/2178/65 and the same was approved in Jamabandhi conducted in the year 1965. Consequently the names of purchasers were introduced in the pahanies in the columns of pattedar and

occupants for the years 1965-66 to 66-67, 68-69, 72-73, 73-74, 74-75, 75-76 and 76-77. According to him, G. Vijayamani sold 1000 sq. yards of land out of the property which had fallen to her share to Smt. Susheeladevi Vidyalkruti, who in turn sold the same to M/s. Jindal Steel Tubes Private Limited represented by its Director D.S. Jindal. Since then he is in actual and peaceful possession of 1000 sq. yards of land. Subsequently he filed an application before the Municipal Corporation of Hyderabad for making construction in the purchased land and the Municipal Corporation has granted permission by an order dated 31-5-1985. The Government of Andhra Pradesh vide G.O. Ms. No.765 (MA) Department dated 20-7-1979 granted relaxation under Rule 23 of the Lay out Rules of 1965 (hereinafter referred to as 1965 Rules). According to him, the order passed by the District Revenue Officer dated 25-5-1991 supports his case. It is further averred in the counter that when there was an attempt on the part of the State authority to dispossess this purchaser, he issued a notice u/s 80 CPC to the Government on 24-8-1985 and filed suit for perpetual injunction in OS No.422 of 1986 on the file of the V Additional Judge, City Civil Court, Hyderabad and the learned Additional Judge has granted an ex parte injunction in IA No.269 of 1986 restraining the Government from interfering with the possession and enjoyment of the suit property. The said suit is still pending before the civil Court. Round about the disputed land, others also own lands, but no steps have been taken by the Government against them for eviction.

17. Smt. Cherukuri Srilaxmi, another purchaser, one of the petitioners in Writ Petition No. 23999 of 1996 adopted the counter filed by the 6th purchaser i.e., M/s. Meenakshi Constructions. According to this purchaser, the land to an extent of Ac.5.00 in Sy. No. 129 (old) new Sy. No.403/ 1/paiki was originally belonged to one Shaik Ahmad. That the revenue authorities have recognised the right and title of Shaik Ahmad. The said property was subsequently purchased by Smt. Vijayamani and Venkatalaxmi under a registered sale deed dated 15-4-1964. The joint owners divided their property under a partition deed dated 10-5-1965 and in that partition Smt. Vijayamani got 6000 sq. yards and an extent of 1000 sq. yards out of the said property was sold by the said Vijayamani in favour of Kusum Ben and Tara Ben under registered sale deed dated 10-9-1965. The purchasers under the said document had again alienated the title to an extent of 1000 sq. yards in favour of this purchaser under a registered sale deed dated 16-3-1981 and that this purchaser has been in continuous possession and enjoyment of the property for over 40 years. The town survey is not binding on this purchaser and it cannot be the basis for claiming the title by the Government. This purchaser is also claiming the schedule property by way of prescription.

18. M/s. Meenakshi constructions, represented by its Managing Director Sivaramaprasad, the 1st petitioner in Writ Petition No.23999 of 1996 filed a counter, which reads as follows : The predecessors-in-title of this petitioner has been recognised by the Government and revenue authorities as owners. An extent of 5 acres of land in Sy. No.129/60 (new Sy. No.403/paiki) was originally

belonged to one Shaik Ahmad The said property was subsequently purchased by Smt. Vijayamani and Venkalalaxmi under registered sale deed dated 15-6-1964. The said purchasers had divided the property under a partition deed dated 10-5-1965 wherein Smt. Vijayamani got 6000 sq. yards and out of the said property an extent of 1000 sq. yards was sold by her to Smt. Kusum Ben and Tarun Ben under a registered sale deed dated 10-9-1965. This petitioner-purchaser is a bona fide purchaser for value under a registered sale deed dated 8-4-1992. According to him, this petitioner and his predecessors-in-title have been in peaceful possession and enjoyment of the land with absolute rights. According to him, the town survey that was conducted is not binding as it affects the rights and interests of this petitioner and his predecessors-in-title. His further case is that the Revenue Divisional Officer, Hyderabad, while conducting an enquiry on the application submitted by D. T. Kapadia upheld the title of Shaik Ahmad based on the revenue records. Lastly, he contended that when once the title of the part of the property has admitted, the State cannot dispute the ownership of other persons who claimed under one vendor.

19. Jamuna, another purchaser filed a counter contending that the land in question is a patta land and the said patta has been recognised by the revenue authorities. According to her, the allegation that the land in question is a Government land is unfounded as it was not based on any record. The town survey conducted is not valid one. As the order passed by the District Revenue Officer is a just one, the same does not deserve to be disputed at a later stage.

20. Shaik Ismail, another purchaser took up the same stand as to the title and validity of certain orders. According to him, his father Shaik Ahmad was original owner and pattedar of 7 acres of land in Sy. No.403/1/paiki and an extent of Ac.5.00 of land was sold in favour of Venkatalaxmi and Vijayamani and 25 guntas of land was sold in favour of D.T. Kapadia under a registered sale deed in the year 1964-65 and Ac.1.15 guntas of land has been retained. According to him, the village records also mutated as per the sales and possession and enjoyment of the respective owners of land consequent on the sale. The pahani Patrika for the year 1967-68 or other earlier documents denote the absolute title, possession and enjoyment of this purchaser and his father Shaik Ahmad in respect of Ac. 1.15 guntas in Sy. No.403. Placing reliance on the order passed by the District Revenue Officer dated 25-5-1991 and participation of the Mandal Revenue Officer in such proceedings, he contended that he is not a grabber of the land and the application filed by the State is misconceived one.

21. On the basis of the above said pleadings in LGC No.45 of 1991, the following issues were framed by the Special Court:

- (1) Whether the petitioner is the owner of the petition schedule property?
- (2) Whether the rival title set up by the respondents is true and valid?
- (3) Whether the respondents are land grabbers within the meaning of the Act?

(4) To what relief?

22. The pleadings in LGC No.12 of 1992 are almost similar and identical. The said LGC was filed by one Cherukuri Srilaxmi and M/s. Meenakshi Constructions Company, represented by its Managing Director, Sivarama Prasad. Their case is that they are the owners of plot Nos.5 and 4 covered by Sy. No.403/1 ad measuring 1000 sq. yards situated at Road No.2, Banjara Hills, Shaikpet village. The said land originally belonged to one Shaik Ahmad, son of Shaik Ismail, One Salim Arif, son of Shaik Ahmad, General Power of Attorney holder held 5 acres of non-agricultural land within the limits of Municipal Corporation of Hyderabad, Ward No.8 in Sy. No.403/1/ (Old Sy. No. 129/60) paiki of Shaikpet village. One Smt. Venkatalaxmi and Vijayamani purchased 5 acres of land under a registered sale deed dated 15-6-1964. Thus the said land was stated to be the patta land of Shaik Ahmad. After purchase, the names of Smt. Vijayamani and Venkatalaxmi have been mutated in the revenue records and the pahanies issued for the years 1968-69 and 1978-79 show their names as pattedars and the land was registered as patta land. Smt. Venkatalaxmi and Vijayamani partitioned the said land by metes and bounds under a registered partition deed under which Vijayamani got 6000 sq. yards of land and she sold the land to an extent of 1000 sq. yards out of her share of 6000 sq. yards to one Smt. Kusum Ben and Smt. Tara Ben under a registered sale deed dated 12-9-1965. The said Kusum Ben and Tara Ben sold the said land to an extent of 1000 sq. yards equivalent to 836.13 sq. meters to the said Cherukuri Srilaxmi under a registered sale deed dated 16-3-1981. That the said Chemkuri Srilaxmi applied for construction of compound wall and obtained permission from Municipal Corporation of Hyderabad on 30-8-1988 after paying the prescribed fee to a tune of Rs.29,836.13 paise and further amount of Rs.3,240/-towards municipal taxes. Smt. Vijayamani sold another 1000 sq. yards out of her 5000 sq. yards to Smt. Mridula Ben and Smt. Sara Ben under a registered sale deed dated 10-9-1965. They in turn sold the said land of 1000 sq. yards to Kum. Jamuna, daughter of late Srinivasarao under a registered sale deed dated 9-3-1982, who in turn sold the said land to the M/s. Meenakshi Constructions Company under a registered sale deed dated 8-4-1992. The Government sanctioned a lay out vide G.O. Ms. No. 1532 (M.A) dated 2-11-1981 for the plots in respect of the schedule land. They obtained permission from the Municipal Corporation of Hyderabad, for construction of residential flats on the land purchased. The State subordinates who are though aware that the purchasers have been in possession and enjoyment of the property, trying to dispossess them on the ground that the purchasers are unauthorised occupants. No notice as contemplated u/s 7 or 6 of the A.P. Land Encroachment Act has been issued to the purchasers. The dispute, if any, between the State and the purchasers has to be decided by a civil Court and that no action could be taken under the A.P. Land Grabbing Act.

23. The stand taken by the State in LGC No.12 of 1992 again similar one to the stand taken in the application filed in LGC No.45 of 1991. In the counter, the State took a stand that Shaik Ahmad was not a pattedar of any land in Ward

No.8 of Sy. No.403/1/paiki (Old Sy. No.129/60) of Shaikpet village and the said Shaik Ahmad has also grabbed some land at Road No. 12, Banjara Hills and made it into plots and sold them to several individuals, during the year 1959-62. The particulars of such sales are shown as under:

Name of the vendee Extent purchased Document No. & date

1. Md. Ghouse, S/o Md. Sultan 450 sq. yards, Bholanagar, Hyd. 1139/63 dated 9-7-1963
2. Smt. Sharfan Been 600 sq. yards at Road No. 10 703/59
3. Shaik Omer 201 sq. yards at Bholanagar 1068/60 dated 14-3-1960
4. Shamshuddin 201 Sq. yards at Bholanagar 1069/60 dated 14-3-1960
5. Shaik Imam 320 Sq. yards ward B, B.J. Hills 1200/60 dated 12-10-1960
6. Md. Jahangir 340 sq. yards 119/60 dated 12-10-1960
7. Sharfan Bee 200 sq. yards Bholanagar 764/59 21-9-1959
8. Mohd. Yousuf 400 sq. yards 1009/60 dated 3-9-1960
9. Shaik Yousuf 200 sq. yards Bholanagar 763/59 21-9-1959
- 10 Zaibunnisa Begum 740 sq. yards Sy. No.129 old 346/4 1886/62 dated 15-12-1962

The mutation, if any, in favour of Shaik Ahmad was not localised. There is a reference that one V. Prasadrao, former Member of Parliament, filed a suit in OS No.69 of 1967 against one Salim Arif, son of Shaik Ahmad, before the 3rd Additional Judge, City Civil Court, Hyderabad, for specific performance in respect of the same property. The said suit was decreed in favour of Prasadrao and on filing a EP No.16 of 1977, the Court in pursuance of the decree got registered the suit schedule land in the name of nominees of Prasadrao. The instrument was registered as document No.1080 of 1985 dated 18-2-1985 and the possession of the same was also handed over to the purchaser by the Court Bailiff under a panchanama dated 6-8-1986. The Government was not a party to these proceedings. The dispute as to the identity of the properties is not forthcoming. Even if the original claim of Shaik Ahmad has to be considered for 7 acres of land, it should be near the land now held by Sri B.F. Dittia the old claimant in TS No.34/1, Ward No. 12, Block K, which land is claimed to be purchased by Smt. Venkatalaxmi and Smt. Vijayamani of which the suit schedule property is a part and parcel has not been so far localised as required under rules. The suit schedule property is the part of Jubilee Hills Municipality in plot No.6 which was originally allotted to one Khazim Yar Zung by the Jubilee Hills Municipality under Sarfekhas regime. The said allotment was not confirmed and eventually was not recognised by the Government as the allottee failed to remit the value of the land as fixed by the Jubilee Hills Municipality. Thus the land remained as Government land. Therefore, the purchasers claiming to be in possession of the

schedule land and filing a land grabbing case against the Government is not maintainable.

24. On the basis of the above pleadings, the following issues were framed by the Special Court:

- (1) Whether the petitioner is the owner of the suit schedule property?
- (2) Whether the respondents are the owners of the petition schedule land?
- (3) Whether the injunction can be granted against the respondents?
- (4) Whether the petitioner perfected his title to the petition schedule property by adverse possession?
- (5) Whether the town survey conducted by the respondent-Government was valid and binding on the petitioner?
- (6) To what relief?

25. A joint memo was filed by both the parties requesting the Special Court to record the evidence in LGC No. 45 of 1991 and to treat the same as evidence in LGC No.12 of 1992. The said memo was recorded and accordingly, the evidence recorded in LCC 45 of 1991 was directed to be treated as the evidence in LGC No.12 of 1992.

26. On behalf of the State in LGC No.45 of 1991 three persons were examined viz., Sri V.B. Krishna Reddy, the then Mandal Revenue Officer as PW1; Sri Vedagiri, the then Surveyor as PW2 and Sri I.S.R. Reddy, the then Mandal Revenue Officer as PW3 and marked as Exs.A1 to A32. On behalf of the purchasers, three persons were examined viz., Mahamash H. Chenoy, the petitioner in WP No.22334 of 1996 as RW1; Sri C. Sivaram Prasad, the 1st petitioner in WP No.23999 of 1996 as RW2 and Sri C.P. Roy, the petitioner in WP No.22323 of 1996 as RW3 and marked Exs.B1 to B23.

27. The evidence of parties is as follows:

PW1 V.B. Krishna Reddy, the then Mandal Revenue Officer, Golconda, has stated that the purchasers grabbed the land in TS No.1/1/1, Block B, ward 10 correlated to old Sy. No.403/P of Shaikpet village. The extent of land grabbed by the purchasers is about 4096 sq. m. bounded by North: TSNo.1/1/1; South: Road No.1; East: Another road covered by TS No.1/1/1 and West: Open plot of Sagar Housing Society in TS No.1/1/1/. The following documents are marked:

Ex.A1 is the sketch of the petition schedule land showing its boundaries and the areas occupied by each of the purchaser. Ex.A2 is the extract of Town Survey Land Register and in this Exhibit, column Nos.10 and 20, the schedule land is described as Government Sarkari which correlates to Sy. No.403/P of the Shaikpet village. The extract of Pahanies for the year 1981-82 and 1986-87 are marked as Ex.A3 and A4 respectively. In the said pahanies the column relating to pattedar, Government is shown by classifying as poramboke land in the column

No. 11. The extract of relevant notification relating to Ward No.10 is marked as Ex.A5. A notice u/s 9(2) was served on Tahsildar and to that effect an acknowledgment was obtained from him and it is marked as Ex.A6. The land held by C.P. Roy, the petitioner in WP No.22323 of 1996 is marked as "A" and the extent under his occupation is 836 sq. m. According to the witness, the market value of the schedule land as on the date of filing of the case was Rs.40,96,000/- at the rate of Rs.1000/- per sq. yard. According to him, the town survey in respect of schedule land was conducted from 1965-79. Though Shaik Ahmad had no title over any portion of the schedule land, he manipulated the revenue records by showing that the schedule land which is stated to be Sy. No.403/1/P of Shaikpet village belongs to him. In the cross-examination he stated that though Shaik Ismail is not in occupation of any portion of the schedule land, he was added as one of the parties in this LGC as a land grabber as he is claiming Ac.1.15 gts of the schedule property by making a representation to the Revenue Department and he is also son of Shaik Ahmad who sold the remaining portion of the land to other purchasers. In his cross-examination he further stated that he is placing reliance on Exs.A2, A3 and A4 to prove the title of the State. He admitted that either in the original statement or in the additional concise statement, it is not mentioned that the alleged original owner Shaik Ahmad has manipulated the revenue records as they could notice about the manipulation subsequent to filing of the additional concise statement. He also admitted that no notice was issued to the purchasers before filing the LGC to vacate the schedule land alleging that it is a Government land. He has expressed his ignorance whether his predecessors in office enquired about the basis of the title of the purchasers prior to filing the land grabbing case. He admitted that he allowed the mutation in favour of Vijayamani and Venkata Lakshmi pursuant to the order passed District Revenue Officer u/s 15(2) of the ROR Act in respect of Ac.5.00 of land which includes the schedule land. He pleaded ignorance whether C.P. Roy (petitioner in WP No.22323 of 1996) and M.H. Chinoy (petitioner in WP No.22334 of 1996) and others are vendors from either Venkatalakshmi and Vijayamani. According to him, the land grabbing to the west of the schedule land belongs to the Government. According to him, there are one or two buildings in that adjacent site belonging to the private parties. As such it is not possible for him to identify the land in respect of which the District Revenue Officer passed orders. As regards entries in Khasara Pahani for the year 1954-55, he stated that he cannot say who is shown as pattadar of the schedule land unless he verifies the Khasara Pahani. He further admitted that there is a building in the site under the occupation of C.P. Roy. But by over sight he stated in his chief-examination that the site in his occupation is a vacant one. He pleaded ignorance whether any lay out in respect of the land including the schedule land was approved by the Government under G.O. Ms. No.1352/MA, dated 2-12-1981 and also whether M/s. Meenakshi Constructions constructed flats in the site said to have been in its occupation after obtaining necessary permission from Municipal Corporation of Hyderabad.

28. PW2, Vedagiri, the Surveyor, has stated that his enquiries reveals that the purchasers have been in possession and enjoyment of the schedule land for about ten years prior to his inspection. The entire schedule property in both the land grabbing cases are Government properties and the purchasers are land grabbers. In his cross-examination, he admitted that he conducted the survey at the instance of the MRO and prepared Ex.A1. According to him, though the boundaries of the land to be surveyed were not given to him by the officer of the Revenue Department, when he conducted the survey of the schedule property in LGC 45 of 1991, he has prepared Ex.A1 basing on the town survey record. According to him, the total extent of TS No. 1/1/1 Block B of Ward No.10 at Road No. 12, Banjara Hills is 45 hectares 19 Aers 4 sq. meters, and the same was shown as Government land in Ex.A2. He admitted that Ex.A1 is prepared showing the land in occupation of purchasers and abutting the schedule land in all dies there is a Government land. He admitted that though he surveyed abutting the lands of the schedule property he did not file that plan. He admitted that Ex.A1 does not show that Shaik Ismail is in occupation of any part of petition schedule property in LGC 45 of 1991. He stated that he is not aware whether the land in possession of C.P. Roy was purchased in the year 1980 from one Nageswara Rao or his vendors.

29. PW3, I. Seetharama Reddy, the then Mandal Revenue Officer, Golconda, stated that he knew the schedule property which is situated at Road No.2 of Bangajara Hills of Shaikpet village. According to him, Ex.A12 is the receipt relating to payment of Rs.500/- to Nawab Khasim Yar Jung Bahadur towards earnest money for five plots namely Plots 5 to 9. Ex.A20 is the letter dated 13-5-1950 from the Hyderabad Municipality addressed to Nawab Khasim Yar Jung Bahadur intimating that Plots 5 to 8 have been deleted from the allotment which was acknowledged by Nawab Khasim Yar Jung Bahadur under Ex.A21. According to him, the schedule property is a part of Plot No.6 of Jubilee Hills Development Plan situated at Road No.2 and it is a Government land. In his cross-examination, he admitted that Plot No.6 of Jubilee Hills Development Plan along with other plots was not surveyed during the town survey operations. He admits that in Ex.A10 in Column No.4 old S. No. was mentioned as 403/()/Paiki, while in Column No.3 Venkatalakshmi and Vijayamani are mentioned as Khathedar to an extent of Ac.5.00 of land. According to him, Ex.A 10 was prepared by Survey and Settlement Department. Column Nos.1 to 7 of Ex.A10 were prepared basing on the information furnished by the revenue department to survey department and the same was prepared during town survey. He admitted that in Ex.B13 a mention was made about the approval of sanction of mutation in favour of Venkatalakshmi and Vijayamani by Nazim Zamabandhi. Plot No.6 is not correlated to any TS number and it falls in S, No.403 and it is covered by TS No. 1/1/1 Block B, Ward 10.

30. As against the evidence on behalf of the State, purchasers also gave their evidence both oral and documentary. Mahamash H. Chenoy (RW1) C. Sivaram Prasad (RW2) and C.P. Roy (RW3) gave evidence in support of their averments

asserting their title to the schedule property said to have been purchased by them. He spoke about the entries made in the pahanies finding the name of Shaik Ahmad. According to them, the schedule property is covered by S. No.403/1/paiki. C Sivaram Prasad (RW2) who was the Managing Partner of M/s. Mecnakshi Constructions spoke as to how M/s. Meenakshi Constructions acquired the land. He stated that the constructions were put after obtaining the permission from the Municipal Corporation of Hyderabad. In his cross-examination he pleaded his ignorance as to whether the Collector initiated proceedings to set aside Ex.B13 orders or the said proceedings are still pending. He denied the suggestion that there is no S. No.403/1/Paiki and no supplementary sethwar to that effect was ever issued.

31. C.P. Roy (RW3) also spoke on the same lines as the other witnesses spoke asserting their title over the schedule property and denying the State's right, interest and title over the property.

32. After closure of the evidence, as there was a dispute as to the identity of the schedule property, the Regional Deputy Director, Survey and Land Records (TR), Hyderabad was appointed as Commissioner for local investigation and to ascertain whether the schedule property is one covered by TS No.1/1/1 of Block B, Ward 10 of Shaikpet village (Plot No.6 of the Defunct Jubilee Hills Municipality) or one covered by S. No.403/1/Paiki. Accordingly, the Commissioner inspected the land and submitted his report, along with plan prepared by him showing the boundaries (i) Town Survey No. in Block B Ward 10 of Shaikpet village, (ii) Revenue Survey number (iii) Jubilee Hills Municipality Plots and (iv) location of the petition schedule property. The result of verification-cum-location work is as follows:

"(i) The petition schedule property is situated within the limits of town survey number 1/1/1 of Block B in Ward 10 of Shaikpet village, corresponding to Government land.

(ii) The property gets localised within the limits of plot No.6 of the Defunct Jubilee Hills Municipality.

(iii) Old survey and settlement record of Shaikpet village does not disclose the existence of any survey number styled as 403/1, Paiki. S. No.403 alone was in existence, which was a vast stretch of land comprising of thousands of acres and classified as Government land.

(iv) Orders dated 25-5-1991 of the then District Revenue officer in case B2/9587/82 of Collectorate, Hyderabad reveal that he recognised the existence of sub-division of old S. No.403 as S.No.403/1, Paiki and even treated it as patta land to an extent of 7 acres.

(v) If the particulars of location of S.No.403/1, Paiki as admitted by the then District Revenue Officer, Hyderabad are taken into consideration the petition schedule property gets localised within its limits. In other words, the land

admitted by the District Revenue Officer, as S. No.403/1, Paiki and S. No.403(Part) corresponding to Jubilee Hills Municipality Plot No."6" cover, to a great extent, the same piece of land."

33. The said report was objected by the Counsel for the purchasers raising the following objections:

"(i) Commissioner has not mentioned total extent of TS No.1/1/1 and as to when the bifurcation has been implemented. The boundaries of TS No.1-1/1 and 1/1/1 were not given. The Commissioner also not stated why S.No.403/1 which exists at the time of Khasra Pahani did not find place in TS Plan.

(ii) The Commissioner also failed to mention as to how Jubilee Hills Municipality Plots 5, 6 and 7 which the applications are claiming to be at Road No.2, also in existence at Road No.10 as shown in Ex.C1 marked in LGC 38 of 1991.

(iii) The Commissioner has not shown clearly in the sketch localisation of S. No.403/1 as admittedly by the District Revenue Officer. Though the Commissioner has stated that it corresponds and covers the same piece of land."

34. The Special Court overruled the objections raised by the purchasers. The Court below after hearing both sides, on all the points involved in both the Land Grabbing Cases gave its findings as under :

The Court below found that the notification published u/s 13 of the Act should have been challenged within three years to get the schedule property rectified as patta land u/s 14 of the Act. He found that the entries made in Pahanies and Khasara Pahanies in the years 1954-55 do not confer any title to any land in Shaikpet village. According to him, the schedule property is the part of plot No.6 of Jubilee Hills Municipality Development Plan and the said plot was vested in the State due to deletion from allotment of Khasim Nawaz Yar Jung Bahadur for non-payment of required amount as per Ex.A11 to A21. Thus, the point involved in Issue No.1 of LGC 45 of 1991 and Issue No.2 of LGC 12 of 1992 are held in favour of the State.

35. Regarding Issue Nos.2, 3 and 4 in LGC No.45 of 1991 and Issue Nos.1, 4 and 5 in LGC 12 of 1992 the Special Court found that it is difficult to hold that the purchasers have established their title over the schedule property as their predecessors from whom they purchased the lands have no title at all over the schedule property. The reason for the Court below to reach this conclusion is that the entries in Pahani Patrika for the year 1968-69 and 1978-79, Exs.B23 and B12 respectively and the entry in Khasara Pahani for the year 1954-55 made in the name of Shaik Ahmad are all manipulated. No record was filed to corroborate the evidence to claim Shaik Ahmad as pattedar of land in S. No.403/1/Paiki. On the other hand, Ex.B13 supports the case of the State. Consequently no receipt was produced by the purchasers before the Court below evidencing payment of land revenue claiming the land as patta land in S. No.403/1/Paiki. The unauthorised manipulated entries in Khasara Pahani and Exs.B12 and B23 do not confer any

title to land as claimed Shaik Ahmad as pattedar. The sale deed dated 15-6-1964 alienating Ac.5.00 of land in favour of Venkatalakshmi and Vijayamani were not produced before the Court. The word Paiki means it is a sub-division number issued by the Survey Department to any independent survey number of a village. Whereas Ex.813 as relied upon by the purchasers clearly show that no sub-division record as S. No.403/1/Paiki was issued by the survey department. According to him, the so called sale deed in favour of Vijayamani and Venkatalaxmi is a fraudulent one as Shaik Ahmad had no title at all. Regarding the order passed by the District Revenue Officer, Hyderabad dated 25-5-1991 under the provisions of 15(2) of the Record of Rights in Land Regulations of 1358 Fasli, the Special Court referred the contents of the said order regarding the names of the purchasers against S. No.403/1/paiki measuring 5 acres of land in Shaikpet village. The Court below accepted that there is a reference in the said order that Shaik Ahmad was the original owner of Sy. No.403/1/ paiki admeasuring 7 acres of land as per Khasra pahani for the year 1954-55 and after sale, the said land was mutated in favour of Venkatalakshmi and Vijayamani and the same was approved by the Jamabandhi in 1965. The Special Court found that the orders passed by the District Revenue Officer are irregular and as such disciplinary action has been initiated against him for passing such an order. The said order has been found by the Commissioner of Land Revenue as incorrect. Further the Government on the basis of the report of the Commissioner of Land Revenue and the explanation submitted by the District Revenue Officer, held that the orders of the District Revenue Officer are only instructions in nature. Further the said order was never implemented, as such it cannot be termed as the order confirming the entries made in respect of pattedar and his purchasers. The Special Court found that Venkatalakshmi and Vijayamani were never in possession of the property. As the order passed by the District Revenue Officer was not in accordance with law, the purchasers cannot place any reliance on such order. From the above material, the Special Court lastly held that the evidence given by the purchasers does not entitle them to acquire the title by way of adverse possession. Having reached this conclusion, the Special Court found that the purchasers are land grabbers within the meaning of the Act. Thus on answering the issues in favour of the Government and against the purchasers, the Special Court held that the purchasers who are land grabbers are liable to be evicted.

36. Further the Special Court, as per the amended form No.IV, a notice was issued on 2-5-1995 to adduce evidence on the market value. Neither the State nor the purchasers evince any interest to adduce evidence on the market value of the land in respect of the schedule land. As such, no market value in respect of the schedule land has been fixed by the Special Court. While parting with the case, the Special Court took into consideration of the aspect that some of the purchasers have constructed pucca houses and flats in their respective portions and held that the Government may consider their claims in the event of any of the purchaser approach them in terms of the orders contained in G.O. Ms.

No.508 Rev. (ASN-I) Department, dated 20-10-1995 within one month from the date of the order. The Special Court also found that like purchasers, several others also in unauthorised occupation of the land in question and directed the State to initiate action against such unauthorised persons including the son of Shaik Ahmad i.e., Shaik Ismail.

37. Having answered all the issues in favour of the State, the Special Court held that all the purchasers are land grabbers u/s 2(d) read with (e) of the Act and directed them to vacate their respective extents under their occupation in the schedule land within a period of two months, provided they have not sought relief under G.O. Ms. No.508 Rev. Department, dated 20-8-1995 and in the event of failure to comply with the orders, the Revenue Divisional Officer, Hyderabad shall initiate action under Rule 15(2) of the Rules framed under the Act.

38. Aggrieved by the said order, Writ Petition No.22323 of 1996 is filed by C.P. Roy represented by General Power of Attorney Vasantha Rai; Writ Petition No.22334 of 1996 is filed by M.H. Chenoy and also the Writ Petition No.23999 of 1996 is filed by M/s. Meenakshi Constructions represented by its Managing Director C. Srirama Prasad (2) Cherukuri Srilakshmi (died) by LRs, Cherukuri Suryanarayana Murthy and (3) Cherukuri Ramakrishna (died). Whereas Writ Petition No.28402 of 1998 is filed by one Y.S. Rajasekhar Reddy against whom the State has filed an application u/s 8(1) of the Act before the Special Court in LGC No.88 of 1998. The application filed against him is still pending before the Special Court. But apprehending that a similar order has been passed against him, the petitioner therein has filed this writ petition seeking to quash the proceedings in LGC No.88 of 1998.

39. It appears that the State has filed LGC No.88 of 1998 against Sri Y.S. Rajasekhar Reddy, pursuant to the observation made by the Special Court in its order dated 25-9-1996 that action in respect of other unauthorised occupants be taken for their eviction.

40. The case of the petitioner in WP No,28402 of 1998 is that any decision taken in the above three writ petitions will hold good to his case also. It is his case that he purchased the property under a registered sale deed dated 8-2-1984 from the "Wedding Gifts Trust of HEH. The Nizam"s two grand-daughters" created by an indenture dated 4-9-1951 along with Y.S. Suddeekar Reddy. The extent of the land is 1,517.34 square meters situated at Road No.2, Banjara Hills, Hyderabad, within the municipal limits and registration district of Hyderabad bearing S. No.403/1, paiki, situate in Shaikpet village, now Golconda taluk, Hyderabad. According to him, as per the orders of the District Revenue Officer, Hyderabad, dated 25-5-1991, the owners B. Venkatalakshmi and Vijayamani cannot deprive of their right in the land simply because no supplementary sethwar was issued. The District Revenue Officer further directed the Mandal Revenue Officer, Golconda, to furnish the copies of revenue records to the Deputy Director, Survey and Land Records, Hyderabad, for issuance of supplementary Sethwar in this regard. His case is similar with that of the purchasers in Land Grabbing Case

Nos.45 of 1991 and 12 of 1992. If the Writ Petitions Nos.22323 of 1996; 22334 of 1996 and 23999 of 1996 are allowed, the petitioner herein need not undergo any trial.

41. During the course of arguments, it was brought to our notice that whatever documents the petitioners in other writ petitions relied upon, the petitioner in Writ Petition No.28402 of 1998 is also relying upon the same documents and also tracing his ownership to that of title to the predecessor-in-title viz.,Shaik Ahmad.

42. The petitioner in Writ Petition No.28402 of 1998 placed reliance on the order passed by the District Revenue Officer dated 25-5-1991 and the mutation carried out by the Mandal Revenue Officer; the entries made in Pahanies showing the name of Shaik Ahmad and subsequently the names of Venkatalakshmi and Vijayamani as owners for several years and also obtaining permission from the Municipal Corporation of Hyderabad for construction of nouses in the land in question. According to him, the stand of the State against the claim of the petitioner is almost identical to the stand taken in other writ petitions. He concedes that any order passed in the above three writ petitions be held as applicable to him.

43. The learned Government Pleader appearing for the State did not oppose for the request made by the petitioner in Writ Petition No.28402 of 1998 to make applicable the decision rendered in the above three Writ Petitions to the case of the petitioner herein. Hence, the Writ Petition No.28402 of 1998 is clubbed along with the other three writ petitions and disposed of together.

44. The learned Counsel appearing for the petitioners in all the writ petition advanced common arguments.

45. It is contended on behalf of the petitioners that the common order passed by the Special Court is quite erroneous and result of non-application of minds as the Special Court did not take into consideration the documents produced by the purchasers-petitioners and also the presumptive value attached to the entries made in the revenue records. The Kasara Pahani for the year 1954-55 and Vasool Baqui Register indicated the existence of the survey numbers in question and also declared Venkata Lakshmi and Vijaya Mani as the owners. The entries in Faisal Patti for the year 1964-65 show the existence of Shaikpet village and Nazim E-Jamabandi sanctioned mutation for an extent of Ac.5.00 in the name of Venkata Lakshmi and Vijay Mani followed by the orders passed by the District Revenue Officer dated 25-3-1991. Referring to the entries in the Faisal Patti for the year 1964-65 and Kasara Pahani for the year 1954-55, the petitioners contended that the Municipality ordered mutation in the name of the purchasers-petitioners or their predecessors-in-title in respect of the schedule property which was approved by Jamabandi and supported by the permission sanctioned by the Hyderabad Municipal Corporation permitting the purchasers put up construction including the Government granting relaxation in favour of some of the purchasers by exercising its powers under Rule 23 of Lay Out Rules 1965, by

an order dated 20-7-1979. All these things establish that the purchasers are not the grabbers, but they purchased the schedule property for a valuable consideration from the persons who had right and title over the property. When the lay out was sanctioned and the Municipal Corporation of Hyderabad granted permission to construct houses, it is not proper to hold that such constructions are unauthorised.

46. It is farther contended on behalf of the petitioners-purchasers that the Special Court should not have placed reliance on the documents produced by the State viz., Exs.A1 to A2 prepared at the time of filing of the application u/s 8 of the Land Grabbing Act; Exs.A3 and A4 pahani extracts for the year 1981-82 and 1986-87 and Exs.A11 and A20 produced subsequent to the initiation of proceedings with a view to show that the purchasers predecessors-in-title have no right or title over the schedule property because the property was allotted to Nawab Kasim Yar Jung long ago and that he did not pay requisite amount and as such the aid allotment was cancelled. The Special Court committed a mistake in not noticing that Exs.A12 to A21 do not deserve to be accepted as no persons connected with the said documents were examined to prove the correctness of the entries in the documents.

47. It is further contended by the petitioners that mere suspension of the District Revenue Officer is not a ground to ignore the order unless the same is set aside by the competent authority. About Ex.A10, the Special Court should have noticed that there is no explanation as to the entries made therein. The Special Court is persuaded more by inferences and conjectures than analysing the evidence properly and examining the same in the light of the provisions of the Land Grabbing Act to reach a just conclusion. The Special Court committed a deliberate mistake in not noticing the presumptive value attached to the entries in the revenue records. It unnecessarily confused itself as to the identity of the property in question placing reliance on Commissioner's report and ignoring the documents filed by the petitioners-purchasers which vitiated the order in question. The petitioners-purchasers lastly contended that they have been in continuous possession of the schedule property from 1954 upto the date of filing of the application by the State, and, thus, they have perfected their title by adverse possession. Even on this alternative ground, the application filed by the State before the Special Court was not maintainable. As such the same should have been rejected by the Special Court. Thus arguing, the petitioners sought the writ petition be allowed and the impugned order be set aside.

48. As an answer to these contentions, the learned Government Pleader for Assignment while supporting the order of the Special Court, laid stress on the order passed by the Survey authorities cancelling the allotment made in favour of Nawab Kasim Yar Jung. According to him Shaik Ahmad never had any title over the property in question. He was ceased of the land. The identity of the property was not established. The order of the District Revenue Officer was not an order in the eye of law as the said Officer passed the said order with a view to

favouring the purchasers and that Officer had been kept under suspension. According to him, the report of the Commissioner also supported the case of the State. He maintained that no illegality in the order of the Special Court has been established. As Shaik Ahmad had no title over the schedule property any transfer made by him in favour of Venkata Lakshmi and Vijaya Mani in turn to others including the petitioners-purchasers was not a valid one. According to the Government Pleader, no material was produced to show that the petitioners-purchasers and prior to them their vendors and other predecessors-in-title, namely Shaik Ahmad have been in continuous possession and enjoyment of the property in question so as to assert that the petitioners have perfected their title by way of adverse possession. He lastly urged that in case this Court comes to the conclusion that the case of the petitioners herein can be considered for regularisation, it may be ordered compensating the State by paying the market value, in which case the market value shall have to be fixed at not less Rs.1000/- per sq. meter as deposed by the MRO, PW1, during the course of his examination before the Special Court, and not less than that.

49. The State's case is that S. No.403/ 1/paiki is not at all in existence. It is a fictitious one. Shaik Ahmad was never the owner of the property. The entries in the Khasara Pahani are manipulated. When Shaik Ahmad was not the owner alienation of the property to an extent of Ac.5.00 to Smt. Venkata Lakshmi and Smt. Vijayamani, sisters, by way of a registered sale deed dated 15-6-1954 is not valid. Partition, if any, took place between Venkata Lakshmi and Vijayamani on 10-5-1965 is not in consonance and it does not tally. When the purchase of the property in question by Venkata Lakshmi and Vijayamani was not a valid one, transfer of any portions of land by either of them or by some others in interest under the registered sale deeds dated 2-9-1965, 6-9-1965, 10-9-1965, 29-6-1965, 18-3-1967, 24-6-1977, 13-10-1978, 22-7-1980, 16-3-1981, 9-3-1982, 8-2-1984 and 8-4-1992 to different persons and ultimately to the petitioners herein do not confer any title on them. It is the further case of the State that the documents produced by the petitioners are all manipulated. Mutation made pursuant to the order of the District Revenue Officer on 25-3-1991 is quite illegal. As Nawab Khasim Yar Jung, to whom the land was allotted, had failed to pay the amount fixed, the said allotment was cancelled. As such the Government became the owner of the property. Exs.A10 to A21 support the case of the State to show that the petitioners are the land grabbers and they are liable to be evicted and the petitioners are also liable to pay compensation and damages. The State placed reliance on Commissioner's report.

50. As against the case of the State, the petitioners-purchasers gave their own version as how they are absolute owners of the property and they are not liable to be evicted as they are not land grabbers.

51. The word "land grabber" has been defined under sub-section (d) of Section 2 of the A.P. Land Grabbing (Prohibition) Act, 1982 (hereinafter referred to as the "Land Grabbing Act") which reads as follows :

" "land grabber" means a person or a group of persons who commits land grabbing and includes any person who gives financial aid to any person for taking illegal possession of lands or for construction of unauthorised structures thereon, or who collects or attempts to collect from any occupiers of such lands rent, compensation and other charges by criminal intimidation, or who abets the doing of any of the above mentioned acts, and also includes the successors in interest;"

52. The word "land grabbing" has been defined under sub-section (e) of Section 2 of the Land Grabbing Act as follows :

" "land grabbing" means every activity of grabbing of any land (whether belonging to the Government, a local authority, a religious or charitable institution or endowment, including a wakf, or any other private person) by a person or group of persons, without any lawful entitlement and with a view to illegally taking possession of such lands, or enter into or create illegal tenancies or lease and licence agreements or any other illegal agreements in respect of such lands, or to construct unauthorised structures thereon for sale or hire, or give such lands to any person on rental or lease and licence basis for construction, or use and occupation, of unauthorised structures; and the term "to grab land" shall be construed accordingly;"

53. Sub-section (j) of Section 2 of the Land Grabbing Act defines the words "unauthorised structures" as follows :

" "unauthorised structures" means any structure constructed, without express permission in writing of the Municipal Commissioner in any Municipal Corporation or Municipality, and elsewhere of the authority concerned, or except in accordance with any law for the time being in force in the area concerned."

54. Section 8(1) of the Land Grabbing Act reads as follows :

"The Special Court may, either suo motu or on application made by any person, officer or authority take cognizance of and try every case arising out of any alleged act of land grabbing or with respect to the ownership and title to, or lawful possession of the land grabbed, whether before or after the commencement of this Act, and pass such orders (including orders by way of interim directions) as it deems fit;

55. Sub-section (2-A) of Section 8 of the Land Grabbing Act reads as follows :

"If the Special Court is of the opinion that any case brought before it, is not a fit case to be taken cognizance of, it may return the same for presentation before the Special Tribunal:

Provided that if, in the opinion of the Special Court, any application filed before it is prima facie frivolous or vexatious, it shall reject the same without any further enquiry:"

56. Section 8 of sub-section 7 of the Land Grabbing Act give powers to the Special Court that in case where it is found that the land has been grabbed, in

order to see justice is done, can call upon the grabber to compensate the State by paying the market price and also damages in lieu of handing over possession. But before fixing the market value, an opportunity shall be given to the person aggrieved to make a representation or adducing evidence to determine the correct value. The said section is extracted herein:

"It shall be lawful for the Special Court to pass such orders as it may deem fit to advance the cause of justice. It may award compensation in terms of money for wrongful possession of the land grabbed which shall not be less than an amount equivalent to the market value of the land grabbed as on the date of the order and profits accrued from the land payable by the land grabber to the owner of the grabbed land and may direct re-delivery of the grabbed land to its rightful owner. The amount of compensation and profits so awarded and costs of re-delivery, if any, shall be recovered as an bear of land revenue in case the Government is the owner, or as a decree of a civil Court, in any other case to be executed by the Special Court:

Proviso to sub-section 7 of Section 8 reads as follows :

"Provide that the Special Court before passing an order under this sub-section, give to the land grabber an opportunity of making his representation or of adducing evidence, if any, in this regard, and consider such representation and evidence."

57. The State has filed an application u/s 8 of the Land Grabbing Act followed by an amendment application taking inconsistent stand as to how the Government is the owner of the property in question and trying to improvise their earlier stand as to the extent of the property is in agreement with the buildings ad measuring 3079.37 sq. mtr. It has come in the evidence that the petitioners purchased the land in question from the vendees of Shaik Ahmad who was the pattedar as per 1954-55 Khasara Pahani. Vasool Baqui Register supported the case of the petitioners as there was a reference to the transfer of property from Shaik Ahmad to Venkata Lakshmi and Vijaya Mani. So also the Faisala Parti to the above effect. On 25-3-1991, the District Revenue Officer passed an order in favour of the purchasers. Mutation was also carried on.

58. The documents produced by the petitioners-purchasers namely Exs.B1 to B23 speak as to how they come in possession of the property in question and how they have acquired and how they have perfected their title over the schedule property. Ex.B13 the order of the District Revenue Officer was not challenged by the State before the appellate authority. The State's disagreement with the order of the District Revenue Officer is on the ground that the same was passed by the DRO colluding with the petitioners and as such he has been kept under suspension. As long as the order of the District Revenue Officer stands, it is not available to the State to contend that the schedule property belongs to the Government. The witnesses of the State namely the MROs and the Surveyor, PWs.1 to 3, admitted before the Special Court that they

found prior to the filing of the applications in the year 1991 that the petitioners-purchasers have been in possession and they also put up constructions like buildings and compound walls. That means they have come to know about the alleged grabbing of the land from 1985-86 to 1991. There is no explanation why the State was silent in not taking action against the alleged land grabbers till 1991. The order passed by the Survey Department on which the State placed reliance, does not bind the petitioners-purchasers as the same passed without notifying the petitioners and hearing them in the matter. The Government is aware of giving relaxation to the petitioners under Rule 23 of Lay Out Rules, 1965, thereby permitting the petitioners to form lay out. The Government is also aware of the fact that the constructions made in the schedule property was only after obtaining the necessary permission from the Hyderabad Municipal Corporation. The petitioners-purchasers produced the sanctioned plan, namely Ex.B1 relating to approval of lay out and tax receipts. When the Government and the local authority sanctioned lay out, granted permission to construct buildings and collected taxes, it is difficult to hold that such constructions are unauthorised or the Government was not aware that the petitioners have been in occupation of the disputed property. The Special Court placed reliance on the documents produced by the State namely Exs.A1 and A2 which were prepared at the time of filing of the application u/s 8 of the Land Grabbing Act; Exs.A3 and A4 Pahani extracts for the year 1981-82 and 1986-87 and Exs.A10 to A21 which speak that the land was earlier allotted to Nawab Kasim Yar Jung. Such allotment was cancelled as the said Nawab Kasim Yar Jung committed default in payment as required. These documents were prepared just either at the time of filing of the applications or subsequent to the filing of the applications. This raises a doubt as to the genuineness of these documents or desperate attempt on the part of the authorities of the State. Whereas the documents produced by the petitioners-purchasers, namely Khasara Pahani, Faisala Patti, Vasool Baqui register, order of mutation and the municipal tax receipts, all suggest that the buildings constructed by the petitioners are not unauthorised constructions. On the other hand, the petitioners-purchasers came in possession of the schedule property not as grabber but as owners. Thus, the presumptive value attached to the entries made in the above documents has not been rebutted by the State giving rebuttal evidence. In the absence of such rebuttal evidence, the entries made in the revenue records will have a presumptive value. As such the genuineness of the said documents are to be accepted as held by the Supreme Court in the case of Shikharchand Jain Vs. Digamber Jain Praband Karini Sabha and Others, and Baljit Singh and Another Vs. State of Uttar Pradesh, .

59. The Supreme Court in Shikharchand's case (supra), while making reference to Section 45(2) and Section 80(3) of the Central Provinces Land Revenue Act, 1917, which provisions are similar to the Record of Rights Act (A.P.), held that the entries in a record of rights shall be presumed to be correct unless the contrary is shown. This provision raises a presumption of correctness of the aforesaid Khasara entries. The Supreme Court further held that the first

appellate Court was wholly wrong in discarding the Khasara entries on the solitary statement in certain paragraph of the plaint and therefore the High Court could interfere with its finding in second appeal.

60. In Baljit Singh's case (supra), the Supreme Court while considering the scope of Section 114 of the Indian Evidence Act held that Khasara and Khatauni conclusively showing who was in actual possession of land in dispute. In case of non-production of rebuttal evidence, the presumptive value attached to the revenue records in Khasara Pahani shall be taken into consideration. The Supreme Court further held that if the documents which were in possession of parties who relied on those documents were not produced before the Court, an inference can be drawn that if such documents were produced they would have gone against the person who was said to be in possession of those documents.

61. The Special Court should have noticed that from the allegations and the material produced by the State, the State has not made out a prima facie case that the petitioners-purchasers have grabbed the land. As such it should have rejected the application straight away instead of proceeding to hold an enquiry and accepting the interested version given by the State. Even during enquiry, the Special Court ignored the clinching evidence given by the petitioners-purchasers.

62. The Special Court placed reliance on the documents produced by the State namely Exs.A12 to A21 and the Commissioner's Report. It should have held that no importance can be attached to the said documents as no one connected with those documents and the Commissioner who gave the report were examined. In our view, the findings of the Special Court on the validity of the applications filed by the State u/s 8 of the Land Grabbing Act and the correctness of the stand taken by the State is contrary to the law.

63. The petitioners-purchasers by giving both oral and documentary evidence proved their possession through their predecessors-in-title for a long period. They also established the identity of the property which the Special Court failed to notice. The reasoning adopted by the Special Court to declare that the Government is entitled to seek eviction of the petitioners-purchasers is quite incorrect. The State authorities themselves admitted the continuous possession and enjoyment of the petitioners and their predecessors-in-title over the schedule property even prior to the filing of the applications before the Special Court. Even though the State contended that the petitioners have grabbed the land, but they kept silent for several decades for initiating any action. The State failed to prove that the petitioners illegally took possession of the land or they are in occupation of the land without lawful entitlement. Thus, the conduct on the part of the Government will persuade the Court to take a little lenient view in favour of the petitioners-purchasers to allow their possession and enjoyment on the one hand and to safeguard the interest of the State on the other by directing the petitioners-purchasers to pay compensation to the State.

64. Regarding market value, no satisfactory evidence was given by both sides. It

has come in the evidence of State witnesses that the market value of the land is at Rs.1,000/- per sq. metre. During the course of arguments the learned Counsel appearing for the petitioners also brought to our notice that in respect of similar cases which had arisen out of same S. No.403/1/ paiki, the Special Court had also this Court had fixed the market value ranging from Rs.600/- to Rs.750/- per sq. metre. When this Court asked the Government Pleader that if this Court desires to ask the petitioners-purchasers to pay compensation to regularise their possession what would be the reasonable market value. The Government Pleader though tried to make a tall claim, but ultimately had conceded that the MRO before the Special Court stated that the market value of the lands is Rs.1,000/- per sq. metre. The petitioners-purchasers requested the Court to fix the market value at Rs.700/- only per sq. metre. However, taking into consideration the importance of the location of the land, position of the petitioners-purchasers and huge investments made on the said portions of the property and the market value fixed in respect of similarly situated plots either by the Special Court or by this Court, we feel that justice will be met if market value is fixed at Rs.1,000/- (one thousand rupees) per sq. metre. This figure is also in agreement with the G.O., dated 3-3-1994. Since both sides agreed to fix reasonable market value, driving the parties once again to approach the Committee to fix the market value by giving evidence is neither warranted nor it serves any purpose. Therefore, we feel that there is no necessity to give any finding on adverse possession as both the parties expressed their satisfaction if possession of the petitioners is regularised by ordering payment of compensation to the State.

65. For the reasons given above we are convinced that WP Nos.23999 of 1996, 22334 of 1996 and 22323 of 1996 are to be allowed. Accordingly the writ petitions are allowed and the common order passed by the Special Court dated 25-9-1996 in LGC Nos.45 of 1991 and 12 of 1992 is set aside. it is further ordered that the petitioners-purchasers are entitled for regularisation of the possession by paying compensation at the rate of Rs.1,000/- (one thousand rupees only per square metre) to the State within three months from this date. On receipt of-such compensation, the authorities shall issue the requisite certificate to the petitioners-purchasers forthwith. There shall be no order as to costs.

WP No.28402 of 1998:

66. While parting with the above three writ petitions, we would like to refer to the relief sought in WP No.28402 of 1998. At the beginning itself, it is mentioned that the case of this writ petitioner is squarely covered by the facts and law involved in other three writ petitions. The petitioner herein is also claiming his title through the owners under whom the petitioners in other three writ petitions have claimed. Initiation of proceedings u/s 8 of the Land Grabbing Act against this petitioner is only in the year 1998 in LGC No.88 of 1998. Whereas this petitioner purchased the land during April, 1984 and immediately thereafter he put up construction after obtaining necessary sanction from the Municipal

Corporation of Hyderabad. He has been paying taxes to the Municipal Corporation of Hyderabad. The case of the petitioner herein is that initiation of proceedings against him in LGC No.88 of 1998 is nearly after 14 years from the date of his purchase of the land and the action against him has been initiated with a mala fide intention as he belongs to the opposition party. There may be some truth in his submission that the State is not justified in initiating the proceedings in the year 1998 but the allegation as to the mala fides cannot be accepted as the allegations made at the time of addressing arguments are quite vague and baseless. It is not disputed by the State that the petitioner in this writ petition is also entitled for the same relief to be granted by this Court in respect of petitioners in other writ petitions. The learned Counsel appearing for the petitioner herein submitted that the Court may fix the same market value which it inclined to fix in respect of other three petitioners and the petitioner in this writ petition may be permitted to pay the same within a reasonable time.

67. We have observed that initiation of proceedings u/s 8 of the Land Grabbing Act shall be only when it is shown a prima facie case against a person who is alleged to have grabbed the land. From the information furnished by the petitioner in this writ petition, it is difficult to hold that the petitioner is a land grabber. The evidence which the State wants to place in respect of LGC No.88 of 1998 and the evidence which the petitioner herein likes to produce in support of his case are the same as has been referred in other three writ petitions. As such directing the parties to face the enquiry will be a time consuming, empty formality and waste of public time. Since we are convinced that the case made out by the petitioner in this writ petition is identical to the one made out by the petitioners in other three writ petitions the relief granted therein deserve to be granted to the petitioner in this writ petition also.

68. Accordingly, this writ petition is also allowed and the proceedings initiated in LGC No.88 of 1998 are quashed. It is further ordered that the petitioner in this writ petition is entitled for regularisation of his possession by paying compensation at the rate of Rs. 1,000/- (one thousand rupees only) per square metre to the State within three months from this date. On receipt of such compensation, the authorities shall issue the requisite certificate to the petitioner in this writ petition forthwith. There shall be no order as to costs.