

(2001) 04 AP CK 0063

In the Andhra Pradesh High Court

Case No : Writ Petition No. 25727 of 2000

Hyderabad Potteries Private Limited

APPELLANT

Vs

Collector, Hyderabad District and another

RESPONDENT

Date of Decision : 25-04-2001

Acts Referred:

Andhra Pradesh Survey and Boundaries Act, 1923 — Section 13, 13
Hyderabad Municipal Corporation Act, 1955 — Section 428, 429, 435
Urban Land (Ceiling and Regulation) Act, 1976 — Section 20(1), 6(1)

Citation : (2001) 3 ALD 600 : (2001) 3 ALT 200

Hon'ble Judges : B. Sudershan Reddy, J

Bench : Single Bench

**Advocate : Mr. N. Subba Reddy for A.K. Narasimha Rao, for the Appellant;
Government Pleader for Revenue and Mr. Ganta Rama Rao, for the Respondent**

Judgement

1. The petitioner in the instant writ petition prays for issuance of a writ of mandamus declaring the letter issued by the second respondent-Municipal Corporation of Hyderabad vide letter No.187/TP3/2000-441, dated 26-8-2000 as arbitrary and illegal and violative of Section 429(aa) of the Hyderabad Municipal Corporation Act, 1955 and bye-law No.4 (2) of the building bye-laws. The petitioner consequently prays for issuance of an appropriate direction directing the Municipal Corporation of Hyderabad to grant permission as prayed for in building Permit File No.187/TP3/2000.

2. The Municipal Corporation of Hyderabad (MCH) through the impugned letter rejected the application of the petitioner for the proposed construction of stilt for parking + 5 upper floors for residential apartments consisting of Blocks A to D at premises No. 1-1-365/A, situated at Bakaram, Hyderabad. In the impugned letter, "it is stated that the proposals of the petitioner were examined and placed before the Building Committee held on 4-8-2000 and as per the observations of the Building Committee, the Joint Collector, Hyderabad has informed that the site under reference is a Government land.

3. Before advertng to the question as to whether the impugned order suffers from any legal infirmity, it may be necessary to notice a few relevant facts leading to filing of this writ petition:

4. According to the averments made in the affidavit filed in support of the writ petition, originally one S. Rajeshwar Rao and M. K. Mvdaliar were the partners of the petitioner company. Both of them have purchased an extent of Ac.4.32 guntas of land out of Survey Nos.118 to 133 of Nampally village, Hyderabad District under a registered sale deed dated 6th Khurdada, 1353-Fasli (9th April, 1944) from the original owner and pattedar Haji Mohd. Azeez S/o. Hazi Mohd. Osman. The said two persons have transferred the said property in the name of M/s. The Hyderabad Potteries Limited through a registered sale deed dated 11th Amardad, 1355-Falsi (31-3-1946).

5. The erstwhile Hyderabad Government State acquired a portion of land in Survey Nos.118 to 133 in two spells admeasuring Ac.15-05 guntas and Ac.11-35 guntas for the purpose of construction of houses known as Labour Quarters under the provisions of Hyderabad Land Acquisition Act. Awards were passed under the Land Acquisition Act and the matter ultimately came up to this Court in CCCA Nos.19 of 1961 and 36 of 1961. However, it is claimed that the property of the petitioner company was not acquired by the Government even though the property is located in Survey Nos.118 to 133. The petitioner company continues to be in possession and enjoyment of the land. According to the petitioner, whether the land is in the Nampalli village sivar or Bakaram village sivar will not effect the ownership of the land.

6. The MCH assigned house numbers for the factory and adjoining premises located in the said lands. They are 1-1-365, 1-1-365/A etc. The land covered by the petitioner company has been converted from industrial use to residential use vide G.O. Ms. No.467, Municipal Administration, dated 25-8-1992. The Hyderabad Urban Development Authority (HUDA) issued consequential proceedings in pursuance of the said Governmental order as is evident from the HUDA letter No. 12529/HUDA P5/ 98, dated 24-11-1998. The property tax is being collected by the MCH.

7. The petitioner company filed a declaration u/s 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short "the ULC Act") before the Special Officer and Competent Authority and the same was numbered as CC No.H 1/243 2/76. The petitioner company applied for and obtained exemption u/s 20(1)(a) of the ULC Act vide G.O. Ms. No.2560, Revenue (UCIII), dated 11-6-1980 subject to certain terms and conditions mentioned therein.

8. The petitioner company in the meanwhile became defunct and failed to utilise the land for the purpose for which exemption has been granted by the State Government. The State Government accordingly withdrawn the exemption granted vide G.O.Ms.No.40, Revenue (UCIII) Department, dated 9-1-1996. Consequently, the proceedings before the Special Officer and Competent

Authority went on under the provisions of the ULC Act. The Competent Authority after holding the enquiries declared that the petitioner company holds an extent of 1427-44 square meters in excess of the ceiling area.

9. During the course of the enquiry, the land in question was inspected by the authorities. The title and possession of the petitioner company in respect of the land in question had been verified. A sketch was also prepared to lake possession of the surplus land. The land shown in the original plans annexed to the sale deeds of 1944 and 1946 and the land covered by the proceedings under the ULC Act are one and the same. The identity of the land in question was never in dispute.

10. The petitioner company developed a portion of the land with prior approval of the Municipal Corporation vide permit No.28/13-4JP 3/96, dated 1-6-1996 and a multi-storeyed complex has come into existence in the land.

11. The petitioner company with an intention to construct another complex in the remaining retainable land adjacent to the existing complex, made an application along with a plan to the Corporation on 7-7-2000. The petitioner paid the required amounts towards permit fee etc. The petitioner, in all, paid Rs.50,03,937/- to the Corporation. The Corporation having examined the application of the petitioner for construction of a complex, rejected the same through its letter dated 26-8-2000, which is impugned in this writ petition.

12. In the counter-affidavit filed by the Mandal Revenue Officer on behalf of the first respondent District Collector, none of the facts stated in the affidavit filed in support of the writ petition are denied. The first respondent does not dispute the genuineness of the sale deeds, under which the partners of the petitioner Company purchased the land in question. There is no dispute whatsoever that the petitioner company filed a declaration under the provisions of the ULC Act and the same was enquired into by the competent authority declaring the petitioner company to be surplus land owner. There is also no dispute that the petitioner surrendered an extent of 1427-44 square meters in Survey No.118. There is also no dispute that the Government of Andhra Pradesh initially granted exemption to the petitioner Company exempting the land in question from the purview and operation of the provisions of the ULC Act. However, the same had been withdrawn for the reason that the petitioner company failed to comply with the terms and conditions subject to which exemption has been granted. There is also no dispute whatsoever that the petitioner company applied for and obtained permission for construction of a multi-storeyed complex in a portion of the land in question. There is also no dispute that the Government vide G.O. Ms. No.467, Municipal Administration, dated 25-8-1992 changed the land from the industrial use zone to residential use zone to enable the petitioner company to construct a residential complex in a portion of the land.

13. However, the Mandal Revenue Officer in his counter-affidavit submits that TS No.4/2, Block "B", Ward No.66 of Bakaram village admeasuring an extent of

Ac.4-30 guntas equivalent to 19,214 square meters "is a gap area and it was not covered by survey at the time of initial survey." The petition schedule land is a gap area between Bakaram and Gagan Mahal villages. According to the Mandal Revenue Officer, initial survey in Bakaram village was conducted during 1355-Fasli (1945 AD) and Gagan Mahal village was surveyed during 1357-Fasli (1947 AD.). On verification of these village maps, it is found that certain area is located between these two villages and remained un-surveyed and not accounted for in both the villages. Thereafter, a general survey was conducted in twin cities of Hyderabad and Secunderabad under the provisions of A.P. Survey and Boundaries Act, 1923 (for short "the Survey Act"). A notification u/s 6(1) of the Survey Act was issued inviting all the persons to participate in the enquiry for determining the boundaries. The petition schedule lands was surveyed as TS No.4/2, Block "B", Ward No.66 of Bakaram village and is recorded - as Government land in Column No.20 of the Town Survey Land Record (TSLR).

14. It is submitted that after completing the survey, a notification was published u/s 13 of the Survey Act in District Gazette No.43, dated 17-7-1976. No objections were received. Accordingly, the entries recorded in Town Survey have become final and remained without any modification whatsoever.

15. It is contended that the partners of the petitioner company who were the original owners did not make any representation before the then special Deputy Collector, Final Check operations, Hyderabad. In the circumstances, their names were not incorporated in Column No.20 of TSLR.

16. In nutshell, it is the case of the respondent District Collector that in TSLR the land in question is recorded as a Government land. The ownership of the petitioner company is sought to be denied on the basis of simple entry alleged to have made in TSLR.

17. In the counter-affidavit filed by the MCH, none of the facts stated in the affidavit filed by the petitioner are put in issue. It is, however, admitted that the respondent Corporation, basing upon the documents produced including the proceedings of the Special Officer, Urban Land Ceilings, has approved the plan submitted by the petitioner vide permit No.28/3, dated 1-6-1996 in File No.41/TP3/ 96 accepting the proposals of the petitioner company for development of a portion of the land in question for construction of residential apartments (consisting of 4 blocks).

18. The simple case of the Corporation is that the Revenue authorities disputed the title of the petitioner company and claimed the land in question as a Government land and in such view of the matter; the Corporation rejected the proposal duly communicating its decision to the petitioner company.

19. Sri N. Subba Reddy, learned senior Counsel appearing on behalf of the petitioner company contends that the impugned proceedings rejecting the application of the petitioner company for construction of a residential complex is arbitrary and violative of provisions of Section 429(aa) of the Hyderabad

Municipal Corporation Act, 1955 (for "short" the HMC Act;). It is contended that the Corporation having granted permission to the petitioner in the year 1996 in respect of a portion of the land in Survey Nos. 118 to 133, that is to say a part of premises No.1-1-365 without raising any objection whatsoever, cannot now reject the permission on the stated grounds. It is contended that the respondent Corporation cannot surrender its discretion and statutory duty to the first respondent herein and reject the application in a casual and mechanical manner being solely guided by some objection raised for and on behalf of the first respondent. Sri N. Subba Reddy contends that the entries made in the TSLR have no bearing on the question of title. The survey made under the provisions of the Survey Act was never intended to determine the right, title and interest of any person in any of the lands in twin cities of Hyderabad and Secunderabad. The survey was conducted for the purpose of fixing the boundaries of the land. The entries, if any, made in the TSLR itself would not be enough to deny the title of the owners.

20. It may have to be noticed that the possession of the petitioner company in respect of the land in question is not in dispute. The first respondent District Collector in no manner known to law had raised any objection whatsoever at any time with regard to the right, title and interest of the petitioner company in respect of the land in question. No proceedings as such are initiated against the petitioner company by the first respondent claiming the land to be the Government land. The declaration filed by the petitioner company under the provisions of the ULC Act have become final. The petitioner company had even surrendered an extent of 1427-44 square meters of land to the Government and the Government accepted the possession of the same. The MCH as early as in the year 1996 granted permission to the petitioner company for construction of a residential complex in a portion of the very same land in question. Therefore, in the instant case, there is no dispute as such with regard to the title of the petitioner company in respect of the land in question. Disputing the title for the sake of raising a dispute would not be enough to conclude that there is a dispute with regard to the title as such. As against the preponderance of evidence and material available on record, a mere entry in the TSLR cannot alter the right, title and interest of the petitioner company in the land in question.

21. A bare reading of scheme of the A.P. Survey and Boundaries Act, 1923 would make it clear that the survey made under the said Act is mainly intended for the purposes of identification of the lands and fixation of boundaries. There is no provision under the Act intending to make any detail enquiries with regard to the right, title and interest of the persons in the lands. It is neither the object nor the scheme of the said Act. There is no presumption that every entry made in the TSLR shall be presumed to be true until contrary is proved as in the case of entries made in the record of rights under the provisions of A.P. Record of Rights in Land Act, 1971. It is not a record of right. There is no such provision in the Andhra Pradesh Survey and Boundaries Act, 1923.

22. The Privy Council in AIR 1926 100 (Privy Council) , observed:

"It is an error to suppose that the proceedings for the mutation of names are judicial proceedings in which the title to and the proprietary rights in immovable property are determined. They are nothing of the kind, as has been pointed out times innumerable by the Judicial Committee. They are much more in the nature of fiscal inquiries instituted in the interest of the State for the purpose of ascertaining which of the several claimants for the occupation of certain denominations of immovable property may be put into occupation of it with greater confidence that the revenue for it will be paid."

23. The question as to the nature and scope of entries in TSLR had fallen for consideration in WA Nos.115 and 160 of 2000 before a Division Bench of this Court. The Division Bench observed that "the entries in TSLR are no doubt relevant. But they are not conclusive. It is common knowledge that there may be many instances where the owners of land in urban areas will not be in a position to correlate the house numbers or ward numbers to the survey numbers or the entries may not be upto date and that may introduce some practical difficulties in obtaining TSLR extracts.....The TSLR cannot be regarded as a sole guiding factor."

24. Whether the Municipal Corporation is entitled to reject the application for grant of building permission solely on the ground of an adverse entry made in the TSLR? Justice P. Venkatrama Reddi, (as his Lordship then was) speaking for the Division Bench while adverting to the very question in WA Nos.115 and 160 of 2000 observed:

"The controversy does not rest there. Assuming that the TSLR extract is not available in respect of a particular property or TSLR entries do not go to substantiate the writ petitioners' case, the question then is whether the building permission should be refused automatically. The answer in our View should be in the negative. We have to read the bye-laws in harmony with the relevant section viz., Section 429. What is stressed by Section 429 (aa) is the document proving title to the property. TSLR may be one such document. There are also other documents which are mentioned in the bye-law No.4 (2) (v). The insistence on the production of these documents is only to facilitate the competent authority to satisfy itself that the application has prima facie title and legal authority to erect or re-erect the building. There can be no hard and fast rule as to how to establish the title or lawful authority of the applicant and the basis on which the prima facie satisfaction should be reached by the competent authority. Entries in TSLR are no doubt relevant. But they are not conclusive. It is common knowledge that there may be many instances where the owners of land in urban areas will not be in a position to correlate the house numbers or ward numbers to the survey numbers or the entries may not be upto date and that may introduce some practical difficulties in obtaining TSLR extracts. Therefore, the mere non-production of TSLR extract, if a valid reason could be given for such non-production, does not clinch the issue. The TSLR cannot be regarded as a sole guiding factor to the competent authority while dealing with the building

applications. TSLR entries have to be considered in conjunction with other documents which the applicants would like to place reliance upon. The stand taken by the Municipal Corporation that the proof of ownership/possession in the form of TSLR is an essential pre-requisite cannot be upheld though as we have already observed, such document is a relevant piece of evidence. It will have to be considered in combination with other documents which will have bearing on the title and possession of the applicant for building permission. At best, it can be said that insistence on the extracts from TSLR register may be a rule of prudence. But, it cannot be a rule of rigid and mechanical application."

25. It is further held that "the question of title and lawful possession of the applicants cannot be solely decided on the basis of TSLR entries, but also on the basis of any other relevant evidence that may be furnished by the applicants."

26. It is thus clear that an entry in TSLR itself cannot be the conclusive proof of title or lack of it, and the decision either to grant or refuse permission cannot be taken solely on the basis of an entry made in the TSLR. It may be one of the factors that may have to be taken into consideration along with the other material available on record. An entry made in TSLR per se could not create any doubt or cloud on the right, title and interest of a person in respect of any land.

27. The question that would fall for consideration is in what manner the Municipal Corporation of Hyderabad discharged its statutory function and considered the application of the petitioner for grant of building permission?

28. Chapter XII of the Hyderabad Municipal Corporation Act, 1955 deals with the buildings regulations notices regarding erection of building. Section 428 of HMC Act requires every person who intends to erect a building shall give to the Commissioner notice of his said intention in a form, obtained for this purpose u/s 435, specifying the position of the building intended to be erected, the description of building, the purpose for which it is intended, its dimensions and the name of the person whom he intends to employ to supervise its erection.

29. In nutshell, every person intending to erect a building is required to submit an application to the Commissioner u/s 428 of the HMC Act. Section 429 of the HMC Act enables the Commissioner requiring the applicant to furnish further particulars including the documents mentioned in Section 429 (a) to (d) of HMC Act. As per Section 429(aa), the Commissioner may require the person who has given the notice of his intention to erect a building to furnish to the Commissioner among other things, a copy of the title deed of the land duly attested by a Gazetted Officer of the Government together with an urban land ceiling clearance certificate or as the case may be an affidavit referred to in Section 338. The affidavit is to the effect that the total extent of land held by the applicant does not exceed the ceiling limit prescribed under the ULC Act. This provision may have to be read along with the bye-laws in a harmonious manner. Bye-law 4(2) of the Municipal Corporation Building Bye-laws, 1981 enjoins that every application for building permission shall be accompanied by

the following as proof of ownership:

- (a) attested copy of the original sale/lease deed; and
- (b) attested copy of the Revenue Survey Sheet/Municipal Survey Sheet with mutation record number; or
- (c) affidavit or other documents acceptable to the Commissioner, MCH.

30. It is thus clear that the duty to consider the application for grant of a building permission is conferred upon the Commissioner, Municipal Corporation of Hyderabad. It is conceded by the Municipal Corporation in its counter-affidavit filed in WP 17052 of 2000 that the recommendations of the Building Committee are advisory in nature and ultimately the Commissioner has to take a decision whatsoever to grant permission or not in a given case after considering all the relevant facts. Indeed, it is the correct legal position.

31. The Government of Andhra Pradesh in G.O. Ms. No.582, Municipal Administration, dated 21-5-1993 constituted a committee to examine and process the building plans for group housing and commercial complex which do not attract MSBR and to place its recommendations before the Commissioner, Municipal Corporation of Hyderabad who is the competent authority for according building permissions. Such a Committee appears to have been constituted to facilitate an expeditious decision in the matter by the competent authority and to avoid inordinate delay caused due to dilatory correspondence between the various agencies involved in grant of building permission. Later on, the Commissioner himself re-constituted a committee with the following persons:

- (1) Commissioner, MCH. Chairman
- (2) Vice-Chairman, HUDA or Nominee Member
- (3) Managing Director, HMWS and SB or Nominee Member
- (4) Dist Collector or Joint Collector, Hyderabad Member
- (5) Jt. Commissioner of Police (or) Deputy Commissioner of Police, I/c. of Traffic, O/o Commissioner of Police. Member
- (6) Additional Commissioner (Enforcement) Member
- (7) Chief Engineer, MCH. . Member
- (8) President/Secretary, Builders Forum, Hyderabad Member
- (9) Secretary of Indian Institute of Architects, A.P. Chapter Member
- (10) Chief City Planner Member and Convenor.
- (11) Director General, Fire Services, Government of A.P., Hyderabad Member
- (12) Special Officer and competent authority, ULC, Hyderabad Member

(13) Director, National Airport Authority, Hyderabad Member

(14) Nominee of Institute of Town Plannings (India) A.P. Regional Chapter Member

32. It is, however, doubtful as to whether the Commissioner could have virtually amended the Governmental order. At any rate, this Court in the instant case need not go into the legal status of the Committee so constituted by the Commissioner, since it is conceded that the recommendations/opinion of the Committee is only advisory in its nature and ultimately decision is required to be taken by the Commissioner. The validity of the Committee itself, if necessary, may have to be gone into in an appropriate case.

33. The District Collector/Joint Collector, Hyderabad is included in the Committee by the Commissioner by way of reconstituting the Committee constituted by the Government.

34. In the counter-affidavit filed by the MCH, every averment made in the affidavit filed in support of the writ petition is accepted. The only defence offered by the Corporation for rejecting the application of the petitioner for grant of permission is that "as the revenue authorities disputed the title of the petitioner and claimed the land in question as a Government land, and in view of the fact that the land in question was mentioned as gap area between two villages, the respondent Corporation rejected the proposal and the same was communicated to the petitioner." The counter-affidavit to say the least is vague. It is not stated in the counter-affidavit as to which revenue authorities raised their objection in the matter and opposed the grant of permission as prayed for by the petitioner company. It is not stated in the counter-affidavit as to in what manner the objections, if any, filed have been taken into consideration by the Corporation. The counter-affidavit does not disclose as to whether the documents filed by the petitioner such as; (a) copies of the registered sale deeds in support of proof of title; (b) the Urban Land Ceiling Clearance Certificate and (c) the earlier permission granted by the very Municipal Corporation to the petitioner in respect of a portion of the very land in question were taken into consideration. In the counter-affidavit, it is not even stated that the respondent Corporation relied upon the entries in the TSLR. It is not clear from the record as to whether the Joint Collector being a member of the Building Committee raised objection for grant of permission claiming it to be the Government land.

35. The record made available by the MCH does not even reveal as to whether the Joint Collector was present in the Building Committee meeting held on 4-8-2000. There are no minutes duly recorded and signed by the participants. The proforma copy of the minutes does not contain the signatures of the members of the Committee those who were present and attended the meeting on 4-8-2000. The record would disclose that a format has been prepared titled as List of Files Placed in Building Committee on 4-8-2000, which is to the following effect:

1. SI. No. : 1 to 7 8
2. File No. & Date : 187/TP3/2000
3. Name of the Applicant & Address : Mfs. Hyderabad Potteries [P] Ltd., 1-1-365/A, Bakaram, Hyderabad.
4. Area (in Sq.mts.) : 9615.12
5. Proposed Construction : Stilt + 5 floors (A to blocks)
6. S.O. ULC : Proc. No. H1/2432/76, dated 11-1-1996
7. Jt. Collector, Hyderabad : It is a Government land
8. DCP (Tr.) : As per norms
9. CGM HMWS&SB : Not furnished
10. CPO HUDA :

8 Mts, alround open spaces to be provided, even though 6 mt., is satisfying as per G.O. Ms. No.428, MA, dated 31-7-1998
11. Final remarks :

Recommended by the Committee subject to submission of SO, ULC, JC, Hyderabad stating it is a private land. Further revised plans are to be submitted as per conditions by CPO, HUDA, Feasibility Certificate from HMWS&SB and other usual conditions. ("JC, Hyderabad stating it is a private land" is struck off).

36. The file does not contain the extract of so-called TSLR. On the other hand, the record contains the certificate issued by the Mandal Revenue Officer, Musheerabad Mandal certifying that the premises bearing House No.1-1-365/A, situated at Jawaharnagar (Opp. Road No.6) Bakaram Village, Musheerabad Mandal correlates to TS No.4/2, Block-B, Ward 66 is a private property as per the declaration filed by the Hyderabad Potteries Private Limited. But curiously, the very Mandal Revenue Officer files a counter-affidavit in this writ petition stating that it is a Government land, which runs quite contrary to the certificate issued by him. The facts speak for themselves. The rights of the citizens cannot be left to the vagaries and whims and fancies of the officers concerned. However, the said certificate would fully support the case of the petitioner that it is a private land. The certificate has been totally ignored and excluded from consideration by the so-called Committee in making its own recommendations. The final remarks offered by the Committee are absolutely vague. Even those final remarks would not suggest as if the Committee recommended for the rejection of the case of the petitioner. At any rate, mere statement of the Joint Collector that the land in question is a Government land would not be enough to reject the application for grant of permission by the Commissioner. Such ipse dixit statements are of no relevance. The Joint Collector if at all could have made available the documents in support of his submission that the land in question is a Government land and

placed the same before the Committee. If any such objection is raised by the Joint Collector, the same may have to be taken into consideration by the Commissioner like any other objection by any interested person. But the Commissioner cannot reject the application on the ground that the Building Committee did not recommend the case of the petitioner for grant of permission based on an objection raised by a member of the Committee. The District Collector or Joint Collector as the case may be entitled to raise his objections and place his objections together with the relevant documents before the committee, but they cannot participate in the decision making process. Their participation may have to be limited only to the extent of making objections if any. It shall always be open to the rest of the members of the committee to make their own observations. Ultimately, it is the Commissioner who is required to take a decision in the matter.

37. In the instant case, it is not known as to in what manner, the Joint Collector raised his objection for granting permission to the petitioner company. The record does not contain the so-called entries in the TSLR. It is highly doubtful as to whether the Joint Collector at all participated in the meeting.

38. It is also required to notice that there are no proceedings initiated by the Government or any competent authority against the petitioner herein disputing its right, title and interest in the land in question. There are no legal proceedings initiated against the petitioner. There is no dispute whatsoever that the possession is with the petitioner.

39. The record does not reveal as to whether the Commissioner had taken into consideration the documentary evidence made available by the petitioner in support of its claim for grant of permission for construction of stilt for parking + 5 upper floors for residential apartments consisting of Blocks A to D at premises No.1-1-365/A, situated at Bakaram, Hyderabad. The decision making process is vitiated for the reason of non-application of mind. The relevant material is kept out of consideration. The Commissioner cannot surrender his discretion in the matter to the so-called Committee or to any one of its members. The Commissioner is required to discharge his statutory duty/obligation and consider each of the applications in accordance with law.

40. Of course, the Commissioner has to consider the objections, if any, raised for grant of permission. But, an objection raised by a member of the Committee itself would not be enough to reject the application for grant of permission. The Commissioner is required to make pragmatic assessment of the material available on record and decide the question of prima facie title and lawful possession of the applicants. The applications for grant of permission cannot be rejected solely on the basis of TSLR entries. After all, the decision to grant permission itself would not confer any title upon the applicant, nor it would take away the rights of the objector (s), whether the Government or any individual, for asserting their right, title and interest in the land in respect of which permission has been granted and dispute the title in any manner known to law.

Similarly, the Commissioner is not entitled to decide any disputed questions of title or the ownership. All that the Commissioner required to do is to find out prima facie title and lawful possession of the applicant and obviously such consideration is confined to only for the purposes of granting permission and nothing more.

41. For all the aforesaid reasons, the impugned order is set aside. The Commissioner is accordingly directed to forthwith consider the application of the petitioner for grant of permission for construction of stilt for parking + 5 upper floors for Residential Apartments consisting of Blocks A to D at premises No.1-1-365/A, situated at Bakaram, Hyderabad, by duly taking into consideration the documents filed by the petitioner along with the application including the permission already granted by the Corporation to the petitioner for the construction of a multi-storeyed building in a portion of the very land and the Certificate issued by the Mandal Revenue Officer, Musheerabad Mandal certifying the land in question to be a private land. The Commissioner shall not reject the application of the petitioner solely on the basis of an objection purported to have been raised by the Joint Collector. The objection, if any, raised by the Joint Collector may also be taken into consideration along with the other relevant material available on record. The Commissioner shall not reject the application of the petitioner for grant of permission solely on the basis of an entry stated to have been made in TSLR.

42. An appropriate decision in this regard shall be taken by the Commissioner within four weeks from the date of receipt of a copy of this order.

43. The writ petition is accordingly allowed with costs.