(2001) 12 AP CK 0063

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13877 of 1998

Shivabagh Welfare Association, Hyd.	APPELLANT
Vs	
Commissioner and Special Officer, MCH, Hyd. and Others	RESPONDENT

Date of Decision : 26-12-2001

Acts Referred:

Hyderabad Municipal Corporation Act, 1955 — Section 220(3)

Citation : (2002) 2 ALD 552 : (2002) 3 ALT 123

Hon'ble Judges : N.V. Ramana, J

Bench : Single Bench

Advocate : Y. Krishna Reddy, for the Appellant; Addl. Advocate-General, G. Jyothi Kiran, SC for MCH (Urban Land Ceiling) and Govt. Pleader for Revenue and Assignment, for the Respondent

Final Decision : Dismissed

Judgement

N.V. Ramana, J.—In this writ petition, the petitioner prays that a writ of mandamus be issued restraining the respondents from damaging or demolishing the houses belonging to the members of the petitioner Association situated in Sy.No.76 part in Shivabagh, Ameerpet, Hyderabad.

2. The case of the petitioner-Association is that the society is formed with the object of providing all facilities and amenities to the residents of Shiv Bagh Colony, residing in the colony since 1985, and the members of the association have been regularly paying the property tax on demand from the respondents. The petitioner states that, when the Revenue Department tried to interfere with the plots and houses, a number of writ petitions were filed and interim orders obtained and one such writ petition is WP No. 3165 of 1997 wherein this Court, by an order dated 27-11-1997, granted interim injunction restraining the respondents therein from interfering in any way with the possession of the petitioners. The petitioner further contends that when the respondents tried to demolish the houses of the members of the petitioner-Association on the ground that they are not the parties to the said writ petition, this writ petition is filed

since such action of the respondents is in violation of the principles of natural justice.

3. Counter-affidavit has been filed by the Assistant City Planner, MCH. stating that the land, in which the members of the petitioner-Association constructed the houses, belongs to the Government, since it was declared as ''surplus land'' under the Urban Land (Ceiling and Regulation) Act, 1976 and that, in fact, there is no approved lay out for the land and the constructions of houses made in the land are illegal, that the Government has also published a public notice in "Eenadu" and ''Deccan Chronicle'' on 31-10-1991 cautioning the public not to deal with the society regarding allotment and purchase of plots without the knowledge of the Co-operative Department and also that an enquiry has been ordered into the affairs of the society. It is stated that because the members of the petitioner-Association constructed the buildings without any sanctioned layout and permission for construction, in anticipation of the proposed demolition, they filed this writ petition. The respondents prayed for dismissal of the writ petition.

4. Earlier, when the matter came up for hearing, the learned Government Pleader for Revenue (Assignments), appearing for the Urban Land Ceiling Department, was directed to file an affidavit regarding the position of the said land. In pursuance of such directions, the MRO, Ameerpet Mandal, Hyderabad, filed counter-affidavit, stating that Sri Raja Rohini Raj, Smt. Rani Manohar Raj and Sri Raja Eswar Raj filed separate declarations in Form-I u/s 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 declaring the properties held by them in Hyderabad Urban Agglomeration. The declarations filed by them are numbered as E1/5810/76, E1/5811/ 76 and E1/5812/76, respectively Rohini Raj declared that she is having Ac.3-00 of land in Sy.No.76, Ameerpet, Hyderabad. Rani Manohar Raj declared that she is having Ac.3-00 of land in Sy.No.76, Ameerpet, Hyderabad, and 1080 square yards of site at premises No.9-1-154, Subash Road, Secunderabad. Sri Eswar Raj is having Ac.3-00 of land in Sy.No.76, Ameerpet, Hyderabad. It is stated that, after due enquiry, the declarants were provisionally declared u/s 8(1) of the Act as surplus land-holders to the extent of 14,186.90 square metres each by the Special Officer and Competent Authority (Urban Land Ceilings), Hyderabad, in his proceedings No.El/5810/ 76, El/5811/76 and El/5812/76 and that objections were invited. After having considered the objections received from the above said declarants, the competent authority has ultimately declared that each of the declarant is holding an extent of 14,186.90 square metres as surplus land in Sy.No.76, Ameerpet, Hyderabad. It is stated that on 18-5-1994 a notification u/s 10(1) of the Act was issued and the same was published in A.P. Gazette No.23, dated 9-6-1994 and no objections were received from any quarter with regard to the said notification. A declaration u/s 10(3) of the Act was issued on 31-8-1994 and the same was published in A.P. Gazette No.40, dated 6-10-1994 to the effect that the excess vacant land of an extent of 42,560.70 square metres in Sy.No. 76, H.No. 7-1-405, Ameerpet, Hyderabad, is deemed to have been vested absolutely in the State Government

free from all encumbrances with effect from 10-10-1994. It is further stated that one G. Subramanyan and others filed Land Grabbing Case No.246 of 1995 in the Special Court under A.P. Land Grabbing (Prohibition) Act and the Special Court after elaborate enquiry and after considering the entire evidence on record, by its judgment dated 5-10-1996, declared that the applicants 1 to 13 therein and respondents 2 to 19 and 21 to 66 are land-grabbers and directed them to deliver vacant possession of the application schedule property to the Government/67th respondent within two months from the date of that judgment, failing which the RDO, Hyderabad shall take possession of the application schedule property from the applicants as well as the respondents together with all the constructions made thereon. Pursuant to the judgment in LGC 246 of 1995, the RDO, Hyderabad initiated steps and took possession of the schedule property along with the structures existing thereon on 6-12-1996 and the property is in the custody of the Government. Against the judgment in LGC 246 of 1995, number of writ petitions were filed by several persons in this Court. One of the writ petitions, viz., WP No. 23474 of 1996 filed by D. Surender Reddy and 51 others was also dismissed by the Division Bench of this Court on 6-11-1996. The writ petitioners carried the matter to the Supreme Court in SLP(Civil) No. 23546 of 1997 in IA No. 1 and the SLP was dismissed on 17-10-1997. It is stated that on 18-1-1979 and 23-1-1982 Eshwar Raj and Manohar Raj filed applications before the Government requesting to grant exemption in respect of 36416 square metres in Sy.No. 76, Ameerpet, u/s 20(1)(a) of the Act in terms of G.O. Ms. No. 136, Revenue Department dated 28-1-1981 for transferring the said land in favour of Vanaja Co-opertaive Housing Society. As per the terms and conditions stipulated in the said G.O. Ms. No. 136, the land-holders should register the land in favour of the society within 3 months from the date of grant of exemption and the society in turn should register the plots in favour of the members within three months. It is stated that in the present case neither the exemption was granted nor was there any commitment from the Government for grant of such exemption and that the landholders, without waiting for the orders of the Government, on their exemption application, sold away several plots to various individuals. It is stated that upon enquiry it was found that the land was divided into 92 plots and sold to several persons and that most of the purchasers are not the members of the society and plots were sold through notarised agreements of sale signed by the land owners and former president of the society. In view of the fact that the said transactions are in violation of the provisions of the Urban Land Ceiling Act, a factual report was submitted to the Government by the Special Officer, ULC, Hyderabad and the Government after examining the said report ascertaining the status of the society from the Commissioner, Co-operation and Registrar of Co-operative Societies and affording an opportunity of hearing to the land owners and all other persons interested in the matter, rejected their request for grant of exemption, vide Memo No. 103818/ UC.II(1)91-9, dated 1-3-1995. It is stated that the Government has directed the District Collector to remove the illegal constructions made in Sy.No. 76, Ameerpet, Hyderabad, and to ensure that no further encroachments and illegal constructions are allowed to be made in the land in question, in view of the rejection of exemption, u/s 20(1)(a) of the Act, by the Government in their Memo No. 103818/UC.II(1)91-9, dated 1-3-1995. It is stated that 1185 square yards of land in plot Nos.85, 86 and 87 and 1264 square yards in plot Nos. 1, 2 and 3 were handed over to the Deputy Executive Engineer, Tribal Welfare Department on 25-1-1997 for construction of Girls Hostel and MRO''s Office buildings; that 325 square yards of land in plot No. 56; 266 square yards of land in plot No. 60; 33 square yards in plot No. 61, 325 square yards in plot No. 71 and 350 square yards in plot No. 74 and 175 square yards in plot No. 73/B were handed over to Deputy Secretary, APSWERI for construction of Training Centre and Staff Quarters and the departments concerned have commenced construction of the buildings.

5. From the averments of the counter-affidavit filed by the MRO, it is clear that the total extent of land declared as surplus land is 42,560.70 sq.metres (14186.90 sq.metres x3). The total land given to five Government organisations in 3923 square yards, which comes to 3279 square metres. There is an open area of 1450-00 sq.metres. If we deduct the extent of 4729.63 sq.metres (i.e.. 3279.63 sq.mts given to five Government organizations +1450.00 sq.mts of open area), from the total surplus land of 42,560.70 square metres, the balance land conies to 37831.07 sq.mts (42560.70-4729.63).

6. However, it is stated by the learned Government Pleader that except the land of 3279.63 sq.metres, which was given to the Government organisations (mentioned in paragraph 13), and the open area of 1450.00 sq.mts (totalling to 4729.63 sq.mts), in the other land also constructions have come up and third parties have encroached upon the land.

7. In view of the said position, this Court by order dated 5-12-2001 directed that the Chief Secretary to Government of A.P., and the Principal Secretary (Revenue), Government of A.P., be impleaded as respondents in this writ petition and directions were given to them to file affidavits about the action they have already taken or they are going to take against the erring officials, In the same order, the Commissioner, MCH was also directed to find-out the officials who have permitted the illegal constructions and allotted house numbers and to submit a report thereon.

8. Pursuant to the said directions, the 1st respondent-Commissioner, MCH stated that the Vanaja Co-operative Housing Society filed an application on 14-5-1981 for approval of layout in Sy.No. 76/P situated at Ameerpet to an extent of 9 acres called Shivabagh, that the layout proposals were forwarded to HUDA for approval, that HUDA after scrutiny of the proposals approved the tentative layout and forwarded to MCH vide their Lr.D.Dis.No. 5032/PD1/ HUDA/81, dated 30-7-1981 after collecting Rs. 13,557/- towards development charges, that the layout was approved by HUDA subject to condition of verifying the ownership, and of the provisions of ULC Act, that the land owners filed the declaration to the ULC authorities in the year 1976 declaring their land holding and the ULC

authorities provisionally declared that the land owners are surplus holders but they have not informed the MCH asking the Corporation not to approve any layout or building permission in Survey No. 76, Ameerpet, Hyderabad, which was provisionally declared as surplus, that suppressing the fact of filing declaration before the ULC authorities, the petitioner Society had applied for layout approval in the year 1981 and hence the MCH admitted the layout application riled by Society on 14-5-1981 and forwarded the same to the HUDA for approval on 2-6-1981 and the HUDA approved the layout on 30-7-1981, and released the approved layout to the society by MCH on 3-2-1982, that the layout approved by the HUDA was only a tentative layout, which is only a road circulation pattern without any indication of individual plots and that from the stage of filing of declaration in 1976 till the approval of tentative layout by HUDA and MCH, the ULC authorities never informed the MCH about the provisional declaration of surplus land and the MCH received instructions only from Deputy Registrar (Housing Society) not to grant permission on 2-11-1991 since the society committed certain irregularities in allotment of plots. It is further stated in the counter-affidavit that the ULC authorities have declared, u/s 10(3) of the ULC Act, that the land owners are surplus holders on 11-8-1994 and gazette notification was issued on 6-10-1994 declaring an extent of 42560.76 sq.mts. of land in Sy.No. 76, Ameerpet, Hyderabad as surplus land and vested with the Government, that the Special Officer and Competent Authority, ULC informed the 1st respondent vide his Lr.RC.No. E1/ 5810/76, dated 2-9-1994 that 44450.70 sq.mts. of land has been declared as surplus land in Sy.No. 76, Ameerpet on 15-2-1994, that the ULC authorities have taken nearly 18 years to inform the same and at on point of time the ULC authorities informed the MCH about the declaration of surplus land, that the Deputy Registrar (Housing Society) through his letter dated 2-11-1991 informed the 1st respondent that the petitioner-society is not working properly and committed irregularities in allotment of plots and requested not to sanction building permission to the society, that the MCH has not issued any building permission to any of the society members till today and the MCH and HUDA have not approved any final layout and the building permission will be issued only after the approval of final layout u/s 388 of Hyderabad Municipal Corporation Act, 1955. It is also stated in the counter-affidavit that even though the Municipality has initiated action against the unauthorised constructions by issuing notices, because of the orders obtained by the members of the petitioner-society from the City Civil Court, Hyderabad as well as the High Court of A.P. they, i.e., Corporation authorities, are unable to take any action to demolish the unauthorised constructions and further submitted that the Commissioner has initiated action against the Section Officer-in-charge, who is in charge of the Ward and he was placed under suspension and charges were also framed against the City Planner and Assistant City Planner, Circle No. V and both were transferred from the MCH to their parent department. It is further stated that even though, door numbers were given to some of the houses by the assessing authorities, once the unauthorised constructions are demolished, the assessments made, under the above provision will stand cancelled and the 1st respondent furnished the names of the four officers viz., Ramakanthgir, C.S. Rajesekharan, J. Sagi Reddy and M. Satyanarayana Reddy stating that they have made the assessments on the unauthorised constructions.

9. The 3rd respondent-Chief Secretary to Government of A.P. and the 4th respondent-Principal Secretary (Revenue), Government of A.P., filed counter-affidavits and the summary of the counter-affidavits is as follows:-

The possession of land in question has not been taken from SO & CA, ULC, Hyderabad but the land in question has been taken over on 6-12-1996 as per the orders of the Hon''ble Special Court, APLG(P) Act in LGC No. 246/95, dated 5-10-1996 to an extent of 42,560.70 sq.mts. which includes 64 constructed plots, 28 vacant plots, park area and internal road area; An extent of 16, 762.63 sq.mts was found occupied with structures covering 64 plots at the time of taking-over possession; An extent of 25,798.97 sq.mts of land was found vacant including park area, internal roads area and 28 plots at the time of taking over possession; Out of an extent of 25,798.7 sq.mts of vacant land, an extent of 3,530.93 sq.mts of land covering 121 plots has been handed over to various Government Departments on 25-1-1997, out of which 4 plots are open at present and 8 plots occupied with the support from orders obtained by filing writ petitions in this Court. An extent of 3,067.31 sq.mts covering 10 plots has been occupied by way of construction after taking over possession with support of various writ petitions. With regard to the action taken against the persons responsible for allowing the encroachments, disciplinary action has been initiated against the then Mandal Revenue Officer by the Collector, Hyderabad during the year 1998 who failed to prevent the encroachments and; the same is pending for enquiry. For taking measures to protect the Government surplus lands, Government have issued G.O. Rt. No. 823, dated 18-12-2000 creating a Task Force under the Chairmanship of Joint Collector. The Task Force is taking effective steps and 1,68,710 sq.mtrs of Government land has been recouped to the Government by the Task Force since 1-4-2001. The Government has released an amount of Rs.25.00 lakhs for erection of fencing and compound walls around the Government lands and action is being taken by the Task Force in erecting the fencing and also construction of compound walls wherever necessary. In order to safeguard the valuable Government properties from encroachments a close vigil is maintained by keeping outposts and police pickets and notorious land grabbers have been booked under PD. Act.

10. The main contention of the learned Counsel for the petitioner is that the petitioner is in possession of the property since 1985 and the Municipal Corporation has assessed the property tax and the members of the petitioner''s association are paying the taxes regularly and they also obtained electricity and telephone connections, that some of the members of the association filed a Writ Petition No. 3165 of 1997 and obtained interim orders restraining the Respondent-Revenue Department therein from interfering with their possession, that the 1st respondent-Municipal Corporation without issuing any notice and

without giving any opportunity to the members of the petitioner-Association is trying to demolish their properties in violation of principles of natural justice and prayed this Court to grant injunction against the respondents herein from interfering with the possession of the members of the petitioner-Association.

11. On behalf of the respondents, learned Government Pleaders for Revenue and Assignment submitted that the land in question is declared to be surplus land under the Urban Land Ceiling Act and, because of pendency of proceedings before different Courts and this Court and because of the interim orders passed by various Courts, the authorities are unable to take any action against the members of the petitioner-Association to remove the illegal constructions made by them.

12. It is further contended by the learned Government Pleaders for Revenue and Assignment that the Government has already taken sufficient steps to protect the Government land by constituting a Task Force and initiating other measures as mentioned supra, that action is being taken against the erring officials and that the Government will take prompt action to remove such illegal constructions.

13. The sum and substance of the counter-affidavits and the arguments of the learned Counsel on both sides is to the effect that after disposal of all these cases, the respondents are willing to take appropriate action against the encroachers by following due process of law.

14. The writ petitioner-Association has not filed any rejoinder/reply denying or disputing the categorical statements of facts mentioned in the affidavits of the respondents. It is well settled that the averments in the counter-affidavit, which remained untraversed, must be taken to have been admitted.

15. The petitioner is seeking relief on the basis of the fact that the members of the petitioner-Association had constructed houses and subsequently paid taxes to the MCH. This connection has no legal basis, in view of the provisions of Section 220(3) of the HMC Act which empowers the MCH to assess and collect taxes even in relation to the buildings constructed unauthuorisedly. It is nowhere stated by the members of the petitioner-Association that they had obtained necessary permissions before construction of houses. On the other hand, respondents 2 and 3 have categorically stated in the counter-affidavits that the land in which constructions have been made is declared as surplus land under the Urban Land Ceiling Act and the petitioners have illegally encroached upon some portion of the land and raised unauthorised constructions. The MCH has stated that the members of the petitioner-Association have not taken any permission or sanction of lay out for construction of houses, a fact not denied by the learned Counsel for the petitioner. Admittedly, the members of the petitioner-Association have constructed the buildings without obtaining permission from the MCH. Taking note of the statements made in the affidavits filed by the Chief Secretary and the Principal Secretary, Revenue Department, Government of Andhra Pradesh, to the effect that they have taken necessary steps to secure the

implementation of the ULC Act and to safeguard the Government land declared as surplus under the ULC Act, 1 do not consider it necessary to pursue the matter any further.

16. In the counter-affidavit filed by the MCH, it is stated that, till the tentative lay out was approved by HUDA and MCH, the ULC authorities have not informed the MCH about the provisional declaration of surplus land, and had the ULC authorities informed the MCH about the provisional declaration of surplus land, the tentative layout would not have been approved. It is also stated that the ULC authorities have taken nearly eighteen (18) years to inform the MCH about the provisional declaration of surplus land and at no point of time the ULC authorities have informed the MCH about the provisional declaration of surplus land. The affidavit filed on behalf of the MCH is also silent regarding steps being taken by the MCH for vacating the interim directions granted by this Court. Even though this writ petition was admitted by this Court on 15-5-1998, no counter-affidavit is filed by the MCH till recently and it is only at the instance of this Court the MCH has filed its counter-affidavit. This shows the indifferent attitude of the MCH in taking prompt action. Only order which is said to have disabled the MCH from proceeding further is the interim order of this Court.

17. The learned Additional Advocate-General appearing on behalf of the MCH submitted that the MCH has taken all necessary steps for taking action against the members of the petitioner-Association and that it was on account of the stay order granted by this Court, the MCH authorities are unable to proceed any further. He also reiterated the contentions stated in the counter-affidavit filed by the MCH. The learned Additional Advocate-General further submitted that the show-cause notices are ready to be issued to the members of the petitioner-Association.

18. Taking note of the submissions made by the learned Additional Advocate-General, this Court is of the view that no further orders need be passed in this writ petition.

19. Turning to the submissions made by the learned Counsel for the petitioner regarding payment of taxes by the members of the petitioner-Association and the other facilities provided by various departmental organisations, it is open to the members of the petitioner-Association to raise all objections as are permissible under law in their reply to the show-cause notices to be issued by the MCH.

20. Before parting with this case, I consider it necessary to express the Court''s anguish on the failure of the officials of both the Municipal Corporation of Hyderabad and the Urban Land Ceiling Section of the Revenue Department in implementing the relevant laws.

21. Implementation of the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 leaves much to be desired. It is more than 25 years since the Act came into force, despite which in number of cases neither have declarations been

finalised so far nor have statutory appeals been disposed of. The very object and purpose for which the Act was made is being defeated, for failure to properly implement the provisions thereof. In the counter-affidavits filed, both by the Special Chief Secretary and the Chief Secretary, it is stated that a Task Force has been created, vide G.O. Rt. No. 823, dated 18-12-2000 to recoup the Government lands and that action has been taken for erecting fencing and construction of compound walls.

22. Tardy implementation of the statutory provisions, over the past 25 years, has virtually reduced the provisions of the Act to a dead /letter. The averment that close vigil is being maintained by keeping outposts and police pickets and that notorious land grabbers have been booked under PD Act, is akin to bolting the stable door after the horses have left. Judicial notice can be taken of the fact that over past 25 years, lands which ought to have rightly vested in the Government have changed hands on the strength of mere agreements of sales and persons presently in possession of these excess lands are the 4th or the 5th purchasers from the original land holders. There are cases, such as the one herein,'' which have given rise to doubts being publicly expressed regarding the wisdom in continuing to retain the Urban Land Ceiling Act and in not repealing it.

23. No further proof of apathy and indifference of the officials of the Municipal Corporation of Hyderabad, is needed than their own admission in the counter-affidavit, that unauthorised buildings are being constructed in this colony right from 1989 onwards. Except stating that they had issued notices and that the plot-holders had obtained orders of injunctions from Courts restraining the Municipal Corporation of Hyderabad from taking any action including demolition, no details are forthcoming regarding the steps taken by the Municipal Corporation of Hyderabad to get the injunction orders vacated. No details have been furnished either of the numbers of the cases in which orders of injunction were granted, or whether the said orders of injunction subsist as on date. The counter-affidavit is silent regarding the steps, if any, taken by the Municipal Corporation of Hyderabad to get the injunction orders vacated.

24. In the present writ petition also, interim orders were passed as early as on 15-5-1998. However, no steps were taken by the Municipal Corporation of Hyderabad even to file a counter-affidavit, let alone a petition seeking vacation of the interim order. It is only pursuant to the directions issued by this Court on 5-12-2001, that the present counter-affidavit has been filed on 12-12-2001. The Municipal Corporation of Hyderabad, having chosen not to contest the writ petition by filing its counter-affidavit and having kept silent for three long years, now blames Courts for their inaction.

25. The counter-affidavit filed on behalf of the MCH ignores the distinction between excess land (under the Urban Land Ceiling Act), which vests in the Government and unauthorised construction of buildings. Even in cases where a person has a valid title over the land, construction of building thereon can only commence after prior approval of the Municipal Corporation. It is not the

petitioner''s case that they have even applied for permission, let alone obtaining prior approval of the Municipal Corporation. As such, nothing prevented the Municipal Corporation from taking action for demolishing these unauthorised constructions. The Municipal Corporation of Hyderabad has the power to take action under the HMC Act for demolition of unauthorised constructions of buildings, irrespective of title of the person over such land on which such buildings have been constructed.

26. Failure to take prompt action by the officials of the Municipal Corporation of Hyderabad, had led to the present alarming situation, where buildings are mushrooming all over the city and planned growth and development has almost been forgotten. Gullible public are being forced to part with their life earnings by the unscrupulous builders, taking advantage of the indifference of the officials of the Municipal Corporation of Hyderabad. Not only has the Corporation failed to take prompt action to prevent unauthorised constructions, it has also put its stamp of approval by collecting property tax, on these unauthorised constructions, for years together. In justification of their action in collecting property tax, for years together, on these unauthorised constructions, reliance is placed on Section 220(3) of HMC Act which reads as under:

"Notwithstanding anything contained in this Act and the rules made thereunder, where a building is constructed, or reconstructed, or some structures are raised unauthorisedly, it shall be competent to the assessing authority to levy property tax on such building or structure with a penalty often per cent on the amount of tax levied till such unauthorised constructions is demolished or regularised. A separate receipt for the penalty levied and collected shall be issued".

27. This provision which is obviously intended to be applied only for a limited duration, is no doubt laudable, since it has been made to ensure that the Municipal Corporation is not deprived of its revenue during the period commencing from initiation of action against such unauthorised constructions till actual demolition thereof. It does not justify inaction on the part of the Municipal Corporation from acting in accordance with the provisions of the HMC Act for demolition of unauthorised constructions, nor can the said statutory provisions be made applicable for collection of property tax for years together without taking necessary action for demolition of such unauthorised constructions. The property tax levied on unauthorised constructions u/s 220(3) of the HMC Act is distinct from the property tax levied on the buildings constructed with the prior approval of the Municipal Corporation of Hyderabad. u/s 220(3) of the HMC Act, it is competent for the assessing authority to levy property tax with a penalty of 10% of the amount of tax levied. The total tax levied on unauthorised constructions is 10% more than those of comparable authorised constructions. The property tax receipts issued on these unauthorised constructions should therefore indicate that--

(a) property tax is being levied on a building, the construction of which is unauthorised; and

(b) in addition to the tax levied, a penalty of 10% is also being levied since the construction of the building is unauthorised.

28. Unfortunately, the property tax receipts which are included as part of the material papers, do not satisfy these requirements. There is no reason to believe that any distinction is being made by the Municipal Corporation of Hyderabad, in issuing property tax receipts, between buildings which are authorised and those which are not. Needless to state that in the absence of any such indication in the property tax receipts and in collection of property tax on such unauthorised buildings for years or even decades together, without taking steps to demolish the said buildings, an impression is created in the minds of the gullible public that construction of the building has the approval of the Municipal Corporation.

29. When this Court enquired about the action taken against the erring officials, the names of certain official, who have since retired, are furnished in the counter-affidavit. Construction of buildings in this colony consisting of number of houses, spread over a period of more than ten years cannot be with the connivance of merely four officials. The Municipal Corporation would do well to bestow necessary attention and take immediate action against all the erring officials.

30. Better co-ordination is necessary between the Revenue officials, the officials of Municipal Corporation of Hyderabad and the Law Officers of the Government to ensure that excess Government land is protected, unauthorised constructions are prevented and that the gullible public are not cheated of their life earnings. Failure of the officials in prompt and effective implementation of laws has led to a situation where the very existence of laws has been forgotten by every one. It is the primary function of the Government officials to ensure prompt and strict implementation of the laws and it is only by doing so that the faith of general public in the rule of law can be retained.

31. A detailed examination of this matter may not, however, be necessary in view of the submission made by the learned Additional Advocate-General on behalf of the Municipal Corporation of Hyderabad that show-cause notices have been kept ready for being issued and that no efforts will be spared in taking immediate action for demolition of such unauthorised constructions, in accordance with the provisions of the HMC Act. instead of blaming the Courts, the Municipal Corporation of Hyderabad would do well to act with promptitude and ensure effective implementation of the salutary provisions of the HMC Act and not reduce the provisions of the said Act to a dead letter.

32. With the above observations, the writ petition is dismissed. No order as to costs.

