

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH :: HYDERABAD

W.P.NOS.12180/92 AND 12181/92

BETWEEN :

M/s.Allied Industries,
Represented by its Managing Director,
Sri G.L.Sanghi and Others and
M/s.Muzhar & Company,
Azamabad, Hyderabad.

... PETITIONERS.

AND

State of Andhra Pradesh,
Represented by its Chief Secretary to
Government, General Administration
Department, Secretariat, Hyderabad.

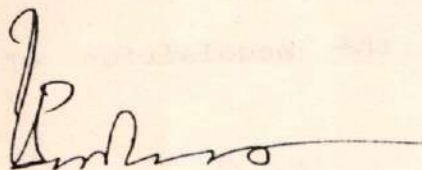
... RESPONDENT.

COMMON COUNTER AFFIDAVIT FILED ON BEHALF OF THE RESPONDENT

I, S.Prakasa Rao, son of Sri Venkata Rao, aged about 51 years, working as Assistant Secretary to Government, Industries & Commerce Department, Secretariat, Hyderabad, do hereby solemnly and sincerely affirm and state as follows :-

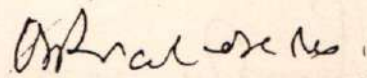
1. I am authorised by the Respondent herein and am well acquainted with the facts of the case. I have read the affidavit filed in support of the main Writ Petitions and I deny all the allegations contained therein except those that are specifically admitted hereunder.

2. Before advertng to the allegations made in the affidavit filed in support of the main Writ Petitions, it is relevant to explain the anterior history of the case which is as follows:-



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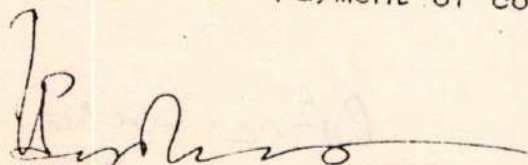
Industries & Commerce Department
A. SECRETARIAT, HYDERABAD-22



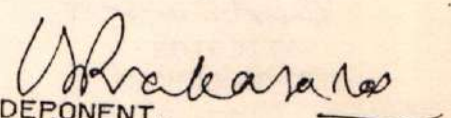
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3. In the year 1927 the Director of Commerce & Industries Department, initiated proposals for selecting a vast area of land for establishing various industries and factories in a systematic and regular manner. The then Prime Minister of Nizam Government approved the formation of a Committee for the purpose of selecting an area for this purpose in the Hyderabad City. The Committee was formed in 1337 Fasli consisting of (1) Superintending Engineer, City Improvement Board, (2) Commissioner, MCH, (3) Commissioner, City Police, (4) Director, Commerce and Industries, (5) Superintending Engineer, Electricity, (6) Representative of the N.G.S. Railways. The Committee selected the present Industrial Area at Mumshirabad in the Hyderabad City. The expenditure involved was then estimated at Rs.3.75 lakhs for this purpose. It was decided that the Revenue Department would acquire the land, Industrial Trust Fund would advance the funds and the City Improvement Board would develop the land with all infrastructure facilities. Thus, the scheme for establishing Industrial Area, acquisition of land and payment of costs for its development from the funds of Industrial Trust Fund received the consent of H.E.H. the Nizam through a Firman issued on 6th Jamadi-ul-Sani 1350 Hijri.

4. The City Improvement Board (presently A.P. Housing Board) developed the area with all infrastructure facilities - such as - roads, drains, water and electricity supply in addition to payment of compensation for the acquisition of


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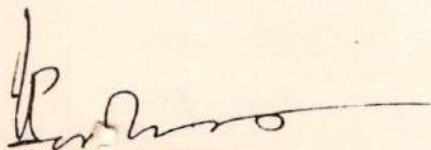

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 A.P. Secretariat, Hyd-22,

lands out of the funds provided by the Industrial Trust Fund and divided the area into plots of different sizes for leasing out to various persons for establishing industries.

5. The area acquired is 136 acres and 4 guntas consisting of Government lands, Sarfi-khas lands, Paigah lands and lands of other parties. The area was acquired in the name of the then Director, Commerce & Industries with the funds of the Industrial Trust Fund, Hyderabad. Later, the ownership of the area was transferred to Industrial Trust Fund in the year 1952. The Industrial Development Authority under Industrial Trust Fund used to receive the applications and lease out the plots to deserving applicants.

6. Right from the inception of the Azamabad Industrial Area, parties desirous of setting up of industries had to make applications which were considered on merits and thereafter specified plots were leased out to deserving applicants. Further, if there was any change in the industrial activity including construction / alteration / addition of structures, the same should be covered by permission and approval.

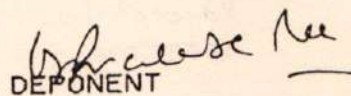
7. The area was divided initially into 25 plots and over a period of time, there were sub-divisions making the number of plots as on today to 86 which cover about 116 acres of land leaving the rest of land for roads etc.,



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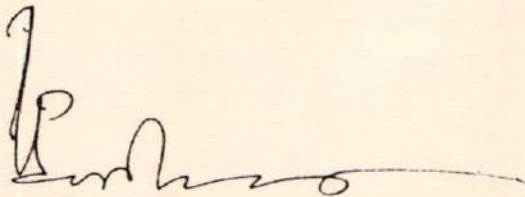


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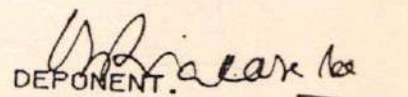
8. On 7-10-1952, the plots in the Azamabad Industrial Area had been handed over to the Industrial Trust Fund. By an Ordinance Dt: 26-1-1957, the Hyderabad Industrial Trust Fund Rules (Andhra Pradesh Amendment) Ordinance, 1957 was promulgated, (subsequently repealed and enacted as the Hyderabad Industrial Fund Rules (Andhra Pradesh Amendment) Act, 1957 (Act IV of 1957), according to which the Industrial Fund shall be controlled and administered by the Industries Department and the Board which controlled the said Fund before the commencement of the Ordinance stood dissolved.

9. The developed plots in the Industrial Area, Azamabad, were originally allotted on a quit rent of OS Rs.25/- (IG Rs.21-75) per acre per annum which was raised to OS Rs.100/- (IG Rs.87/-) during the year 1944. In respect of the majority of the plots, the rate of OS Rs.25/- per acre per annum is still prevailing. Only 3 (three) paise per sq.yd. per month has been charged from the year 1980 in the case of lease hold transfers. A premium is levied from the allottees to cover the cost of development of the area apart from collection of quit rent. The premium was fixed originally at OS Rs.2000/- (IG Rs.1740) per acre and after some revisions from time to time, it was increased to Rs.7,500/- in the year 1950. The lessees filed Writ Petition Nos.18106/86, 18101/86 and 16762/86 in the Hon'ble High Court challenging the enhancement of quit



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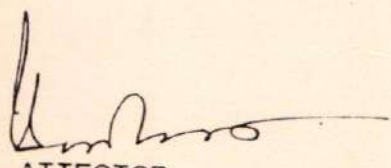


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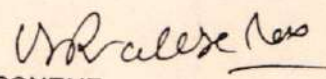
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rent to a mere 25 (twenty five) paise per sq.yd. per month and premium to Rs.10,000/- per acre ordered by the Government from 1-1-1985. The Hon'ble High Court dismissed the above W.Ps. on 1-3-1988. Thereupon, the lessees filed Writ Appeal Nos.759/88, 760/88 and 761/88 against the said judgment and the Hon'ble High Court suspended the operation of Government order of enhancement of rents on 3-5-1988. The case has not even come up for hearing so far and it is pending in the Hon'ble High Court. Thus, the rates of rents fixed five decades ago are still prevailing in respect of plots in the Azamabad Industrial Area. The highly valuable industrial urban land owned by the State Government has thus been yielding as at present a mere pittance of revenue of about Rs.40,000/- per annum for the entire extent of land leased out which is also not being paid by the lessees for some reason or the other.

10. Different lease formats were adopted from time to time. In the lease deed originally adopted, assignment is prohibited without permission and it is silent on sub-letting. There is also no provision for revision of quit rent and premium. The lease deed adopted after 1965 provided for obtaining prior permission of the Government for sub-letting and assignment and a clause for revision of quit rent and premium is incorporated. The lease adopted after 1974 totally prohibited assignment and sub-letting on the part of the lessee with penalty clause in case of default.


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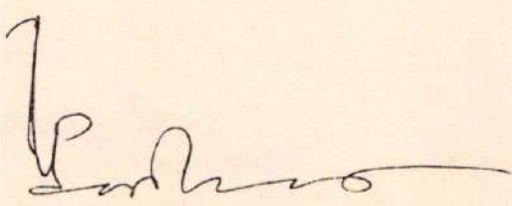

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11. The lease deeds in respect of 60 plots with a quit rent of OS Rs.25/- (IG Rs.21-75) per acre per annum were prior to the period 1960. The lease deeds in respect of 17 plots with a quit rent of 3 paise per sq.yd. per month cover different periods between 1935 and 1955 and 1976. In respect of 7 plots with OS Rs.100/- (IG Rs.87) per acre per annum, the lease deeds relate to the period between 1947 and 1957. Only one plot with 25 (twenty five) paise per sq.yd. per month is related to the year 1984.

12. In the present three Writ Petitions filed there are 23 petitioners - 21 in WP No.12180/92 and 1 each in WPs 12181/92 and 12228/92. These writ petitioners were also the petitioners in the previous W.Ps. and W.As. filed by them in the High Court challenging the enhancement of rents by Government as stated above. As has been mentioned earlier, the plots were leased out specifically for industrial purpose only and further sub-leases etc., by whatever name, were also prohibited. It may be specifically noted that out of 23 Writ Petitioners in 3 cases, the leases were either terminated by the Government for contravening the terms and conditions of lease or a show-cause notice was issued for such termination. The lessees whose leases were terminated filed W.Ps. in the Hon'ble High Court and they are continuing in possession of the lands only by virtue of the stay orders obtained from the courts where the matters are still under consideration.


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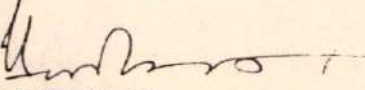
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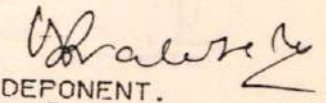
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13. It should further be noted that with regard to the petitioners, i.e., M/s.Dayaram Surajmal Lahoti Oil Mills, M/s.Biking Food Products, M/s.Shivadat Rai Ghulab Rai, M/s.Digvijaya Industries, M/s.L.B.Industries, M/s.Hyderabad Iron & Steel Works (M/s.Prenyanshu Industries), M/s.Yousuf & Company (Mahd. Mahmood & Others), M/s.Dundoo Oil Industries, the erstwhile lessees have created various sub-lessees for other industries not connected with in any manner and had thereby violated their lease agreements. The particular evil of this practice and the distress which it is causing is explained below.

14. It may further be noted that the petitioners - M/s.Indian Chemicals & Pharmaceuticals Works, M/s.Meera Industries, M/s.Gurudev Engineering Company, M/s.Central India Engineering Company, M/s.National Trading Agencies, M/s.Soham Engineering Corporation, M/s.Ladha Iron Castings, M/s.L.B.Industries are in possession of leased land keeping large extents vacant thereby defeating the very purpose of industrialisation. Finally, the writ petitioners - M/s.Biking Machineries Factory, M/s.Mazhar & Company, M/s.Hyderabad Iron & Steel Works Ltd (M/s.Preyanshu Industries Ltd) have made unauthorised constructions in violation of the lease terms. M/s.L.B.Industries, M/s.Hyderabad Iron & Steel Works Ltd, M/s.Digvijaya Industries, M/s.Rahmania Machineries Factory, M/s.Hyderabad Construction Company, M/s.Dayaram Surajmal Lahoti Oil Mills & Refinery, M/s.Muzhar & Company etc., are not working.


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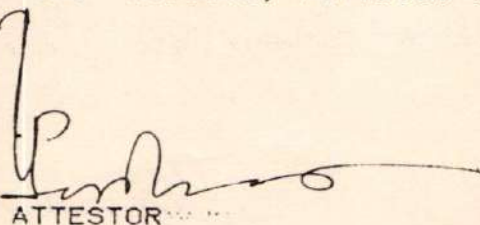
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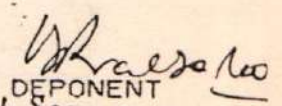
15. On the other hand, some parties who are not lessees have obtained possession of these lands by way of partnerships, sub-lessees or other arrangements with the original lessees and are genuinely running industries. Several of these parties have been under constant threat of eviction after the lessees entering into fresh agreements with others for more money and profits. In this regard, the cases of M/s.L.B.Industries, M/s.Yousuf & Company, M/s.Dayaram Surajmal Lahoti Oil Mills, M/s.Shivadat Rai Ghulab Rai, M/s.Hyderabad Iron & Steel Industries, M/s.Dundoo Oil Industries, M/s.Hyderabad Construction Company Ltd are relevant. The Government has been restrained from recognising these genuine industrialists because of the unscrupulous manner in which the original leaseholders are subverting the process of law and thwarting any attempt to regulate or control their leases or the manner to which they utilise their vacant lands.

16. From the above, it may be kindly be seen that the leases were granted at incredibly low rents, decades ago, in different lease formats under varying terms and conditions including payment of rents. The land is a extremely valuable industrial urban property wholly owned by the Government.

17. The highly appreciated land value due to large scale development of industrial and commercial activity in and around the Industrial Area, Azamabad, Hyderabad, over the last five decades, resulted in illegal trading in the same prime

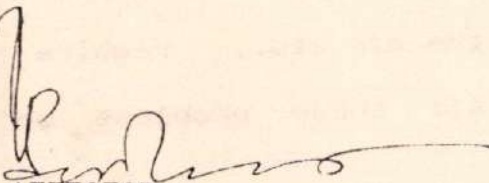

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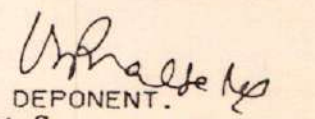

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industrial land belonging to the Government. Taking advantage of soaring land prices, unscrupulous and resourceful persons backed by real estate operators have resorted to various unlawful activities.

18. The Azamabad Industrial Area has become the plaything of unscrupulous lessees' sub-letting or transferring plots or portions of plots by entering into disguised partnerships or misuing the valuable industrial urban land for residential as also for warehousing activity and collecting huge amounts through such unauthorised use of plots or portions thereof. In most cases, major portions of plots are left unutilised because there was no burden on the lessees/occupants as the rent being paid to the Government is very low. On account of these unlawful / unauthorised activities, the Government are put to huge loss and are subjected to long drawn civil litigation when corrective action is sought to be taken against the persons and meanwhile violation of terms of lease continues. Thus, the very objective under which the Industrial Area at Azamabad was established and leased out to various persons at low rents for long periods upto 99 years has been defeated and an unlawful real estate activity has set in. Such highly valuable and costly land is also yielding as at present a mere pittance of revenue to Government. The original objective of encouraging industrial growth has been frustrated.


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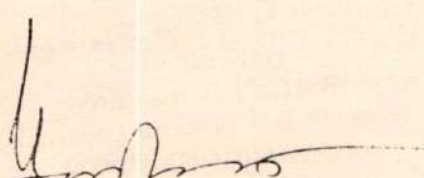
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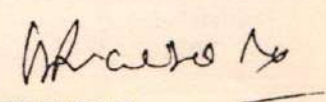
To mitigate any hardship caused due to premature termination, payment of compensation has also been provided to the lessees.

22. The object of the Act is to regulate the leases on uniform terms and conditions including reducing of the lease period and revised rates of premium and quit rent, thereby ensuring optimum utilisation and securing proper management of the valuable industrial land owned by the Government. Even if a lessee had complied with the terms and conditions, the original lease period being for a period of 99 years, there is nothing unfair or illegal in reducing the period in the interest of proper conservation and utilisation of diminishing asset of the Government, viz., prime land in the heart of Hyderabad City. As the original leases were granted at incredibly low rents, decades ago, there is equally nothing unreasonable in upward revision of such rent by varying the original terms when making fresh allotment in order to enable the Government to derive its legitimate share of revenue in the escalating value of the asset. It is on the same analogy an upward revision of taxes, land revenue or other similar levies and imposts made by the Government under law.

23. The Industrial Area, Azamabad is situated in a thickly populated metropolis of Hyderabad City. The serious pollution problems in this area - such as - letting out of industrial effluents, polluting the air etc., require urgent attention of the Government. All these problems were not


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visualised when the leases were entered into decades ago as that area was then considered far away from the Hyderabad City.

24. The contention of the Writ Petitioners regarding the offer of sale of land by the erstwhile Nizam Government, it is submitted that the request of the petitioners to sell the land is beside the point. The petitioners have no right to compel the Government to sell the land to them as the plots sold in Sanathnagar, Kukatpalli, Uppal and Katedan Industrial Areas have no application to the plots in the Azamabad Industrial Area besides the same being irrelevant also. The plots at Sanathnagar, Kukatpalli, Uppal and Katedan were sold long time back having regard to the policy of the Government in those areas. The petitioners earlier filed WPs 18106/86, 18101/87 and 16772/86 in the Honourable High Court against the Government order of enhancement of quit rent at 25 paise per sq.yd. per month and premium at Rs.10,000/- per acre and deposed in their affidavits, among other things, that the HEH Nizam's Government leased out various plots to various entrepreneurs for 99 years on annual rentals at Rs.40/ to Rs.50/- with a stipulation in the lease deed that the lessees should not sub-let the leased premises nor sell the same to anybody, maintain the leased premises in the condition handed over to them, previous permission of the Lessor should be obtained for making any alterations to the constructions, entrepreneurs should run their industries subject to the conditions stipulated in the lease deed, payment of premium is

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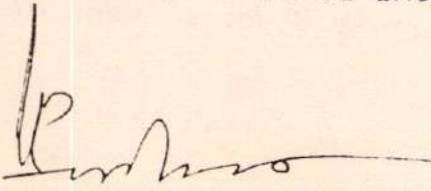
In the nature of good-will and instead of considering the requests of the individual entrepreneurs for outright sale of these plots, the Government enhanced the rents from 1-1-1985 etc., Upon dismissal of their W.Ps by the Hon'ble High Court, the lessees filed Writ Appeal Nos. 759/88, 760/88 and 761/88 in the Hon'ble High Court and the Writ Appeals are pending before the Hon'ble Court.

25. The Hon'ble High Court of Andhra Pradesh in its judgment delivered on 1-3-1988 dismissed the above writ petitions and observed, among other things, that

.....In my opinion, property rights cannot be agitated and asserted except by the owners of the property. It is not a case where the owners are not in a position to assert their rights and ventilate their grievances. Clearly, they are well-placed persons and economically endowed with enough resources. If such persons who are the lessees do not choose to file the writ petition, I do not think that this court should decide such dispute regarding the property rights at the instance of an Association. Of course, viewed from that angle, this case deserves to be dismissed...

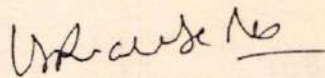
In Civil Appeal No. 2845/87, the Supreme Court has decided a civil dispute between Lessor and Lessee and the order of the Court seems to have been based on an agreement between the parties. None of these considerations present before the Supreme Court are present in W.P. 18106/86. It may be for that reason, the injured-lessees had filed a common writ petition in W.P. 18101/87 which is the companion writ petition. In that writ petition, the same points have been raised. I must say, on a consideration of the merits in these arguments in relation to the impugned leases, I am not inclined to uphold any of the conditions of the petitioners.

Admittedly, the property belongs to the Government. The petitioners were inducted into possession and have been enjoying the property under a lease agreement. It has been solemnly entered into between the petitioners on the one hand


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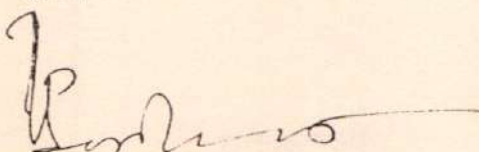
and the Government on the other. One of the terms provided for enhancement of the quit rent and the premium. Enhancement is clearly traceable to the covenants which are read above. In such a case, the argument of the petitioners that the enhancement becomes invalid on the ground of its being arbitrary under Article 14 or opposed to Article 19(1)(g) of the Constitution cannot be entertained.

All this is clearly the result of a complete misreading and misunderstanding of the judgment of the Supreme Court in the INTERNATIONAL AIRPORT AUTHORITY case (1) AIR 1979 SC 1628. There, the Court is concerned with the exercise of executive power of the State and the ineligibility of the citizen to enter into a contract with the State. Those are matters of exercise of sovereign power and not contractual power. In RAILWAY BOARD - V - SINGH (2) AIR 1969 SC 966 the Supreme Court laid down that the citizen has no fundamental rights which he can enforce against the Government's property. In RADHAKRISHNA AGARWAL - V - STATE OF BIHAR (3) AIR 1977 SC 1496 the Supreme Court said :

"After the State or its agents have entered into the field of ordinary contract the relations are no longer governed by the constitutional provisions but by the legally valid contract which determines rights and obligations of the parties inter-se. No question arises of violation of Art.14 or of any other Constitutional Provision when the State or its agents, purporting to act within this field, perform any act. In this sphere, they can only claim rights conferred upon them by contract and are bound by the terms of the contract only unless some statute steps in and confers some special statutory power or obligation on the State in the contractual field which is apart from contract."

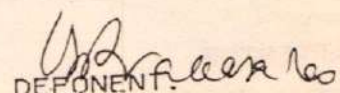
In the present case, there is no exercise of sovereign power; it is a contract the State has entered into with respect to its property. There is no statute that has any effect of altering or varying the terms of that contract. The parties are free to enter into any contract and once entered are bound by the terms of that contract. No arguments based upon Article 14 or 19(1)(g) of the Constitution can ever be entertained.

The recent judgment of the Supreme Court in ESCORTS CASE (4) AIR 1986 SC 1370 has ruled that Article 14 of the Constitution has no application to the commercial contracts. A contractual dispute gives rise only to a civil dispute. The remedy of the lessee, if any, must be found only in a Civil Court and not in writ proceedings whose job is to control the exercise of sovereign powers.



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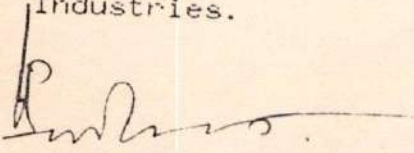
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For the same reasons, I also reject the argument based upon principles of natural justice. It is clearly the law as observed in RADHAKRISHNA AGARWAL (Supra) that "rules of natural justice are attached to the performance of certain functions regulated by statutes or rules made thereunder involving decisions affecting rights of parties. When a contract is sought to be terminated by the officers of the State, purporting to act under the terms of an agreement between parties, such action is not taken in purported exercise of a statutory power at all." For that reason, the argument based upon the principles of natural justice should be rejected as inapplicable in this case.

Finally, as noted already, the judgment of the Supreme Court in the above-mentioned case (In Civil Appeal No.2845/87) is passed by the Supreme Court in a civil dispute under Art.136 of the Constitution. Considerations which are applicable to that Jurisdiction are wholly different from considerations which are relevant for the application of Art.226 of the Constitution. Under Art.226 the Court is concerned only with the drawing of limits for the State to exercise of statutory powers. As no such exercise of statutory power is involved in this case, this application cannot be entertained.

26. It is submitted that the Petitioners have committed the following serious irregularities which are detailed below :-

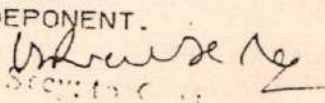
[1] Sri Giridharilal Sanghi of M/s.Allied Industries: Plot No.14/3, measuring Acs.0.922, was leased out to Sri Giridharilal Sanghi of M/s.Allied Industries Ltd, for manufacture of RCC Machine Spun Pipes and Water Meters on 1-1-1952 on an yearly rental of Rs.19-77 paise for 99 years. Besides this unit, two others firms - viz., [1] Construction Engineers & Buildings, and [2] Allied Industries & Construction Engineers - occupying an extent of 3969.92 sq.mts - are existing on this land unauthorisedly. A part of the leased land is under residential use by Sri G.L. Sanghi of M/s.Allied Industries.


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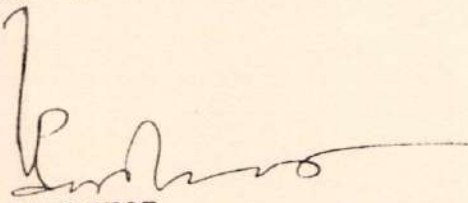
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Industrial & Commerce Department
A. SECRETARIAT, HYDERABAD-22.

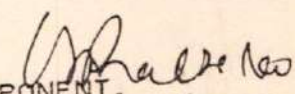
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[2] M/s. Dayaram Surajmal Lahoti Oil Mills : Plot No.1, admeasuring 5 Acres 185 sq.yds. was leased out to M/s. Dayaram Surajmal Lahoti Oil Mills on an yearly rental of OS Rs.25/- per acre (totalling IG Rs.110-25 paise for 5 acres-185 sq.yds) for 99 years for manufacture oils and similar products. The lessee stopped manufacturing of oils in 1956 itself and started sub-letting portions of the plot to other units on high rents - such as - [1] M/s. Kamal Chemical Industries (Kamal Oil Industries) [2] M/s. Visalandhra Industries, [3] Kapadia Oil Mills & Refinery, [4] M/s. Hindustan Levers Ltd, (5) M/s. Vazir Sultan Tobacco Company etc., Due to the violation of lease terms and conditions, the Director of Industries terminated the lease hold rights on 20-3-1974 which was contested by the lessee in several courts and finally carried the matter to the Supreme Court of India by filing SLP No.6420/87. As per the undertaking submitted by M/s. Dayaram Surajmal Oil Mills to the Supreme Court on 26-10-1987 that they would resume possession of the property and the land from the occupants and run the oil mill, the Court disposed of the SLP on 27-10-87 allowing M/s. Kamal Oil Industries to remain as direct lessee of the Government and with a further direction to M/s. Dayaram Surajmal Lahoti Oil Mills to recover possession from three other parties - [1] Hindustan Levers Ltd, [2] M/s. Visalandhra Industries, and [3] M/s. Kapadia Oil Mills & Refinery - within two years and on failure to obtain khas possession by 31-12-8

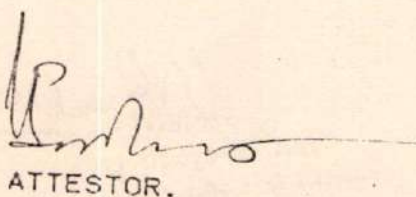

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of the said parties, Government of Andhra Pradesh would be entitled to re-enter upon the property, excluding more or less 600 sq.yds. which were in possession of the Mills and whatever other property the said Mills might have recovered from the three parties. As the lessee failed to recover possession as directed by the Supreme Court of India within the stipulated period, the Government had taken over the possession of the property in Plot No.1 on 13-2-1990 leaving an area of 1277.93 sq.yds. under their possession which includes the recovered area also. The Unit informed the Government in September 1990 that the 'Oil Mill was closed' and wanted to start another company on the land. The lessee has been using 611.25 sq.yds. for residential purpose. As there is no industrial activity and the land continues to be used for residential purpose, a show-cause notice Dt: 25-4-1991 has been served on the lessee. Even after the Hon'ble Supreme Court's final verdict in the matter, the lessee has filed suits in courts on some pretext or the other against the Government.

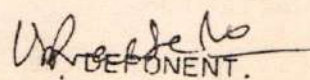
[3] M/s.Gupta Steel Wire Industries: Plot No.15/5, measuring 1425 sq.yds. was leased out to M/s.Gupta Steel Wire Industries on 3 paise per sq.yd. per month from 15-4-1946. The lease deed is not executed. A part of the leased land is under residential use.



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A.P. SECRETARIAT, HYD-22.

[4] M/s. Indian Chemicals & Pharmaceuticals Works: Plot No.18/2, measuring Acs.1.14, was leased out to M/s. Indian Chemical & Pharmaceuticals Works on an yearly rental of OS Rs.25/- per acre for 99 years from 21-12-1950. An extent of 2300.14 sq.mts. is kept vacant by the lessee.

[5] Meera Industries:- Plot No.25/1, measuring 2324 sq.yds, Plot No.27/1, measuring 3317 sq.yds, were leased to M/s.Meera Industries for 99 years on a monthly rent of 3 paise per sq.yd., from 28-5-76 and 1-6-1941 respectively. The lessee has kept vacant an extent of 174.15 skq.mts. in Plot No.25/1 and 1646.83 sq.mts. in Plot No.27/1.

[6] Sohan Industries:- Plot No.27/2, measuring 3317 sq.yds., was leased out to M/s. Sohan Industries for 99 years on a monthly rent of 3 paise per sq.yd., from 1-6-1941 and the Unit has kept vacant 1223.46 sq.mts. in the leased plot.

[7] Gurudev Engineering Works:- Plot No.27/3, measuring 3317 sq.yds, was leased to M/s.Gurudev Engineering Works for 99 years on a monthly rent of 3 paise per sq.yd., from 1-6-41 and the Unit has kept vacant 1466.80 sq.mts. in the leased land.

[8] Patel Desai & Company:- The Plot No.25, measuring 2324 sq.yds, was leased to M/s.Patel Desai & Company (subsequently it changed as Central India Engineering Company) on 26-1-1952 on an yearly rental of Rs.50/- for 99 years and the Unit has kept vacant 773.50 sq.mts. in the leased land.

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S.P. Secretariat, Hyd-22,

As per actual

796.44 sq.yds
or 666.26 sq.m.

1859.25 sq.yds
1555.36 sq.m

1634.57 sq.yds
1367.40 sq.m

1925.73 sq.yds
1640.98 sq.m

908.52 sq.yds
760.02 sq.m

208.20 sq.yards

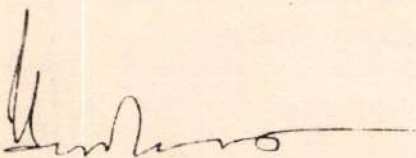
1968.88 sq.yards

1462.71 sq.yards

1753.64 sq.yards

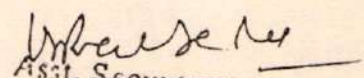
924.76 sq.yards

[9] M/s.Dundoo Oil Industries: On a specific request of M/s.Dundoo Balanarasaiah & Sons, Government accorded permission for transfer of lease hold rights in favour of M/s.Dundoo Oil Industries on 29-10-1983 for Plot No.21/2, measuring Acs. 1.124, subject to certain conditions. The party evaded execution of lease deed under revised terms raising certain objections regarding the payment of rents and filed W.P.No.16762/86 on 14-11-1986 which was dismissed by the Hon'ble High Court on 1-3-1988. Thereupon, the party filed Writ Appeal No.761/88 on 3-5-1988 in the Hon'ble High Court. An extent of 3115.25 sq.mts. has been kept vacant in the leased land and M/s.Deepak Trading Corporation, inducted into the plot, has occupied 486.40 sq.mts. At the time of issuing orders of transfer of lease hold rights by the Government in GO Ms No.516, Dt: 25-10-1983, the Company was in the name of Dundoo family members. The party entered into a new partnership on 2-3-1990 inducting Agarwals - a third party - into the leased land. According to the new partnership deed, the lease-hold interest and all the assets in the leased land were transferred in favour of Agarwals and the management of the company was thus passed over to new persons who were inducted into the leased premises in the guise of partnership agreement Dt: 2-3-1990. This was done subsequent to filing of W.A. No.761/88 in the High Court on 3-5-1988. Subsequently, during the year 1992 and in the beginning of 1993, the new partners, on behalf of M/s.Dundoo Oil Industries, informed the Government



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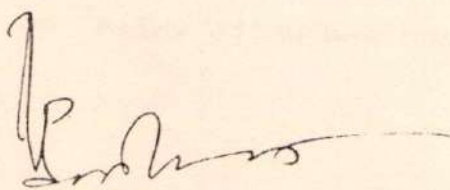
ASSISTANT SECRETARY
Industries & Commerce Department
A.P. Secretariat, Hyderabad

that the lease hold rights and all the assets standing on the leased land came under their possession and management under the partnership deed dt: 2-3-1990 entered into with the erstwhile lessee of M/s.Dundoo Oil Industries and that they proposed to withdraw W.A.No.761/88 challenging the Government order of enhancement of rents and also the W.P.No.12180/92 challenging the Act No.15 of 1992 before the Hon'ble High Court.

[10] M/s.National Trading Agencies was leased out Plot No.13/5, measuring Acs.0.49 and 534 sq.yds, on a yearly rental OS Rs.25/- per acre on 6-2-1945 for 99 years and executed lease deed on 16-3-1955. There is one sub-lessee - National Laboratories and the Unit has kept 1773.54 sq.mts. vacant in the leased plot.

[11] M/s.Ladha Iron Casting was leased out Plot No.13/2, measuring Acs. 1.168, on an yearly rental of OS Rs.25/- per acre, for 99 years from 3-9-1941 and the lease deed was executed on 13-7-1977. The unit has kept large vacant area of 3570.50 sq.mts. unutilised in the leased plot.

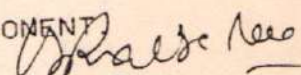
[12] M/s.Biking Food Products was leased out Plot No.24/4, measuring Acs. 1.2, for 99 years on an yearly rental of OS Rs.25 per acre from 7-3-1939. An extent of 2458.65 sq.mts. has been under occupation of sub-lessee, M/s.Venus Tobacco Company. The lessee earlier represented to Government


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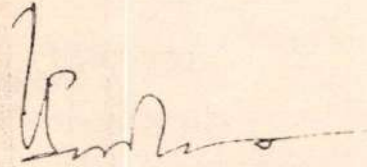
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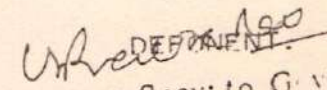
for transfer of lease hold rights of an extent of 2458.65 sq.mts. in favour of M/s.Venus Tobacco Co Ltd. A part of the leased land is under residential use."

[13] Sri Shrivadat Rai Ghulab Rai was leased out Plot No.3, measuring Acs.3.124 on 22-6-1943, Plot No.3/1, measuring Acs. 0.956 on 18-5-1946, Plots No.3/2 to 3/7, measuring Acs. 0.757 on 16-6-1952, for running Mahavir Cotton Mills. The plots are under occupation of the partners. Plots 3 and 3/1 were allotted on an yearly rental of OS Rs.25/- per acre and Plot Nos.3/2 to 3/7 were allotted on an yearly rental of OS Rs.100/- per acre. The lease deeds were not executed for the plots leased out. Various irregularities - such as - sub-leasing on high rents, construction of structures unauthorisedly etc., have been continuing in the leased land and there has been no industrial activity on the part of the lessee. Some of the unauthorised units are ...[1] M/s.Super Steel Industries, [2] M/s.Bajaj Electricals Ltd (using the land for godown purpose) [3] M/s.K.T. & Company (using the land for godown purpose) [4] M/s.Super Aluminium & Wire Products, [5] Sunder Silk Mills, [6] Cherishma Printers [7] Krishnamala Papers (using the land for godown purpose) [8] Sharp Distributors (using the land for office-cum-godown purposes) [9] M/s.En-Field India Ltd (using the land for office-cum-godown purposes) [10] Big Apple (using the land for office purpose). An extent of about 6000 sq.mts is under occupation of unauthorised units while an extent of


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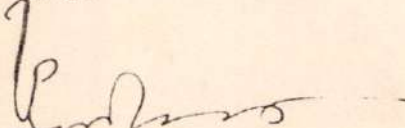
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Industrial Development Department
A. N. SECRETARIAT, HYDERABAD-22

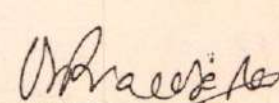

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Industrial Development Department
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nearly 6000 sq.mts is put to non-industrial use, i.e., for residential and warehousing activity. On the orders of the Government when the Municipal Corporation of Hyderabad initiated action for stopping unauthorised constructions in Plot Nos.3 and 3/1, M/s.Shivadat Rai Ghulab Rai obtained injunction orders from Hon'ble IInd Asst.Judge, CCC, on 19-7-1990 by filing OS No.3014/90 and under the said orders the party continued the unauthorised constructions. Similarly M/s.Shivadat Rai Bhoormal had also obtained stay orders from the court for Plot No.13/4 and continued the unauthorised constructions.

[14]M/s.Digvijaya Industries was leased out Plot No.14/4, measuring 1.22 acres, on an yearly rental of OS Rs.25/-per acre for 99 years 25-1-1952 for setting up textile industry. The lessee sub-leased the land to a number of other units on high rents and ultimately two sub-lessee units continued while others vacated. The lease was terminated by the Government on 28-4-1976 and direct allotment made to the two sub-lessees - Shanti Soap Works and Rajashree Paper Products bifurcating a portion of the above plot into two as Plot No.14/5 (1195 sq.yds) and 14/6 (545 sq.yds) respectively. The lessee filed civil suit and obtained injunction orders in July 1976 against the Government and also filed court cases against demolition of constructions unauthorisedly carried out in the leased land. The lessee made unauthorised constructions subsequently. There is no industrial activity in the leased land.

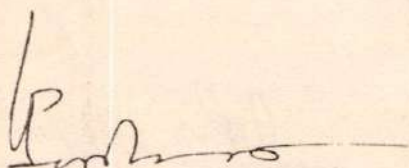

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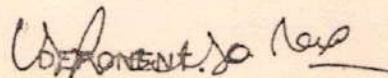
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Industrial & Commerce Department
A. P. Secretariat, Hyderabad-22.

[15] L.B. Industries was leased out Plot No.21/3, measuring Acs. 0.596, on an yearly rental of OS Rs.25/- per acre, for 99 years from 21-1-1952 for setting up a fabrication of iron and steel items. The lease deed was executed on 1-4-62. On a specific request of the lessee, the lease hold rights of the lessee were terminated and granted to M/s.Leonics Televisions Pvt Ltd on 4-5-1985. The lessee entered into an agreement with Leonics Televisions privately for payment of Rs.6,25,001/- in case the lease hold rights were transferred in favour of Leonics. As Leonics did not comply with the terms, L.B. Industries issued a legal notice Dt: 29-4-1985 mentioning this transaction and proposed for cancellation of the lease transfer of Plot No.21/3. Under another partnership agreement with M/s.Rakesh & Naresh Enterprises, the lessee requested the Government for transfer of said lease hold rights in their favour. In this plot, an extent of 4831.38 sq.ft. is under occupation of the lessee. Rakesh & Naresh Enterprises is occupying 3666.62 sq.ft. and 4430.69 sq.ft. is occupied by M/s.Ferro Treat who is also using the balance open area in that plot. Both sub-lessee units are paying monthly rentals of Rs.1200/- and Rs.825/- respectively to the lessee. There is no industrial activity by the lessee unit. The shed and the area of 4831.38 sq.ft. under possession of L.B. Industries is still vacant without any machinery, equipment and production.


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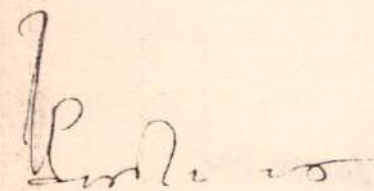
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Assistant Secretary to Govt.

Industrial & Commerce Department
A.P. Secretariat, Hyderabad

[16] M/s.Yousuf & Company (Mahod. Mahmood & Others) was leased Plot Nos.14/1 and 24/2, measuring 2.366 acres, on an yearly rental of Rs.50.70 per acre for 99 years from 10-3-1943 for setting up Dyeing and Printing Industry. The lessee did not establish any industry on the leased land and entered into partnership deeds, for deriving monthly income, with the SSI Units -- [1] M/s.Navaneeth Oil Industry in 1957, [2] M/s.National Engineering Service in 1968 [3] M/s.Veneskaran Industries (1974), (4) M/s.Sujatha Industries in 1979 and [5] M/s.Modern Aluminium Industries in 1979. The lessee also entered into another partnership agreement on 6-7-1984 with Sri A.P.Agarwal and 4 others of M/s.A.P.Agro Industries. Under partnership agreement with Sri A.P.Agarwal, the entire lease hold property including the value of the lease hold rights on the land of M/s.Yousuf & Company was estimated at Rs.4 lakhs and the same was passed over to the new partnership firm, A.P.Agro Industries. Under this agreement, the proprietorial rights were converted into a trading asset of this new firm and M/s.Yousuf & Company had divested themselves of the control and possession of the premises with no chance of return and reversionary interest. This partnership envisages conducting different businesses by including nominally the activity of Dyeing and Printing. The Government, after following the due procedure, terminated the lease on 18-2-1985 on the ground of not utilising the leased plot for industrial purpose, parting

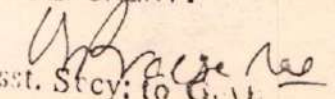


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with substantial portions under partnership agreements with the above SSI Units, using these agreements as camouflage to escape the provisions of lease deed etc. On this order a series of legal actions were resorted to by M/s.Yousuf & Company on the one hand and Sri A.P.Agarwal of M/s.A.P.Agro Industries on the other. In OS No.209/85, the City Civil Court set-aside the Government termination order and restrained M/s.Yousuf & Company from using the said premises for any purpose other than the business of Dyeing & Printing and other matters connected with the setting up of Dyeing & Printing until and subject to the approval of the Government. The Appeal No.118/86 filed by the Government did not come up for hearing before the Hon'ble High Court.

In his letter Dt: 6-7-1984, the Commissioner of Industries reported that this partnership agreement was to get a huge consideration from Sri A.P.Agarwal and that Sri A.P.Agarwal and M/s.B.Rajendra Oil Mills have acquired a land of about 8.5 acres by adopting modus-operandi of entering into each organisation as a partner of the original lessee firm and subsequently managing to eliminate the original lessee completely and making himself/themselves the sole lessee/lessees/occupants. They would adopt the same procedure in the case of Plots 14/1 and 24/2 also and annexe the land in these plots to the huge areas of the land already they are holding. The Commissioner of Industries advised the Government

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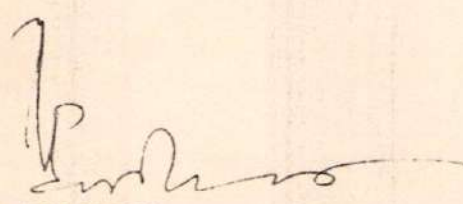
Joint Secretary to Govt.
Industrial & Commerce Department
A.P. Secretariat, Hyderabad-22,

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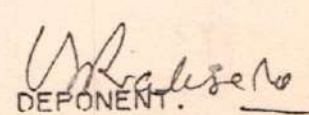
not to approve the partnership agreement with Sri A.P. Agarwal and also not to dislodge the above SSI units as they have been using the land for industrial purpose for more than two decades and they have been given permanent SSI registrations besides required facilities for running their industries in Plots No.14/1 and 24/2.

Meanwhile, based upon the new partnership agreement with Sri A.P. Agarwal, M/s. Yousuf & Company filed suits against the above SSI units for their eviction from the said plots. The 1st Additional Judge dismissed IA No.627/87 in OS.No.481/86 on 26-6-1987 filed against M/s. National Engineering Service by the lessee and held that the partnership deed entered into is only an agreement of lease and that this document was brought into existence to get over the prohibition of sub-leasing and also to avoid enhancement of property tax. The fixed profit referred to in the partnership deeds represented the rent payable for the premises.

The IV Addl. Judge, CCC, also dismissed OS No.1291/84 on 18-6-1991 filed against M/s. Veneskarani Industries by the lessee and held that M/s. Yousuf and Sons have delivered possession of the suit premises under a lease to M/s. Veneskarani Industries in consideration of payment of fixed sum periodically and camouflaged the entire transaction as a partnership in order to show that they have not sub-let the


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premises in order to get over the hurdle created under the original lease in their favour from the Government. The transaction between H.M.Yousuf & Sons and M/s.Veneskaran Industries is not a partnership but is only case of lease in the garb of partnership deed. The relationship between them is only one of land-lord and tenant and in this case, it can be said to be a relationship of a lessee and a sub-lessee.

Under partnership agreements entered with the SST unit M/s.Yousuf & Company has been deriving Rs.66,000/- per annum whereas they have been paying to the Government only Rs.50.70 paise per annum for the entire extent of 2.366 acres leased out.

Even after the Judgment in OS No.209/85 delivered on 15-4-1986, M/s.Yousuf & Company has not been running their industry on the leased land. On the other hand, the employees of Sri A.P.Agarwal are residing and keeping watch over the premises.

M/s.Yousuf & Company submitted representation to Government requesting for acceptance of partnership they entered into with Sri A.P.Agarwal and also for sanction of a new lease deed in the name of M/s.A.P.Agro Industries. The lessee has also requested for transfer of lease hold rights of Plot Nos.14/1 and 24/2 in favour of M/s.A.P.Agro Industries.

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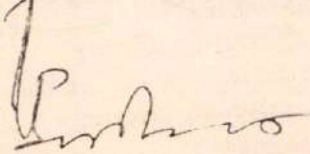
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MAD-22

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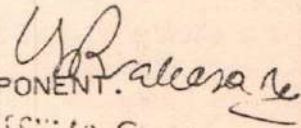
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Industrial & Commerce Department
MAD-22

The Government issued a show-cause notice to the lessee in Memo No.581/IF-Cell/84, Dt: 3-12-1992 for breach of the terms of lease deed dt: 1-9-1965 by not utilising the demised premises for the purpose for which it was leased and for entering into partnership deeds/agreements to escape the express provisions of the lease deed. The lessee was called upon to show cause as to why action should not be taken for violation of express provisions and breach of terms enumerated in the original lease deed dt. 1-9-1965 and to resume the leased premises for proper utilisation without affecting the interests and functioning of the existing SSI units on the leased land.

Against the above notice, the lessee filed Contempt Case No.537/92 for disobedience of decree in OS No.209/85 on the file of IInd Addl.Judge, CCC, Hyderabad, and W.P.No.16294/92 to declare the Memo No.581/IF-Cell/84, Dt: 3-12-1992 as illegal and arbitrary. The Hon'ble High Court dismissed both the cases on 15-4-1993. The Hon'ble High Court while dismissing the Contempt Case No.537/92 held that since the lease is one for carrying on dyeing and printing and since the lease deed further shows that the Government is entitled to enter the premises in the event of contravention of the conditions of the lease and since the same was also embodied in the judgment in OLS No.209/85 on the file of the IInd Addl.Judge, CCC, Hyderabad. The Hon'ble Court also dismissed the W.P.No.16294/92 as premature.


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M/s.A.P.Agro Industries and M/s.B.Rajendra Oil Mills are the family concerns of Sri A.P.Agarwal and the following plots are under their occupation :-

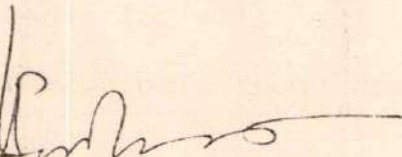
(I) M/s.A.P.Agro Industries

- [a] Plot No.23/4 - 3187 sq.yds. from 19-2-1981.
- [b] Plot No.23/6 - 2657 sq.yds. from 29-2-1981.
- [c] Plot No.24/1 - Acs. 1.168 from 10-2-1981.
- [d] Plot No.24/3 - Acs.1.346 from 19-9-1979.

(II) M/s.B.Rajendra Oil Mills.

- [a] Plot No.1/1 - 7124 sq.yds. from 21-3-1974.
- [b] Plot No.23/1 - Acs. 1.278 from 26-1-1948.
- [c] Plot No.23/2 - 2846 sq.yds. from 25-10-1975.
- [d] Plot No.23/3 - Acs. 0.653 from 19-5-1951.
- [e] Plot No.23/5 - Acs. 0.729 from 24-11-1958.

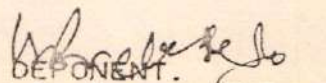
[17] M/s.Rahmania Machinery Factory was leased out Plot No.26/1, measuring Acs. 1.00, on an yearly rental of OS Rs.25/- per acre for 99 years from 21-12-1940 for manufacture of automobile parts etc., The lease deed was executed 28-7-1958. The said plot is not used for industrial purpose and the lessee has been using a part of the plot for residential purpose.



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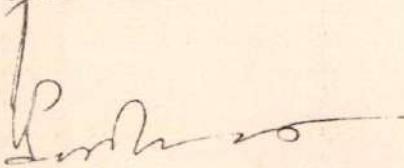


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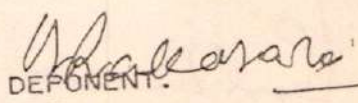
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[18] M/s. Hyderabad Iron & Steel Works Ltd was leased out Plot No.2/1, measuring Acs.2.5, and Plot No.2/2, measuring Acs.2.5 acres, on an yearly rental of OS Rs.62-8-0 (IG Rs.54-36 paise) for each plot for 99 years from 2-11-1348 for manufacture of iron and steel products and similar products. The lease deed was executed for both the plots separately on 13-10-1955. During inspection of the above plots by the officials on 14-10-1987 and 25-1-1989, it was found that the lessee was not using the leased land in Plots 2/1 and 2/2 for industrial purpose, committed wilful breach of terms of lease by way of not utilising the land for the purpose for which it was leased, letting out the premises for use by M/s.Ramadas Motor Transport Company and Maruthi Car Servicing Unit. The Government terminated the lease of Plots 2/1 and 2/2 on 27-5-1989. Thereupon the Company filed W.P.No.13668/89 and W.P.No.13803/89 and obtained stay orders from the High Court. Subsequently the Company changed its name to "M/S.PREYANSHU INDUSTRIES LTD" for a different line of activity. The above Writ Petitions are pending.

[19] M/s.Venkateswara Non-Ferros Foundary was leased out Plot No.19/5, measuring 1249.30 sq.yds, on an yearly rental of OS Rs.25/- per acre from 5-4-1955 for setting up of Non-Ferros Foundary. The lease deed was executed on 21-4-1982. A portion of the plot has been sub-leased to M/s.Viswakarma Stainless Steel Works.


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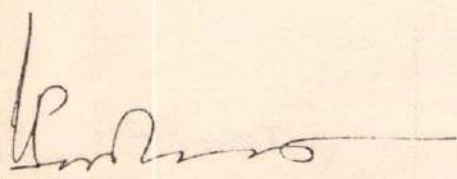
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[20] M/s. Muzhar & Company was leased Plot No.21/5, measuring 0.60 acres, on an yearly rental of OS Rs.5/- per acre for 99 years from 27-2-1947. There is no industrial activity by the lessee. At present, the leased land is used for residential purpose.

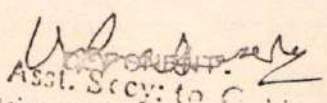
27. In addition to the above petitioners, the position in respect of others is as follows :-

[1] M/s. Hyderabad Construction Company was leased out Plot No.22, measuring Acs. 3.66, on an yearly rental of Rs.78.44 for 99 years for manufacture of Acetic Acid and other allied products. The Unit was closed since February 1983. The Company sub-leased to A.P.State Essential Commodities Corporation Ltd unauthorisedly an extent of 5106 sq.ft. @ Rs.1-20 per sq.ft. per month from 24-1-1984 and 3265 sq.ft. @ Rs.1-50 per sq.ft. per month from 13-6-1985. At present there is no industry of the lessee in the leased land.

[2] M/s. Y.V. Narasimhulu & Brothers was leased out Plot No.13/3, measuring Acs. 1.168, on an yearly rental of OS Rs.25/- per acre for 99 years from the year 1942 for manufacture of iron castings and mouldings. The lease deed was executed on 14-3-1955. The Unit was closed. The lessee sub-leased portions of plot to various units [1] Uday Engineering Works, [2] Shanker Industries, [3] Srinivasa Engineering

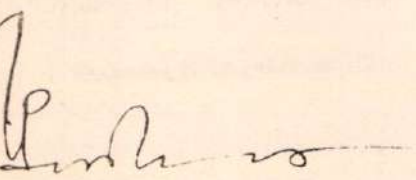

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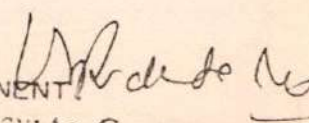

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Enterprises, [4] Auto Coach Builders; [5] Ravi Industries, [6] P.Narasimha. The lessee failed to utilise the leased land for industrial purpose, sub-let the leased premises on high rents to various other industrial units for different purposes and resorted unauthorised constructions, thereby committed wilful breach of covenants and contravened the terms and conditions of lease. Hence, the Government terminated the lease hold rights of the lessee in GO Ms. 266, Dt: 9-6-1989. Thereupon, the lessee filed W.P.No.13653/89 and obtained stay orders from the High Court. The W.P. is pending before the High Court.

[3] Sri S.Bhagat Ram Gupta of M/s.S.B.Ram & Company was leased out Plot No.21/1, measuring Acs. 1.136, on an yearly rental of OS Rs.25/- per acre for 99 years from 14-3-1944. The plot was kept idle without starting the Unit for manufacture of 'Ready Made Dresses' and entered into a partnership deed with M/s.Phoenix Pharmaceuticals Ltd on a monthly income of Rs.3,000/-. As the lessee has contravened the lease terms and conditions, the Government terminated the lease hold rights of M/s.Sri Bhagat Ram Gupta in GO Ms No.225, Dt: 23-3-1990 and resumed possession of the entire land in Plot No.21/1 on 11-5-1990. Thereupon, the lessee filed WP No.7025/90 and obtained orders from the High Court to maintain status-quo pending further orders on the petition. The W.P. has not come up for hearing so far.


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[4] M/s. Biological Evans Ltd was leased out Plot No.18/1, Plot No.18/3 and 19/3. The Company did not execute lease deed for Plot No.18/1 and 19/3. The period of lease is for 99 years from 9-2-1356 Fasli, 30-1-1960 and 9-3-1945 for the above three plots. The Company encroached upon Plot No.18/4 and occupied 3960 sq.mts and obtained stay of dispossession on 20-1-1986 from the Hon'ble Supreme Court by filing SLP No.13080/85.

[5] M/s. Tex-Chem Corporation Ltd was leased out Plot No.21/4, measuring Acs.1.22, on a monthly rent of Rs.40/- for manufacture of Dyes. The industry did not run. Hence, the Government took possession of an extent of 2140 sq.yds. in Plot No.21/4 in GO Rt.No.585, Dt: 14-6-1978 and retained the rest of the land in plot together with structures with M/s. Tex-Chem Corporation Ltd. In GO Ms No.777, Dt: 29-12-1982, the Government accorded sanction for extension of lease over an area of about 3600 sq.yds. in Plot No.21/4 in favour of M/s. Tex-Chem Corpn for a period of 12 years from 14-6-1979. The Company did not run their Unit and inducted M/s. Rajarajeswari Publications Pvt Ltd for printing of "Samayam" Telugu Dina Patrika into the leased land. Unauthorised constructions were also carried on. After following the due procedure, the lease was terminated in GO Ms No.160, Dt: 8-4-1988 for their failure to utilise the leased land in Plot No.21/4 for the purpose for which it was leased and for inducting an outside company, M/s. Rajarajeswari

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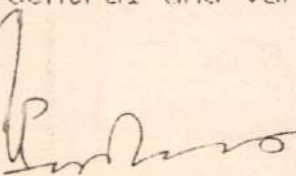
Publications Pvt Ltd into the leased premises unauthorisedly and also for violating the terms of lease by resorting to unauthorised constructions etc., Thereupon, the Company filed W.P.No.7487/88 and obtained stay orders of the High Court. The W.P. is pending.

28. In reply to the allegations made in Para No.6 of the affidavit, it is submitted that it is not true to allege that the lease deed is actually a sale deed and the same is denied. In this regard the anterior history as narrated above is relevant. With regard to the averments made, the violations of each of the cases as set out in the earlier paras may kindly be seen.

29. It is submitted that the allegations contained in Para No.7 of the affidavit are not relevant to the matter before the Hon'ble High Court.

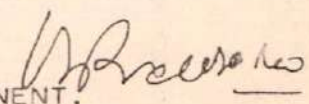
30. In reply to the allegations made in Para No.8 of the affidavit, it is submitted that the lease deeds were executed in different lease formats from time to time under varying terms and conditions. It may be noted that the lease was for a specific period and for specific industrial purpose with certain prohibitions.

31. In reply to the allegations made in Para No.9 of the affidavit, it is submitted that as a matter of policy, the Central and various State Governments have to take steps to


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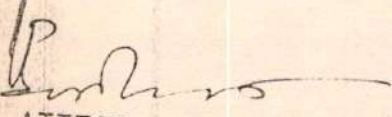
promote industrial development. As a part of this policy, this has been done in the case of Sanathnagar, Kukatpalli, Jeedimetla etc., Industrial Areas in Hyderabad. Further, it may be noted that in all industrial areas developed by the State Government and the allotted land can be resumed from the allottee in case industrial activity is not commenced or continued. It has been the intention of the Government that that industrial lands are not used for real estate profiteering and are utilised for genuine industrial purpose. There are several cases which have been mentioned above testifying to the existence of large scale land misuse operations by the unscrupulous persons in the Azamabad Industrial Area.

32.

In reply to the allegations made in Para No.10 of the affidavit, it is submitted that under the impugned Act, the Government seek to ensure that genuine industrial activity is protected and allowed to continue and prosper. Genuine and bonafide industrial activity has, therefore, no cause to be concerned or worried. Their interests will be fully protected.

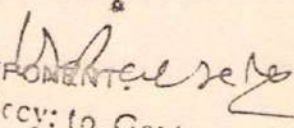
33.

In reply to the allegations made in Para No.11 of the affidavit, it is submitted that the leased land should be used for industrial purpose only and not for any other purpose. Hence, the contention is not correct and denied.


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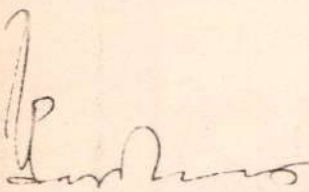

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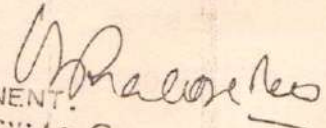
the Government issued a show cause notice in Memo No.581/IF-Cell/84, Dt: 3-12-1993 as to why action should not be taken for the violations and breach of terms enumerated in the above lease deed. The lessee filed Contempt Case No.537/92 and W.P.No.16294/92 and the Hon'ble High Court dismissed both the cases and held in contempt case that since the lease is one for carrying on dyeing and printing and since lease deed further shows that the Government is entitled to enter the demised premises in the event of contravention of the conditions of the lease and since the same was also embodied in the judgment in OS No.209/85 and in W.P. it was ruled that it was premature.

38. Regarding the irregularities and violations committed by the lessee, the details are already submitted in the above paras.

39. In reply to the allegations made in Para No.15(A) of the affidavit, it is submitted that the preamble to the Act clearly enunciated the objects of the Government in bringing out the said legislation. One of these is that leases were given for large areas and for long periods upto 99 years at incredibly low rents in different formats of lease deeds. The object of the Act is to regulate the leases afresh on such uniform terms and conditions, thereby ensuring optimum utilisation and securing proper management of the valuable

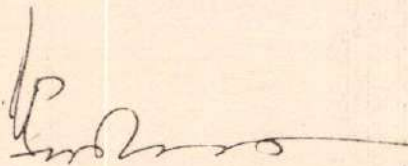

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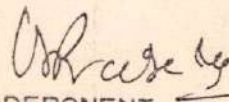

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Industrial land belonging to the Government. The intention behind bringing out this Act is also to curb large scale misuse or unauthorised use of Government land contrary to the terms of the leases. As submitted earlier, the original objective of encouraging industrial growth has been frustrated on account of various illegal activities. As submitted, the leases were granted at low rents for 99 years, decades ago, there is equally nothing unreasonable in upward revision of such rent by varying the original terms when making fresh allotment in order to enable the Government to derive its legitimate share of revenue in the escalating value of the asset. It is on the same analogy an upward revision of taxes, land revenue or other similar levies and imposts are made by the Government under law. Such highly valuable and costly land is also yielding as at present a mere pittance of revenue to the Government. There is also nothing unfair or illegal in revising the original terms in the proper conservation and utilisation of diminishing asset of the Government - i.e., prime industrial land in the heart of Hyderabad City. The Act ensures, among other things, using the land for industrial purpose only and grant of a lease on uniform terms and conditions is envisaged. In order to alleviate any hardship caused to the lessees, the Act also ensures allowing such persons having genuine cases of hardship to continue on the land without resort to, eviction.


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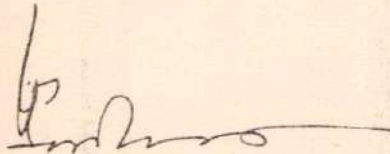
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business of Dyeing & Printing and other matters connected with the setting up of dyeing and printing until and subject to the approval of the Government. The Hon'ble court has also ruled that grant of an injunction restraining the Government should not be understood as a licence to M/s.Yousuf & Company to carry out any activities in pursuance of partnership deed without previous approval of the Government. On this judgment, the Government filed Appeal No.118/86 in the Honourable High Court which has not come up for hearing so far.

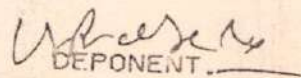
36. In the cases filed by M/s.Yousuf & Company against the SSI units for their eviction, the courts dismissed IA No.627/87 in OS No.481/86 and OS No.1291/84 on 26-6-1987 and 18-6-1991 respectively and held that the partnership agreements were only entered in consideration of payment of fixed sum periodically and camouflaged the entire transaction as a partnership to escape the lease provisions.

37. It is also submitted that even after delivery of judgment in OS No.209/85 on 15-4-1986 the lessee did not run the dyeing and printing industry and requested the Government for sanction of a new lease deed and transfer the entire lease hold rights of Plot Nos.14/1 and 24/2 in favour of Sri A.P.Agarwal of M/s.A.P.Agro Industries. As the lessee failed to utilise the leased land for the dyeing and printing industry and violated the terms and conditions of lease deed dt: 1-9-1965


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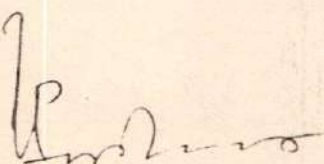
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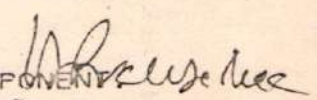
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34. In reply to the allegations made in Para No.12 of the affidavit, it is submitted that with regard to the cases where leases were terminated, the details have been given above. Further, the irregularities committed by each of the writ petitioners have also been listed out in the above paras.

35. With regard to OS No.209/85, it is submitted that M/s.Yousuf & Company (Mohd. Mahmood & others) did not establish any industry on the leased land in Plot Nos.14/1 and 24/2 and entered into various partnership agreements with five SSI units for deriving monthly income. Subsequently, M/s.Yousuf & Company also entered into another partnership agreement on 6-7-1984 with Sri A.P.Agarwal of M/s.A.P.Agro Industries. Under this agreement, the entire lease hold property including the value of lease hold rights on the land was estimated at Rs.4.0 lakhs and the proprietorial rights were converted into a trading asset of this new firm and M/s.Yousuf & Company had thus divested themselves of the control and possession of the premises with no chance of return and reversionary interest. The Government, after following the due procedure, terminated the lease of M/s.Yousuf & Company on 18-2-1985 for various violations. The Company filed OS No.209/85 in which the Hon'ble IInd Addl.Judge, CCC, Hyderabad, set-aside the order of termination of the lease and restrained M/s.Yousuf & Company from using the said premises for any purpose other than the


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40. In reply to the allegations made in Para No.15(B) of the Act, it is submitted that the Act further ensures fair chance of making appeals and revisions against the orders of the Competent Authority. The Appellate Authority has powers to call for the records and peruse them and appoint a time and date of hearing of the appeal by sending notices to all the concerned including the officer against whose order the appeal is preferred. In pursuance of the notice of hearing, the Appellant can represent himself or by an Advocate, Attorney or Pleader before the Appellate Authority and produce all the necessary documentary evidence either to modify or rescind the decision or order passed by the Competent Authority. In the case of revisions the same procedure will be followed. The intention behind these provisions is to ensure speeding up the procedures and taking decisions or passing orders in matters pertaining to the property of the Government.

41. In view of the above, it is submitted that the legislation does not suffer from the vice of irrational classification and hostile discrimination as alleged by the petitioners in Para 15 (C).

42. In reply to the allegation made in Paras 15 (D) and 15 (E) of the affidavit, it is submitted that in addition to what has been submitted in remarks in Ground 15(A) above, it is once again submitted that the object of the Act is to

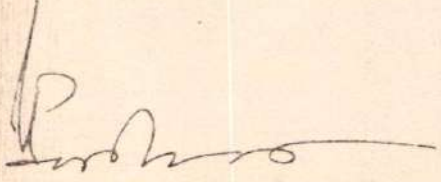
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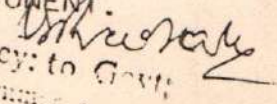
regulate the leases on uniform terms and conditions thereby ensuring optimum utilisation and securing proper management of the valuable industrial land owned by the Government. The Act ensures grant of a fresh lease to the lessees whose leases stand terminated if they were found not otherwise guilty of violations of lease. The genuine user of the Government land for industrial purpose will not be deprived of the lease of the industrial plots. Under the Act the genuine industrial activity will be protected and allowed to continue and prosper. Hence, genuine and bonafide industrial activity has, therefore, no cause to be concerned or worried. Further, it is submitted that the State Government are fully empowered to bring out an appropriate legislation to regulate the leases in respect of Azamabad Industrial Area. It is also submitted that the powers of the Legislature in enacting the impugned legislation for the objects specified therein cannot be questioned by the petitioners. The preamble of the Act clearly specifies the urgency and expediency in enacting such legislation. Therefore, the Legislature has the powers to enact appropriate legislation in respect of Azamabad Industrial Area which is situated in the heart of Hyderabad City where gross misuse of Government land has been going on. Hence, the contention of the petitioners that the legislation is arbitrary and violation of Article 14 of the Constitution of India is totally untenable.


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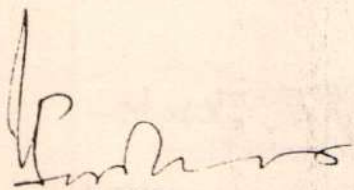
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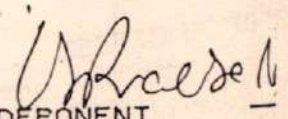
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43. In reply to the allegations made in Paras 15 (F) and 15 (G) of the affidavit, it is submitted that the objects of the impugned Act are already specified in the above paras. It provides for framing rules consistent with the purposes or provisions of this legislation. As submitted earlier, the Act ensures grant of leases to persons on uniform terms and conditions. It also further ensures giving protection to such of those persons having genuine hardship by continuing them on the land. Every protection has been provided under the Act to the genuine users of Government land for industrial purposes. Under the impugned Act, the Government seek to ensure that genuine industrial activity is protected and allowed to continue and prosper. Therefore, genuine and bonafide industrial activity has no cause to be concerned or worried. Their interests are fully protected. There are effective and adequate provisions in the impugned Act to safeguard the interests of genuine users of Government land. Besides, fair chance of redressal has been provided under Appeals and Revisions so as to ensure quickest possible orders against the decisions of the Competent Authority. If the Competent Authority refuses to grant fresh lease in favour of the applicant, he shall record relevant reasons in writing to that effect. Any person aggrieved by an order passed by the Competent Authority may prefer an Appeal to the Government. The Government shall pass appropriate orders on the said Appeal


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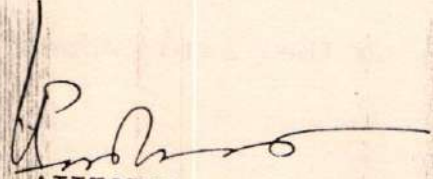
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after giving reasonable opportunity to the concerned. Thus, there are adequate safeguards protecting the interests of genuine users of Government land. In view of the above position, it is submitted that the impugned Act would not result in deprivation of property of the petitioners under Articles 14, 19 and 300-A of the Constitution of India.

44. In reply to the allegation at Para 15 (H) of the affidavit, it is submitted that the remarks in Para 15 (F) and 15 (G) may kindly be read as part of reply. It is also submitted that under section 4 of the Act a person who was actually using the demised land for genuine industrial purpose and was not otherwise guilty of violation of any conditions of the lease he shall be granted a fresh lease in accordance with the provisions of the Act. Under the impugned Act, the Government seek to ensure that genuine industrial activity is protected and allowed to continue and prosper. Therefore, genuine and bonafide industrial activity has no cause to be concerned or worried. Their interests are fully protected. There are effective and adequate provisions in the impugned Act to safeguard the interests of genuine users of Government land. Hence, the contention of the petitioners is untenable.

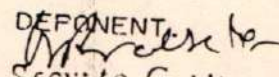
45. In reply to the allegation at Para 15 (I) of the affidavit, it is submitted that in addition to what has already been stated in Paras 15(F) and 15 (G) above, if the Competent


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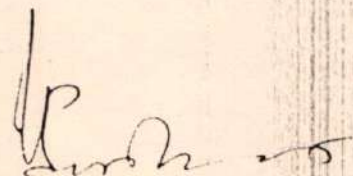
SECTION OFFICER

Industrial & Commerce Department
SECRETARIAT, HYDERABAD-22

DEPONENT

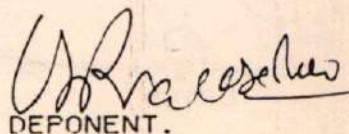

Asst. Secy to Govt.
Industrial & Commerce Department
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Authority refuses to grant fresh lease in favour of the applicant, he shall record relevant reasons in writing to that effect. Any person aggrieved by an order passed by the Competent Authority may prefer an Appeal to the Government. The Appellate Authority has powers to call for the records and peruse them and appoint a time and place of hearing of the appeal by sending notices to all the concerned including the officer against whose order the appeal is preferred. In pursuance of the notice of hearing, the Appellant can represent himself or by an Advocate, Attorney or Pleader before the Appellate Authority and produce all the necessary documentary evidence either to modify or rescind the decision or order passed by the Competent Authority. In the case of revisions the same procedure will be followed. The intention these provisions is to ensure speeding up the procedures and taking decisions or passing orders in matters pertaining to the property of the Government. Therefore, genuine and bonafide industrial activity has no cause to be concerned or worried. Their interests are fully protected. There are effective and adequate provisions in the impugned Act to safeguard the interests of genuine users of Government land. Hence, the contention of the petitioners that the impugned legislation is arbitrary and unconstitutional is untenable since the provisions of the Act have got inbuilt mechanism to protect the interests of the genuine users of Government land for industrial purpose.



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Industries & Commerce Department
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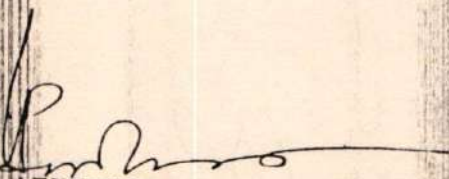


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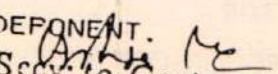
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Industries & Commerce Department
A.P. Secretariat, Hyderabad.

46. In reply to the allegations made in Para No.15(J) of the affidavit, it is submitted that the Writ Petitioners filed WPs 18106/86, 18101/87 and 16762/86 in the Hon'ble High Court challenging the Government order of enhancement of rents from 1-1-1985. The Hon'ble High Court dismissed these W.Ps. with costs. Thereupon, the writ petitioners filed W.As. in the Hon'ble High Court which have not come up for hearing and the WAs are pending. The details of the judgment delivered by the Hon'ble High Court in the W.Ps. are furnished in the earlier paras.

47. In reply to the allegations made in para No.15 (K) of the affidavit, it is submitted that entering into a partnership with another person in order to raise the necessary capital is a legitimate entrepreneurial activity permissible under the law of the land. Where the land is put to industrial use and for this purpose raising the necessary capital to expand the industrial unit may not be illegal. But there will be cases where under the guise of a partnership agreements/deeds the lease hold interest and the assets etc. standing on the lease hold land are valued and transferred for consideration with a view to derive profit out of such transactions from persons. In the name of partnership business, it amounts to unjust enrichment on the part of the lessees selling away their lease hold rights and assets standing on the


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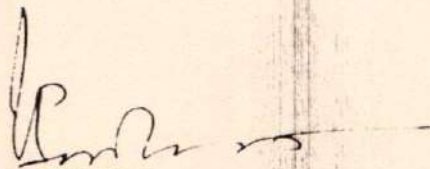
SECTION OFFICER
Industrial & Commerce Department
A. SECRETARY TO GOVT. INDUSTRIES-22

DEPONENT.

Asst. Secy. to Govt;
Industrial & Commerce Department
Govt. Secretariat, Hyderabad

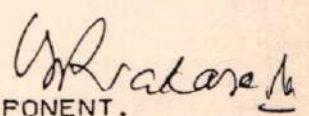
leased land to third parties. To arrest and plug such sham transfers of lease hold interest including the assets standing on the lease land to third parties for profit through such partnership transactions, an Explanation has been incorporated under Section 4 of the Act "Application for Fresh Lease", as otherwise sham transactions under the guise of partnership cannot be checked.

48. Instances of transferring or selling lease hold rights including lease hold property by entering into partnership deeds are -- (1) M/s.L.B.Industries, (2) M/s.Yousuf & Company, (3) M/s.Tex-Chem Corporation, (4) M/s.Dundoo Oil Industries, [5] M/s.Biking Food Products, etc.,

49. In reply to the allegations made in Para 15(L) of the affidavit, it is submitted that as per the provisions in the lease deeds, it is clear that a piece of land was given on lease by the Lessor, to erect the factory buildings in accordance with the plans approved by the Government in the Industries Department and that the prior consent of the Lessor is necessary for making any additions, alterations, modifications etc., to the original approved structures. In majority of the cases, the lessees and sub-lessees have clearly violated the conditions of lease and constructed structures at their own risk. All these constructions are unauthorised.

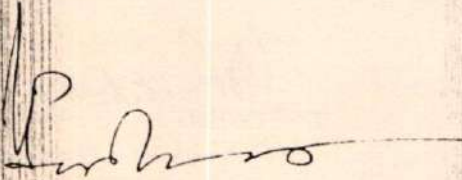

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SECTION OFFICER
Industries & Commerce Department
A. SECRETARIAT, HYDERABAD-22


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A. SECRET to G. M.
Industries & Commerce Department
A. SECRETARIAT, HYD-22,

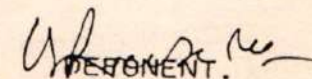
Broadly speaking, it can be assumed that those lessees or sub-lessees who have raised the structures in violation of the terms of the lease, are not entitled to any compensation. Since payment of compensation has been provided to the lessees to mitigate premature termination of the leases, the lessee has to demolish the structures where structures are raised unauthorisedly and give vacant possession and the Government is under no obligation to pay any compensation.

50. In reply to allegations made in Paras 15 (M), 15 (N), 15 (O) and 15 (P) affidavit, it is submitted that the main object of the impugned Act is already specified in the above paras. It provides for framing rules consistent with the purposes or provisions of this legislation. As submitted earlier, the Act ensures grant of leases to persons on uniform terms and conditions. It also further ensures giving protection to such of those persons having genuine hardship by continuing them on the land without resort to eviction. Every protection has been provided under the Act to the genuine users of Government land for industrial purposes. Under the impugned Act, the Government seek to ensure that genuine industrial activity is protected and allowed to continue and prosper. Therefore, genuine and bonafide industrial activity has no cause to be concerned or worried. Their interests are fully


ATTESTOR.

SECRETARY

GOVERNMENT OF INDIA
MINISTRY OF INDUSTRIES AND COMMERCE
GOVERNMENT SECRETARIAT, NEW DELHI-22.


PERSONENT.

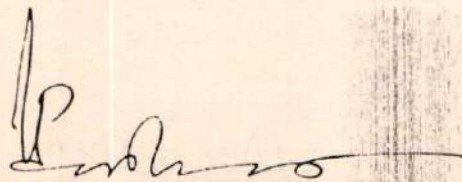
Asst. Secretary to Govt.
Industries & Commerce
Govt. Secretariat, New Delhi.


ATTESTOR.

W. H. S. Lee
DEPONENT.
Asst. Secy: to C. A.
Treasury & Commerce Department
A. J. Secretariat, 11/2/22.

Government land. Hence, the contention of the petitioners that the impugned legislation is arbitrary and unconstitutional is untenable since the provisions of the Act have got inbuilt mechanism to protect the interests of the genuine users of Government land for industrial purpose.

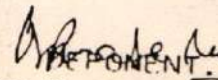
51. It is further submitted that the property rights cannot be agitated and asserted except by the owners of the property. Admittedly the property belongs to the Government. Under the circumstances explained above, it became necessary, in public interest, to make a law regulating the leases on uniform terms and conditions which ensures genuine industrial activity to continue and prosper by putting the land to optimum utilisation and securing proper management of the valuable real estate property belonging to the Government. It is also submitted that the State Government are empowered to bring out an appropriate legislation to regulate the leases in respect of Azamabad Industrial Area to protect and allow the genuine industrial activity to continue and prosper. As already submitted that the provisions of the Act have got inbuilt mechanism to protect the interests of the genuine users of Government land for industrial purpose, the contention of the petitioners raised in the above paras is untenable.



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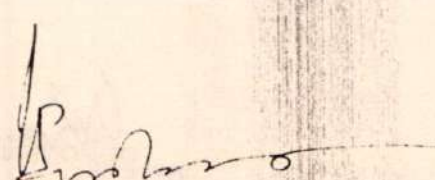


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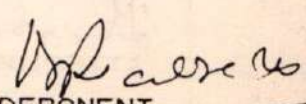
52. In reply to the allegations made in para 15(O) of the affidavit, it is submitted that as regards the payment of compensation, it is submitted that the rent being paid to the Government is incredibly low compared to the present market rate of the area. Hence, the compensation proposed is just and reasonable.

53. It is also submitted that the circumstances and the reasons for bringing out the legislation to regulate the leases at the Azamabad Industrial Area have already been explained above. A perusal of the preamble of the Act clearly specifies the urgency and expediency in enacting a law in public interest. The statute has to be brought out not only to curb misuse of valuable industrial land of Government but also to regulate the leases on uniform terms and conditions to allow peaceful and systematic industrial activity. As submitted earlier, the State Legislature can enact legislation and in exercise of sovereign power the State can order the systematic growth of industrial activity on its property. Hence, the contention of the petitioners raised in Para 15(O) is untenable.

54. In reply to the allegation made in Paras 15 (R), 15 (S), 15 (T), 15 (U) and 15 (V) of the affidavit, it is submitted that the main object of the impugned Act is already specified in the above paras. It provides for framing rules

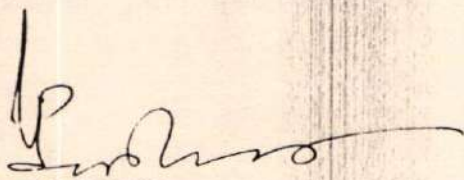

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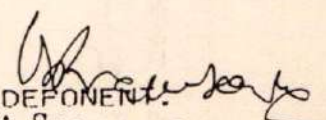

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Secretariat, Hyderabad-22.

consistent with the purposes or provisions of this legislation. As submitted earlier, the Act ensures grant of leases to persons on uniform terms and conditions. It also further ensures giving protection to such of those persons having genuine hardship by continuing them on the land without resort to eviction. Every protection has been provided under the Act to the genuine users of Government land for industrial purposes. Under the impugned Act, the Government seek to ensure that genuine industrial activity is protected and allowed to continue and prosper. Therefore, genuine and bonafide industrial activity has no cause to be concerned or worried. Their interests are fully protected. Besides, fair chance of redressal has been provided under Appeals and Revisions so as to ensure quickest possible orders against the decisions of the Competent Authority. If the Competent Authority refuses to grant fresh lease in favour of the applicant, he shall record relevant reasons in writing to that effect. Any person aggrieved by an order passed by the Competent Authority may prefer an Appeal to Government. The Government has powers to call for the records and peruse them and appoint a time and place of hearing of the appeal by sending notices to all the concerned including the officer against whose order the appeal is preferred. In pursuance of the notice of hearing, the Appellant can represent himself or by an Advocate, Attorney or Pleader before the Appellate Authority and produce all the

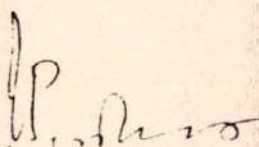

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Industrial & Commerce Department
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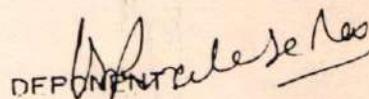

DEPONENT.
Asst. Secy to Govt.
Industrial & Commerce Department
A. P. Secretariat, Hyderabad.

necessary documentary evidence either to modify or rescind the decision or order passed by the Competent Authority. In the case of revisions the same procedure will be followed. The intention of these provisions is to ensure speeding up the procedures and taking decisions or passing orders in matters pertaining to the property of the Government. Therefore, genuine and bonafide industrial activity has no cause to be concerned or worried. Their interests are fully protected. There are effective and adequate provisions in the impugned Act to safeguard the interests of genuine users of Government land. Hence, the contention of the petitioners that the impugned legislation is arbitrary and unconstitutional is untenable since the provisions of the Act have got inbuilt mechanism to protect the interests of the genuine users of Government land for industrial purpose.

55. It is further submitted that the property rights cannot be agitated and asserted except by the owners of the property. Admittedly the property belongs to the Government. In the circumstances explained above, it became necessary, in public interest, to make a law regulating the leases on uniform terms and conditions which ensures genuine industrial activity to continue and prosper by putting the land to optimum utilisation and securing proper management of the valuable real estate property belonging to the Government. It is also submitted that


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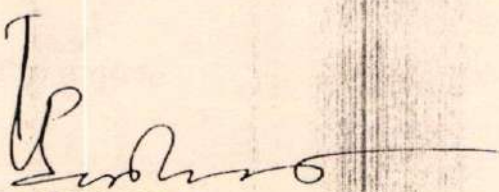
SECTION OFFICER
Industries & Commerce Department
SECRETARIAT, HYDERABAD-22


DEPUTY SECRETARY

Asst. Secretary to Govt.
Industries & Commerce Department
No. 2, Secretariat, Hyderabad-22

the State Government are empowered to bring out an appropriate legislation to regulate the leases in respect of Azamabad Industrial to protect and allow the genuine industrial activity to continue and prosper. As already submitted that the provisions of the Act have got inbuilt mechanism to protect the interests of the genuine users of Government land for industrial purpose, the contention of the petitioners raised in the above paras is untenable.

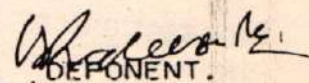
56. In reply to the contention of the petitioners in Para 16 of the affidavit, it is submitted that genuine user of Government land for industrial purpose will not be deprived of the lease of the industrial plots. The object of the impugned Act is to regulate the leases on uniform terms and conditions. Necessary protection has been given to the genuine users under the provisions of the impugned Act. If the Competent Authority refuses to grant fresh lease in favour of the applicant, he shall record relevant reasons in writing to that effect. Any person aggrieved by an order passed by the Competent Authority may prefer an Appeal to Government within 30 days from the date of receipt of the orders from the Competent Authority under Section 9 of the impugned Act. The Government has to dispose of the said Appeal after giving reasonable opportunity to the parties concerned. In order to alleviate any hardship caused to the lessees, the impugned Act further ensures allowing such of



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those persons having genuine hardship by continuing them on the land without resort to eviction. Thus, there are effective remedies and adequate provisions in the impugned Act to safeguard the interests of genuine users of land for industrial purpose since the Government seek to promote orderly and genuine industrial activity. Genuine and bonafide industrial activity has, therefore, no cause to be concerned or worried since grant of fresh lease on uniform terms and conditions is ensured under the impugned Act. Therefore, the question of incalculable hardship and injury by way of dispossession of land or rendering persons unemployed does not arise and the contention of the petitioners is untenable.

57. In view of the above, it is prayed that the Hon'ble High Court may be pleased to dismiss the W.P. Nos.12180/92 and 12181/92 and vacate the interim order made therein and pass such other orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Solemnly and sincerely affirmed
on this _____ day of May, 1993
and signed his name in my presence.

W. R. Rao
DEPONENT.
Asst. Secy to Govt;
Industries & Commerce Department
A.P. Secretariat, Hyderabad-22.

BEFORE ME

[Signature]
ATTESTOR
SECTION OFFICER
Industries & Commerce Department
A.P. SECRETARIAT, HYDERABAD-22

