

In the year 1935-36, the then H.E.H., the Nizam's Government through its Department of Commerce and Industry with the sole aim of Industrial Development in Hyderabad State, and to promote employment, took up the scheme of offering for sale, the then marshy and uninhabited land between the cities of Hyderabad and Secunderabad now called "Azamabad Industrial Area, Musheerabad, Hyderabad", to the extent of about 130 to 140 acres divided into small plots of 5 acres and 1.2 acres, to the intending industrialists. The development of this area was energetically persuaded by the Nizam's Government promising several infrastructure facilities for those interested in starting industries in this area. Ref : Circular of HEM Nizam Government a copy of the circular letter No.C.G/105/21/36 issued on behalf of the Secretary to Government Department of Industries & Commerce H.E.H. Nizam's Government with the H.E.H. the Nizam's State Railways in this regard is appended herein for your kind perusal.

In pursuance of the offer for sale, of the said plots at varying prices, between O.S. Rs. 1500 and O.S. Rs. 3,000 per acre, as will be seen from the plan of plots reproduced on the reverse of the circular referred above. Certain Industrialists came forward and took possession of the plots, after paying the price and constructed factories & developed infrastructure, investing huge amount in the allotted premises as early as 1938-40, and started running industries. It is submitted that the then market value of the land in the vicinity to the said Industrial area was not more than Rs. 1000/- per acre, on out right sale.

However, the erstwhile Nizam Government after police Action offered the said plots to the industrialists already in possession since 1938-40, on 99 years lease. A plain reading of the lease deed leaves no doubt on one's mind that the so called leases were actually sale deeds only subject to certain conditions.

All the occupying industrialists were in bonafide trust that the 99 years lease is as good as sale of the land, as it was never contemplated that the plots of land given in possession of industrialists for industrial development would at any time be taken back by the Government at their convenience. The Nizam Government levied a quit rent of about O.S.Rs.25/- per acre per year and also created a special "Industrial Trust Fund" to motivate the industrialists. The present industrialists who are the occupants of the said plots since the inception of the scheme of Industrialisation put forth by the Nizam Government have faced hardships and struggled very hard all these years and for the industrial existence in this area and have contributed leaps and bound to the state of Andhra Pradesh by way of Taxes, and employment and other indirect means.

The Government has introduced Azamabad Industrial Area (Termination and regularisation of leases) Act 1992. Terminating all the leases prematurely, and the rules made there under the Government in G.O.Ms.No.299 Industries & Commerce (IF cell) dated 1-9-93 ordered the leasees to pay once again an exorbitant premium of Rs. 25 lakhs per acre, and a quit rent of Rs. 6,000/- per acre per annum and further reduce the lease period of 25 years with other restrictions and terms and conditions that may be read in to the rules of the said act.

8. In view of the above facts we earnestly request your goodself to revise the orders issued in G.O.Ms.No. 299 Industrial & Commerce (IF cell) Department dated 1-9-93 to the following effect.

i) Payment of premium at Rs.500/- per SQ. yard should not be insisted upon for the present occupants already on lease of 99 years as they have already paid premium at the time of occupation at the then prevailing rates.

ii) We should be allowed to be on lease for the balance period of lease of 99 years.

Alternately we suggest that the Government as per its present policy of disinvestment should convert leases into free hold Industrial land. Recently the Government solved the problem of other lease hold lands in other Industrial areas of Secunderabad / Hyderabad in a similar manner.

BRIEF FOR SUPREME COURT

Main Points related to Azamabad Industrial Area

- 1) As the existing lease holders were not being provided with the required permission, power requirement, financial support, hence to fulfill the requirement of raising funds the lease holders were forced to enter into genuine partnership with influential and financially strong entrepreneurs, which was being termed by the authority as violation of the terms of the lease deed ! and they had instructed all related authorities like, Municipality, electricity, water works, not to entertain any application from Azamabad Area, thus the lease holders were left with no option but to keep their huge investment blocked in the installed plant and machinery, furnitures without any returns thereon. In turn a few of the lease holders turned to sub leasing the land for non-industrial activity under permission from the authority. The authority could not understand the universally accepted fact that no industry can run as long as 99 years without upgradation diversification and modification of the activity of the industry.
- 2) As the lease holders were given to understand very clearly as per the lease deed that the lease land is to be in our possession for 99 years without any interruption in enjoying lease hold rights for 99 years. Under trust of the lease deed most of us never thought of acquiring any other land in the nearby or other vicinity. (which was available to us at throw-away price in ample) Now such an arbitrary act by the government would tender all the lease holders in a unbearable hardship and leave us nowhere.
- 3) After development of Azamabad Industrial area, there were many industrial area developed by the government in and around Hyderabad and Secunderabad like Balanagar, Sanathnagar, Nacharam, Kattedan. All those lands and sheds were initially offered on lease and were at a later period these leases were converted into a sale deed. Apart from above cited conversion, during August 94 the government has passed a G.O. converting prime lease hold lands to freehold land in Secunderabad. We suggest that the government to convert the Azamabad Industrial area lease hold agreement into freehold lands without any encumbrance and conditions or restrictions which is also in line with the present policy of disinvestment and liberalization being opted by the Government of India.
- 4) Originally between 30's to 40's the Azamabad area was offered for sale by H.E.H.Nizam of Hyderabad for development of industrial activity in then state of Hyderabad. As per the offer the entrepreneur applied for the land, paid the requisite amount towards value of the land and were handed over possession of land without any agreement of sale in writing for reasons unknown to us. Formal agreements were entered into by the state of Andhra Pradesh only after independence and that agreement was entered into a lease agreement but not a sale agreement. The entrepreneur had to accept under bonafied trust that possessing land for a long period of 99 years is equivalent to a sale. Thus not objecting to lease deed they agreed to the terms of lease offered by the Government.

FACTS :

- 1) The land 136.4 Acres belongs to ITF (Nizam) flats year 1936-37, for ID in Nizam State.
- 2) The area was acquired with funds of Industrial Trust Funds Hyderabad.
- 3) Year 1935-36 Nizam Government under Department of commerce and Industry with aim of promoting industries development allotted lands to Industries between Hyderabad and Secunderabad Known as Azamabad Industrial Area, Musheerabad, Hyderabad.
- 4) After the police action the ITF transferred the lease hold rights to DIC. So even DIC is not the owner of the lease hold property of the Azamabad.
- 5) After Police action in 1947/1948 the Andhra Pradesh State offered Industrial Plots for 99 years though it was out right issue earlier to Police action.
- 6) The Petitioners responded to the respondents offer and took possession of plots on 99 years lease.
- 7) Many plots where handed over earlier and lease deed was executed much after occupation by Industries say possession in 19.3.1945 lease deed executed on 3.10.1956 and lease from 1945 for 99 years. Land was allotted in 1968 lease deed was executed in 1972.
- 8) permission where granted at there will and pleasure after much request reminders and what not in short some Industrialist would get diversification expansion and permission immediatly or after long time as case may be after con't in our persuation with the Industries Department.
- 9) There are many problems by holding lease deeds we lands are anable to mortgage to banks for funds, we have to approach for every such move for Industrial Development to DIC Hyderabad, for permission or sanction. Hence freehold is always advisable as cases in around Hyderabad, Secunderabad city Government of Andhra Pradesh has give lease come sale deed of Industrial land.
- 10) The Present Government of Industires did not allow any Industries to change line of manufacturing activity and hence the Industries went sick. When Industries went sick or rather forced to go sick there leases were forced to take the path of sublease or rent the premises.
- 11) Violation of lese deed in done by Industrialist because Industries department did not give various permission required to running of Industry or allow change of line of Manufacturing activity, as and when time required or change of Partnership frim changes (which is in no man's control) hence violation was forced by industries and had to do so and continue without permission or sanction because of non co-operation of Industries Department.