SPECIAL COURT UNDER A.P.LAND GRABBING (PROHIBITION) ACT
HYDERABAD.

DATE: FRIDAY, the 19th day of December, 1997.

P R E S E N T :

HON'BLE SRI T. CHANDRASEKHARA REDDY, JUDICIAL MEMBER.
HON'BLE SRI V.V. SATYANARAYANA, REVENUE MEMBER.

L.C.C.No. 144 of 1995.

BETWEEN:-

1. Smt. Dinmani K. Mehta.
2. Girish K. Mehta.
3. Subash K. Mehta.
4. Balakrishna K. Mehta. ..... APPLICANTS.

A N D

1. Sri M.B.S. Purshottam.
2. Sri Soham Modi.
3. Sri Sourabh Modi.
4. Sri Anil Rupani. ..... RESPONDENTS.

This case coming on 2-12-1997 for final hearing before us in the presence of Sri G. Mathew, counsel for the applicants and of Sri M.S.R. Subramanyam, counsel for respondent No.1 and Sri C. Balagopal, counsel for respondents No.2 and 3 and of Sri K.S.N. Murthy, counsel for respondent No.4, upon perusing the records and having stood over for consideration, this Court delivered the following :

J U D G E M E N T

(Judgment delivered by Hon'ble Sri T.Chandrasekhara Reddy, Judicial Member on behalf of the Bench)

This is an application filed under Section 8(1) of the Andhra Pradesh Land Grabbing (Prohibition) Act XII of 1982 for the following reliefs : (1) to order eviction of the respondents No.1 to 4, their legal heirs, successors

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and their agents from the application schedule land/ property and restoration of possession of the said land/property to the applicants through respondents No.1 to 4; (2) to direct the respondents No.1 to 4 to demolish and remove all the unauthorised and illegal structures erected on the application schedule land; (3) to declare the respondents No.1 to 4 as land-grabbers under the provisions of the A.P.Land Grabbing (Prohibition) Act XII of 1982 and launch criminal proceedings against the respondents No.1 to 4 and to punish them under the provisions of the A.P.Land Grabbing (Prohibition) Act XII of 1982; (4) to direct the respondents to pay compensation of Rs.50,000/- per month from the date when the respondents have illegally occupied and constructed the existing illegal structures on the application schedule land; (5) to order costs of this application, and (6) to grant such other relief or reliefs as may be deemed fit and proper in the nature and circumstances of the case.

2. The application schedule land is admeasuring 605 sq.yards equivalent to 5 guntas in Sy.No.40 corresponding to T.S.No.10 of Begumpet village, Balanagar Mandal, Ranga Reddy District, falling under Municipal Corporation of Hyderabad, Secunderabad Division and bearing Municipal Nos.1-10-72/2/3, 1-10-72/2/3/A, 1-10-72/2/3/B, 1-10-72/2/3/C with the following boundaries, North: Begumpet Main Road (S.P.Road), South: Door No.1-10-72/2/2, East: 15 feet wide road, and West: Door No.1-10-72/A2.

3. The case of the applicants No.1 to 4 as put forth in the concise statement to this application in brief is as follows : The application schedule property was originally owned by one Sri Chotalal Shivram Vyas. The first applicant is the sole daughter of Chotalal Shivram Vyas. Applicants No.2 to 4 are the sons of the first applicant. The said Chotalal Shivram Vyas died at Rajkot in Gujrat on 10-10-1983. After the death of the said Chotalal Shivram Vyas the applicants being the legal heirs of the said Chotalal Shivram Vyas became entitled to the application schedule property and as such they are the owners of the application schedule property and having title to the same.

4. While so, on about 20th January, 1995, the third applicant while going through the Deccan Chronicle newspaper by chance came upon an advertisement for sale of the office space on Begumpet Main Road, Hyderabad. As most of the Begumpet Main Road was already well developed, the third applicant suspected and on investigating further he was shocked to see that an extent of 605 sq.yards belonging to the applicants No.1 to 4 which is the application schedule property and which was surrounded by a compound wall had been encroached upon by the respondents No.2 and 3 and a commercial complex had been constructed thereon and that a portion of the same had been offered for sale as per the said advertisement in the Deccan Chronicle newspaper dated 20-1-1995. On further enquiries the third applicant learnt from the records of the Municipal Corporation of Hyderabad, Secunderabad Division that the first respondent herein had been misrepresenting the application schedule property as his property in Sy.No.40 of Begumpet village and on the strength of the said misrepresentation had obtained building sanction for the construction of the commercial complex.

The respondents No.2 and 3 were said to be Builders/Developers of the respondent No.4 said to have concluded agreement for the purchase/lease of office space constructed by respondents No.2 and 3 on the application schedule land belonging to the applicants. The respondents No.1 to 4 having no lawful entitlement to the application schedule land, after grabbing application schedule land, structures had been raised by the first respondent in collusion with respondents No.2 and 3 over the application schedule land. The respondents No.1 to 4 are land-grabbers. So the present application is filed against respondents No.1 to 4 for the reliefs as indicated above.

5. The first respondent had filed counter opposing this application. The first respondent had maintained in his counter that he is the owner of Sy.No.41, Begumpet village and the apolicants No.1 to 4 are claiming the land of this respondent in Sy.No.41 of Begumpet village. According to the first respondent, the application schedule land/property is in Sy.No.41 that belongs to the first respondent and not in Sy.No.40 belonging to the applicants. Alternatively it is also pleaded, if any part of the application schedule property is covered by Sy.No.40 of

Begumpet village as this respondent had been in continuous uninterrupted possession of the said land from the year 1973 which is the date of purchase of the land in Sy.No.41, that this respondent had perfected title to the same by adverse possession. It is also maintained that this respondent delivered possession on 27-3-1982 of the application schedule land to one Mrs. Manjula Kakadia for development of the land for shopping complex and the ground-floor construction was started in March 1982 and completed in 1983 and the permission for the construction of first floor and second floor was submitted on 7-11-1985 to the Government and that the same was refused by the Government by their letter dated 21-5-1986 and that thereupon this respondent was forced to file W.P.No.16663 of 1986 to quash the order of the Government dated 21-5-1986 and that the same was quashed by the order of the Hon'ble High Court dated 23-3-1990 and thereafter the Government granted permission by G.O.Rt.No.905 M.A., dated 16-7-1991 for proceeding with further constructions and that

thereafter the first and second floors were completed in the application schedule land. It is reiterated that the land thus claimed by the applicants is obviously in possession and enjoyment of the first respondent eversince his purchase in the year 1973 and during the life time of the above Chotalal Shivram Vyas through whom the applicants are hereby claiming the application schedule property, that the said Chotalal Shivram Vyas had never questioned the possession of the respondent with regard to the application schedule property and therefore, the right of the applicants to the application schedule property, if any, is extinguished and the claim of the applicants for eviction of the respondents from the application schedule property and restoration of the application schedule property is barred by time and so it is the case of the first respondent that this L.G.C., is liable to be dismissed.

6. Respondents No.2 and 3 who are purchasers of the application schedule property from the first respondent while supporting the counter of the first respondent have maintained in the counter filed by them that the first respondent had

surrendered 355 sq.yards of land in the application schedule property to the Municipal Corporation of Hyderabad, for the purpose of widening of the road, and thereafter the first respondent delivered possession of the remaining portion of the land of the application schedule property to the builders and developers for the purpose of constructing shops after necessary relaxation from the Zonal Regulation, and the construction of the first floor was completed as early as in the year 1983. These respondents (respondents No.2 and 3) have also maintained in their counter that even if the applicants have right to the application schedule property which is in possession of these respondents, such right had been extinguished by operation of law as the applicants have lost possession of the application schedule property more than 22 years before filing of the L.G.C. It is further pleaded by these respondents (respondents No.2 and 3) that they are bonafide purchasers of the application schedule property for valuable consideration. So it is the case

of the respondents No.2 and 3 that this application is liable to be dismissed. Respondent No.4 also filed counter with similar pleas.

7. The following issues are settled for trial :-

1) Whether the applicants are the owners of the application schedule property ?

2) Whether the rival title set up by the respondents is true and correct ?

3) Whether the respondents are land-grabbers within the meaning of Sec.2(d) and 2(e) of the A.P.Land Grabbing (Prohibition) Act XII of 1982 ?

4) To what relief ?

8. ISSUE NOS. 1 AND 2 :- It is not in dispute in this case that the applicants are the owners of old Sy.No.40 of Begumpet village and that the first respondent is the owner of the old Sy.No.41 of Begumpet village. It is the specific case of all the respondents herein that the application schedule property is part and parcel of old Sy.No.41 of Begumpet village and that the application schedule property is not in Sy.No.40 of Begumpet village. Respondents No.1 to 4 do not claim any title to old Sy.No.40 of Begumpet village but alternatively pleaded that they have perfected title

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to the application schedule property by adverse possession, if the application schedule property is situated in old Sy.No.40 of Begumpet village. So in view of the rival contention of the parties it becomes very much necessary to identify the application schedule property and to ascertain whether the application schedule property is in Sy.No.40 of Begumpet village which belongs to the applicants or in old Sy.No.41 of Begumpet village which old Sy.No.41 of Begumpet village admittedly belongs to the first respondent.

9. P.W.2 examined in this case is one V.Ashok Kumar, who is working as Mandal Revenue Officer, Balanagar, Hyderabad. P.W.2 had submitted his report which is Ex.X-1 under Rule 6 of the A.P.Land Grabbing (Prohibition) Act of 1982 to this Court. P.W.2 has stated in his evidence that the said report Ex.X-1 is submitted by him on 29-9-1995 and before submission of his report Ex.X-1 before this Court that he inspected the application schedule land along with the Mandal Surveyor and that he had been served by this Court with a copy of

this L.G.C., for submitting the said report and that he had referred to the copy of this L.G.C., at the time of inspection along with the Mandal Surveyor and that in column No.12 of the copy of L.G.C., boundaries are mentioned, that on verification he found that the boundaries to be correct with regard to the application schedule property. We may mention herein that the Town Survey with regard to the Begumpet village had been conducted in the year 1964 and the Town Survey had also been implemented. About the implementation of the Town Survey we will make reference in our judgement at the appropriate time. As could be seen in Column No.12 of the L.G.C., boundaries with regard to the application schedule property are mentioned. The boundaries that are mentioned in column No.12 of the L.G.C., are the same mentioned for the application schedule property. It is clearly mentioned in Ex.X-1 that the application schedule property is in Sy.No.40 which corresponds to T.S.No.10 of Begumpet village. So from the evidence of P.W.2 and Ex.X-1 it is quite evident that the application schedule property is in Sy.No.40 of Begumpet village.

10. We may also refer to the evidence of P.W.3 one B. Srinivas who is working as Inspector of Survey in the

office of the Asst.Director, Survey and Land Records, Ranga Reddy District. On 5-7-1996 P.W.3 produced the Town Survey Register of Begumpet village and also Town Survey Plan of Ward No.94, of Begumpet village in pursuance of order of this Court dated 28-6-1996. Ex.X-5 is the true extract of Town Survey Land Register of Begumpet village in respect of Town Survey numbers 1 to 10 of Begumpet village. Ex.X-6 is the true extract of the Town Survey Plan of Ward No.94 of Begumpet village with regard to Town Survey Nos.1 to 10 of Begumpet village. The Advocates on record have compared Exs. X-5 and X-6 with the originals and were satisfied that Exs.X-5 and X-6 are true to the originals. P.W.3 in clear and unequivocal terms has stated in his evidence that T.S.No.10 is bounded on the North:by the road which is T.S.No.1, on the South:by T.S.No.9, in the East:Road (minor) which is T.S.No.12 and on the West: T.S.No.7. As seen from Exs.X-5 and X-6 the new T.S.No.10 of Begumpet village corresponds to old Sy.No.40 of Begumpet village. In the cross-examination he (P.W.3) has stated that there is a correlation sketch prepared by the Town

Survey Department on the basis of the village map. The Town Survey Plan is prepared in its turn on the basis of the correlation sketch. The correlation sketch will be superiimposed on the Village Plan, before correlation sketch is prepared. He does not know whether the said correlation sketch is available with the Town Survey Department. He has further stated in the cross-examination that he had not verified the areas of old Sy.No.40 and 41, and that in Ex.X-5 as against T.S.No.10 the extent in Col.No.5 is shown as five guntas equal to twelve cents and the same is mentioned as 05/12, andthat the entire extent of old Sy.No.41 as seen from Ex.X-5 is shown as Ac.1-08 guntas equivalent to Ac.1-20 cents. During the course of arguments the Bench felt it necessary to have a look again at Town Survey Records and plans to have a clear idea about the demarcation of Sy.Nos.40 and 41 of Begumpet village. So P.W.3 was once again examined on 28-11-1997 by this Court as C.W.3. C.W.3 (P.W.3) produced the Town Survey Register and the relevant xerox certified copies of Exs.C.11, C.12, C.13, C.14, C.15 and C.16. Ex.C.17 is the xerox certified copy of the correlated sketch with regard to old Sy.Nos.41, 40 and 39 of Begumpet village that are correlated to new

Town Survey numbers. The originals of Exs.C.11 to C.17 were also made available for perusal by the Advocate on record and the Advocates on record after comparing Exs.C.11 to C.17 with the originals were satisfied that they (Exs.C.11 to C.17) are true to the originals.

11. Ex.C.11 ~~as already pointed out~~ is the xerox certified copy of the Town Survey Register of Begumpet village for T.S.Nos.11, 12, 13, 14, 15 and 16. Ex.C.12 is the xerox certified copy of the Town Survey Register with regard to T.S.Nos.17, 18, 19 and 20 of Begumpet village. Ex.C.13 is the xerox certified copy of the Town Survey Register with regard to T.S.Nos.21, 22, 23, 24, 25, 26, 27, 28/1 and 28/2 of Begumpet village. Ex.C.14 is the certified xerox copy of Town Survey Register with regard to T.S.Nos.29, 30, 31, 32 and 33 of Begumpet village. Ex.C.15 is the certified xerox copy of Town Survey Register with regard to T.S.Nos.58, 59 and 60 of Begumpet village. Ex.C.16 is the xerox certified copy of Town Survey Register with regard to T.S.Nos.61, 62, 63, 64, 65 and 66 of Begumpet

village. Ex.C.17 is the certified xerox copy of the correlation sketch with regard to old Sy.Nos.41, 40 and 39 of Begumpet village. Ex.C.17 which is correlated sketch shows that old Sy.No.41 of Begumpet village is correlated to T.S.Nos. 5, 6, 7, 8 and 9 of Begumpet village. It is significant to note that old Sy.No.41 corresponds only to T.S.Nos. 5, 6, 7, 8 and 9 are of Begumpet village for which the applicants are not claiming any title. As a matter of fact there is no dispute before this Court with regard to old Sy.No.41 corresponding to T.S.Nos. 5, 6, 7, 8 and 9 of Begumpet village which admittedly belongs to the first respondent. Ex.C.17 also shows that old Sy.No.40 of Begumpet village is correlated to T.S.No.10. Ex.C.17 further shows that old Sy.No.39 is correlated to new T.S.Nos.13, 14, 15, 16, 26, 33, 60, 62 and 63. The correlation of old Sy.No.39 of Begumpet village to new T.S.Nos.13, 14, 15, 16, 26, 33, 60, 62 and 63 has got much importance. So from Ex.X-5 to which a reference is made, is already made which is an entry in the Town Survey Register and as per Ex.C.17 which is a certified xerox copy of the correlated sketch we do not have any doubt in our mind to conclude that old Sy.No.40 corres-

ponding to T.S.No.10 of Begumpet village has got separate identity and the dispute in this case is only with regard to Sy.No.40 of Begumpet village and not with regard to old Sy.No.41 of Begumpet village that belongs to the first respondent.

12. It is necessary to ascertain whether the applicants have title to old Sy.No.40 of Begumpet village which admittedly corresponds to T.S.No.10 of Begumpet village. The application schedule property claimed in this I.G.C., is in old Sy.No.40 corresponding to T.S.No.10 of Begumpet village as indicated by us already.

13. The application schedule property originally belonged to one Syed Mohammed Azam. The said Syed Mohammed Azam sold the application schedule property which in extent was Ac.0-05 guntas in old Sy.No.40 of Begumpet village and Ac.1-35 guntas in old Sy.No.37 of Begumpet village to one Muralidhar under the registered sale deed dated 27-5-1961 the registration copy of which is Ex.A.3. Ex.A.4 is the

plan appended to Ex.A.3. Thus the said Muralidhar became the owner of the said old Sy.No.40 of Begumpet village which in extent was Ac.0-05 guntas. The said Muralidhar in his turn sold the said Ac.0-05 guntas of land in old Sy.No.40 of Begumpet village under the registered sale deed dated 12-12-64 to Chotalal Shivram Vyas and put the said Chotalal Shivram Vyas in possession of the same. The registration copy of the said sale deed in favour of the said Chotalal Shivram Vyas dated 12-12-1964 is Ex.A.2.

14. So in respect of the application schedule property (old Sy.No.40 of Begumpet village that was purchased by the abovesaid Chotalal Shivram Vyas) the said Chotalal Shivram Vyas had filed O.S.No.36 of 1975 on the file of the 4th Addl.Judge, City Civil Court, Hyderabad. The first respondent herein was defendant No.7 in the said suit. The first respondent as defendant No.7 in the said suit raised plea that the property claimed by the above said Chotalal Shivram Vyas was in respect of old Sy.No.41 of old Begumpet village which did not belong to the said Chotalal Shivram Vyas. The said O.S.No.36 of 1975 was filed both, for declaration of title to the property and

for permanent injunction. The extent claimed in old Sy.No.40 in O.S.No.36 of 1975 on the file of the 4th Addl.Judge, City Civil Court, Hyderabad, was for 800 sq.yards of land. The prayer for declaration of title was up held for the extent of 605 sq.yards out of the said 800 sq.yards in the said old Sy.No.40 of Begumpet village and relief for permanent injunction ~~x~~ was however refused. Ex.A.8 is the certified copy of the Judgement dated 29-3-1980 in O.S.No.36 of 1975 on the file of the 4th Addl.Judge, City Civil Court, Hyderabad, and Ex.A.9 is the certified copy of decree passed in the said O.S.No.36 of 1975 on the file of the 4th Addl. Judge, City Civil Court, Hyderabad. Ex.A.8 judgement shows that Defendants No.1 to 6 in the said O.S.No.36 of 1975 on the file of the 4th Addl.Judge, City Civil Court, Hyderabad, were vendors of defendant No.7 in the said suit. The said defendant No.7 in the said O.S. No.36 of 1975 ~~is~~ as already pointed out, is the first respondent in this L.G.C. In the said suit (O.S.No.36 of 1975) after taking into consideration the pleadings,

the Court framed appropriate issues and had ultimately delivered the judgement, the operative portion of which reads as under:-

> ".... the plaintiff is declared as the owner and possessor of an extent of 5 guntas equivalent to 605 square yards in Survey No.40 within the boundaries set out in this plaint-schedule. The 7th Defendant shall pay the proportionate costs of the plaintiff and the Plaintiff shall pay the proportionate costs of the 7th Defendant. The suit of the plaintiff against Defendants 1 to 6 is dismissed without costs."

Ex.A.9 as already pointed out is the decree in the said O.S.No.36 of 1975 on the file of the 4th Addl. Judge, City Civil Court, Hyderabad. So as could be seen from Ex.A.9, the boundaries given in the suit schedule and in the application schedule property herein are one and the same. So from the judgement and decree which are Exs.A.8 and A.9 it is not open for respondent No.1 and respondents No.2 and 3 who are claiming through respondent No.1 the application schedule property, which is in Sy.No.40 belongs to them. The judgement and decree, Exs.A.8 and A.9 in the said suit O.S.No.36 of 1975

operate as res judicata as against respondents No.1 to 4 so far as the title is concerned of old Sy.No.40 of Begumpet village which corresponds to T.S.No.10 of Begumpet village. From Exs.A.8 and A.9 the respondents No.1 to 4 are estopped from putting forth any claim to the application schedule property which is in old Sy.No.40 of Begumpet village.

15. But one of the main contentions advanced on behalf of respondents No.2 and 3 by Mr. Balagopal the learned counsel appearing for respondents No.2 and 3 that the commercial complex called as "Modi Building" had been built in Sy.No.41 and the same is not in old Sy.No.40 of Begumpet village which corresponds to T.S. No.10 of Begumpet village.

16. C.W.1 examined in this case is one A. Ranga Reddy who is working as Asst.Director, Survey and Land Records, C.W.1 was appointed as Commissioner by this Court as per orders dated 26-8-1996 in I.A.No.744 of 1996 on the file of this Court and he was asked to

identify the application schedule property and for noting the physical features and to file his report. Ex.C.2 is the report of the Commissioner (C.W.1) and Ex.C.3 is the plan appended to his report (Ex.C.2). In Ex.C.3 plan the old Sy.No.40 is identified by C.W.1 and the application schedule property is also identified in old Sy.No.40. It is also clear from a perusal of the plan, the building known as "Modi Building" which is the disputed structure in this L.C.C., had come up in old Sy.No.40 corresponding to T.S.No.10 of Begumpet village. The first respondent in his chief-examination had stated he is in possession of the application schedule land by whatever survey number it was known, whether 40 or 41 (page No.4 of chief-examination). In para 5 of the counter R.W.1 had pleaded "Assuming that without admitting that the land in the possession of this respondent is covered by a portion of S.No.40 as claimed by the applicants ....." When specifically questioned, in the cross-examination at page 11 "What is the portion of Sy.No.40 that R.W.1 (first respondent) had referred in para 5 of his counter ?" R.W.1 answers : "I cannot say". Because it had been very inconvenient for R.W.1 to answer the extent of land he is

in possession in Sy.No.40, R.W.1 had given an evasive reply. So from the Commissioner's plan Ex.C.3 and from the evidence of R.W.1 referred to above bearing in mind the alternative plea taken by the respondents herein that they have perfected title to the application schedule property by way of adverse possession it is evident that the dispute is with regard to old Sy.No.40 of Begumpet village and a major part of the said Modi Building is in old Sy.No.40 of Begumpet village. As already pointed out the respondents do not claim any title to the old Sy.No.40 of the Begumpet village. R.W.2 in a clear and unequivocal terms at page 12 of his evidence admits that all the documentary evidence filed in this case relates to Sy.No.41 of Begumpet village. (See page 12 of the deposition of R.W.2, who is Respondent No.3 in this L.G.C)

17. R.W.1 also in his examination-in-chief (first respondent) stated that a decree was passed in O.S.No.36 of 1975 declaring the right of the plaintiff therein for the part of the land for the extent of

605 sq.yards in Sy.No.40 of Begumpet village but relief for injunction was refused and the land claimed by Chotalal Shivram Vyas was not granted in the O.S.No.36 of 1975 and so he was in possession of the property covered by Ex.B.1 sale deed and that he had made construction in part of the Sy.No.41 of Begumpet village through his developers and that he is in possession of the construction thereon. So as seen inspite of the decree in the said O.S.No. 36 of 1975 on the file of the 4th Addl.Judge, City Civil Court, Hyderabad, in favour of the said Chotalal Shivram Vyas and as against the first respondent herein, the first respondent had been wrongly claiming Sy.No.40 belonging to the applicants as his under the guise of Sy.No.41. Before making any constructions in the application schedule land in view of the said judgement and decree in Exs.A.8 and A.9 in the said O.S.No.36 of 1975, it was very much necessary on the part of the first respondent and also respondents No.2 and 3 to get demarcated old Sy.No.40 of Begumpet village through a qualified Surveyor and to have started constructions thereafter in their own land in old Sy.No.41 of Begumpet village. But very strangely, throughout the respondents

maintained that the application schedule property is not in old Sy.No.40 of Begumpet village but only in Sy.No.41 of Begumpet village. Even during the course of arguments Mr. Balagopal learned counsel for respondents No.2 and 3 had strenuously contended that the said Modi Building is not in old Sy.No.40 but in Sy.No.41. We are thoroughly convinced in this case that the said Modi Building either completely or major part of it is in old Sy.No.40 of Begumpet village corresponding to T.S.No.10 of Begumpet village.

18. To confirm that the applicants are the owners of the application schedule land/property, we may also refer to Ex.A.11 which is the pahanipatrika for the year 1993-94 regarding old Sy.No.40 of Begumpet village wherein the original owner Syed Mohammed Azam is mentioned as the pattedar of old Sy.No.40. As the name of the said Chotalal Shivram Vyas had not been mutated in the original pahanies, the original pattedar's name is continued in the pahani. It is significant to note that the name of the respondents

are not at all mentioned in the pahanies in respect of old Sy.No.40 of Begumpet village.

19. Ex.A.7 is the special notice of property tax demanding property tax from Chotalal Shivram Vyas for the half year commencing from 1-4-1972. Ex.A.10 is the true extract of G.O.Ms.No.212, dated 11-2-1981 issued by the Government of Andhra Pradesh Revenue (UC II) Department granting exemption under Sec.20(1)(a) and 20(1)(b) of Urban Land Ceiling Act in favour of the above said Chotalal Shivram Vyas. In Ex.A.10, serial No.2 is shown as vacant land in Sy.No.40 of Begumpet village and its extent is shown as 668.90 sq.mts., Unless the Sy.No.40 of Begumpet village belonged to Chotalal Shivram Vyas and the said Chotalal Shivram Vyas was in possession of the same till his death in the year 1983, we are unable to understand why the said Chotalal Shivram Vyas, the maternal grand-father of applicants No.2 to 4 and father of applicant No.1 should have filed the declaration under Sec.6 of the Urban Land Ceiling Act, which declaration as seen from Ex.A.10 is dated 16-3-1979. So Exs.A.7 and A.10 also go to show that the said Chotalal Shivram Vyas had been exercising

the rights of ownership on the said property and had been in possession of the same till his death. It is not in dispute that the applicants had succeeded to the property of the said Chotalal Shivram Vyas ~~Vyas~~ being the legal representatives and naturally they became entitled to the application schedule property and they have got title to the same. As the respondents have not put up any title to the old Sy.No.40 of Begumpet village and in view of the evidence to which we have already made a reference, we are satisfied that the applicants are the owners of old Sy.No.40 of Begumpet village which corresponds to T.S. No.10 of Begumpet village.

20. As already pointed out, C.W.1 was appointed as Commissioner by this Court to identify the application schedule property. He was also directed by this Court while locating the application schedule property that he should take into consideration the village map and also the correlated sketch prepared at the time of Town Survey. He was also given liberty to use the tippons, record of

measurements, etc., available at the time of executing the warrant. Ex.C.2 is his report. Ex.C.3 is the plan appended to Ex.C.2. Objections are filed by the applicants to the report of the Commissioner Ex.C.2 which is Ex.C.4. Ex.C.5 is the objections filed by respondents No.2 and 3 filed to the report of the Commissioner. C.W.1 when he was in the witness box was not cross-examined by the counsel for the respondents. C.W.1 was cross-examined at length by the counsel for the applicants. The Commissioner in his evidence as well as in the sketch has stated that old Sy.No.39 of Begumpet village corresponds not only to T.S.Nos.13, 14, 15, 60 and 63 of Town Survey numbers of Begumpet village but also coresponds to T.S.No.10 part, T.S.No.12 part and T.S.No.62 part, of Begumpet village. So on the basis of the evidence of C.W.1 and on the basis of the sketch Ex.C.3 it is strongly contended by Mr. Balagopal learned counsel for the respondents No.2 and 3 that the entire old Sy.No.40 of Begumpet village is not correlated in full to T.S.No.10 of Begumpet village at the time of Town Survey and so the applicants having title to T.S.No.10 of Begumpet village after excluding the road portion of North side cannot be

T.C.J.

accepted. To answer the contention of the learned counsel for respondents No.2 and 3 Mr. Balagopal, we have again to refer to the evidence of C.W.3 (who is also examined as P.W.3). As already pointed out, C.W.3 had produced the originals of Exs.C.11, C.12, C.13, C.14, C.15, C.16 and C.17. Ex.C.17 is one of the most important documents as it happens to be the correlated sketch with regard to old Sy.Nos.40 and 41 of Begumpet village that are correlated to new survey numbers. As already pointed out, Ex.C.17 shows that old Sy.No.41 of Begumpet village is correlated to T.S.Nos.5, 6, 7, 8 and 9 of Begumpet village. (old Sy.No.41 admittedly belongs to the respondents) and Ex.C.17 also shows that old Sy.No.40 of Begumpet village is correlated to T.S.No.10. Ex.C.17 would further show that old Sy.No.39 is correlated to new Sy.Nos.13, 14, 15, 16, 26, 33, 60, 62 and 63. We have carefully gone through the original of Ex.C.17 while hearing the arguments in this case. The superimposition of old Sy.Nos.40 and 41 and 39 in Ex.C.17 perfectly tallies with the new Town Survey numbers referred to above. T.S.No.11 as could be

seen from Ex.C.11 (Ex.X-5) is a road and no part of old Sy.No.40 had been correlated as seen from Ex.C.11 (Ex.X-5) to the road leading from Begumpet to Air-port. As already pointed out, Exs.X-5 and X-6 also show that old Sy.No.40 only is correlated to new Town Survey No.10. Town Survey had been completed in the year 1964 and widening of the road from 50 feet to 100 feet or whatever might be the widening had taken place only after theTown Survey. So even part of the old Sy.No.40 had gone in widening of the road as seen from the evidence of C.W.2, the same could not find place in Town Survey due to the fact that Town Survey had been completed prior to widening of the said road leading from Begumpet to Air-port which as already pointed out is North of old Sy.No.40 corresponding to T.S.No.10 of Begumpet village. Old Sy.No.40 and T.S.No.10 as seen from the sketch Ex.X-5 are identical. The extents as per the old survey and as per the new survey as mentioned in the Town Survey are also identical. So the evidence of C.W.1 that part of T.S.No.10 of Begumpet village as having been correlated to old Sy.No.39 of Begumpet village cannot be accepted. C.W.1 in his evidence has stated to a specific question put by the learned counsel for the applicant that

"on the basis of the superimposed map I could ~~cannot~~ ascertain that all the five survey numbers namely Sy.Nos.13, 14, 15, 60 and 63 and part of T.S.No.10, part of T.S.No.12 and part of T.S.No.62 had been correlated to old Sy.No.39 of Begumpet village." From Ex.C.17 the superimposed plan that is filed in this court and from Exs.X-5 and X-6 the evidence of this witness (C.W.1) is falsified to the extent that part of T.S.No.10 also had been correlated to old Sy.No.39 of Begumpet village. At the risk of repetation, we may again say from Ex.C.17 and Exs.X-5 and X-6 it is clear that no part of old Sy.No.40 is correlated to old Sy.No.39 at the time of Town Survey. ~~Besides this~~ the Town Surgey Records and Town Survey Plans referred to above are prepared under the orders of the State Government. The entries and contents therein have got to be given high evidentiary value. Even though C.W.1 (Commissioner) has stated in his evidence as already referred to that in the sketch Ex.C.3prepared by him (Commissioner) that part of T.S.No.10 of Begumpet village is correlated

to Town Survey numbers that corresponds to the old Sy.No.39, the same cannot be accepted. Obviously in the matter of corelation of old Sy.No.40 and old Sy.No.39 to the new Town Survey numbers, C.W.1 had gone wrong. So we are not prepared to accept that any part of T.S. No.10 had been correlated to the new Town Survey numbers that corresponds to old Sy.No.39. Thus the new Town Survey also establishes that the applicants are the owners of T.S.No:10 of Begumpet village which is old Sy.No.40 of Begumpet village. C.W.1 in his cross-examination at page 5 stated that new Town Survey has been notified, that the same has not been implemented. On the basis of the statement made by C.W.1 in the cross-examination that Town Survey had not been implemented, it is argued by Mr. Balgopal the learned counsel for the respondents No.2 and 3 that no reliance can be placed on the Town Survey and that no relief can be granted to the applicants on the basis of the Town Survey. Ex.C.10 is the copy of the Gazette notification dated 31-12-1996 that is filed in this case. Ex.C.10 shows that for Begumpet village for Ward No.94/A Block to G notice is given under Sec.13 of the A.P.Survey and Boundaries Act of 1923 that the detailed

Town Survey of Begumpet village and of other villages mentioned in Ex.C.10 is completed and unless the survey notified in Ex.C.10 is modified by a decree of a Civil Court under the provision of Sec.14 of the above said Act i.e., A.P.Survey and Boundaries Act of 1923, the records of the Survey shall be conclusive proof that the boundaries determined and recorded therein have been correctly determined and recorded. We see absolutely no truth in the evidence of C.W.1, when he had stated that the Town Survey had not been given effect to in view of Ex.C.10 Gazette notification. Genuineness of Ex.C.10 is not at all in doubt. The correctness of the contents therein (Ex.C.10) with regard to completion of survey of Begumpet village with regard to Ward Block No.94/A to G and the implementation of the survey is not at all in doubt. Admittedly, the respondents have never raised their little finger and objected to the said Town Survey. As a matter of fact no such objections can be there on the part of the respondents with regard to Town Survey as no part of

old Sy.No.41 had been correlated to Town Survey No.10 belonging to the applicants. So we see no meaning on the part of the respondents in contending and raising a hue and cry that Town Survey had not been notified and that the Town Ewan Survey is not implemented. We are satisfied that there has been Town Survey of Begumpet village including for the old Sy.Nos.40, 41 and 39 of Begumpet village and the said survey had been duly notified. The fact that any mistake creeping in theTown Survey in view of the facts and circumstances of the case,cannot be accepted. Thus the material already referred to not only establishes that the applicants herein were owners of old Sy.No.40 of Begumpet village but in the Town Survey also old Sy.No.40 alone had been correlated to T.S.No.10 and that the applicants are the owners of T.S.No.10. As already pointed out, no part of old Sy.No.41 of Begumpet village which belongs to the respondents is claimed by the applicants herein.

21. Evidence is let in to show that Sy.No.40 belonged to Chikoti family. Exs.B.19 to B.26 are also marked to show that the application schedule property belongs to Chikoti family. Chikoti family people are not parties

to this L.G.C., before this Court. As a matter of fact, at pages 5 and 6 of his evidence R.W.2 has spoken that the Sy.No.40 and some other survey numbers belong to Chikoti family ~~and he has also referred to in his evidence~~. In the absence of any of the members of the Chikoti family as parties before us in this L.G.C., it will not be fair to decide either this way or that way about the alleged title of the old Sy.No.40 of Begumpet village with reference to the said members of the Chikoti family. So we are not prepared to go into the contention that old Sy.No.40 of Begumpet village which corresponds to new T.S.No.10 of Begumpet village, belongs to Chikoti family.

22. So as seen the rival title set up by the respondents with regard to the application schedule property cannot be accepted. But as already pointed out, the plea of respondents No.1 to 4 is that the respondents have perfected title to the application schedule property by adverse possession. So it will be pertinent to decide whether the respondents herein have perfected title to the application schedule property by adverse possession.

Already we have held that the applicants are owners of the property of old Sy.No.40 of Begumpet village which corresponds to T.S.No.10 of Begumpet village. The burden is heavily cast on the respondents to show that they have perfected title to the application schedule property by adverse possession. This L.G.C., is filed on 10-7-1995. So it is necessary for the respondents to show that they had been in possession of the application schedule property in uniterrupted possession for a period of 12 years prior to 10-7-1995 to the knowledge of the applicants and ~~to~~ their predecessor-in-title. We may refer to ~~Exx Ax2~~ the sale deed Ex.A.2 wherein there is a mention of compound wall to the schedule property. The property mentioned in Ex.A.2 sale deed has reference to the application schedule property and not to any other property. The decree in O.S. No.36 of 1975 Ex.A.9 on the file of the 4th Addl.Judge, City Civil Court, Hyderabad and judgement Ex.A.8 have also reference to the application schedule property herein, which is proved to be old Sy.No.40 of Begumpet village corresponding to T.S.No.10 of Begumpet village. Exs.A.2, A.8, A.9 and A.10 establish as already pointed

out that the applicants have title to the application schedule property. The presumption under Sec.110 of the Evidence Act is, that possession follows title. So as the application schedule land was admittedly a vacant piece of land, the presumption is that the applicants were in possession of the application schedule property. So as already pointed out, it is up to the respondents to show that they were in continuous uninterrupted possession of the application schedule property prior to 10-7-1995 continuously for a period of 12 years to the knowledge of the applicants. We may refer to Ex.B.1 which is registration extract of sale deed dated 9-7-1973 executed by one S. Maisaiah and others in favour of the first respondent conveying 411 sq.mtrs., of land of Begumpet village. In Ex.B.2 plan appended to Ex.B.1 the property sold under Ex.B.1 is mentioned as Sy.No.41. The property thus sold under Ex.B.1 is not old Sy.No.40 of Begumpet village but is Sy.No.41 of Begumpet village for which the applicants are not claiming

any title. So Exs.B.1 and B.2 absolutely are of no help to establish the possession of the respondents with regard to old Sy.No.40 of Begumpet village which corresponds to T.S.No.10. Ex.B.3 is the xerox copy of the agreement dated 9-3-1981 executed by M.B.S. Purushotham the first respondent in favour of the for permission from Municipal Corporation of Hyderabad, agreeing not to claim any compensation if the constructed portion is demolished for road widening. The learned counsel Mr. Balagopal appearing for respondents No.2 and 3 very fairly conce-ded that the widening of the road had been in Sy.No.41 also. In Ex.B.3 the reference is to Sy.No.41 of Begumpet village. Ex.B.4 is the plan showing permission dated 24-3-1981 obtained by first respondent for construction of the compound wall for his plot in Sy.No.41 of Begumpet village. Ex.B.4 is appended to Ex.B.3. As seen there was already a compound wall for the application schedule property as seen from the sale deed Ex.A.2 dated 12-12-1964. So there can not be any question of constructing a compound wall by the first respondent for the application schedule property (Sy.No.40) and obtaining permission for the same from the Municipal Corporation of Hyderabad. Ex.B.5 is the xerox copy of the

letter dated 16-9-1981 addressed to the first respondent by the Special Officer, Municipal Corporation of Hyderabad (M.C.H.) seeking co-operation of the first respondent for demolition of the compound wall for widening of the road. Ex.B.6 is the plan that had been prepared by the Municipal Corporation of Hyderabad for widening of the road. Ex.B.6 has no significance as road had been widened in Sy.No.40 also. As could be seen from Exs.B.3 and B.5 there is no reference to old Sy.No.40 of Begumpet village.

23. Ex.B.7 is the receipt dated 20-5-1982 issued to R.W.1 by the Municipal Corporation of Hyderabad demanding property tax for the period from 1-10-1981 to 31-3-1982. In Ex.B.7 also the survey number mentioned is 41 and not 40. Ex.B.8 is the receipt dated 20-5-1982 showing the payment of property tax by the first respondent for Sy.No.41 of Begumpet village. This receipt also does not show that any tax had been paid by the first respondent for old Sy.No.40 of Begumpet village.

24. R.W.1 had applied to the Government for relaxation of the Zonal Regulation for the construction of the complex. As per the G.O.Ms.No.372 M.A., dated 19-4-1982 relaxation was given to R.W.1 permiting him to construct a shopping complex in Sy.No.41 of Begumpet village. In Ex.B.9 also there is no reference to old Sy.No.40 of Begumpet village but there is reference to Sy.No.41 of Begumpet village. Thus Ex.B.9 also does not go to show that the first respondent had been exercising right of ownership over old Sy.No.40 of Begumpet village to the knowledge of the applicants.

25. R.W.1 in his evidence has stated that he had handed over the application schedule property in the year 1981 to Mrs. Manjula Kakadia for development of the application schedule property and that in the year 1981 itself Mrs. Manjula Kakadia started construction of the complex and completed the ground-floor of the same in the year 1983 and the said shopping complex stands in the application ~~sh~~ schedule property. Thus as could be seen for the first time R.W.1 admitted in his evidence

before this Court that the said shopping complex being in existence in the application schedule property admittedly in old Sy.No.40 of Begumpet village corresponding to T.S.No.10 of Begumpet village. R.W.1 has continued in his evidence and stated that he had applied to the Government for construction of 2nd floor on the ground-floor on the said shopping complex and that in the year 1986 the Government of Andhra Pradesh as per its proceedings Ex.B.10 dated 21-5-1986 refused permission for the construction of the 2nd floor and that he had filed W.P.No.16663 of 1986 in the Hon'ble High Court of A.P., to quash the proceedings Ex.B.10 and to direct the Government of A.P., to grant permission for construction of the first and second floors on the ground-floor of the said shopping complex. The Hon'ble High Court allowed the W.P. No.16663 of 1986 as per its orders dated 23-3-1990 and Ex.B.11 is the copy of the orders of the Hon'ble High Court in W.P.No.16663 of 1986 and ~~that~~ thereafter the Government of A.P., issued Ex.B.12 G.O.(Rt.)No.905

M.A., dated 16-7-1991 giving relaxation of the first and second floors on the existing ground-floor shops. R.W.1 further adds in his evidence that he is in possession of the application schedule land eversince Ex.B.1 and he continued thereon till 1994 when he sold the same to the other respondents. He added in his evidence that he is in possession of the application schedule land by whatever survey number it is known whether 40 or 41. As already pointed out, the main question that comes up for consideration in this L.G.C., is, from which date onwards the first respondent started to exercise the right of ownership over the application schedule property ? For this we get an answer from the evidence of R.W.2 at page 3 in examination-in-chief of his deposition.

"In the year 1982, R-1 (Purushotham) gave an agreement for developing the ground-floor to one Manjula Kakadia, who is my aunt. As my aunt, Manjula Kakadia ~~could not~~ could not complete the ground-floor, the same was given to my father, Satish Modi. Ex.B.17 dated 1-4-1985 is the agreement in between R-1 (Purushotham) and my father Satish Modi for completing the construction of the

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ground-floor. By the year 1986 the ground-floor in the said vacant site covered by Ex.B.1 sale deed was completed. In the year 1986 after the completion of the ground floor there was house-warming ceremony. Ex.B.18 is the printed invitation card by Misses M. Kameswara Devi and Mr. Purushotham (R-1) extending invitation for the said house-warming ceremoney at 8-30 a.m., on Ugadi, Thursday the 10th April, 1986. At present, on the ground-floor, there are two more floors. By the time I purchased the said building, under registered sale deed dated 24-7-1993 from the first respondent (Puruthotham) the 2nd floor was almost at the stage of completion." In the cross-examination at page 7 of his deposition, R.W.2 has stated that his predecessors were never in possession of Sy.No.40 of Begumpet village and that prior to Ex.B.13 sale deed dated 24-7-1993 that his father, Satish Modi developed the application schedule property and that his father Satish Modi had been engaged by the first respondent for development of the application schedule property and that his father was engaged in the year 1985 for development of the property under Ex.B.17. R.W.2

admitted that it is recited in Ex.B.17 which is clause (7) that Ex.B.17 becomes operative with effect from 1-4-1986. So Ex.B.17 is the crucial document to determine the question of adverse possession, as it gives clue when exactly the construction in the application schedule property was started. This agreement Ex.B.17 as already pointed out, is dated 1-4-1985. We extract the relevant portion clause (b) in Ex.B.17 which reads as hereunder :-

> "b) Being desirous of putting up construction on a portion of the said property viz., on a portion admeasuring approx. 411 sq.metres described in the schedule hereunder written and shown on the plan hereto annexed thereon surrounded by red colour boundary lines (hereinafter referred to as 'the said property') the Owners agreed with the Developer to allow the Developer to develop the said property and to carry out work of construction thereon on terms and condition mutually agreed upon by and between the parties hereto which are hereby reduced to writing and recorded."

There is no mention absolute in Ex.B.17 as any constructions having been in existence in the application schedule property prior to 1-4-1985. There

is also no mention in Ex.B.17 that Mrs. Manjula Kakadia had made any constructions prior to Ex.B.17. So the constructions in the application schedule property called as "Modi Buildings" should have commenced only after 1-4-1985. So the adverse possession with regard to the application schedule property should have commenced in this case after 1-4-1985. So but for the applicants filing this L.G.C., in the year 1995 the respondents would have completed title to the application schedule property some where in the year 1997. So as this L.G.C., is filed within a period of 12 years from the date the adverse possession had commenced, it is not open for the respondents to contend that they have perfected title to the application schedule property by adverse possession. Thus Ex.B.17 in this case cuts at the root of the respondents' case with regard the plea raised by them with regard to adverse possession. Thus the respondents having perfected title to the application schedule property by adverse possession cannot

at all be accepted by any stretch of imagination. The other documents filed in this case are not at all material in determining the question of adverse possession. From the above discussion our finding on issue No.1 is that the applicants have title to the application schedule property which is old Sy.No.40 corresponding to T.S.No.10 of Begumpet village and our finding on issue No.2 is that the rival title set up by the respondents with regard to the application schedule property is not true and hence issues one and two are decided in favour of the applicants and as against the respondents.

26. ISSUE NO.3 :- We had decided on issues No.1 and 2 that the respondents do not have title to the application schedule property and that they have not perfected title to the application schedule property by adverse possession.

27. It is contended by the learned counsel for the respondents that the respondents No.2 and 3 are bonafide purchasers of the application schedule property from first respondent under Ex.B.29 sale deed dated 24-7-1993 and they being bonafide purchasers that respondents No.2 and 3 cannot

be described as land grabbers. In view of the contention raised by Mr. Balagopal the learned counsel for respondents No.2 and 3 we may refer to the decisions of the Hon'ble High Court of Andhra Pradesh K. NARSING AND OTHERS v. SPECIAL COURT UNDER A.P.LAND GRABBING (PROHIBITION) ACT, reported in 1996(2) Andhra Legal Decisions, page 717 which reads as follows :

> "10. The last contention of Sri Pratap Reddy, learned senior counsel for the petitioners, is that in any event this is not a case of land grabbing 'since the petitioners bonafide believed that they had good title for the schedule land and the menserea . that is required for establishing the offence of 'land grabbing' could not be attributed to them. We are afraid that this contention is devoid of substance.
>
> 11. Section 2(e) of the Act defines 'land grabbing' which means.
>
> 'every activity of grabbing of any land by a person without any lawful entitlement and with a view to illegally taking possession of such lands ..... or to construct unauthorised constructions thereon .....'

and that the term to 'grabland' shall be construed accordingly. Section 10 of the Act also is relevant in this context, which is extracted as follows :

> 'Section 10 Burden of Proof :- Wherein any proceedings under this Act, a land is allged to have been grabbed, and such land is prima facie proved to be the land owned by the Government or by a private person the Special Court or as the case may be, the Special Tribunal shall presume that the person who is alleged to have grabbed the land is a land-grabber and the burden of proving that the land has not been grabbed by him shall be on such person.'

From a perusal of the above provisions it is clear that the offence of 'land grabbing' is complete, if, in a consideration of evidence on record it is found that the person who approached the Tribunal is 'prima facie' proved to be the land owner and that the offender is found to be in possession of such land. The Tribunal shall presume that such person is a 'land-grabber'. Immediately the burden of proving that he has not grabbed the land and that he is the owner of the said land, shifts to such a person. The offence of land grabbing consists in occupying a land by a person without any lawful entitlement. In this case the respondents were found to be prima facie the true owners of the land in question. The presumption under law is that the petitioners are the land-grabbers. The burden will be discharged by the petitioners only if they

establish that they are the real owners of the property."

The observations in the above judgement apply on all fours to the facts of the case and the judgment is a complete reply to the contention of Mr. Balagopal counsel for respondents No.2 and 3. This is a clear case where the respondents had grabbed the land belonging to the applicants and had constructed a building called "Modi Building". Hence this issue is decided in favour of the applicants and against the respondents by giving a finding that the respondents are land-grabbers within the meaning of Section 2(d) and 2(e) of the Andhra Pradesh Land Grabbing (Prohibition) Act XII of 1982.

28. ISSUE NO.4 :- As already pointed out, this L.G.C., is filed for possession of an extent of 605 square yards equivalent to five guntas in old Sy.No.40 corresponding to T.S.No.10 of Begumpet village, Balanagar Mandal,

Ranga Reddy District. The applicants seem to have claimed in this application, the land in the said old Sy.No.40 of Begumpet village that has been acquired by the Municipal Corporation of Hyderabad for widening of the road on Northern side of Sy.No.40 that leads Secunderabad to Begumpet Air-port. The learned counsel for the applicants had summoned C.W.2 one D. Kishore Kumar who is working as Section Officer, Town Planning Section, Municipal Corporation of Hyderabad, Secunderabad Division, to speak before this Court the correct extent that had been acquired by the Municipal Corporation of Hyderabad in Sy.No.40 of Begumpet village for widening of the road. C.W.2 after referring to the concerned file maintained in his office stated that Ex.B.28 plan shows the widening of the road in the application schedule property, in an extent of 303.33 sq.yards and that is the affected area in the application schedule property for widening of the road as per Ex.B.28 and that the balance of the extent after widening of the road in the application schedule property is 285.33 sq.yards. In the cross-examination it is suggested to this witness by the counsel for the applicant Mr. G. Mathew that after the widening of the

road in the application schedule land, that the balance of the land left over is 347 sq.yards. But C.W.2 had denied and has stated in his evidence that the records that are produced would show 285 sq.yards as the balance of land in old Sy.No.40. So in the circumstances of the case we are of the opinion that a decree in favour of the applicants directing the respondents to deliver possession of the entire extent of land in old Sy.No.40 corresponding to T.S.No.10 of Begumpet village with reference to Ex.X-6 plan (after excluding the public road on the northern side) would meet the ends of justice and protect the interest of both the sides.

29. Even though the prayer of the applicants is to pay compensation at the rate of Rs.50,000/- per month from the date the respondents had grabbed the application schedule property, no evidence has been let in by the applicants to show on what basis the said compensation should be granted in favour of the applicants and as against the respondents. The Hon'ble High Court of

Andhra Pradesh in 1996(2) A.L.D., page 896, GUDLA BALA-KRISHNA REDDY v. SPECIAL COURT UNDER A.P.LAND GRABBING (PROHIBITION) ACT AND ANOTHER, had held as follows :-

> " Section 8(7) makes it clear that the compensation in terms of money for wrongful possession of the land grabbed shall not be less than the amount equivalent to the market value of the land grabbed as on the date of the order and the profits accrued from the land payable by the land grabber to the owner. Thus, the provision authorises the Special Court to fix the compensation which shall not be less than the market value and also the profits accrued from the land as on the date of the order ....."

So in view of the facts and circumstances of the case, we have not fixed compensation for grabbing the application schedule land by the respondents. But it will be fit and proper to permit the applicants to file a separate application for determination of the mesne profits payable to the applicants by respondents No.1 to 3 under the provisions of Order XX, Rule 12 C.P.C., from the date of this L.G.C., till the date of delivery of possession of the application schedule property to the applicants.

30. In the result, a decree and judgement is passed in favour of the applicants and as against the respondents No.1 to 4 to deliver vacant possession of the property in old Sy.No.40 of Begumpet village corresponding to T.S.No.10 of Begumpet village of Balanagar Mandal, Ranga Reddy District with the Municipal numbers and boundaries mentioned in the schedule to this application whatever extent is available in the old Sy.No.40 of Begumpet village corresponding to T.S.No.10 of Begumpet village after excluding on the Northern side the road portion, within one month from the date of this judgement, failing which, the applicants will be at liberty to move this Court for possession of the same together with all the constructions thereon. The mesne profits payable by the respondents to the applicants from the date of the L.G.C., up to the date of delivery of possession of the property are liable to be determined on a separate application filed under Order XX, Rule 12, C.P.C.

In the circumstances of the case no prosecution of respondents No.1 to 4 is ordered under the provisions of the Andhra Pradesh Land Grabbing (Prohibition) Act XII of 1982. Respondents No.1 to 4 shall pay the costs of this L.G.C., to the applicants No.1 to 4. Append a copy of Ex.X-6 (plan) to the decree and judgement for identifying T.S.No.10 of Begumpet village (corresponding to old Sy.No.40 of Begumpet village) at the time of execution of the decree and judgement in this L.G.C. The application is allowed accordingly.

T. Chandrasekhar Reddy
JUDICIAL MEMBER

17/12/97
REVENUE MEMBER

DATE: FRIDAY, the 19th day of December, 1997.

APPENDIX OF EVIDENCE:

Witnesses examined for Applicants :-

P.W.1 : Subhash K. Mehta, son of K.V.Mehta (Applicant No.3).

P.W.2 : V. Ashok Kumar, son of Prem Kumar, M.R.O., Balanagar.

P.W.3 : B. Srinivas son of Nagabhushanarao, Inspector of Survey, Office of the Asst.Director, S.L.R., Ranga Reddy District.

Exhibits marked for Applicants :-

Ex.A.1 : Notarised G.P.A., dated 27-6-95 executed by Applicants No.1, 2 and 4 appointing P.W.1 as their agent to act on their behalf.

Ex.A.2 : Certified copy of sale deed dated 12-12-1964 executed by A.R. Muralidhar in favour of Chotalal Shivram Vyas conveying Sy.No.40 of Begumpet village.

Ex.A.3 : Certified copy of sale deed dated 27-5-61 executed by Syed Mohammed Azam in favour of A. Muralidhar conveying Ac.0-05 guntas and Ac.1-35 guntas in SY.No.40 and Sy.No.37 of Begumpet village.

Ex.A.4 : Registered plan enclosed to Ex.A.3 dated 30-4-62.

Ex.A.5 : Death Certificate dated 18-11-83 issued ~~by~~ in the name of Chotalal by the office of the Registrar, Births and Deaths, Rajkot Municipal Corporation, in Gujrathi language.

Ex.A.6 : English translation of Ex.A.5.

Ex.A.7 : Special notice of Property Tax dated 15-5-72 issued to Chotalal Shivram Vyas demanding property tax for the half year commencing from 1st April 1972.

Ex.A.8 : Certified copy of judgement dated 29-3-80 pronounced in O.S.No.36 of 1975 on the file of the 4th Addl.Judge, City Civil Court, Hyderabad.

Ex.A.9 : Certified copy of decree passed in pursuance of judgment in O.S.No.36 of 1975 on the file of the 4th Addl.Judge, City Civil Court, Hyderabad.

Ex.A.10: True extract of G.O.Ms.No.212 dated 11-2-81 issued by Govt.of A.P., Revenue (UC II) Department, granting exemption U/s 20(1)(a) and 20(1)(b) of U.L.C.Act.

Ex.A.11: True extract of panani for the year 1993-94 in respect of Sy.No.40 of Begumpet village, Balangar Manda, Ranga Reddy District.

Ex.A.12: Order dated 11-4-88 passed in C.C.C.A.No.61 of 1981 on the file of the High Court of A.P., filed by Chotalal Shivram Vyas over the judgement in O.S.No.36 of 1975 on the file of the 4th Addl.Judge, City Civil Court, Hyderabad.

Ex.A.13 : Certified copy of judgement dated 24-2-94 pronounced in C.C.C.A.No.169 of 1980 on the file of the High Court of A.P.

Ex.A.14 : Encumbrance certificate dated 26-8-95 obtained by Chotalal Shivram Vyas for the period 12-12-64 to 27-6-80.

Ex.A.15 : Encumbrance certificate dated 26-8-95 obtained by Chotalal Shivram Vyas for the period 28-6-80 to 31-3-82.

Ex.A.16 : Encumbrance certificate dated 28-8-95 obtained by Chotalal Shivram Vyas for the period 1-4-82 to 25-8-95.

Ex.A.17 : Paper publication dated 11-1-95 got issued by one Anil Rupani regarding application schedule land in Deccan Chronicle News paper.

Ex.A.18 : Paper publication dated 20-1-95 got issued by in Deccan Chronicle news paper.

Ex.A.19 : Paper publication dated 26-1-95 got issued by the applicants in Deccan Chronicle news paper asserting their right over the application schedule property.

Ex.A.20: Office copy of legal notice dated 24-1-95 got issued by applicants to respondents.

Ex.A.21 : Reply notice dated 2-3-95 got issued by respondents No.2 and 3 to Ex.A.20.

Ex.A.22 : Survey plan of land bearing Sy.No.40 of Begumpet village.

Witnesses examined for Respondents :-

R.W.1 : M.V.S. Purushotam son of Subbarayudu, (Respondent No.1).

R.W.2 : Sourabh Modi son of Satish Modi, (Respondent No.3).

Exhibits marked for Respondents :-

Ex.B.1 : Registration extract of the sale deed dated 9-7-73 executed by S.Maisaiah and 3 others in favour of respondent No.1 conveying Sy.No.41 of Begumpet village.

Ex.B.2 : Plan attached to Ex.B.1.

Ex.B.3 : Xerox copy of agreement dated 9-3-81 executed by M/s Purushotham in favour of Addl.Commissioner, M.C.H., Secunderabad Division, agreeing to not to claim compensation if the constructed portion affected by road widening.

Ex.B.4 : Permission dated 24-3-81 obtained by respondent No.1 for construction of a compound wall in Sy.No.41 of Begumpet village.

Ex.B.5 : Xerox copy of letter dated 16-9-81 addressed to respondent No.1 by Special Officer, M.C.H.

Ex.B.6 : Plan showing the affected portion in red colour in S.P.Road widening of Begumpet village.

Ex.B.7 : Notice dated 20-5-82 issued to respondent No.1 demanding property tax for 1-10-81 to 31-3-82.

Ex.B.8 : Receipt dated 20-5-82 showing the payment of property tax by respondent No.1 for Sy.No.41 of Begumpet village.

Ex.B.9 : True extract of G.O.Ms.No.372 M.A., dated 19-4-82 issued by Govt.of Andhra Pradesh, Municipal Administration and Urban Development Deptt., regarding construction of shops in Sy.No.41 of Begumpet village.

Ex.B.10: Memorandum No.3774/M1/85-2, M.A., dated 21-5-86 issued by Municipal Administration and Urban Development Deptt., rejecting the application of respondent No.1 regarding relaxation of Zoning Rules.

Ex.B.11: Xerox copy of order dated 23-3-90 in W.P. No.16663 of 1986 on the file of the High Court of A.P.Hyd., filed by respondent No.1.

Ex.B.12: Xerox copy of G.O.Rt.No.905 M.A., dated 16-7-91 issued by Govt.of Andhra Pradesh, Municipal Administration and Urban Development Deptt., regarding relaxation of Zoning Regulation.

Ex.B.13 : Registration extract of the sale deed dated 24-7-93 executed by M.B.S.Purushotham and Satish Modi in favour of respondent No.2 conveying 160 sq.metres situated at 1-10-72/2/3, Begumpet village.

Ex.B.14 : Registration extract of the deed of partition executed by and between Cheekoti Eliah, Cheekoti Veeramma and Cheekoti Gangaiah.

Ex.B.15 : Registration extract of the sale deed dated 25-9-61 executed by Cheekoti Lingaiah and others in favour of T.Shamanthakumar conveying land in Sy.Nos.30,39 and 40 of Begumpet village.

Ex.B.16 : Registration extract of the plan showing the land in Sy.Nos.30, 39 & 40 of Begumpet village belonging to Cheekoti Lingaiah and sons.

Ex.B.17 : Articles of agreement made at Hyderabad on 1-4-85 between M.B.S.Purushotham and Satish Modi regarding development of a portion of land inSy.No.41 of Begumpet village.

Ex.B.18 : Invitation card got printed by respondent No.1 on the occasion of "Gruhapravesham" (housewarming ceremony) at Begumpet.

Ex.B.19 : Registration extract of the sale deed dated 1-4-61 executed by Macharla Veerabhadrarao in favour of Satis Chandra, Mrs. Girijabai, Mrs. Kusumdevi conveying entire Sy.No.37 and part of Sy.No.38 of Begumpet village.

Ex.B.20 : Registration extract of the plan enclosed to Ex.B.19.

Ex.B.21 : Registration extract of the sale deed dated 26-10-60 executed by Datla Annapurnamma in favour of C.Janardhana Reddy conveying 2210 sq.yards bearing Municipal No.2547/44, Ward No.2, S.Nos.30, 38 to 40 of Begumpet village.

Ex.B.22: Registration extract of the plan enclosed to Ex.B.21.

Ex.B.23 : Notice issued to respondent No.1 U/s 452 of Hyd., Municipal Corporation by M.C.H., Secunderabad Division, dated 6-10-82.

Ex.B.24 : Letter dated 26-2-83 addressed by Addl.Commissioner, M.C.H., Secunderabad Division to respondent No.1 regarding revised plan for construction of building on an open plot in Sy.No.41 of Begumpet village.

Ex.B.25 : Registration extract of sale deed dated 22-5-58 executed by Nawab Azam Jung Bahadur in favour of Macharla Veerabhadrarao conveying 8500 sq.yards in Sy.No.37 and 38 part of Begumpet village.

Ex.B.26 : Registration extract of the plan enclosed to Ex.B.25.

Ex.B.27 : Sanctioned plan dt.29-5-82 obtained by respondent No.1 from M.C.H., regarding construction of building in ground floor in Sy.No.41 of Begumpet village.

Ex.B.28 : Sanctioned plan dt.15-2-92 obtained by respondent No.1 from M.C.H. regarding construction of building in first floor, second floor in Premises No.1-10-72/1/3 of Begumpet village.

Ex.B.29 : Registration extract of the sale deed dated 24-7-93 executed by Respondent No.1 and Satish Modi in favour of respondent No.3 conveying 155 sq.~~xxxx~~ metres at H.No.1-10-72/2/3/A of Begumpet ~~xxxxxxx~~ Hyderabad.

Ex.B.30 : Extract from the assessment book of M.C.H., Secunderabad Division for the year 1990-91 in respect of H.No.1-10-72/2/3/A of Begumpet.

Ex.B.31 : Extract from the assessment book of M.C.H., Secunderabad Division for the year 1990-91 in respect of H.No.1-10-72/2/3 of Begumpet .

Ex.B.32 : Drainage connection permission obtained by respondent No.1 from M.C.H.,Secunderabad for P.No.41 of Begumpet dated 22-5-86.

Ex.B.33 : Receipt No.92 dated 22-5-86 showing the payment of Rs.400/- to M.C.H., for obtaining drainage ~~xxxx~~ permission.

Witnesses examined by Court :-

C.W.1 : Sri A. Ranga Reddy,
(Asst.Director, Survey and Land Records,
Ranga Reddy District.)

C.W.2 : Sri D. Kishore Kumar,
(Section Officer, M.C.H., Town Planning Section).

C.W.3 : Sri B. Srinivas,
(Inspector of Survey, S.L.R., Ranga Reddy Dist.).

Exhibits marked by Court :-

Ex.C.1 : Commissioner Warrant dated 26-8-96 issued to Asst.Director, S.L.R., Ranga Reddy Dist., in I.A.No.744 of 1996 in L.G.C.No.144 of 1995.

Ex.C.2 : Commissioner's report filed by Commissioner in L.G.C.No.144 of 1995.

Ex.C.3 : Plan filed by the Commissioner along with Ex.C.2 report.

Ex.C.4 : Objections filed by the applicants to the Commissioner's report.

Ex.C.5 : Objections filed by respondents No.2 and 3 to the Commissioner's report.

Ex.C.6 : Remarks submitted by the Commissioner, to the objections filed to Ex.C.2 report.

Ex.C.7 : True extract of Wasool Baqui in respect of Sy.No.39 of Begumpet village.

Ex.C.8 : Tippan which was rebuilt by Commissioner with the help of Pacca-book.

Ex.C.9 : Copy of Gazette notification dated 31-12-76.

Ex.C.10: Copy of Gazette notification dated 31-12-76 page No.7.

Ex.C.11: Xerox certified copy of Town Survey Register (portion) with regard to Sy.Nos. 11, 12, 13, 14, 15 and 16 of Begumpet village.

Ex.C.12: Xerox certified copy of Town Survey Register (relevant portion) with regard to Sy.Nos.17, 18, 19 and 20.

Ex.C.13: Xerox certified copy of Town Survey Register (relevant portion) pertaining to Sy.Nos.21, 22, 23, 24, 25, 26, 27, 28/1 and 28/2.

Ex.C.14 : Xerox certified copy ofTown Survey Register (portion) with regard to Sy.Nos.29, 30, 31, 32 and 33.

Ex.C.15 : Xerox certified copy of Town Survey Register (portion) with regard to Sy.Nos.58, 59 and 60 of Begumpet village.

Ex.C.16 : Xerox certified copy of Town Survey Register (portion) with regard to Sy. Nos.61, 62, 63, 64, 65 and 66 of Begumpet village.

Ex.C.17 : Xerox certified copy of correlation sketch with regard to old Sy.Nos.39, 40 and 41 of old Begumpet village.

Exhibits marked through third parties :-

Ex.X-1 : Report submitted by M.R.O., Balangar Mandal in L.G.C.No.144 of 1995.

Ex.X-2 : Sketch showing the open land in Sy.No.40, Ward No.94, Block-E, Situated at Begumpet, Hyderabad.

Ex.X-3 : True extract of T.S.L.Register in respect of T.S.No.10,Ward No.94, Block E of Begumpet village.

Ex.X-4 : Attested R.O.M. in respect of T.S.No.10, Ward No.94, Block E of Begumpet village.

Ex.X-5 : True extract of T.S.L.Register in respect of T.S.Nos.1 to 10 of Begumpet village.

Ex.X-6 : True extract of R.O.M. in respect of T.S.No.1 to 10 of Begumpet village.

19/12/97

JUDICIAL MEMBER REVENUE MEMBER

//True copy//

SECTION OFFICER (TOOL-II)

*Ns.