

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 22401 of 2012 (A)

PETITIONER(S) :

**M/S. MOTHERS AGRO FOODS (P) LTD.,
INDUSTRIAL DEVELOPMENT AREA, ANGAMALI SOUTH-683 575,
REP.BY ITS MANAGING DIRECTOR, VARKEY PETER.**

**BY SRI.N.N.SUGUNAPALAN (SENIOR ADVOCATE)
ADV.SRI.S.SUJIN**

RESPONDENT(S) :

- 1. GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, ERNAKULAM, PIN- 682 030.**
- 2. DIRECTOR OF INDUSTRIES IN COMMERCE,
THIRUVANANTHAPURAM, PIN- 695 001.**
- 3. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 4. JEEVAN KUMAR V.S,
PROPRIETOR, AGRO FOODS AND SPICES, & M/S.DECCAN SPICES,
INDUSTRIAL DEVELOPMENT AREA, ANGAMALI SOUTH-683 575.**

**R1 TO R3 BY ADV. SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL
R4 BY SRI.T.KRISHNAN UNNI (SENIOR ADVOCATE)
ADVS. SRI.SAJU.S.A
SMT.P.A.SHEEJA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-11-2014,
THE COURT ON 16-01-2015 DELIVERED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS & ANNEXURES

- ANNEXURE A:** TRUE COPY OF THE APPROVED PLAN.
- ANNEXURE B:** TRUE COPY OF THE PLAN OF THE AREA ORDERED TO BE RESUMED.
- EXT.P1:** TRUE COPY OF THE LETTER DATED 19/10/2006 ISSUED BY THE SR.ENVIRONMENTAL ENGINEER,
- EXT.P2:** TRUE COPY OF THE LETTER DATED 14/01/2011 ALONG WITH THE APPROVED PLAN ISSUED BY THE 1ST RESPONDENT.
- EXT.P3:** TRUE COPY OF THE JUDGMENT DATED 04/07/202 IN W.P.(C).NO.33457/2009.
- EXT.P4:** TRUE COPY OF THE NOTICE DATED 28/07/2012 OF THE 1ST RESPONDENT.
- EXT.P5:** TRUE COPY OF THE REPLY DATED 06/08/2012 FILED BY THE PETITIONER.
- EXT.P6:** TRUE COPY OF THE PROCEEDINGS DATED 23/08/2012 OF THE 1ST RESPONDENT.
- EXT.P7:** TRUE COPY OF THE LETTER DATED 07/04/2010 OF THE 2ND RESPONDENT.
- EXT.P8:** TRUE COPY OF THE LETTER DATED 10/09/2012 ISSUED BY THE 1ST RESPONDENT TO THE TAHSILDAR, ALUVA.
- EXT.P9:** TRUE COPY OF THE LETTER DATED 10/09/2012 ISSUED BY THE 1ST RESPONDENT TO THE TAHSILDAR, ALUVA.
- EXT.P10:** TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE DISTRICT INDUSTRIES DEPARTMENT IN W.P.(C).NO.33457/2009.
- EXT.P11SERIES:** PHOTOGRAPHS SHOWING THE CONSTRUCTION IN THE PETITIONER'S LAND.
- EXT.P12:** TRUE COPY OF THE SELECTION LIST DATED 16/08/2010.
- EXT.P13:** TRUE COPY OF THE DECISION DATED 07/01/2011 OF THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE.
- EXT.P14:** TRUE COPY OF THE ORDER SANCTIONED BY THE 1ST RESPONDENT DATED 30.09.2009 WITH PLAN.
- EXT.P15:** TRUE COPY OF THE CHALAN SHOWING THE PAYMENT OF RS.83,130/-

EXHIBIT P11 TO P15 IN I.A.NO.10279 OF 2013

EXT.P11: TRUE COPY OF THE ORDER SANCTIONED BY THE 1ST RESPONDENT DATED 30.09.2009 AND 10.10.2012.

EXT.P12: TRUE COPY OF THE CHALAN SHOWING THE PAYMENT OF RS.83,130/-

EXT.P13: TRUE COPY OF THE CERTIFICATE GIVEN BY THE 1ST RESPONDENT GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE DATED 07.04.2010.

EXT.P14: TRUE COPY OF THE LETTER OF ARRANGEMENT WITH ANNEXURE'S A & B.

EXT.P15: TRUE COPY OF THE JUDGMENT IN W.A.NO.1790/2012 BEFORE THIS HON'BLE COURT.

EXT.P16: TRUE COPY OF THE CERTIFICATE GIVEN BY THE 1ST RESPONDENT GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE DATED 07.04.2010.

EXHIBIT P16 IN I.A.NO.10280 OF 2013 : TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DATED 18.07.2013

EXT.P17: TRUE COPY OF THE AGREEMENT EXECUTED BY THE PETITIONER.

EXT.P18: TRUE COPY OF THE CLEARANCE LETTER DATED 17.06.2010 ISSUED BY THE 1ST RESPONDENT.

EXT.P19: TRUE COPY OF THE COMPLAINT DATED 12.10.2009 OF THE 4TH RESPONDENT.

EXT.P20: TRUE COPY OF THE LETTER DATED 12.10.2009 OF THE VILLAGE OFFICER.

EXT.P21: TRUE COPY OF THE COMPLAINT DATED 14.10.2009.

EXT.P22: TRUE COPY OF THE COMPLAINT DATED 12.10.2009 OF THE 4TH RESPONDENT.

EXT.P23: TRUE COPY OF THE NOTICE DATED 14.10.2009.

EXT.P24: TRUE COPY OF THE SANCTIONED PLAN DATED 14.01.2011.

EXT.P25: TRUE COPY OF THE APPLICATION DATED 11.11.1998 SUBMITTED BY THE 4TH RESPONDENT.

EXT.P26: TRUE COPY OF THE APPLICATION DATED 11.11.1998 ALONG WITH THE PROJECT REPORT.

EXT.P27: TRUE COPY OF THE APPLICATION DATED 11.11.1998 ALONG WITH THE PROJECT REPORT.

WP(C).No. 22401 of 2012 (A)

- EXT.P28:** TRUE COPY OF THE APPLICATION DATED 08.09.2003.
- EXT.P29:** TRUE COPY OF THE APPLICATION DATED 14.10.2009 SUBMITTED BY THE 4TH RESPONDENT.
- EXT.P30:** TRUE COPY OF THE COMPLAINT SUBMITTED BY THE 4TH RESPONDENT BEFORE THE POLICE DATED 13.10.2012.
- EXT.P31:** TRUE COPY OF THE JUDGMENT IN W.A.NO.1790/2012 OF THE HON'BLE COURT.
- EXT.P32:** TRUE COPY OF THE COMPLAINT DATED 13.10.2012 FILED BY 4TH RESPONDENT.
- EXT.P33:** TRUE COPY OF THE PROCEEDINGS OF THE DIC DATED 10.10.2012.

EXHIBIT P32 TO P34 IN I.A.NO.12660/2013

- EXT.P32:** TRUE COPY OF THE RELEVANT EXTRACT OF THE BASIC TAX REGISTER ISSUED BY THE VILLAGE OFFICER, ANGAMALY DATED 03.01.2008.
- EXT.P33:** PHOTOGRAPHS SHOWING THE VACANT UNUTILIZED LAND IN OLD SY.NO.127/AB, R.S.NO.478/3 ANGAMALY VILLAGE, BLOCK NO.11.
- EXT.P34:** TRUE COPY OF THE AFFIDAVIT FILED BY THE 1ST RESPONDENT IN W.P.(C).NO.35315/2007 WITHOUT EXHIBITS.

RESPONDENT(S)' EXHIBITS

- EXT.R1(A):** A TRUE COPY OF THE ORDER NO.B2-12705/98 DATED 18.07.2003 ISSUED BY THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, ERNAKULAM.
- EXT.R1(B):** A TRUE COPY OF THE PROCEEDINGS NO.B2-12705/98 DATED 23.07.2003 ISSUED BY THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, ERNAKULAM.
- EXT.R1(C):** A TRUE COPY OF PROCEEDINGS NO.B2-12705/98 DATED 30.11.2006 THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, ERNAKULAM.
- EXT.R1(D):** A TRUE COPY OF THE PROCEEDINGS NO.B2-12705/98 DATED 30.11.2006 ISSUED BY THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, ERNAKULAM.
- EXT.R1(E):** A TRUE COPY OF THE PROCEEDINGS NO.ID-150861/06 DATED 07.11.2007 ISSUED BY THE DIRECTOR OF INDUSTRIES AND COMMERCE, THIRUVANANTHAPURAM.
- EXT.R1(F):** A TRUE COPY OF THE COPY OF THE PROCEEDINGS OF THE MINUTES OF THE MEETING HELD ON 14.10.2009.

- EXT.R1(G): A TRUE COPY OF THE SHOW CAUSE NOTICE AND MEMO
NO.B2/12705/98 DATED 28.07.2012.
- EXT.R1(H): A TRUE COPY OF THE REQUEST DATED 03.07.2003.
- EXT.R1(I): A TRUE COPY OF THE SAID PROCEEDINGS NO.B2-6249/03
DATED 07.01.2011.
- EXHIBIT R1(I) IN I.A.NO.12660 OF 2013: A TRUE COPY OF LETTER
NO.B2-6249/03 DATED 03.08.2012 ISSUED
BY THE GENERAL MANAGER, DISTRICT
INDUSTRIES CENTRE, ERNAKULAM.
- EXT.R1(J): A TRUE COPY OF PROCEEDINGS NO.B2/6249/03 DATED 05.09.2012.
- EXT.R1(K): A TRUE COPY OF PROCEEDINGS NO.5901/03 DATED 05.09.2012.
- EXT.R4(A): TRUE COPY OF THE PROCEEDINGS OF THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, DATED 18.07.2003.
- EXT.R4(B): THE TRUE COPY OF THE AGREEMENT EXECUTED BY
THE PETITIONER AND THE GENERAL MANAGER, DISTRICT
INDUSTRIES CENTRE, DATED 12.12.2007.
- EXT.R4(C): THE TRUE COPY OF THE PROCEEDINGS OF THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE DATED 16.11.2005.
- EXT.R4(D): THE TRUE COPY OF THE PROCEEDINGS OF THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE DATED 02.02.2006.
- EXT.R4(E): THE TRUE COPY OF THE REPRESENTATION MADE BY
THE PETITIONER DATED 15.12.2005.
- EXT.R4(F): THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY
THE 4TH RESPONDENT BEFORE THE GENERAL MANAGER, DISTRICT
INDUSTRIES CENTRE, DATED 24.07.2012.
- EXT.R4(G): THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY
THE 4TH RESPONDENT WITH RESPECT TO M/S.DECCAN SPICES
BEFORE THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE,
DATED 07.09.2012.
- EXT.R4(H): THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY
THE 4TH RESPONDENT WITH RESPECT TO M/S.AGRO FOOD AND
SPICES BEFORE THE GENERAL MANGER, DISTRICT INDUSTRIES
CENTRE, DATED 07.09.2012.
- EXT.R4(I): THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY
THE 4TH RESPONDENT WITH RESPECT TO M/S.AGRO FOODS AND
SPICES BEFORE THE GENERAL MANGER, DISTRICT INDUSTRIES
CENTRE, DATED 14.09.2012.

- EXT.R4(J): THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 4TH RESPONDENT WITH RESPECT TO M/S.DECCAN SPICES AND BEFORE THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, DATED 14.09.2012.**
- EXT.R4(K): TRUE COPY OF THE ORDERS OF THE GENERAL MANAGER WITH RESPECT TO M/S.AGRO FOOD & SPICES DATED 05.09.2012.**
- EXT.R4(L): TRUE COPY OF THE ORDERS OF THE GENERAL MANAGER WITH RESPECT TO M/S.DECCAN SPICES AND DATED 05.09.2012.**
- EXT.R4(M): TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C).NO.18021/2012 DATED 18.09.2012.**
- EXT.R4(N): TRUE COPY OF THE COUNTER AFFIDAVIT OF THE 3RD RESPONDENT IN W.P.(C).NO.18021/2012 DATED 03.09.2012.**
- EXT.R4(O): TRUE COPY OF RULES 9(V) OF THE KERALA ALLOTMENT OF GOVERNMENT LAND IN DEVELOPMENT AREA ON HIRE PURCHASE FOR INDUSTRIAL PURPOSES RULES 1969 IN G.O.(MS)NO.297/70/ID DATED 24.08.1970.**
- EXT.R4(P): TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE GOVERNMENT DATED 05.11.2012.**
- EXT.R4(Q): THE TRUE COPY OF REPORT SUBMITTED BY THE DIRECTOR OF INDUSTRIES AND COMMERCE TO THE GOVERNMENT DATED 15.12.2012.**
- EXT.R4(R): THE TRUE COPY OF THE SKETCH PREPARED BY THE TALUK SURVEYOR ALONG WITH A COVERING LETTER OF TAHSILDAR DATED 25.09.2012.**
- EXT.R4(S): THE TRUE COPY OF THE AGREEMENT EXECUTED BY ME DATED 29.09.2012.**
- EXT.R4(T): THE TRUE COPY OF THE COMMUNICATION ISSUED BY GENERAL MANAGER, D.I.C. DATED 16.07.2013.**
- EXT.R4(U): THE TRUE COPY OF THE PROCEEDINGS ISSUED BY GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE DATED 19.07.2013.**
- EXT.R4(V): THE TRUE COPY OF THE COMMUNICATION ISSUED BY THE DISTRICT INDUSTRIES OFFICE TO THE CIRCLE INSPECTOR OF POLICE DATED 20.07.2013.**
- EXT.R4(W): THE TRUE COPY OF THE COMMUNICATION ISSUED BY THE DISTRICT INDUSTRIES OFFICE TO THE DEPUTY CHIEF ENGINEER, VAIDYUTHI BHAVAN DATED 22.07.2013.**
- EXT.R4(X): THE TRUE COPY OF THE FIRST INFORMATION REPORT REGISTERED BY CHENGAMANAD POLICE STATION AS CRIME NO.813/13 DATED 20.07.2013.**

- EXT.R4(Y): THE TRUE COPY OF THE REPLY GRANTED TO THE 4TH RESPONDENT
IN PURSUANCE TO THE APPLICATIONS MADE UNDER
THE PROVISIONS OF RTI ACT DATED 22.11.2012.
- EXT.R4(Z): THE TRUE COPY OF THE REPLY GRANTED TO THE 4TH RESPONDENT
IN PURSUANCE TO THE APPLICATIONS MADE UNDER
THE PROVISIONS OF RTI ACT DATED 11.12.2012.
- EXT.R4(AA): THE TRUE COPY OF THE PROCEEDINGS OF THE GEOLOGIST
DATED 27.01.2010.
- EXT.R4(AB): THE TRUE COPY OF THE FILE NOTE AND THE COPIES OF
THE ENTRIES IN REGISTER WITH RESPECT TO THE APPLICATIONS
FILED BY THE 4TH RESPONDENT.
- EXT.R4(AC): THE TRUE COPY OF THE CHARGE LIST ISSUED TO
THE 4TH RESPONDENT AFTER HANDING OVER POSSESSION OF
THE PROPERTY DATED 10.10.2012.
- EXT.R4(AD): THE TRUE COPY OF THE JUDGMENT OF THIS HONORABLE COURT
IN W.P.(C).NO.35321/2010 DATED 25.01.2012.
- EXT.R4(AE): THE TRUE COPY OF THE JUDGMENT IN W.A.NO.803/2012 ON THE FILE
OF THIS HONORABLE COURT DATED 07.06.2012.

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.22401 of 2012

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Dated this the 16th day of January, 2015

JUDGMENT

Under challenge in this writ petition is Ext.P6 order passed by the first respondent by which, the first respondent has ordered to resume 146 cents of land out of 381 cents of land comprised in Sy. Nos.448/1 and 448/2 of Nedumbassery village.

2. The petitioner was allotted land in an industrial development area at Angamaly for setting up Agro food industry. The petitioner alleges that he was initially allotted 1.46 acres and thereafter he was granted 2.35 acres more as second allotment. According to him, he had developed the industrial area by constructing buildings in the land for wheat and rice mills, and necessary machineries have been installed. He further alleges that the wheat and rice mills were inaugurated and it commenced production in December, 2011 itself i.e. immediately after the plan for the entire area was approved by the first respondent. The petitioner points out that he had availed a loan of nearly ₹7 crores on the basis of the permission granted by the first respondent for

pledging the property, for securing the loan. The petitioner further alleges that while so, the fourth respondent had raised a claim over the second allotment of land having an extent of 2.35 acres granted to the petitioner.

3. The petitioner approached this Court and this Court by Ext.P3 judgment directed that his application for additional allotment of land be considered on the basis of priority and if any land is available for allotment in the industrial area. The petitioner further alleges that first respondent without conducting any verification as to whether any land is available unutilised for allotment in the industrial area and without looking into the question whether the 4th respondent is entitled to the priority for allotment, had issued the Ext.P6 order to resume 1.46 acres i.e. the area covered by the first allotment to the petitioner, which according to him, was not the subject matter of dispute at all and to allot the same to the fourth respondent. Accordingly to the petitioner, he had developed the entire area and part of the wheat unit which is situated in the 2.35 acres spilling over to the 1.46 acres and, therefore, the wheat unit cannot be continued if the land is resumed as proposed.

4. The petitioner alleges that the order issued to resume the land from the petitioner at this distance of time after he has developed the entire area securing huge amount as loan is arbitrary and illegal.

5. Respondents 1 and 2 have filed counter affidavit wherein they contended that the property was allotted to the petitioner firm M/s. Peter Agro Mill for manufacture of rice and rice bran only. However, the petitioner has started the project of wheat products without implementing the prime project of modern rice mill. The present project, according to them, is functioning in the 2.35 acres of land and not in 1.46 acres, and permission is granted to the petitioner for his prime project of rice and rice bran. However, the said permission was misused by the petitioner for another project, which was not approved by the department. Therefore, according to them, the resumption of the property is legal and valid.

6. The fourth respondent has filed a counter affidavit wherein the contention taken by him was that 1.46 acres of land resumed from the petitioner originally was for starting industry in rice and rice bran. He contended that till 2013, the land was not utilised by the petitioner and it was on that ground the Government resumed

the above land from him. According to him, there was no reason for not utilising the above land. It was stated that even subsequently he was given allotment of 2.35 acres. However, he did not start any industry in the originally allotted plot. It was further stated that the fourth respondent is conducting two industrial units in the industrial development area and it was for the expansion of those units that he had made applications for allotment of additional land. He admitted that he has purchased 21 cents of land of a defunct unit. According to him, that was purchased in an auction conducted by K.F.C and an additional unit is functioning in that plot. He further points out that the petitioner along with his brother and father is in occupation of more than 10 acres of land in the development area and that there are buildings and other structures belonging to the petitioner in the plot directed to be resumed is incorrect. He further points out that the alleged structures and improvements were effected when the writ petition and the writ appeal were pending before this Court.

7. After directing resumption of land from the petitioner, the General Manager, District Industrial Centre passed Exts.R4(k) and R4(i) orders dated 5.9.2012 allotting 50 cents of land to M/s.Agro

Foods and Spices and 96 cents to M/s. Deccan Spices. According to the 4th respondent these are self speaking orders and it was after considering the entire facts and circumstances that the allotment was made in favour of the fourth respondent. Therefore, the fourth respondent prayed for a dismissal of the writ petition.

8. I have heard the learned Senior Counsel for the petitioner and the learned Government Pleader and the learned Senior Counsel for the fourth respondent.

9. The learned Senior Counsel for the petitioner would argue that the industrial department ought to have held that the subject matter of dispute in the writ petition was 2.35 acres of land allotted to the petitioner and now what is ordered to be resumed is a portion of land which is allotted to the petitioner as per the first allotment which is not a subject matter of dispute at all. The learned Senior Counsel would argue that in the said property, the petitioner has already put up a treatment plant, Ash Storage Unit, the rice mill and a portion of the wheat unit. Now what remains to be done is only erection of machinery. Therefore, according to the learned Senior Counsel, it cannot be said that any portion of land, either first allotment or second allotment are lying unutilised.

10. The learned Senior Counsel for the petitioner further argued that the direction of this Court in Ext.P3 judgment was to consider the utilisation or unutilisation of 2.35 acres of land allotted to the petitioner in the second stage or any part thereof. If it is not available, the direction was to consider any other properties in the industrial area which is unutilised for resumption; so submitted the learned Senior Counsel for the petitioner. It is pointed out that number of plots were remaining unutilised in the very same industrial area and that aspect was omitted to be considered by the General Manager of the District Industries Centre. It was argued that no inspection or verification was conducted by the first respondent to find out the unutilised land in the industrial area. Instead, the first respondent has straight away passed Ext.P6 order proposing to resume land from the petitioner. This action of the first respondent is not in accordance with the spirit of Ext.P3 judgment; so submitted the learned Senior Counsel for the petitioner.

11. The learned Senior Counsel for the 4th respondent per contra would submit that in Ext.P3 judgment, this Court has specifically found that the allotment made in favour of the

petitioner in excess of 3 acres is illegal and liable to be resumed. This Court has even directed in paragraph (17) of the judgment to conduct an enquiry with respect to the allotments made in favour of the petitioner. According to the learned Senior Counsel, a reading of Ext.P3 judgment would show that this Court has come to a conclusion that there is something wrong with all the allotments made in favour of the petitioner. The learned Senior Counsel for the fourth respondent would submit that the present attempt of the petitioner is to get those illegal allotments regularised and approved by this Court on the ground that he has effected some hasty constructions in the property after the passing of Ext.P3 judgment.

12. 1.46 acres of land was originally allotted to the petitioner by virtue of proceedings dated 18.7.2003. The said allotment was made for the purpose of manufacturing rice and rice bran. Another agreement was made in favour of the petitioner on 12.12.2007 with respect to 2.35 acres of land in the same survey numbers. The said allotment was also for the manufacture of rice and rice bran. Exts.R4(a) and R4(b) are the said orders produced by the fourth respondent. This agreement contains the conditions under which

the allotment was made. Condition No.4 and 13 of the agreement would show that the allottee is not entitled to use the plot allotted for any purpose other than the one for which it is allotted and if allottee commits breach of that condition, the allotted property can be resumed. The definite case of the contesting respondent is that the petitioner is not conducting any unit manufacturing rice and rice bran at present. In the plot consisting of 2.35 acres allotted in 2007, he was conducting a unit of manufacturing wheat products. The case of the fourth respondent is that in 1.46 acres of land originally allotted to the petitioner, he is not conducting any unit.

13. It was strenuously argued by the learned Senior Counsel for the petitioner that the petitioner has developed the entire area and a part of the same is spilling over to the 1.46 acres and, therefore, the wheat unit cannot be continued if the land is resumed as proposed.

14. As rightly pointed out by the learned Senior Counsel for the fourth respondent, the purpose for which the land was allotted to the petitioner was for construction of a rice mill and the petitioner has no case that the same has been installed so far. It was pointed out by the learned Senior Counsel for the petitioner

that the rice mill could not be established in 1.46 acres of land and for that purpose another two acres was necessary. It was for that reason, the petitioner did not originally establish the rice mill in 1.46 acres of land. However, it is an admitted fact that 2.35 acres subsequently allotted has already been used for a unit of manufacturing wheat products. Therefore, he cannot establish a rice mill in the plot available with him.

15. The respondents would contend that during the pendency of W.P(C) No.33457 of 2009, the authorities conducted an inspection of the premises as directed by this Court. The General Manager, District Industries Centre has submitted a report before this Court stating that about one acre of land is lying unutilised. Again on 13.8.2012, another inspection was conducted by the General Manager. Then also, he was satisfied that the said land is lying unutilised. It appears from record that subsequent to that report, the petitioner has effected some constructions in the plot. There is clear interdiction in Clause 11 of Ext.R4(b) agreement executed by the petitioner regarding construction of additional structures in the allotted area without the prior written approval of the Director of Industries. It was further stated in Clause (11) that

the hirer has to remove such additional structures at his own cost and that if he fails to do so, the Director shall get such additional structures erected by the hirer removed at the hirer's cost. Therefore, the contention of the petitioner that the existing wheat processing unit installed by the petitioner in the 2.35 acres of land is spilling over 1.46 acres of land covered by the first allotment will not improve the case of the petitioner.

16. In the writ petition, the petitioner sought a direction restraining the respondents from resuming any portion of the land allotted to him in the industrial development area. However, it is crucial to note that according to the respondents, the General Manager has given the fourth respondent allotment from the land directed to be resumed from the petitioner. This is evident from Ext.R4(n) which is the true copy of the counter affidavit filed by the third respondent in W.P(C) No.18021 of 2012.

17. Though it was argued by the learned Senior Counsel for the petitioner that the property in R.S No.127/2AB is only an industrial area, the fourth respondent in his counter has stated that admittedly it is allotted to another entrepreneur and the same is still in his possession and the Government have not initiated any steps

to resume any portion of the above land and, therefore, the said plot can have no significance in this matter.

On a consideration of the entire materials placed on record, this Court is of the view that the petitioner is not entitled to succeed.

In the result, the writ petition fails and accordingly, it is dismissed.

sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj

/True Copy/

P.A to Judge