THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.26463 of 2012

ORDER:

This writ petition is filed seeking the following relief/s:-

"For the reasons stated in the accompanying affidavit the petitioners herein pray that this Hon'ble Court may be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in taking steps to dispossess the petitioners from their respective piece of lands an extent of Ac.1-68 cts i.e., an extent of Ac.0.38 cts in Sy.No.30/5, Ac.0.31 cts in Sy.No.30/6, Ac.0.15 cts in Sy.No.30/7, Ac.0.27 cts in Sy.no.30/8, Ac.0.29 cts in Sy.No.30/9 and Ac.0.28 cts in Sy.No.30/10, of Chinnagadili village of Visakha Rural of Greater Visakha Municipal Corporation pursuant to the letter dt.21-04-2007 of the 2nd respondent and proceedings of the 4th respondent dt.25-05-2012 ignoring the endorsement of the 3rd respondent as illegal, arbitrary and violative of principles of natural justice further declaring that the proceedings of the respondents in respect of the said lands are not binding on the petitioners, consequently directing the respondents not to take any coercive steps to dispossess the petitioners from the said lands and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

(Reproduced verbatim)

2. The case of the writ petitioners as stated in the affidavit filed in support of the writ petition, in brief, is as follows:

The petitioners are the owners and possessors of various extents of lands aforementioned, i.e., the total extent of Ac.1.68 cents in S.Nos. 30/5 to 30/10 of Chinnagadili village of Visakha Rural of Greater Visakha Municipal Corporation ('GVMC', for brevity) having obtained through succession. The said land shall herein after be referred to as 'the subject land', for brevity. There is no dispute in regard to the title and possession of the petitioners over the subject land. The revenue records, particularly, the village account (10-01) and the settlement fair adangal make it clear that the petitioners and their ancestors are the owners and possessors of the aforementioned/subject land. The value of the lands in GVMC area has gone high and there is, therefore, a chance of interference with the possession and enjoyment of the petitioners over the subject land by third parties and at their instance by the officers of the local bodies and the State. When there was an attempt of interference by the officials of the respondents, the petitioners had placed their records before them and had specifically stated that the interference is in violation of the principles of natural justice. On 02.12.2011, the petitioners had made a representation through their counsel enclosing all the material papers and requesting not to interfere with their possession and enjoyment over the subject land. When the officials of the 4th respondent are interfering with the petitioners' possession and enjoyment of the subject land, the petitioners were constrained to file W.P.no.32613 of 2011 seeking a direction to the 4th respondent not to take any coercive steps to dispossess the petitioners. The said writ petition was disposed of with a direction to the 4th respondent to follow the procedure under Section 406 of the Hyderabad Municipal Corporation Act, if the petitioners are the owners, and, if not, to follow the procedure under Section 405 of the Act. The 4th respondent is still insisting upon the petitioners to vacate the subject land even without issuing any notice. A legal notice dated 23.04.2012 was got issued to the GVMC. In reply, the Commissioner, GVMC had issued proceedings dated 25.05.2012 stating *inter alia* that there is no need to follow any procedure as the petitioners are not the owners of the subject land. The said proceedings were issued with reference to the proceedings of the revenue department to the effect that the land in Sy.No.30 was acquired in the year 1952 and that the total extent of Ac.3.82 cents has been handed over by the then Mandal Revenue Officer, Visakhapatnam Rural to the Zonal Manager, APIIC pursuant to the instructions of the Joint Collector and the subsequent revised order passed by the District Collector for Ac.0.48 cents; and that as per the letter of the 2nd respondent, the remaining extent of Ac.3.35 cents should be spared for the Animal Husbandry Department. In the proceedings of the 4th respondent, i.e., the Commissioner of the GVMC, it was also mentioned that the lands in Sy.No.30 were acquired for dairy farm and as such it is a Government land and no notice is required. After receipt of the said proceedings, the petitioners had made a representation to the 3rd respondent-Special Tahasildar (Land Acquisition) requesting to furnish the details of the Award no.2/52 and also the information whether any land in Sy.no.30 or its part of Chinnagadili village was acquired for the formation of the dairy farm. It was replied, vide its endorsement dated 17.08.2012 by the 3rd respondent that no lands in Sy.No.30 or its part were acquired and there is no Award no.2/52. The District Collector in his proceedings dated 21.04.2007 had mentioned that an extent of Ac.0.48 cents in Sy.No.30-Part has been handed over to Zonal Manager, APIIC and the 4th respondent is requested to take possession of the same from APIIC. It shows that an extent of Ac.0.48 cents has been handed over to the 4th respondent. According to the letter of the 3rd respondent, when there is no such award and the lands were not acquired, the proceedings and the references of the respondents as if the petitioners' land was acquired is not at all correct. As on the date of the filing of the writ petition, the petitioners are continuing in peaceful possession and enjoyment of the subject land in an extent of Ac.1.68 cents in Sy.Nos.30-Part. Survey no.30 cannot be correlated with Sy.no.10 to cover up their mistake. When the petitioners are corresponding with the respondents, the officials of the Revenue Department have now joined hands with the officials of the 4th respondent and are pressurizing the petitioners to vacate the subject land. Therefore, there is a threat of dispossession from the subject property at any moment. The respondents 1 to 4 had failed to prove that the petitioners' land was acquired and it is a Government land. Therefore, the proceedings of the 4th respondent pursuant to the reference letters of the 2nd respondent will automatically be not valid and are *non est* in the eye of law. Hence, there is no need to independently question the same. Even as per the revenue record of the year 2011, the land in Sy. no. 30 has not been shown as Government land or the land under acquisition. The entries in 10-1-adangal copy issued by the 5th respondent would show that the names of the family members of the petitioners have been entered in the revenue records. Hence, the entire proceedings in the reference are not correct and are liable to be set aside. In the circumstances, having no other alternative, the petitioners have filed the present writ petition.

3. The averments in the counter affidavit filed on behalf of the 4th respondent-the then Commissioner, GVMC, in brief, are as follows:

The allegation that the petitioners are the owners and possessors of the subject land of a total extent of Ac.1.68 cents in Chinagadili village of Visakhapatnam is utterly false. They are not the owners of the subject land and they do not have any title over the above said land. The allegation that there is no dispute about their title, possession and enjoyment is false and denied. The 1st respondent had acquired the land admeasuring Ac.62.08 cents in Santhapalem village of the erstwhile Visakhaptnam Taluq. The said land was acquired by the Revenue Divisional Officer, Visakhapatnam for the purpose of Government Dairy Farm duly paying the compensation to the land owners under Award no.2/59 dated 31.12.1959. The copy of the award was annexed to the counter affidavit. During the acquisition proceedings, the land admeasuring Ac.6.68 cents in Sy.no.10 of Santhapalem village was also acquired and the said Sy.no.10 now correlates to R.S.No.30/1 to 30/10 comprising an extent of Ac.3.83 cents; and, the remaining extent of Ac.2.85 cents from the total extent of Ac.6.68 cents was included in other R.Sy.No.29. The compensation was apportioned and was paid as per the Award no.2/59 and as stated in the table mentioned in the counter. The above said land in an extent of Ac.6.68 cents which has been acquired for the purpose of establishment of Government Dairy Farm along with other lands had been in the possession of the Government Dairy Farm. While so, in the year 2006, the Government had transferred an extent of Ac.106.20 cents in Sy.No.97 and an extent of Ac.111.01 cents in different survey numbers under G.O.Ms.no.240 dated 25.02.2006 belonging to the Animal Husbandry Department in favour of the Revenue Department for establishment of Health City. In turn, the same has been allotted to the Andhra Pradesh Industrial Infrastructure Corporation (APIIC) for developing the said land. Pursuant to the said GO., the District Collector, who is the 2nd respondent, had issued proceedings in R.C.no.5036/04/E2 dated 08.05.2006 to hand over the said land to APIIC and in turn, the 5th respondent had handed over the said land to the Zonal Manager, APIIC under delivery receipt dated 31.07.2007 wherein the subject land measuring an extent of Ac.0.48 cents in Sy.No.30P and also an extent of Ac.4.58 cents in Sy.no.31 has been shown at serial nos.19 and 20 and the same has been in possession and custody of APIIC. While so, the respondent Corporation had requested the 2nd respondent for allotment of the land measuring an extent of Ac.25.64 cents to provide house sites for the affected families, whose properties were lost in the road widening of Muddasarlova Road. Pursuant to the request made, the 2nd respondent had issued proceedings in R.C.no.5036 of 2004/E2 dated 21.04.2007 and had requested the respondent Corporation to take possession of the land measuring an extent of ac.18.74 cents, which was available with the APIIC, excluding Ac.6.90 cents in S.No.18(P), 19(P) and 29 as it was under the litigation pending before this Court. Accordingly, APIIC had handed over an extent of Ac.0.48 cents in Sy.no.30P and Ac.4.58 cents in Sy.no.31P to this 4th respondent Corporation under delivery receipt dated 21.06.2007 and the rest of the land measuring an extent of ac.4.30 cents and Ac.9.38 cents in Sy.No.6P and 17 was also handed over by the APIIC to GVMC. Pursuant to the proceedings dated 21.04.2007 issued by the 2nd respondent, as well as the delivery receipt dated 21.06.2007 issued by APIIC, the respondent Corporation had taken possession of the said land and had prepared the layout by dividing the land into house site plots; and the plots were allotted to the affected families in the year 2008 itself. The subject land of Ac.1.68 cents in Sy.No.30/P was shown as open space in the approved layout for public purpose and the same has been in possession and the custody of the Respondent-Corporation as all Government lands within urban local body had vested with the Corporation. The Corporation had also erected a caution board in the said site informing that the said land belongs to GVMC. Hence, and as the petitioners do not have any title over the subject land and as they are never in possession of the subject land, the allegations made by the petitioners that they are the owners and possessors of the land in an extent of Ac.1.68 cents in Sy.No.30/5 to 30/10 does not arise for consideration; and the said allegations are only invented for the purpose of filing of this writ petition. The allegation that Sy.No.30 cannot be correlated to S.No.10 is not true, as the revenue record clearly reveals the fact that Sy.No.10 co-relates to R.S.No.30. The material documents, i.e., the acquisition proceeding dated 17.07.1957, the Award no.2/59 dated 31.12.1959, the consequential proceeding of the 2nd respondent dated 21.04.2007, the delivery receipt dated 31.01.2007 issued by the 5th respondent evidencing handing over the land including the subject land to APIIC, the proceedings issued by the APIIC dated 19.06.2007 in favour of the respondent Corporation and the delivery receipt dated 21.06.2007 clearly demonstrate that the petitioners had never been in possession of the subject land and that the said land was acquired by the Government and that it has been in the possession of the Government since 1957, that is, from the date of acquisition; and that thereafter, it has been in possession of the respondent Corporation since 2007,i.e., from the date of handing over the possession by the APIIC under delivery receipt dated 21.06.2007. The petitioners had suppressed material facts and the writ petition which is filed with fictitious documents is liable to be dismissed.

3.1 The then Tahasildar had filed a counter affidavit on behalf of the 5th respondent. The averments therein, in brief, are as follows: "The land in Sy.Nos.30/5 to 30/9 being claimed by the petitioners, along with the other lands, was acquired long back during the years 1959 and 1961 by the LAO & Revenue Divisional Officer, Visakhapatnam vide Award Nos.2/59 dated 31.12.1959 for establishment of Government Dairy Farm and compensation was also paid to the land owners concerned. As such the subject lands are the Government land and belonged to the Animal Husbandry Department. Subsequently, the lands covered by Sy.No.30/1 to 30/10 of Chinagadila village in question along with some other lands were withdrawn from the Animal Husbandry Department and were allotted to APIIC for establishment of the Health City. Thereafter, the lands measuring Ac.18.74 cents covered by Sy.Nos.6/Part (4.30 cents), 17 (9.38 cents), 30/Part (0.48 cents) and 31/Part (4.58 cents) were withdrawn from the APIIC by the Collector, Visakhapatnam and were handed over to the GVMC for provision of house sites to the affected families, whose lands were involved in the proposed road widening from Hanumanthuvaka junction to Adavivaram village. Necessary changes were also incorporated in the revenue records. The GVMC has also converted these lands into layout and had allotted the house sites to all the eligible affected families, whose lands were taken for the widening of road into 200 feet from Hanumanthavaka junction to Adavivaram village. The petitioners have no documents/records in support of their claim of ownership in respect of the subject lands, which are acquired. The petitioners were also never in possession of the subject lands. The present Sy.Nos.30/1 to 30/10 comprising land admeasuring Ac.3.83 correlate to old Sy.Nos.10/Part admeasuring Ac.6.68 cents of Santhapalem village of erstwhile Visakhaptnam Taluk. The entire land (Ac.6.68 cents) covered by Sy.no.10 was acquired for Government Dairy Farm. The lands that were acquired were under the possession of the Government Dairy Farm for some years i.e., until part of the land was allotted to APIIC; and a part of the land was again handed over by APIIC to GVMC on 21.06.2007 for rehabilitation. The petition is filed by the petitioners with an ulterior motive to grab the land. The 4th respondent had issued an order and intimated that the provisions under Sections 405 & 406 of the Hyderabad Municipal Corporation Act do not apply to the subject land as the petitioners are not the owners of the subject land. The entire land covered by Sy.no.10 with its sub-divisions from 10/1 to 10/20 comprising Ac.6.68 cents along with other lands was acquired under the Land Acquisition Act. The lands were handed over to APIIC for WIMS Hospital, vide G.O.Ms.no.240, Revenue (ASN-I(2)) Department dated 25.05.2006. Notifications for acquisition were published under Sections 4(1) and 6; Award enquiry was conducted on 27.05.1958, 10.06.1958, 12.06.1959 and 20.06.1959; and, the Award was passed on 31.12.1959. The lands in Old S.Nos.10/1 to 10/20 are correlated to present R.S.no.30 of Chinagadili village. The lands that were acquired were in possession of the Government Dairy Farm all these years till a part of the land was allotted to APIIC *vide* G.O.Ms.no.240, Revenue (ASN-I(2) Department dt.25.5.2006 and in turn, from APIIC to GVMC, *vide* proceedings dated 21.04.2007. Thus, after taking possession by the Government on 21.06.2007, the lands taken possession were in possession of the GVMC. The writ petition is liable for dismissal."

3.2 The averments in the reply affidavit and additional affidavit of the petitioners, in brief, are as follows:

The crux of the defence as is evident from the counter affidavits is that the respondents have acquired land to an extent of Ac.0.48 cents in Sy.no.30 Part of Chinagadili village, Visakhapatnam District. The total extent of Sy.No.30 of Chinagadili village is Ac.3.68 cents. The remaining extent of Ac.3.20 cents in the said survey number had remained with the original pattadars. The petitioners are the owners and the possessors of an extent of Ac.0.38 cents in Sy.No.30/5, Ac.0.31 cents in Sy.No.30/6, Ac.0.15 cents in Sy.No.30/7, Ac.0.27 cents in Sy.No.30/8, Ac.0.29 cents in Sy.No.30/9 and Ac.0.28 cents in Sy.No.30/10, total extent of AC.1.68 cents of Chinagadili village of Visakhapatnam District. The remaining extent of land has been disposed of or vested with the land owners, after the above said acquisition proceedings. The 4th respondent states that land in an extent of Ac.6.68 cents in Sy.No.10 of Santhapalem village was acquired and that according to the 4th respondent, the said Sy.No.10 correlates to R.S.Nos.30/1 to 30/10. Santhapalem and Chinagadili villages are different and distinct revenue villages and the survey numbers in one Revenue village correlating with another revenue village does not arise. No such correlation has occurred and no resurvey was conducted by giving new survey numbers. The allegation that Sy.No.10 of Santhapalem village correlated to Sy.Nos.30/1 to 10 of Chinagadili village has no relevance. Unless both the revenue villages are merged and resurvey is conducted by preparing correlation statement, the question of treating both the villages as one village does not arise. The said contention is factually incorrect and far from truth. In the proceedings of the District Collector dated 21.04.2007, it is clearly indicated that the land in Sy.No.30 Part to an extent of Ac.0.48 cents along with other lands was handed over to APIIC for Health City Project. The proceedings of the APIIC dated 19.06.2007 affirm the same. No material is placed with reference to the so called correlation and clubbing of both Santhapalem and Chinagadili villages and giving common survey numbers during the course of resurvey. It is not known when both the villages were merged as a single revenue village and when the resurvey was conducted after issuance of notice to all concerned. The GO simply mentions about the acquisition of Sy.No.30 part and there is no mention of resurvey and correlation of survey numbers of both the villages. Award no.2/1959 indicates that an extent of Ac.62.08 cents of Santhapalem village was acquired. Chinagadili village is adjacent to Santhapalem village. Admittedly, the lands in Sy.No.10 of Santhapalem village were acquired whereas the land that belongs to petitioners is situated in Sy.No.30 of Chinagadili village. The land which was said to have been acquired was only to an extent of Ac.0.48 cents in Sy.No.30 Part of Chinagadili village. No Award relating to Sy.No.30 of Chinagadili village was placed before this Court. Only an extent of Ac.0.48 cents in Sy.No.30 part was rounded off as Government land in the revenue records and the remaining land is treated as private patta land. The material filed along with the writ petition clearly indicates that only an extent of Ac.0.48 cents in Sy.No.30 Part was merged with Sy.No.29. Sy.No.30 was set apart or given separate sub-division numbers, i.e., Sy.Nos.30/1 to 10. The Settlement Register which was issued on 30.10.2012 also clearly indicates that the land, which is being claimed by the writ petitioners, is a private patta land. Therefore, the contention of the 4th respondent that the petitioners have no title over the subject property is baseless. The writ petition is liable to be allowed.

4. The learned counsel for the parties had advanced arguments in line with the respective pleadings. I have bestowed my attention to the facts and submissions. I have given detailed and thoughtful consideration to the submissions. I have carefully perused the pleadings and the material documents and also the record in regard to the land acquired under Award no.2/59, produced by the learned Government Pleader. I have further carefully perused the copy of the proceedings dated 21.04.2007 of the District Collector, the copy of the letter dated 19.06.2007 issued by APIIC, the copies of the delivery receipt dated 21.06.2007 and 02.08.2008 issued by APIIC, the copy of the G.O.Ms.no.240 dated 25.02.2006, the copy of the delivery receipt dated 31.07.2007 issued by the Tahasildar, the copy of the layout dated 08.10.2009 and the copy of the Award no.2/59 dated 31.12.1959.

4.1 From the contentions and the rival contentions, the following facts and aspects emerge for consideration:

The petitioners are claiming right, title, interest, possession and enjoyment over the following lands, viz., Ac.0.38 cents in Sy.No.30/5, Ac.0.31 cents in Sy.No.30/6, Ac.0.15 cents in Sy.No.30/7, Ac.0.27 cents in Sy.No.30/8, Ac.0.29 cents in Sy.No.30/9 and Ac.0.28 cents in Sy.No.30/10 of Chinagadili village of Visakhapatnam Rural of GVMC. Thus, the petitioners are claiming right, title, possession and enjoyment over a total extent of Ac.1.68 cents in the aforementioned survey numbers, i.e., 30/5 to 30/10 of Chinagadili village. According to them, they are their private patta lands and the names of their predecessors as pattadars were entered in the revenue records. The certified copy of the Settlement Register, which was issued by the Tahasildar, Visakhapatnam on 30.08.2011 supports *prima facie* the contention of the petitioners. Further, the copy of the Settlement Fair Adangal, which was issued pursuant to the request made under the provisions of the Right to Information Act, discloses that the survey number 30 and its sub-divisions 5 to 10 are private patta lands and that the names of the pattadars are entered in the revenue records. It is not in dispute that originally, the lands in question belonged to private individuals. The defence of the respondents is that the said lands along with other lands were acquired and that the Award no.2/59 dated 31.12.1959 was passed in respect of the lands acquired. The fact that the respondents have taken a defence that the subject land was also acquired along with other lands pursuant to the above Award proceedings would make it manifest that the land in question is a private patta land as it is common knowledge and that it is well settled that the Government will not acquire it's own land and as the law does not envision the acquisition of land of the Government by the Government. Therefore, the short but vital question is 'whether the respondents had produced even a semblance of material to *prima facie* show that the subject land was also acquired under the aforementioned award proceedings?'.

4.2 To answer this question, it is necessary to continue with the narration of the facts. What is to be further noted is that the proceedings dated 21.04.2007 of the District Collector, Visakhapatnam clearly show that the lands in an extent of Ac.4.30 cents in Sy.No.6(P), Ac.9.38 cents in Sy.no.17, Ac.0.48 cents in Sy.No.30(P) and Ac.4.58 cents in Sy.No.31(P), that is, a total extent of Ac.18.74 cents excluding the lands in Sy.Nos.18(P), 19(P) and 29 were available with the APIIC and that there is a litigation pending in regard to Sy. nos. 18(P), 19(P) and 29 covering a total extent of Ac.6.90 cents. Therefore, the District Collector, vide proceedings dated 21.04.2007 permitted the Zonal Manager (Projects), APIIC to handover advance possession of Ac.18.74 cents in the remaining survey numbers to the GVMC. Therefore, the land that was handed over to GVMC comprises of Ac.0.48 cents in sy.No.30P also. We are, in this writ petition, unconcerned with the other survey numbers is not in dispute. Further, in the proceedings dated 25.05.2012 of the Commissioner of GVMC while adverting to the claim of ownership made by the petitioners over the lands in Sy.No.30, it is stated that the land in Sy.No.30 was acquired in the year 1952, vide Award no.2/52 by the Government and that as per the delivery receipt bearing Rc.No.957/2004/SPI.R1, dated 04.02.2006, an extent of Ac.3.83 cents in Sy.no.30 of Chinagadili village was handed over by the Mandal Revenue Officer, Visakhapatnam to the Zonal Manager, APIIC in pursuance of the instructions of the Joint Collector. The proceedings dated 25.05.2012 on a further perusal would further make it clear that subsequently, the District Collector, vide proceedings Rc.No.5036/2004/E2, dated 08.05.2006 had issued revised orders to the effect that Ac.0.48 cents of land in Sy.No.30 should be handed over to the APIIC for Health City Project and the remaining extent of Ac.3.35 cents in Sy.No.30 should be spared for the Animal Husbandry Department. The proceedings were issued after joint inspection of the above lands by the Collector & the District Magistrate and the officials concerned of APIIC. The said proceedings dated 25.05.2008 make it manifest that an extent of Ac.1.68 cents of land in Sy.No.30 forms part of Chinagadili village rehabilitation approved layout and the same is intended for the purpose of play ground for the benefit of residents of Chinagadili village. The letter dated 19.06.2007 addressed by APIIC to the Commissioner, GVMC states that an extent of Ac.0.48 cents in Sy.No.30(P) and Ac.4.58 cents in Sy.No.31(P) were handed over to GVMC. As already noted, the document dated 17.08.2012 was obtained by the writ petitioners having recourse to the provisions of the Right to Information Act. The same on a perusal would indicate that the petitioners were informed by a competent revenue authority that no lands in Sy.No.30 or its part are acquired for formation of Dairy Farm. Thus, only Ac.0.48 cents in Sy.No.30/P of Chinagadili village was transferred to GVMC even as per the records being relied upon by the respondents. However, in the counter affidavit filed on behalf of the GVMC, it is stated that the APIIC had handed over an extent of Ac.0.48 cents in Sy.No.30/P and Ac.0.58 cents in Sy.No.31/P. It is also stated that delivery of land of Ac.1.68 cents in Sy.No.30/P was shown as approved layout for public purpose. Therefore, the averments in the counter affidavit of the GVMC do not match the contents of the records being relied upon by the respondents on this particular aspect, which is germane for consideration. In the proceedings of the GVMC dated 25.05.2012, it is strangely stated that the lands were acquired in 1952 and that the Award was passed vide Award no.2/52. Whereas, the material record and the record relating to the land acquisition, which was produced before this Court would show that the Award number is 2/59. Though, it is the contention of the respondents that Sy.No.10 correlates to R.S.No.30, no correlation statement is filed. The delivery receipt dated 21.06.2007 issued by APIIC makes it manifest that only Ac.0.48 cents in Sy.No.30/P within the distinct boundaries was handed over to GVMC. Coming to G.O.Ms.No.240 dated 25.02.2006 issued by the Government; the said G.O with its annexures indicates that it makes a reference to plot nos. 1 to 19. The relevant plot no.9 description shows Sy.no.29(p) and 30(P) of total extent of Ac.4.50 cents. The revised delivery receipt dated 31.07.2007 shows the details of the land which was handed over to APIIC in a total extent of Ac.1.21 cents. The said revised delivery receipt at Sl.no.9 shows that Ac.0.48 cents in Sy.No.30P was delivered to APIIC. Though GVMC claims that Ac.18.74 cents was handed over to GVMC, it is evident that the layout was formed in an extent of Ac.22.82 cents is not in dispute. All the facts, so far narrated, clearly show that the respondents' contentions are untenable and are contrary to their own material documents and therefore, they do not deserve any countenance.

4.3 Coming now to the Award no.2/59, a perusal of the material record produced by the learned Government Pleader in regard to the said acquisition proceedings under Award no.2/59 dated 31.12.1959 would show that under the said Award, Ac.62.08 cents situated in the village of Santhapalem in the taluk of Visakhapatnam was acquired for locating Government Dairy Farm. The schedule I of the Award relates to the lands acquired in Santhapalem village. The award nowhere indicates that any land in Sy.No.30 Part of Chinagadili village was acquired. The contention of the respondents that Chinagadili village was earlier known as Santhapalem *ex facie* appears to be an untenable and ridiculous contention more particularly in the absence of production of any material record in support of the said contention and in the absence of any recitals in any record related to the Land Acquisition to the effect that the said acquired land in Santhapalem village also covers the land in situated in Chinagadili village. Chinagadili and Santhapalem villages, as per the material record available before this Court, are two distinct and different revenue villages. As per Schedule I of the Award no.2/59, a total extent of Ac.6.68 cents of land in Sy.no.10/1 to 10/20 of Santhapalem village was acquired under the said Award; whereas, the total extent of land in RS no.30 of Chinagadili village is Ac.3.38 cents. Therefore, it is manifest from the records that under Award no.2/59 dated 31.12.1959, the subject land of Ac.1.68 cents was acquired is a contention far from truth. Insofar as the present context is concerned, there is no material much less of a reliable character to accept the contention of the respondents that Santhapalem village corresponds to Chinagadili village and on the other hand there is merit in the contention of the writ petitioners that Santhapalem village is a different and distinct revenue village. Further, there is no whisper in the Award that the land in Chinagadili village is also acquired.

4.4. In the light of the said facts borne out by the record filed by the respondents and the discussion coupled with reasons, this Court finds that the contentions of the respondents are baseless and untenable and cannot be countenanced in a Court of law. The vital question is accordingly answered in favour of the petitioners and against the respondents. Be that as it may.

4.5 W.P.No.32613 of 2011 was earlier filed by the writ petitioners, in respect of the very same land, complaining against attempt of dispossession on the part of the respondents. This Court while disposing of the said writ petition had noted that the grievance of the writ petitioners is that the respondent Corporation is trying to dispossess them from the lands, which were in their possession, and that except the revenue records, the writ petitioners have not filed any other record to show that they have got right, title and interest in the property. Therefore, this Court had disposed of the said writ petition by orders dated 31.12.2011 directing the respondent Corporation to take appropriate decision in accordance with law after issuing a notice under Section 406 of the Hyderabad Municipal Corporation Act, 1955 if the petitioners are owners of the property, and that the procedure prescribed under Section 405 of the said Act has to be followed, if they are not the owners. Despite the said orders in the said writ petition, the respondents herein are contending without any basis much less valid basis that the subject lands were also acquired under Award no.2/59 whereas that award, on a plain perusal, makes it manifest that it relates to acquisition of lands in Santhapalem village, but not to the acquisition of any lands in Chinagadili village. This Court, for reasons recorded had already held that the contentions of the respondent Corporation that the subject land was also acquired under the said award is not correct and not acceptable.

5. Viewed thus, this Court finds that there is acceptable merit in the writ petition and that the action of the respondents complained against in the present writ petition deserves to be interdicted.

6. In the result, the Writ Petition is allowed as prayed for. No costs.

However, the orders in this writ petition shall not preclude any of the official respondents, if they so desire, for initiating appropriate proceedings for acquisition of the subject land, in strict accordance with the procedure established by law.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

M. SEETHARAMA MURTI, J

07th April, 2016
RAR