

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.14046 of 2007

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking verbatim the following relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue any writ, order or direction particularly one in the nature of MANDAMUS declaring the proceedings of Spl.Dy.Collector, Land Acquisition in proceedings No.AA/771/2006 dt.21-5-2007 under Sec.9(3) and 10 of L.A.Act, in not including the lands of the petitioners with regard to D.No.3-6-369 and the proceedings of the 7th respondent in Lr.No.3/ACP/C3/TPS/RW/2007 dt.8-5-2007 treating the petitioners’ land as Govt. land to deny compensation under the Land Acquisition Act and the proceedings of the 5th respondent in Case No.B/3234/2005 dt.29-7-2006 confirming the order No.D/991/2006 dt.24-6-2006 of the 6th respondent under the provisions of A.P.L.E.Act as illegal, unwarranted, unjustifiable in the eye of law, initiated with a malafide intention and violative of Art, 14 and 300-A of the Constitution of India and consequently by nullifying the said impugned orders direct the respondents either not to interfere with their possession and enjoyment over the land bearing No. 3-6-369/B/3 and other properties, Himayat Nagar, Hyderabad or pay necessary and proper compensation according to the Market rate under the provisions of the Land Acquisition Act and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

2. I have heard the submissions of Sri *D.V.Seetharam Murthy*, learned Senior Counsel, representing Dr. *P.B.Vijaya Kumar*, learned counsel appearing for the petitioners; and of the learned Government Pleader for Land Acquisition (Telangana), appearing for the respondents 1 to 6. I have perused the material record.

3. The case of the petitioners, in brief, is this:

‘Syed Suleman Ali, son of Syed Rahamat Ali, on behalf of his minor son Syed Masood Ali, who is the pattedar, executed a

registered Sale Deed in favour of Mir Siadat Ali Khan, S/o.Mir Qutbuddin Ali *vide* Document no.967 of 1342 Fasli for an extent of 1716 square yards, situated at Gagan Mahal, known as Budwellguda, inside the municipal limits of Circle-A, presently situated in Himayat Nagar Mandal inside the municipal limits of Circle-3 of Municipal Corporation of Hyderabad. The said Mir Siadat Ali Khan later executed an oral Gift to his wife Qadarunisa Begum, on or after 4th August, 1934, as per their custom. Thereafter, Syed Masood Ali also sold the property to an extent of 323.16 square yards to Qadarunisa Begum by way of registered Sale Deed *vide* Document no.1601 of 1354 Fasli. And, as such, the said Qadarunisa Begum became the absolute owner of the entire property to an extent of 2040 square yards. Ever since, she has been paying property tax to the above property till the execution of the registered Sale Deed in favour of the writ petitioners in the year 1967.

(a) The premises bearing D.no.3-6-369/B/3/1, comprising of 8 shops, has been let out to the tenants as per the following position:

i.	Premier Auto Electrical Ltd.	1973 to 1980
ii.	Vacate	1981 to 1985
iii.	Exide Battery	1986 to 2002
iv.	Balaji Kids	1986 to 2001
v.	Dadus Mithai	1993 to till date continuing
vi.	Fabirkare	2004 to till date continuing
vii.	S.S.Communication	2004 to till date continuing
viii.	T.N.G.	2006 to till date continuing

(b) The premises bearing D.no.3-6-369/B/3/2, has been let out to the tenants as per the following position:

i.	Andhra Bank	1973 to 1994
ii.	Vacant	1995 to 2006
iii.	Aristotle Educational Society SLR College	2007 to till date continuing

(c) The premises bearing D.no.3-6-369/B/3/3, has been let out to the tenants as per the following position:

i.	National Mineral Development Corporation	1973 to 1977
ii.	A.P. Tourism	1978 to 1985
iii.	Vacate	1986 to 1996
iv.	Thunder Bowl	1998 to 2000
v.	Vacant	2001 to 2003
vi.	Aristotle Educational Society SLR College	2004 to till date continuing

(d) The premises bearing D.no.3-6-369/B/3/4, has been let out to the tenants as per the following position:

i.	T.V.S.Sundaram Madras Auto Services	1974 to 1982
ii.	Vacate	1983 to 1985
iii.	Associated Electrical Agencies	1986 to 1993
iv.	Van Guard Apparel	1994 to 2001
v.	Cambridge	1994 to 2006
vi.	Kidz	2003 to 2006
vii.	Corals	1993 to till date continuing
viii.	Kids Dream Lounge	2006 to till date continuing
ix.	M.D.Enterprises	2006 to till date continuing
x.	Vacant	2006 to till date continuing

(e) The premises bearing D.no.3-6-369/B/3/5, has also been let out to the tenants as per the following position:

i.	Ravinder M.Agarwal	1973 to till date continuing
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(f) The premises bearing D.no.3-6-369/B/3/6, has been let out to the tenants as per the following position:

i.	Kishore M.Agarwal	1973 to till date continuing
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(g) The premises bearing D.no.3-6-369/B/3/7, has been let out to the tenants as per the following position:

i.	Inspector of Factories	1979 to 1985
ii.	Vacate	1986 to 1997
iii.	Thunder Bowl	1998 to 2000
iv.	Vacate	2001 to 2003
v.	Aristotle Educational Society SLR College	2004 to till date continuing

(h) The premises bearing D.no.3-6-369/B/3/8, has been let out to the tenants as per the following position:

i.	Narendra M.Agarwal	1973 to till date continuing
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(i) In open terrace of the building, the Add Age Outdoor Advertising Pvt. Ltd., is residing from 1992 onwards to till date of institution of the writ petition.

The predecessors of the writ petitioners were in absolute possession and enjoyment over the property without any interference from anybody whatsoever by virtue of registered Sale Deed executed in the year 1967 and the writ petitioners are paying property tax to the Municipal Corporation of Hyderabad till date of institution of writ petition and are enjoying peacefully the said property with absolute rights, title and possession. The execution of registered Sale Deed is deemed notice to everybody including the Government. In the year 2000, when the Municipal authorities tried to demolish the building constructed in the property, the 1st writ petitioner approached this

Court and filed WP.no.11602 of 2000. The Government of Andhra Pradesh is a party to the said writ petition. This Court disposed of the same by passing an order, dated 03.07.2000, with a direction to the respondents therein to take necessary action as per law either under the Hyderabad Municipal Corporation Act, 1955, or under the Land Acquisition Act, 1894 (for short, the Act 1 of 1894), for acquiring the land, which is required for the road widening purpose and that till necessary action is taken, the structures owned by the petitioners shall not be demolished. Thereafter, nothing has happened from the side of the Municipal authorities. To the surprise of the petitioners, they were served a show cause notice by the 6th respondent/Mandal Revenue Officer, Himayath Nagar Mandal, Hyderabad purported to have been issued under Section 7 of the A.P. Land Encroachment Act, 1905 (for short, 'the Act of 1905'), stating that the land bearing TS.no.46, Block M, Ward 55, of Gaganmahal, to an extent of 1682 square meters and out of that 300 square yards was alleged to have been occupied for shop and house is a Government Abadi land. The petitioners gave a reply, dated 06.06.2006, to the show cause notice stating all the above mentioned facts and enclosing the copies of the documents. Without properly verifying the factual aspects of the matter and the registered sale deeds executed by the lawful and real owners of the land in favour of the writ petitioners, the 6th respondent/MRO passed final order, dated 24.06.2006, *vide* no.D/991/2006 and served the same along with notice under Section 6 of the Act of 1905, on the petitioners. The same was served on the petitioners, on 28.06.2006. It was concluded that the above land was recorded as Government Abadi land after Town Survey in the years 1965-76 and, hence, the same is a Government land; and, the petitioners were directed to vacate the

premises within seven (07) days. The above issuance of show cause proceedings and final order are only an after thought and are done with *mala fide* intentions. Town Survey does not create any manner of right or title over the property notwithstanding the fact that the claimant is the Government. The purpose of survey is to demarcate the land. Even if the said fact is presumed to be true, the registered sale deed, which is prior to the same, shows the real owner of the property. No notice as per record appears to have been issued to the owner of the land at that time and no objections were called for. The contention of the 6th respondent/MRO in the final order to the effect that no objection petition was made to the Town Survey proceedings is incorrect; and, no opportunity was ever provided to the vendors of the writ petitioners or the writ petitioners, if the same was done. The property devolved upon the petitioners through proper and valid sale deeds in favour of the vendors and on the writ petitioners. The same cannot be thrown out merely because no objection was made to the Town Survey proceedings. Town Survey proceedings do not create right, title or possession over the property. When the 6th respondent was having all records with him, he did not mention about the source of title. It shows the *mala fide* intention. The course adopted by the said respondent without looking into the registered sale deeds and the long and continuous possession over the property ranging from 70 years is illegal. The writ petitioners preferred an appeal under the Act of 1905 to the 5th respondent, on 03.07.2006. The 5th respondent, by an order, dated 29.07.2006, rejected the appeal preferred against the order of the 6th respondent/MRO. Meanwhile, proceedings, dated 08.05.2007, were issued to the effect that the respondents intend to take 300 square yards of land for road widening and that it is the Government land. If the respondents

proceed to do so, the petitioners will be deprived of their valuable rights to compensation. The proceedings of the Special Deputy Collector, Land Acquisition, Greater Hyderabad Municipal Corporation (for short, 'GHMC') Hyderabad/4th respondent treating the land under dispute as Government land is arbitrary, illegal and is a *mala fide* attempt to grab the private land without payment of any compensation under the provisions of the Act 1 of 1984. The order of the 6th respondent and the order of the 5th respondent in rejecting the appeal against the order of the 6th respondent are illegal, arbitrary, bad and contrary to law, weight of evidence and probabilities of the case. The 5th respondent did not even communicate the order of rejecting the appeal filed by the appellants till a copy of the same was collected from his office a couple of days prior to the filing of the writ petition. The 5th respondent passed the order without appreciating the factual aspects and his order is not supported by cogent and logical reasons and it was passed without giving an opportunity to explain the case of the writ petitioners. He did not follow the procedure prescribed under the Act of 1905. The finding of the 5th respondent that entries in the Town Survey Records have become final and it is a conclusive proof that the land in issue is a Government land is against the judgment of this Court reported in **Hyderabad Potteries Private Limited v. Collector, Hyderabad [2001 (3) ALD 600]**. If the Government claims that the property belongs to it, it should be proved with cogent records. Town Survey records do not create ownership or title as held by this Court. The Government cannot have better title than the applicants, who are in possession of the property over all these years without any interruption. Initiation of the proceedings under the Act of 1905 by the 6th respondent leading to the appeal to the 5th respondent is only

an afterthought and done with a *mala fide* intention to avoid the acquisition proceedings and to avoid payment of market value and grab the valuable property of the petitioners. No enquiry was conducted by the respondents before issuing the impugned show cause notice and there was no whisper about the alleged town survey entries in the said notice. No such documents are supplied to the writ petitioners. The 6th respondent lost sight of the fact that the petitioners purchased the land by way of registered sale deed in the year 1967 and that the vendors of the writ petitioners purchased the property 70 years back. The 6th respondent without referring to the facts, arrived at his conclusions basing on the Town Survey proceedings and, therefore, the order of the 6th respondent is bad, illegal and void. Hence, the writ petition is filed.'

4. The case of the respondents 1 to 6, as per the counter of the Special Deputy Collector, Land Acquisition, GHMC, Hyderabad, in brief, is this:

The Assistant City Planner, GHMC, Circle-III, Hyderabad, has submitted a requisition to the Special Deputy Collector for acquisition of property bearing no.3-6-369 for the purpose of widening of the road from Liberty Junction to Narayanguda Junction in the year 2003. On receipt of requisition, the land was got surveyed and demarcated. The Town Survey Land Record, which is the basic land records maintained by the Deputy Director of Survey and Land Records, Hyderabad, has been obtained. As per the entry in the present enjoyer Column no.20 of the Town Survey Land Record, the land is recorded as 'Government Abadi'. The land is a Government land. This fact was informed to the Requisitioning Department, i.e., the Assistant City Planner, GHMC, Circle-III,

Hyderabad. The land acquisition proceedings cannot be initiated against the Government lands. As such, the property is not notified under the Land Acquisition Act. The land in question in premises no.3-6-369/B/3 has been affected to an extent of 300 square yards out of 1839.45 square yards, which is in the unauthorized occupation of the petitioners herein. Since the land in question is a Government land, the Municipal authorities has requested the Mandal Revenue Officer, Himayath Nagar Mandal, to hand over the Government land affected by road widening to an extent of 300 square yards. The award enquiry notices under Sections 9(3) & 10 of the Act 1 of 1894 were issued to the respondents, on 21.05.2007, in respect of patta lands acquired for widening of the road from Liberty Junction to Narayanaguda Junction. Since the land in TS.no.46 bearing Door no.3-6-369, Himayath Nagar, Hyderabad, is recorded in Column no.20 of Town Survey Land Records as 'Government Abadi', i.e., Government land, it has not been included in the award enquiry notices issued by the Special Deputy Collector. Proceedings were issued by the 6th respondent/MRO in Case no.B/3234/2005, dated 29.07.2006, and the same were confirmed by the 5th respondent, in view of the fact that the TS.no.46 is a Government land. The contention of the petitioners that they are original land owners of the land in TS.no.46 to an extent of 2040 square yards is not correct. As per Town Survey Records, the said land in TS.no.46 is a Government land. Mere purchase of the land by the petitioners in the year 1967 would not confer any title upon them. Suppressing the fact that it is a Government land, the petitioners might have obtained permission from municipal authority for construction of the building in the year 1972. The petitioners urged that the land in TS.no.46 was purchased by Qadarunnisa Begum under two registered sale deeds

from Syed Masood Ali in the year 1932 & 1934; and that in turn, the petitioners purchased the said land from Qadarunnisa Begum in the year 1967; and, that the premises bearing D.no.3-6-369/B/3/1 comprised of 8 shops was let out to the tenants; and they explained the tenancy position. The said allegations need not be traversed. Neither the said Syed Masood Ali nor Qadarunnisa Begum have title over the Government land in TS.no.46. Hence, the petitioners would not get any title by purchasing the Government land, which is in TS.no.46 and over which the petitioners are in unauthorised occupation. By mere payment of taxes, no right accrues to the petitioners over the land. It is true that the petitioners filed WP.no.11602 of 2000 before this Court and that this Court passed an order, dated 03.07.2000, as stated by the petitioners. The 6th respondent is not a party to the writ petition. As such, the said order in the writ petition is not binding on this respondent. The said writ petition was disposed of at the stage of admission. Therefore, the respondents could not bring to the notice of this Court the fact that the subject land is a Government land and it is recorded in Column no.20 of the Town Survey Land Record as 'G. Abadi'. In obedience to the directions of this Court, the Municipal Corporation of Hyderabad, which is the requisitioning department, has submitted a requisition to the Special Deputy Collector to acquire the land in TS.no.46 bearing Door no.3-6-369, Himayath Nagar, Hyderabad, for the purpose of road widening. Since, it is found on verification that the land is recorded as 'Government Abadi' and that it is a Government land, land acquisition proceedings could not be initiated. Claimants are not entitled to any compensation in respect of the subject property. It is true that the 6th respondent/MRO issued notice under Section 7 of the Act of 1905 to the petitioners

herein, on 30.05.2006, in respect of the land in TS.no.46 and the petitioners have submitted a reply, on 06.06.2006, to the show cause notice. After thorough verification of the factual aspects, the Mandal Revenue Officer, Himayath Nagar, issued orders *vide* proceedings no.D/991/2006, dated 24.06.2006. The Mandal Revenue Officer has examined the Town Survey Land Records and found that the land in TS.no.46 was recorded and classified as 'G. Abadi' vacant land at the time of Town Survey conducted in the years 1965-76. Final notice, under Section 13 of the A.P. Survey and Boundaries Act, was issued and published in the District Gazette in respect of Ward 55, Block M of Gaganmahal Village. In respect of the Government lands, notices have also been issued to the then Tahasildar, Hyderabad Urban. In respect of landed properties and constructions, individual notices were issued before final publication. As per the records, neither the petitioners, who are the encroachers, nor their predecessors have filed objections. Further, neither of them have filed any civil suit/s against the entries made in the Town Survey Land Records. The said entries have become final and binding on the parties. Therefore, the 6th respondent has come to a conclusion that the claim made by the 1st writ petitioner and other petitioners herein, in respect of the title of the property under registered sale deed is defective and that the predecessor, who sold the said property has no title and the same is defective. Therefore, the MRO has directed the petitioners to vacate the premises within 7 days, as the property was required for public purpose, namely road widening. By an order, dated 29.07.2006, the petitioners' appeal before the Revenue Divisional Officer was rejected taking into consideration the facts and circumstances of the case in proper perspective. All the proceedings are legal. There is no dispute over the title, as the land in TS.no.46 is purely a Government

land as per Town Survey Land Register and the petitioners are unauthorised encroachers of the Government land. No title had accrued to the petitioners as their predecessors have no title at all. The petitioners are not entitled to claim the Government land as their own. Hence, the writ petition may be dismissed.'

5. While ordering notice before admission, this Court, on 03.07.2007, granted the following interim order: 'Meanwhile, there shall be stay of all further proceedings for acquisition of the property pertaining to Door Nos.3-6-369, 3-6-142, 142/A/1,& 142/B, Himayathnagar, Hyderabad.'

6. Learned Senior Counsel appearing for the writ petitioners and the learned Government Pleader for Land Acquisition appearing for the respondents 1 to 6 made submissions in line with the pleadings.

7. I have given earnest consideration to the facts and submissions.

8. From the pleadings and material documents filed with the writ petition, it is noticeable that the petitioners are claiming right, title & interest and possession over the subject land, whereas the respondents are contending that the subject land is a Government land. Admittedly, for eviction of the petitioners from a part of the subject land, i.e., 300 square yards, proceedings were initiated under Section 7 of the Act of 1905 *inter alia* stating that the subject land is required for road widening and that the said land is a Government land as per the Town Survey Land Record, Block M, Ward no.55, TS.no.46, wherein it is recorded as 'Government Abadi' land. Whereas the petitioners are contending that the subject land is their absolute property and that they and their predecessors were and are

in possession of the same since several decades and that various shops and parts of the property were leased out to various tenants as stated in the writ petition.

9. In this backdrop, the questions are – “Whether the respondents are justified in initiating the proceedings under the A.P. Land Encroachment Act, 1905? And, whether there is a *bona fide* dispute of title?”.

9.1 In the writ petition, the petitioners traced their title including antecedent title. There is no need to restate the same as the pleading of the writ petitioners whereby their title was traced is extracted supra, in detail, while referring to the case of the writ petitioners. Suffice, if it is noted that they filed their document, namely Sale Deed with Map, dated 05.01.1967, (along with its Neat Copy), and also the copies of title deeds not only of their predecessors in interest but also of theirs, besides the building permit in B.no.34, S.no.65, dated 26.08.1972, issued by the Municipal Corporation of Hyderabad to the writ petitioners for permission for construction in the subject premises. The respondents are not disputing the documents being relied upon by the petitioners, but they are only saying that since either the predecessors in interest of the petitioners or the petitioners have no title to the property, the documents of the petitioners are of no avail to claim title over the subject property. In the counter, the building permit was obtained by the petitioners in the year 1972 is also admitted; but, it is only stated that the petitioners might have obtained the building permit by misrepresentation. As against the claim of right, title, interest and possession of the petitioners based on title transfer and possession traceable to more than 70 years, the

claim of the respondents is that as per the entries in the Town Survey Land Record, the subject land is a Government land. The only basis for the said claim of the respondents is thus an entry in the Town Survey Land Record. At this juncture, it is profitable to note that in **State of Andhra Pradesh v. Pramila Modi and others (DB)**¹ a Division Bench of this Court held that mere entry in Town Survey Land Record itself would not be enough to deny the title of the owners. In the said judgment, this Court noted the ratio in the decision in **Hyderabad Potteries Private Limited v. Collector, Hyderabad District** [2001 (3) ALD 600], wherein, it was held that the question of title and lawful possession of the applicants therein cannot be solely decided on the basis of TSLR entry and that an entry made in TSLR *per se* could not create any doubt or cloud on the right, title and interest of a person in respect of any land and that the said decision was affirmed by another Division Bench of this Court in W.A.no.1096 of 2001 and that against which the District Collector preferred an SLP and the same was dismissed. In the case on hand, it is crystal clear that there is a *bona fide* dispute of title as the petitioners traced title to the property in favour of the private parties, which are their predecessors-in-interest, for over 70 years. It is borne out by record and it is incontrovertible that a building permit was granted in the year 1972 to the writ petitioners and that they made constructions and that thereafter, they leased out shops or portions of the subject property to various tenants, the details of which are mentioned in their pleading. The same were extracted supra, in detail, while adverting to the pleadings of the writ petitioners. Some of such tenants are banks, educational institutions besides departments/instrumentalities of the State like

¹ 2005 (4) ALD 105 (DB)

A.P. Tourism Corporation, department of Factories and National Mineral Development Corporation etcetera. Such long settled possession and enjoyment of the petitioners over the property is not only undisputed but also is well established. Therefore, and in view of the fact that the claim of the State is solely based on an entry in TSLR, which is not enough to deny the title of an owner, and whereas the undisputed facts reflect the long settled possession of the petitioners & their predecessors-in-interest and also that their claim of title, right and interest are based on registered documents, which are decades old, this Court finds that the State cannot resort to summary remedy provided by Section 7 of the Act of 1905, as proceedings under the said Act cannot be resorted to "unless there is an attempted encroachment or encroachment of a very recent origin" and as such proceedings cannot be availed of in cases where complicated questions of title arise for decision. The view of this Court is supported by the ratio in the decision in **Government of Andhra Pradesh vs. Thummala Krishna Rao and Ors.**². By the said decision of the Supreme Court, the law is now well-settled that when there is a *bona fide* dispute of title, the provisions of the Land Encroachment Act, 1905, cannot be invoked. In the cited decision, the Supreme Court laid down that the summary remedy for eviction provided by Section 6 of the Act of 1905, can be resorted to by the Government only against persons who are in unauthorised occupation of any land, which is the property of the Government, and that when persons like the petitioners who have a *bona fide* claim to litigate cannot be evicted save by the due process of law and that the summary remedy prescribed by Section 6 of the said Act of 1905 is not the kind of legal process, which is suited to an

² AIR 1982 SC 1081

adjudication of complicated question of title, and that the procedure under the said Act is, therefore, not the due process of law for evicting the occupants of the property like the present writ petitioners. In this decision, the Supreme Court further held as follows:

‘What is relevant for the decision of that question is more the nature of the property on which the encroachment is alleged to have been committed and the consideration whether the claim of the occupant is *bona fide*. Facts which raise a *bona fide* dispute of title between the Government and the occupant must be adjudicated upon by the ordinary courts of law. The Government cannot decide such questions unilaterally in its own favour and evict any person summarily on the basis of such decision. But duration of occupation is relevant in the sense that a person who is in occupation of a property openly for an appreciable length of time can be taken, *prima facie*, to have a bona fide claim to the property requiring an impartial adjudication according to the established procedure of law. The conspectus of facts in the instant case justifies the view that the question as to the title to the three plots cannot appropriately be decided in a summary inquiry contemplated by Sections 6 and 7 of the Act. The long possession of the respondents and their predecessors-in-title of these plots raises a genuine dispute between them and the Government on the question of title, remembering especially that the property, admittedly, belonged originally to the family of Nawab Habibuddin from whom the respondents claim to have purchased it. The question as to whether the title to the property came to be vested in the Government as a result of acquisition and the further question whether the Nawab encroached upon that property thereafter and perfected his title by adverse possession must be decided in a properly constituted suit. May be, that the Government may succeed in establishing its title to the property but, until that is done, the respondents cannot be evicted summarily.’

The ratio in the decision on all fours applies to the facts of the case.

10. Having analyzed the facts, this Court finds that for the reasons alike as were mentioned in the decision of the Supreme Court, it could be said that the summary remedy available under the said Act

is not the legal process, which is suited for adjudication of the complicated question of title since the petitioners who are being sought to be evicted as unauthorised occupants, make a *bona fide* claim regarding their title and their right to be in possession. Therefore, in the present case, the proper course is to have the matter adjudicated by the ordinary Courts of law.

11. Before parting, it is pertinent to note that the learned Government Pleader placed reliance on a decision of this Court in **Mahavir Pershad v. Collector, Hyderabad District, Hyderabad and another**³ and contended that merely because the petitioners are in possession and that they are claiming that they have purchased the land in the year 1967, their contention that proceedings as per the procedure envisaged under the Act of 1905 cannot be acceded to cannot be accepted. He further contended that mere long possession by any person in respect of the Government land cannot be a ground to compel the Government to file a regular civil suit. A plain perusal of the cited decision shows that in that case, this Court recorded a factual finding that there is no *bona fide* dispute of title as the petitioner therein requested the District Collector, Hyderabad, to regularise the possession of the petitioner and such a request was rejected and, therefore, the petitioner admitted the title of the Government. Hence, this decision which is distinguishable on facts does not advance the case of the respondents any further. The facts of the present case at hand are akin to the facts of the case in the decision in **Thummala Krishna Rao's** case (2nd supra) rendered by a Bench of Three Hon'ble Judges of the Supreme Court.

³ 2004 (6) ALD 708

12. There is one more important aspect in this case, which requires consideration. Admittedly, in the year 2000, when the Municipal authorities tried to demolish the building constructed in the property, the 1st writ petitioner approached this Court and filed WP.no.11602 of 2000. The Government of Andhra Pradesh are a party to the said writ petition. This Court disposed of the said writ petition by an order, dated 03.07.2000, with a direction to the respondents therein to take necessary action as per law either under the Hyderabad Municipal Corporation Act, 1955, or under the Land Acquisition Act, 1894, for acquiring the land, which is required for the road widening purpose and that till necessary action is taken, the structures owned by the petitioners shall not be demolished. Therefore, there is already a clear direction to the respondents, by which they are bound. However, the respondents still contend that the land is a Government land. If that is so, the respondents/State are required to seek the reliefs of declaration of title of the Government in respect of the subject land and eviction of the writ petitioners therefrom by approaching an ordinary civil Court, but, they cannot resort to the summary remedy prescribed by Section 6 of the said Act of 1905 as the same is not the kind of legal process which is suited to an adjudication of complicated question of title and as the procedure under the said Act is, therefore, not the due process of law for evicting the present writ petitioners from the subject property. Nonetheless, the learned Government Pleader contended that the Special Deputy Collector, Land Acquisition, GHMC, is not a party to the said writ petition and hence, the said earlier order is not binding on the said respondent. Since the State is a party and GHMC is an instrumentality of the State, the contention of the learned Government Pleader requires a mention

only to be rejected. All departments and instrumentalities of the State are only wings of the State and they must act in co-ordination and not in confrontation.

13. On the above analysis and for all the reason aforesaid, this Court finds that the writ petitioners are entitled to the reliefs claimed and the writ petition deserves to be allowed.

14. In the result, the Writ Petition is allowed, as prayed for. As earlier held by this Court in WP.no.11670 of 2000, if any portion of the subject property is required for widening of the road, the respondents shall take necessary action as per law, either under the Hyderabad Municipal Corporation Act, 1955, or under the Act 30 of 2013, for acquiring the land, which is required for road widening. Nonetheless, it will be open to the respondents to pursue the appropriate remedy available in law before the competent forum for establishing title & rights over the land in question.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

M.SEETHARAMA MURTI, J

Date: 10th October, 2018

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THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**WRIT PETITION No.14046 of 2007**Date: 10th October, 2018

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