

IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH; AT HYDERABAD  
(SPECIAL ORIGINAL JURISDICTION)  
THURSDAY THE SIXTH DAY OF DECEMBER  
TWO THOUSAND AND ONE  
PRESENT  
THE HON'BLE MR. JUSTICE G. BIKSHAPATHY  
WRIT PETITION NO. 17038 OF 1996

Between:

Bheemunipatnam Co-operative  
Building Society Ltd.,  
Bheemunipatnam, rep. By its  
President, Sri. K.V. Harinath

Petitioner.

And:

1. The State of Andhra Pradesh  
Rep. By the Secretary, Revenue  
(AISN) Dept., Secretariat Buildings,  
Hyderabad.
2. The Collector, Visakhapatnam dist.  
Visakhapatnam.
3. The Mandal Revenue Officer,  
Bheemunipatnam, Visakhapatnam Dist.

Respondents

Petition under art. 226 of the Constitution of India praying that in the circumstances stated on the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or directions more particularly one in the nature of writ of mandamus declaring the proceedings of the proceedings of Govt. Of AP in Memo. No. 32385/Asn. 1(2)/92-17 Revenue (ASN I) Department dt. 4-2-1996 of the Government of Andhra Pradesh, the 1<sup>st</sup> respondent and the consequential proceedings of Mandal Revenue Officer, Bheemunipatnam the 3<sup>rd</sup> respondent in R.C. No. 408/96 dt. 12-7-1996 as illegal and void consequently direct the Government to receive the amount in terms of the Memo. No. 32383/ASN 1(2)/92-10. Revenue (ASSN) (1) Department dt. 6-3-1995 and issue patta for Ac. 373.95 cents in S.No. 118 (old S.No. 49/1) Nerellavalasa, Village of Bheemunipatnam Mandal, Visakhapatnam District in favour of the Petitioner Society.

FOR THE PETITIONER; MR. K. GOPALA KRISHNA MURTHY, ADVOCATE.  
FOR THE RESPONDENTS; THE ADVOCATE GENERAL  
THE COURT DELIVERED THE FOLLOWING: JUDGEMENT

Contd.....

**THE HON'BLE SRI JUSTICE G. BIKSHAPATHY**

**W.P.NO. 17038 OF 1996**

**J U D G E M E N T:**

The Writ petition is filed seeking writ of mandamus declaring the proceedings of the 1<sup>st</sup> respondent. Government of Andhra Pradesh in Memo. No. 32385/Asn 1(2)/92-17. Revenue (ASN I) Department, dated 4-2-1996 and consequential proceedings of the Mandal Revenue Officer, Bheemunipatnam. 3<sup>rd</sup> respondent in R.C. No. 408 of 1996, dated: 12-7-1996 as illegal and invalid and for consequential direction to the Government to receive the amount of terms of Memo. Dated 6-6-1995 and grant of patta over an extent of Act. 373.95 cents in S.No. 118 (old S.No. 49/1) situated at Nerellavalasa village of Bheemunipatnam Mandal, Visakhapatnam District.

The matter has chequered history for over three decades. Petitioner is a Cooperative Housing Building Society registered under the provisions of the A.P. Cooperative Societies Act on 29-5-1970. It was formed for the benefit of its members and to give impetus to Bheemunipatnam Town, an Oldest Municipality and to develop a Satellite Township. Soon after the registration, an application was made to the Corrector-2<sup>nd</sup> respondent for allotment of land to an extent of 400 acres in S.No. 49/1 situated at Nerellavalasa Village of Bheemunipatnam taluk for the purpose of development of housing colony. The 2<sup>nd</sup> respondent in turn addressed the Society to intimate the details of membership, funds available and whether the Society would agree for a market value of Rs. 500/- per acre. As the Visakhapatnam Urban Development Authority (for short the (V U D A) Visakhapatnam was not in a position to provide infrastructure facilities, the 2<sup>nd</sup> respondent informed the V. U. D. A. On 20-8-1979 to the effect that the Government have agreed in principal to allot the lands to the Society and to approve the plans for undertaking development activity by the Society. Thereafter, the Tahsildar, Bheemunipatnam - 3<sup>rd</sup> respondent herein delivered the possession of the Ac. 400-00 of land on 31-8-1979 as per sketch plan classified as Isuka Dubbala Poramboku. The land was taken over on 29-2-1980 and it has been paying the taxes etc., to the Government. However, the 2<sup>nd</sup> respondent by proceedings dated; 21-9-1982 stated that after the survey a total extent of land of

Ac. 323.95 cents was available and confirmed the delivery and directed the Society to pay at the rate of Rs. 1,000/- per acre tentatively subject to fixation of market value by the Government. In accordance with the directions, the petitioner Society deposited a sum of Rs. 3,78,000/- on 8-6-1984 towards the cost of the land @ Rs. 1,000/- per acre. Thereafter, the services of the A.P. State Agro Industries Corporation were requisitioned for levelling the land and Society spent more than Rs. 9 Lakhs towards the levelling of the roads and for other allied purposes. In the meanwhile, S.No. 49/1 was assigned new S.No. 118. Since the amount was paid and the patta was not granted in favour of the petitioner, the petitioner Society has been remanding the Mandal Revenue Officer time and again. Thereafter, layout plans were submitted to the V.U.D.A. who directed the Society to furnish the documents of title for taking further action. It is also stated that a sum of Rs. 70 Lakhs were spent for levelling the land over an extent of 40 acres out of the total extent. Since in V.U.D.A. was insisting on title documents and the respondents in spite of the receiving the amount have not granted the patta and large sum of money have been spent for levelling a portion of the land, the petitioner Society filed W.P. No. 4262 of 1992 seeking appropriate directions for grant of patta and this Court by an Order dated 7-4-1993 directed the Government to grant patta in view of the fact that the possession was handed over and an expenditure over Rs. 70 Lakhs was spent for development of the land. In spite of the directions of the Court, no action was taken. Therefore a Contempt Case was filed in C.C.No. 605 of 1993 and it was closed directing the petitioner - Society to tile representation before the Government. Thereafter, the Government by an Order dated 6-3-1995 have intimated that they have tentatively fixed Rs. 4,000/- per acre prevailing as on 26-8-1990 for total Ac. 373.95 cents and Collector was directed to obtain consent from the petitioner-Society. The Petitioner-Society has accepted the offer of the Government and accordingly addressed a letter date 27-3-1995. While So one Dr. B. Chinna Reddy, Ex. M.L.A. of Mahabubnagar filed a public interest litigation before this Court in W.O. No. 6857 of 1997 to set aside the allotment as the price fixed was too low. The said Writ Petition was dismissed observing that the Petitioner - Society was already put in possession of the land and the Society incurs expenditure of over Rs. 70 Lakhs. The 3<sup>rd</sup> respondent in the proceedings dated 12-7-1996 informed that the Government have taken a provisional decision for allotment of the land to the Petitioner-Society subject to certain conditions. But. However, one such condition was "market value of the land proposed for allotment to the Society has to be fixed basing on the rate to be fetched by auctioning one of the plots. "While the Society has no objection for complying with the other directions, the method of fixation was arbitrary and

contrary to the terms of allotment and to that extent the present Writ Petition has been filed.

It is the case of the petitioner-Society that it has agreed to pay @ Rs. 4,000/- per acre though initially Rs. 1,000/- per acre was fixed and thereafter more than Rs. 1,10,00,000/- was spent for betterment of the land besides establishment expenses. It is the case of the petitioner-Society that even though the allotment was made as early as in 1977 and substantial amount were paid and huge amounts were spent for development of the land, yet, the Government did not take any steps to grant patta in respect of the land in question and the V.U.D.A. has not been able to finalise the layout an account of the patta having not been granted. The method of fixation of market value is irrational and impracticable. Hence the petitioner seeks directions to Government to accept the balance amount calculated on the basis of Rs. 4,000/- per acre with interest from 28-2-1980 as mentioned in the Memo. Dated 6-3-1995.

In the counter filed on behalf of the respondents, it was not disputed that initially Ac. 400-00 was agreed to be transferred, but ultimately on survey, the land which was available came to be Ac. 373.95 cents. It is further stated that so long as the patta has not been granted, the petitioner-Society has no right to file Writ Petition. Even the allotment of the land is illegal and contrary to the Order 24 of the Board Standing Orders, as the assignment was not approved by the Government. Even though delivery was made by the Mandal Revenue Officer and advance possession was given to the Petitioner-Society and the delivery receipt was issued by the Mandal Revenue Officer, the said transaction is contrary to para 2 of Order 24 of Board Standing Orders. Therefore, such handing over is illegal and no right would accrue to the Society. It is also stated that the 2<sup>nd</sup> respondent by a letter dated: 21-9-1982 permitted the petitioner to develop the land to an extent of Ac. 373-95 cents pending finalisation of the market value and the sanction by the Government. But, however, the Society has not been able to develop the land completely and a show cause notice was issued as to why the allotment should not be cancelled. Against the said Order, the petitioner-Society filed W.P. No. 1147 of 1992. But, during the tendency of the said Writ Petition, the Petitioner -Society filed another W.P. N. 4292 of 1992 and both the Writ Petitions were disposed of directing the Government to complete the process within a period of six months to avoid hardship to the members of the Petitioner-Society. The Government directed the Collector to ascertain the value of the land as on 29-2-1980 and accordingly the value was fixed tentatively at Rs. 4,000/- per acre and consent was also obtained from the Petitioner - Society agreeing to pay the said amount

with simple interest of 15 per cent from 1980. However, the Government in their memo dated: 4-2-1987 have taken a decision to allot the land to the petitioner - Society subject to certain conditions including the ascertaining of market value of auctioning on of the plots. But, in the meanwhile, the matter relating to the development and expansion of existing Airport at Visakhapatnam and expansion of Naval Armament Depot came up for consideration and it is stated that the Indian Navy requires an extent of Ac. 400.00 in R.S.S. No. 118 for the expansion of Naval Armament Depot and also to keep it as a safety Zone. This being a Defence requirement, the Petitioner-Society cannot claim patta as of right. It is also stated that even though Order was passed and a consent was given by the Petitioner - Society, yet, it did not cloth the petitioner with any enforceable right. It is also further stated that the sanction for alienation of the Government land has to be approved by the Council of Ministers as per the A. P. Government Business Rules and therefore, any action without the approval has to be treated as unauthorised. Its is also stated in the counter that the respondents are bounded by Doctrine of Promissory Estoppel to complete the assignment and to fix the market value after negotiation with the Petitioner-Society and that the land cannot be sold for a song and the present market value is Rs. 1,50,000/- per acre. It is also stated that in view of the changed circumstances and that the land is required for Defence Department for security reasons, the patta cannot be granted. It is further stated that there was no concluded contract between the Government and the Petitioner-Society and as such there is no enforceable contract in the eye of law.

In the additional affidavit filed by the Petitioner-Society, it was denied that the land was required for Naval Department and the separate land has already been acquired for that purpose. But, however, in the additional counter, it is stated that the Defence Department required about Ac. 400-00 out of which Ac. 150-00 belonged to private land and Ac. 350-00 of the Petitioner-Society are earmarked for the purpose. Therefore, it is submitted that the petitioner are not entitled for any relief.

The issue that arises for consideration is whether the action of the respondents in refusing to grant patta is justified? And

Whether the alternatives stand taken by the government that in view of the Defence requirement the Petitioner-Society cannot claim the patta of the land is sustainable?

From the facts as narrated above, it is clear that the petitioner-Society was registered in the year 1970 and the Collector on an application made by the Petitioner-Society called for the information on 3-3-1977.

1. Proof of membership of the Society.
2. Funds available
3. Blueprints prepared.
4. Whether the Society will be able to construct the houses within a period of three to four months.
5. Whether the Society agreed to pay the market value @ Rs. 500/- per acre.

In connection with the activities of the Society, the 2<sup>nd</sup> respondent. Collector in his letter dated 20-8-1979 informed the V.U.D.A. to the effect that the Government have already agreed to give the land to the Society and that the plans may be approved by asking the Society to develop the facilities. The following is the extract

“Please see the reference 2<sup>nd</sup> cited which is enclosed for ready reference. The Bheemunipatnam Cooperative Building Society is prepared to take development of land on their Own. The Government have already agreed to give the land to Society. It may be difficult for the Urban Development On its own. It may be advisable to approve the plan and ask the Society to develop facilities as per approved plan by Urban Development Authority. I request you to consider the above And issue early Orders to the Society which can straight away Start development of the land”

On 29-2-1980 the land situated in S.No. 49/1 Part (revised S.No. 118) was handed over as per sketch enclosed. But, however, on 21-9-1982, the 2<sup>nd</sup> respondent-Collector informed the Petitioner Society stating that when the land was surveyed subsequently the available land was identified at Ac. 373.95 cents and the President was informed to undertake development of the land. The Society was directed to pay @ Rs. 10,000/-per acre tentatively. The following is the extract of the letter;

“Pending fixation of market value and sanction of assignment by the Government and extent of Ac. 400-00 covered by S.No. 49/1 of Nerellavalasa village of Bheemunipantam taluk was handed over possession to the President, the Bheemunipatnam Cooperative Building Society, Bheemunipatnam on 7-4-1980. When the land was surveyed subsequently, the correct Extent of the land was identified as Ac. 373.95 cents Covered by S.No. 118 (Covered out of S.No. 49/1).

As against the total extent of Ac. 373.95 cents an Extent of Ac. 50.00 is covered by assignment dispute. The President of the Society represented in his petition 2<sup>nd</sup> cited that due to afflux of time the cost of development is multiplied day by day and if the land is not developed immediately, the Society will be obliged to spend more than a crore of rupees to develop the land. He requested to permit the Society to develop the land.

The President of the Society is hereby informed that there is no objection for development of the land by the Society in an extent of Ac. 373.95 cents (excluding the land of Ac. 50.00 covered by the assignment dispute.)

This permission is subject to the fixation of market Value by the Government and the payment of the market value by the Society. The Society may pay at the rate of Rs. 1,000/- per acre now and any difference may be paid later.

The Society should complete the work on development of the land within 3 months from the date of issue of this Order. The Tahsildar, Bheemunipatnam is requested to identify the extent of land Ac. 323.95 cents excluding the Ac. 50.00 of land covered by Assignment dispute and clearly show the land to President of the Society to proceed with the development work.

The Revenue Division Officer and Tahsildar shall also finalise cancellation of pattas and hand over the land to the Society.”

Accordingly, an amount of Rs. 3,74,000/- was deposited to the Government Account on 8-6-1984. It is also not in dispute that the levelling activities were undertaken by the A.P. State Agro Corporation and certain sums were also paid to them. It was estimated that expenses of the levelling work would be estimated between Rs. 75 Lakhs and one core. When the amount was paid and the patta was not granted and the development was already taken, the petitioner-Society filed W.P. No. 4262 of 1992 seeking directions to the respondents to issue format Orders over an extent of Ac. 373.95 cents. The matter was resisted. Though the Petitioner - Society had undertaken development work, yet, it could not get the layout approved on the ground that the assignment was not made in favour of the petitioner-Society. It is also not in dispute that the development activities were

undertaken the Writ Petition was disposed of on 7-4-1993 with the following directions;

“It is an admitted fact that the land was delivered to the Society for construction of housing colony as long back as in the year 1980. It is also an undisputed fact that the District Collector had fixed the market value of the land tentatively at Rs. 1,000/- per acre and required the Society to credit the same to the Government. Accordingly, the Society had credited a sum of Rs. 3,74,000/- by way of challan. This is admitted by the respondent in their counter. Subsequently, the Collector had also directed the Society to possession of the land and had also directed the Society to proceed with the development of the land for construction of houses. The Society engaged the service of the Andhra Pradesh State Agro Industries Development Corporation and had incurred An expenditure of nearly 70 lakhs for levelling the land for construction of houses. The fact that the Society was put to possession of land and that is has Developed the same is not disputed by the respondent.

The District Collector has acted as an Agent of the Government and has desired that the land would be assigned to the Society and thereby induced the Society to incur the expenditure. So, the respondents are bound by the Doctrine of Promissory Estoppel to complete the assignment By issuing formal Orders of assignment. The Respondents are bound under law to fulfil their legal obligation. It is clear that this land was proposed to be assigned to the Society only after the assignment of the land to the Naval Authorities. So, having regared to the facts and circumstances of the Case, I feel that it is a fit case where the Government Should assign the land to the Society. But, however, it is open to the Government to fix such terms and Conditions as may be necessary in consultation With the Society. There is nothing to show that the value of the land was fixed finally at Rs. 1,000/- per acre, it is open to the Government to negotiate with the Society and fix a reasonable market value. The Society was put in possession of the land nearly 13 years back on payment of Rs. 3,74,000/- and the Society after taking possession of the land had incurred an expenditure of Rs. 70 Lakhs for development of the land. So, I feel that the respondents are bound by the Doctrine of promissory Estoppel to complete the assignment within six months as

any further delay in assignment is likely to cause great hardship to the members of the Society”.

Thereafter the matters were moved with the Government and the Government issued proceedings in Memo dated 6-3-1995 to the effect that the Government have agreed to fix the land value at Rs. 4,000/- per acre and directed the Society to pay the balance amount. The following is the extract;

“The attention of the Collector, Visakhapatnam is invited to the references cited. He is informed that the Government have tentatively proposed to fix the land value @ Rs. 4,000/- per acre prevailing as on 28-6-1980 for the total extent of Ac. 373.95 cents. He is, therefore, requested to obtain and furnish the Consent of the Bheemili Cooperative Building Society Limited For payment of the balance amount of Rs. 11,21,800/- (from out of total cost of Rs. 14,95,800/- deduct the amount of Rs. 3,74,000/- paid by the Society) with simple interest at 15% from 1982”.

Accordingly, the consent was sent on 27-2-1995. Even in the public interest litigation filed by one Dr. G. Chinna Reddy. While dismissing the Writ Petition referring to the contentions, this Court observed as follows;

“This Writ Petition, in public interest is filed by the petitioner assailing the valuation fixed by the Government alleging that the value of the land will be not less than Rs. 1,50,000/- per acre. This assertion is made on the basis of the report made in the newspaper, wherein the copy of the letter dated 19-1-1995 written by the District Collector, Visakhapatnam, to be Secretary to the Government, Revenue Department, is extracted. A reading of The said letter will disclose that it is proposed by The Collector that the value of the land will be Rs. 1,50,000/-. This valuation is, according to the Collector, in the year 1995.

The Government, by exercising its discretion and taking into consideration the fact that the entire land in question was put in possession of the fourth respondent -Society in the year 1980 and that the Society had incurred expenditure of Rs. 70 Lakhs for development of the land, has fixed the then market value of the land at Rs. 4,000/- per acre. The petitioner has neither produced any material evidence

nor made cut any valid ground of the land fixed by the Government. The Writ Petition in, therefore, without merit and the same is accordingly dismissed. No costs”.

The Government issued again Orders on 4-2-1996 stipulation certain Conditions, the said memo reads thus:

“The attention of the Collector, Visakhapatnam is invited to the reference cited. He is informed that Government after due examination of the matter of allotment of Government land in favour of Bheemunipatnam Cooperative Building Society, Visakhapatnam, have provisionally decided that:

- a) 75 acres out of the land placed at the disposal of the Society shall be set apart for allotment to poor people free of market value at the rate of not more than 75 sq. yards each.
- b) The balance land may be alienated to the Bheemunipatnam Cooperative Building Society, Visakhapatnam on payment of present market value to be fixed.
- c) The present market value may be determined on the basis of the price fetched by auctioning one of the plots after due publicity.
- d) The Society shall allot a plot to only one member in family.
- e) Each member shall be allotted not more than 500 Sq. Yards.

The Collector, Visakhapatnam District is requested to send necessary detailed proposals in pursuance to the above decision urgently for issue of final Orders in the matter.”

It is also not in dispute that the land Revenue was being paid by the petitioner-Society from time to time.

The learned counsel for the petitioner submits that the inaction on the part of the Government in assigning the land is wholly illegal and arbitrary. The rate fixed by the Government was accepted from time to time. Even the Petitioner-Society accepted for payment of amount @ Rs. 4,000/- per acre and also payment to simple interest from the notified date till the payment. But, yet, the Government machinery has not moved as the directions of this Court granted in earlier two Writ Petitions. Therefore, the respondents are bounded by the Doctrine of Promissory Estoppel and they are under obligation to complete the assignment after fixing the market value. The conditions stipulated in the impugned Order that the market value fixed on the basis of the sale of one of such plot is absolutely illegal and contrary to the terms of the allotment. The

Government is bound to allot the land after collecting Rs. 4,000/- per acre and they cannot resile from this commitment. The learned counsel would rely on the decision of this Court of the Supreme Court reported in HARYANA URBAN DEVELOPMENT AUTHORITY Vs. RANJAN DHAMINA. I may however state that this decision has no direct bearing on the issue under adjudication.

On the other hand, the learned Advocate General Mr. T. Anatha Babu vehemently submits that there is no concluded contract between the parties and therefore, the petitioner-Society cannot seek any relief. More over even assuming that the respondents are bound by Doctrine of Promissory Estoppel, the Petitioner Society are bound to pay the market value as fixed by the Government and the rate as on today is ranging over Rs. 1,50,000/- per acre. Further he submits that the proceedings issued by the Collector and the handing over of the land by the Mandal Revenue Officer is wholly illegal and contrary to the Board Standing Orders No. 24 and hence the entire transactions are illegal and unenforceable. He also submits that in view of the changed circumstances the requirement for Defense Department the land cannot be allotted.

It has to be seen in this regard that the allotment proposals commenced right from 1977 and Collector himself has stated that the Government have agreed to allot this land and therefore, in pursuance of the allotment made, the possession was delivered to the extent of Ac 373.95 cents. It is also to be noted that this Court earlier directed the Government to assign the land as the Petitioner-Society has spent more than Rs. 70 Lakhs for the development of the land and further delay would frustrate the very purpose. Therefore the respondents are bound by the Principle of Promissory estoppels and in fact the respondents accepted this situation. But the question is whether can it be said at the stage that it is hit by Board Standing Orders No. 24. In as much as, the Government itself has agreed for the assignment of the land after obtaining the report from the Collector and also the Commissioner for Land Revenue, it cannot now be allowed to contend that the proposed allotment is in contravention of the Board Standing Orders. The Government cannot be allowed to approbate and reprobate. When once it is accepted in principle for assignment of the land on payment of Rs. 4,000/- per acre towards the tentative cost and the Petitioner-Society has acted upon such Proposals and spent huge amounts of over Rs. 1 ½ crores, it would not lie in the month of the Government to contend that the Government is under no obligation to assign the land. Even while agreeing for the assignment @ Rs. 4,000/- per acre as assessed by the authorities, a specific reservation was made to the weaker sections along with other conditions. If the

price is to be fixed on the basis of the auction of one of such plots that would definitely go against the interest of the Petitioner-Society. The land was allotted in the year 1977 and finally when the value was assessed in 1980, it was arrived at Rs. 4,000/- per acre. Under those circumstances, it is not appropriate on the part of the Government to again fix the market value on the basis of the public auction of the plot. That would be nothing out selling in the Public auction of the plot developed by the Society itself giving a go bye to the earlier commitment which was acted upon by spending huge funds. It is nature that the value of the landed property always ascends and the value which was in 1980 cannot be same as in 2001 and definitely the value gets increased from time to time more especially when the development was already undertaken by the Petitioner-Society by spending huge funds. Moreover, in view of various projects undertaken by the tourism department, the escalation in the value of area is inevitable. Under those circumstances, the value as fixed by the Government in their Memo dated 6-3-1995 has to be treated as a final fixation, but even otherwise, the value as prevailing in the market as on 28-6-1980 has to be taken into consideration and not the value as on today. Therefore, in the guise of final Fixation, the Government cannot be allowed to conduct the value on the basis of one of such plots developed by the Petitioner-Society. Under those circumstances in seeking to assess the market value by auction of the plots is illegal and contrary to the terms of the allotment. While it is open for the Government to fix the reasonable rate, which is existed in 1980. In fact the Mandal revenue Officer himself has assessed the value with reference to then prevailing rates and also the Sales Deeds of the nearby lands, but, yet, it cannot be said that the Government is not entitled to enhance the value above Rs. 4,000/- per acre, but any enhancement should be reasonable confirming to the situation as on 28-06-1980. When the should be reasonable conforming to the situation as on 28-06-1980, when the possession was taken. But, however, the learned Advocate General submits that the land is required for Naval Armament Deport. He submits that the Defense requirement has precedence over the requirement of the Society and therefore, the land cannot be allotted. The relevant papers being confidential have been circulated in a sealed cover. It is seen that the proposals are in the offing, but acquiring the land including the land of the private persons for the expansions of Naval Armament Depot no final decision has been taken as yet. Moreover, as can be seen from the sketch supplied to this Court that abutting the land of the Petitioner. Society, there are several lands covered by settlement pattas, assignment to the members of the land colonization Co-operative Society and the land covered by

Sivai Jamedar cultivators. It cannot be disputed that when once the lands are required for the Defense of the Country, they are to be acquired in accordance with the provisions of the Land Acquisition Act. But, till such time, it cannot be said that the proceedings have to be stalled. In fact the Government is under obligation to allot an extent of Ac. 373.95 cents the land has been developed by spending huge amounts over 1 ½ crores and it will not be open for the Government to say that the assignment cannot be made in view of the Defense requirement. It is always open for the Government to notify the land by seeking recourse to the provisions of the Land Acquisition Act. But, in the anticipation to the Defense requirement, the proceedings of grant of assignment cannot be stopped nor delayed. In fact, the delay on the part of the Government has landed the Society in such a situation. If the land had been assigned as per the schedule or even after the judgement of this Court. Such a Situation would not have arisen. For the delays attributable to Government the Petitioner-Society cannot be allowed to suffer.

Leaving aside the Defence requirement the action of the respondents in the assigning the land and directing the assessment of market value on the basis of the auction of one of the plots is per se, illegal and arbitrary and the respondents are required to assign the land of an extent of Ac. 373.95 cents.

Under these circumstances, and keeping in view the interest of the State as well as the petitioner-Society, the Writ Petition is disposed of with the following directions.

- (a) The respondents shall issue notice to the Petitioner-Society for payment of balance of Rs. 11,22,800/- together with simple interest @ 15 per cent per annum as conditioned in Memo. Dated 6-3-1995 within a period of three weeks from the date of receipt of a copy of this order. On receipt of such notice, Petitioner-Society shall deposit the same within a period of six weeks thereafter.
- (b) The Government shall also fix the final market value as directed above prevailing as on 28-6-1980 and intimate the same to the Petitioner-Society within a period of six weeks thereafter and on such intimation, the Petitioner-Society shall deposit the same within a period of six weeks thereafter.
- (c) On deposit of the sum by the Society as directed above, the respondents shall assign the land Ac. 373.95 cents in S.No. 118 (Old S.No. 49/1) situated at Nerellavalasa village of Bheemunipatnam Mandal, Visakhapatnam District in favour of the Petitioner-Society.
- (d) In case the proposals to acquire the land for Naval Armament Depot are finalized, the same could be proceeded within accordance with the

provisions of Land Acquisition Act subject to the right of the Society. It is also open for the Government to offer alternative land to the Petitioner-Society in the event of acquisition by Government subject to acceptance by the Petitioner-Society.

The Writ Petition is disposed of accordingly.

No costs

Sd/- T.R. RATNA KUMAR  
ASST. REGISTRAR

// TRUE COPY//

Sd/-  
Section Officer

To

1. The Secretary State of A.P., Revenue (AISN) Dept., Secretary, Hyd.
2. The Collector, Visakhapatnam Dist, Visakhapatnam.
3. The Mandal Revenue Officer, Bheemunipatnam, Visakhapatnam Dist.
4. Two c.cs. to the Advocate General, High Court of A.P. Hyd.
5. 2 C.D. Copies.
6. One C.C. to Mr. K. Gopala Krishna Murthy, Advocate.
7. One C.C. to Mr. K. Gopala Krishan Murthy, Advocate.

B.R.D.