IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16.08.2016

Delivered on : 30.08.2016

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

WP.No.1453/2016 & WMP.Nos.1213, 9875 & 10539/2016

M/s.W.S.Industries (India) Ltd
Represented by its Company Secretary No.108
Mount Poonamallee Road Porur Chennai-116.

.. Petitioner

Versus

1.The District Revenue Officer
Office of the District Collectorate
Thiruvallur-602001.

2.The Revenue Divisional Officer
Thiruvallur Division Thiruvallur-602001.

3.The Thasildar
Thiruvallur Taluk Thiruvallur-602001.

4.The Revenue Divisional Officer
Ambathur Division Ambathur.

5.The Thasildar
Ambathur Taluk Ambathur.

6.Mr. Perumalswamy

7.The Authorised Officer,
Edelweiss Asset Reconstruction
Co. Ltd. Edelweiss House
Off C.S.T. Road, Kalina,
Mumbai-400 098.

***R-7 is impleaded as per Order Dt:28.03.2016
in WMP.8254/2016 in WP.1453/2016.

8. K.Govindaraghvan
The Authorised Signatory
M/s.Mantri Premier Homes
Pvt.Ltd., Reg. Off at Mantra House
"No.41", Vittal Mallya Road,
Bengaluru-560001.

9. K.Govindaraghvan
The Authorised Signatory
M/s.Mantri Developers
Pvt.Ltd., Reg. Off at Mantra House
"No.41", Vittal Mallya Road,
Bengaluru-560001.

*** RR8&9 impleaded as per order dt.01.04.2016 in WMP.No.10773/2016 in WP.No.1453/2016

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records relating to the order of the 1st Respondent dated 28.12.2015 in proceeding R.C.No. 25496/2015/B.3 and quash the same.

For Petitioner	:	Mr.P.S.Raman, Senior Counsel assisted by Mr.K.P.Sanjeev Kumar
For RR 1 to 5	:	Mr.S.Pattabiraman, GA
For R6	:	Mr.T.R.Rajagopalan, Senior Counsel assisted by Mr.R.Venkataraman
For R7	:	Mr.Vikram Trivedi for M/s.S.Ramasubramaniam Assoc.
For RR 8 & 9	:	Mr.R.Parthasarathy

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner / Company, aggrieved by the impugned proceedings/order of the 1st respondent dated 28.12.2015, in and by which, the mistake committed during Updating Registry [UDR] Scheme in respect of the lands in Survey Nos.73/2, admeasuring to an extent of 0.92.0 Hectares, lands in Survey No.77, admeasuring to an extent of 2.30.0 Hectares came to be rectified and cancelling the sub-division of the lands in Survey Nos.70/1A and 70/1B and ordering sub-division of the land

in Survey No.70 as S.No.70/1, admeasuring to an extent of 2.30.5 Hectares, situate at Porur Village, Ambattur Taluk, Tiruvallur District, with a further direction to register the same in the name of the 6th respondent herein, came forward to file this writ petition.

3 The relevant facts leading to the filing of this writ petition, briefly narrated, are as follows:-

[A] The petitioner / Company was originally known as "W.S. Insulators of India Limited" and subsequently, changed its name as "W.S. Industries [India] Limited". It is a Public Limited Company incorporated under the Indian Companies Act, 1956, in the year 1961 and was involved in manufacture of Porcelain Insulators for application in Electrical High Voltage Transmission and Distribution. The Government of Tamil Nadu, to enable the said Company to put up a factory for the manufacture of the said product, acquired 46.84 acres of lands in S.Nos.25/5A, 4F, 4A, 4D, 27, 25/2, 5B, 4G, 26, 25/4H, 70/1A1, 70/1A2, 73/2, 77, 25/4I, 28/2, 25/3A, 25/4E and 25/4C2 under section 6 of the Land Acquisition Central Act, 1894, in the year 1962 and after the acquisition, had executed a registered Deed of Assignment dated 26.02.1964 assigning the above said acquired lands in favour of the petitioner / Company, admeasuring to an extent of 46.04 acres at Porur Village, Saidapet Taluk, the then Chengalpattu District.

[B] The petitioner / Company would state that right from the date of assignment, it is in peaceful possession and enjoyment of the land without any hindrance from anybody for over fifty years and the relevant revenue records were also mutated in their favour and also created security in favour of ICICI Bank, Ambattur Industrial Estate Branch, while availing the loan facilities.

[C] The 6th respondent sent a legal notice dated 12.09.2015 to the petitioner / Company, stating among other things, that his father, [late] D.Rajagopal, was the owner of the lands comprised in S.Nos.70/1, 73/2 and 77 and the said lands were given through a Leave and License in favour of the petitioner / Company for fifty years and to terminate the above cited Leave and License, had called upon the petitioner / Company to vacate and deliver the vacant possession of the lands admeasuring to an extent of 13.65 acres comprised in the said Survey Numbers after 31.10.2015. The petitioner / Company in response to the said legal notice, sent a detailed reply dated 15.10.2015 denying the entire averments and took a stand that by virtue of the assignment of the lands given by the Government of Tamil Nadu, it is having title, ownership and possession.

[D] It is state by the petitioner / Company that the 6th respondent had approached the 1st respondent for change of patta in respect of the lands admeasuring to an extent of 20.47 acres in Survey Nos.70/1, 71, 72, 73 and 77 of Porur Village, through an application dated 07/08.09.2015 and after obtaining the report of the 2nd respondent dated 04.11.2015, the 1st respondent has issued a summons/notice to the petitioner calling upon them to appear for enquiry on 22.12.2015 and accordingly, it appeared before the said official and submitted its reply and also filed documents to prove that it is having legal ownership, title and possession. However, the 1st respondent, vide impugned proceedings / order dated 28.12.2015 has passed an order, rectifying the mistake crept in respect of the lands in Survey Nos.73/2, 77 and further, cancelled the sub-divisions in S.No.70 and ordered sub-division of S.No.70, with a further direction to register the same in the name of the 6th respondent and insofar as the remaining extent of 0.02.5 hectares of lands is concerned in Survey No.70, it should be classified as a "Burial Ground".

4 Mr.P.S.Raman, learned Senior Counsel assisted by Mr.K.P.Sanjeev kumar, learned counsel appearing for the petitioner made the following submissions:-

[i] The lands in question along with the lands in other Survey Numbers, after acquisition, were assigned by the then Government of Madras, through a Deed dated 26.02.1964 and ever since, the petitioner / Company is in possession and enjoyment of the same and on account of the loan facilities availed by it, the properties were also mortgaged in favour of ICICI Bank, Ambattur Industrial Estate Branch and despite the said fact being brought to the knowledge of the 1st respondent, the said official has chosen to ignore the same.

[ii] The 1st respondent, behind the back of the petitioner, has placed reliance upon the report of the Revenue Divisional Officer, Ambattur, dated 04.11.2015, and in all fairness, the said official ought to have furnished a copy of the same to the petitioner / Company and elicited their response. Insofar as the Assignment Deed bearing Document No.495 dated 26.02.1964, the 1st respondent has given an erroneous finding on the ground that some interpolation has taken place in the said document with regard to the Survey Numbers, despite recording reasons that though the copy of the said document was summoned from the file of the Sub Registrar, Saidapet, it could not be furnished and hence, either he could have directed the Industries Department of the Government of Tamil Nadu to furnish a copy or at least the Revenue Divisional Officer, Chengalpattu District, who executed the document on behalf of the Government of Tamil Nadu to do so; but, for the reasons best known to him did not direct them/calling upon them to produce the original or a copy available with them.

[iii] The 6th respondent is also guilty of taking inconsistent stand for the reason that in the legal notice, he has pleaded Leave and License and whereas, in the counter affidavit, took a stand that his father was not at all aware of the Land Acquisition Proceedings and that the lands in question were always possessed and enjoyed by his father and after his demise, it devolved on him. The 6th respondent is also guilty of delay and laches for the reason that only on 12.09.2015 he issued a legal notice under section 106 of the Transfer of Property Act and then, submitted an application dated 07/08.09.2015, even prior to the said legal notice to correct the alleged mistake committed during the UDR scheme and in the absence of any plausible explanation as to the length of delay, the relief sought for by the 6th respondent ought not to have been granted. The acquisition proceedings were over and the Awards were passed in the year 1963 and once declaration under section 6 of the Central Act, 1894, came to be issued, the lands vest with the Government are free of all encumbrances and thereafter, it was assigned in favour of W.S. Insulators of India Limited on 26.02.1964 through a registered Assignment Deed and since the acquisition was done by the superior authority, viz., the Government, the subordinate, viz., the 1st respondent - District Revenue Officer, cannot interfere with the same on the alleged ground of rectifying the mistake under UDR scheme.

[iv] The Tamil Nadu Patta Passbook Act, 1983 and the Rules framed thereunder are having application to the facts of this case and since the matter in issue involves adjudication of disputed questions of fact, the 1st respondent, in all fairness, ought to have directed the 6th respondent to work out his remedy before the competent Civil Forum and in stead, took up the jurisdiction / role of the Civil Court and adjudicated the title based on erroneous application of law and mis-appreciation of facts and circumstances and on that ground also, the impugned order warrants interference.

5 The learned Senior Counsel appearing for the petitioner, in support of his submissions, has placed reliance upon the decisions reported in 1997 [1] MLJ 246 [P.N.Janaki and others V. Kalli Bhaskaran] ;2011 [5] CTC 94 [DB] [Vishwas Footwear Company Ltd., Versus The District Collector, Kancheepuram and others] and 2011 [5] Ctc 241 [DB] [C.Sabesan Chettiar V. District Revenue Officer, Coimbatore District and others].

6 This Court, while entertaining the writ petition, granted an order of ad-interim stay and thereafter, it was periodically extended and was made absolute until further orders on 01.06.2016 with a condition that the writ petitioner and the 6th respondent shall not create any third party rights in respect

of the properties in question till the disposal of the writ petition. Subsequently, M/s.Mantri Premier Homes Private Limited and Mantri Developers Private Limited have filed WMP.No.10773/2016 for their impleadment on the ground that they have entered into various agreements in respect of the lands admeasuring to an extent of 28 acres and 92 cents which included the disputed lands and it was ordered on 01.04.2016 and consequently, they are arrayed as the respondents 8 and 9. Similarly, M/s.Edelweiss Asset Reconstruction Company Limited, who have assigned with the debts, also got impleaded as the 7th respondent on 28.03.2016.

7 Mr.S.Pattabiraman, learned Government Advocate appearing for the official respondents has drawn the attention of this Court to the Counter Affidavit filed in support of the vacate stay petition in WMP.No.10539/2016 as well as the additional Counter Affidavit and made the following submissions:-

[a] The rectification was done under UDR scheme in terms of G.O.Ms.No.385, Revenue [General-III] Department, dated 17.08.2004 which does not prescribe any period of limitation for rectifying the mistake and as per the said Government Order, the 1st respondent is competent to correct the said mistake and therefore, the Tamil Nadu Patta Book Act and the Rules framed thereunder have no application to the case on hand.

[b] The report was called for from the Revenue Divisional Officer, Ambattur, who vide his report has reported that the lands in Survey Nos.70/1 admeasuring to an extent of 5.70 acres ; 3.27 acres in S.NO.73 and 5.68 acres in S.No.77 of Porur Village were originally purchased by the father of the 6th respondent, namely, Thiru Rajagopal and one Singara Mudaliar and two others through a registered Document bearing No.1712/1929 dated 09.10.1929 and the Encumbrance Certificate relating to the period from 01.01.1900 to 21.04.2015 shows that the land in S.No.70/2 was awarded to Thiru Parthasarathy Mudaliar and Tmt Ruckmani Ammal on 23.10.1963 and 26.08.1963 respectively by the Revenue Divisional Officer, Saidapet and similarly, the Encumbrance Certificate for the very same period shows that the land in S.No.73/2 is encumbered only by way of a registered Document bearing No.1712 dated 09.10.1929 and therefore, expressed the opinion that the lands in S.Nos.70/1, 73/2 and 77 of Porur Village, Ambattur Taluk, admeasuring to an extent of 13.65 acres have not been assigned in favour of M/s.W.S. Industries [India] Limited, as claimed. The lands in question prior to UDR scheme, were in the name of the Pattadar, viz., Singara Mudaliar and the lands in S.No.77 was also in the name of the persons in respect of RS No.49 and after UDR scheme, the lands in S.No.70/1 and 70/2 were in the name of W.S. Insulators of India Limited and so also the land in S.No.73 and though a copy of the Assignment Deed was summoned from the Sub Registrar

Office at Saidapet, on whose file it was registered, a perusal of the copy of the Assignment Deed produced by the writ petitioner would disclose that at the end of the Page No.3, the details of the lands have been typed and though it is stated that there is yet another page, i.e., the 4th page, it is not there and since the said Company was not in a position to explain as to how the lands in S.Nos.70/1A1 and 70/1A2 do not find place even in the Settlement Register prepared after UDR scheme and that the Encumbrance Certificate produced by the petitioner / Company for the period from 01.01.1900 to 21.04.2015, not even refer to the Deed of Assignment dated 26.02.1964 and further that the land admeasuring to an extent of 0.06 acres in S.No.70/1 has been classified as "Burial Ground" ; however it was registered in the name of the petitioner / company as per the Assignment Deed and it was found that the officials, while updating the records, had clubbed the Sub-Divisions in S.Nos.70/1 and 70/2 as S.No.70/1 and thereafter, effected further sub-division as S.Nos.70/1A and 70/1B, admeasuring to an extent of 0.09.0 Hectares respectively and therefore, thought it fit to correct the mistake and since the 1st respondent has scrupulously followed the procedure contemplated under the above cited Government Order, the reasons assigned by him in the impugned order cannot be faulted with and prays for dismissal of the writ petition.

8 Mr.T.R.Rajagopalan, learned Senior Counsel assisted by Mr.R.Venkataraman, learned counsel appearing for the 6th respondent has invited the attention of this Court to G.O.Ms.No.385, Revenue [General-III] Department, dated 17.08.2004 filed in support of WMP.No.9875/2016 for vacating the interim stay granted by this Court and the typed set of documents and made the following submissions:-

- The 1st respondent has exercised his powers under G.O.Ms.No.385, Revenue [General-III] Department, dated 17.08.2004 and not invoked the provisions of the Tamil Nadu Patta Passbook Act, 1983 and the Rules framed thereunder and as such, the contention put forth on behalf of the petitioner that the 1st respondent ought to have relegated the matter to a competent Civil Forum, is wholly unsustainable.
- Admittedly, the copy of the Assignment Deed was produced by the petitioner and the 1st respondent, on going through the same, developed suspicion and taking into consideration, the report of the Revenue Divisional Officer, has elaborately dealt with the issue and found that the mistakes have been committed by the concerned official at the time of updating the Registry and therefore, correctly, ordered cancellation of the wrong sub-division effect and passed further orders making the correct sub-division

with a direction to register the name of the 6th respondent as the Pattadar and also treated a portion of the land in question as the 'Burial Ground' and it has been done in the public interest also.

- No doubt, the 6th respondent, at the time of issuing the legal notice, took a stand of Leave and License ; but in the Counter Affidavit, took a stand that his father was not aware of the Acquisition proceedings. But the fact remains that as a respondent, he is entitled to take inconsistent plea and all along, he claimed the ownership in respect of the lands i question and therefore, such an inconsistent stand on his part, cannot be faulted with.
- The petitioner did not produce the original Title Deeds in support of their claim and even the Encumbrance Certificate produced by them do not reflect the alleged assignment of lands in their favour by the Government and there is a variation between the extent of lands given in the Assignment Deed and the patta as well as the deposit of Title Deeds in favour of ICICI Bank, Ambattur Industrial Estate Branch and the reasons as to the said discrepancy, have not been explained by the petitioner. Even for the sake of argument, the petitioner derived the title through the Assignment Deed, since it is a conditional one, the petitioner / Company has not complied with the conditions for assignment and without leave of the Government, it cannot either sell or mortgage the lands in favour of the third parties.
- Insofar as the claim of the respondents 8 and 9 is concerned, they have no say in the matter for the reason that they are alienees of the disputed lands and they also have no right to challenge the order of the 1st respondent and insofar as the 7th respondent is concerned, it has to approach the competent Civil Forum to establish and substantiate their righs and therefore, prayed for vacating the interim order and the dismissal of the writ petition.

9 The learned Senior Counsel appearing for the 6th respondent, in support of his submissions, placed reliance upon the following judgments:-

[1] 1995 [1] MLJ 426 [DB] [Kuppuswami Nainar V. The District Revenue Officer, Thiruvannamalai and others] ;

[2] 2009 [8] SCC 310 [State of Uttar Pradesh and another V. Man Mohan Nath Sinha and another];

[3] 2012 [11] SCC 731 [Bhubaneswar Development Authority and another V. Adikanda Biswal and others] ;

[4] 2012 [7] MLJ 168 [R.Pandian V. The District Revenue

Officer, Tiruchirappalli, and others] ; and

[5] 2013 [5] SCC 252 [Kalinga Mining Corporation V. Union of India and others].

10a The learned counsel appearing for the 7th respondent, drawing the attention of this Court to the Counter Affidavit and to the affidavit would submit that whether the lands in question belong to the father of the 6th respondent or not and whether the mistakes had crept in while updating the Registry, require pleadings, oral and documentary evidences and the 1st respondent is not having any expertise in adjudicating the said disputed question of fact and therefore, in all fairness, ought to have directed the 6th respondent to approach the competent Civil Forum to work out his remedy. During the course of enquiry, it was also brought to the knowledge of the 1st respondent about the creation of encumbrance in the form of Mortgage and despite that, no opportunity, whatsoever, has been afforded to them and the 7th respondent being the assignee of State Bank of India, Indian Overseas Bank, EXIM Bank and Punjab National Bank, in whose favour, security rights have been created by the petitioner, should have been heard before passing the impugned order. But, it has not been done so.

10b The 1st respondent, being the subordinate to the Government, who had acquired the lands and assigned in favour of the petitioner / Company, had undermined the hierarchy and gone to the extent of deciding the title of the property and in all fairness, ought to have summoned the relevant records either from the concerned Administrative Department of the Government or from the District Revenue Officer, Chengalpattu, who has executed the Deed of Assignment in favour of the petitioner / Company. The 7th respondent, during the pendancy of the writ petition, has also filed the original Assignment Deed dated 26.02.1964 certified to be true by ICICI Bank, before this Court and the said fact has also been recorded by this Court vide order dated 25.04.2016 passed in this writ petition and therefore, the truth and veracity of the Deed of Assignment executed by the Government in favour of the petitioner cannot be doubted at all and hence, prays for allowing of the writ petition.

11 The respondents 8 and 9 have filed their Counter Affidavit and Mr.R.Parathasarathy, learned counsel appearing for them would submit that the patta in respect of the assigned lands were issued in favour of the petitioner / Company as early as in the year 1964 and out of which, certain portions were alienated with the permission of the Government and as on the year 2003, the petitioner / Company was in possession of 28.92 acres which included the lands in S.No.70/1A1 [part], 1A2, 2,

73/2 [part] and 77 [part] and the respondents 8 and 9 had been approached by the writ petitioner for selling and developing the said lands on the ground that the writ petitioner was indebted to Banks and Financial Institutions and the petitioner / Company was in dire need of funds to settle the dues and accordingly, very many agreements came into being between them and the writ petitioner and they have paid a total sum of Rs.47.20 Crores over a period of time to the writ petitioner and the said monies have also been deposited by them into a "Trust and Retention Account" maintained by the lead banking institution, on the specific understanding that as and when monies are deposited by the answering respondents, charge over proportionate extent of the property will be released by the Banks and Financial Institutions in their favour and the consent of the shareholders were also obtained. The writ petitioner had also created three simple Mortgages in their favour over an extent of 10.08 acres and in the light of the above said fact, the 1st respondent ought to have afforded an opportunity of hearing. But, he has failed to do so and passed an adverse order behind their back. The learned counsel appearing for the respondents 8 and 9 also adopted the arguments of the learned Senior Counsel appearing for the writ petitioner and the learned counsel appearing for the 7th respondent by submitting that the remedy open to the 6th respondent is to approach the competent Civil Forum to work out his remedy and since the facts involved require adjudication in the form of oral and documentary evidence, the 1st respondent ought to have decided the issue and on the pretext of deciding the alleged rectification of entry in UDR Scheme, has assumed the role of the Civil Court and decided the title of the properties itself and the same is impermissible in law and prays for appropriate orders.

12 This Court paid its best attention to the rival submissions and also perused the materials placed before it.

13 As already pointed out, the original Deed of Assignment was produced by M/s.ICICI Bank, Ambattur Industrial Estate Branch pendancy of this writ petition and the learned Judge, on a perusal of the same, has returned the original document to the said Bank with a further direction that as and when it is required, the same should be produced, vide order dated 25.04.2016. During the course of arguments, the learned Senior Counsel appearing for the 6th respondent has invited the attention of this Court to the findings recorded by the 1st respondent as to the authenticity of the copy of the Deed of Assignment produced by the petitioner before the said official and vide order dated 04.08.2015, this Court has directed the Registry to call for the records from the Secretary to Government, Industries and Labour Co-operation Department, relating to Memo No.83834-LA I/1962 dated 15.06.1962 and 16.06.1962 referred to in the Fort St. George Gazette No.24,

dated 20.06.1962 as well as the records relating to the Assignment Deed dated 05.02.1964 executed by the Government of Madras in favour of M/s.W.S. Insulators of India Limited forthwith.

14 Mr.S.Pattabiraman, learned Government Advocate appearing for the official respondents on instructions, would submit that the said records are not available with the concerned Department and it may be available with the District Revenue Officer, Chengalpattu, who has executed the said document in favour of the petitioner / company. The fact remains that the original of the said document was not summoned by the 1st respondent from the District Revenue Officer, Chengalpattu, but, placed reliance upon the copy of the same produced by the petitioner during the course of enquiry.

15 This Court, having considered the rival submissions and on a careful scrutiny and consideration of the materials placed before it in the form of the typed set of documents and various decisions cited before it, is recording the following reasons for its conclusion.

16 In the typed set of documents filed along with the writ petition, two Gazette Notifications dated 20.06.1962 were enclosed. A perusal of the same would disclose that the Government of Madras had acquired the lands for construction of a factory for the manufacture of electrical insulators by W.S. Insulators [India] Limited under the provisions of the Land Acquisition Central Act, 1894. The following lands were acquired:-

Sl.No.	Survey No.	Extent of land
1	70/1	1.50 Acres 3.66 Acres
2	73 [part]	2.27 Acres
3	77 [part]	5.68 Acres

Thereafter, a registered Deed of Assignment bearing Document No.495/1964 dated 26.02.1964 registered on the file of the office of the Sub Registrar, Saidapet, came into being between the Government of Madras and M/s.W.S. Insulators of India Limited and it is relevant to extract the description of the lands annexed to the said documents:-

DESCRIPTION OF THE LAND

Award Number	Survey Number	Extent in Acres	Total
7/62-63 dated 28.11.1962	25/5A	3.93	
	25/4F	3.08	
	25/4A	2.46	
	25/4D	0.91	
	27	0.86	11.24
8/62-63 dated 28.11.1962	25/2	1.48	
	25/5E	2.67	
	25/4G	3.27	
	26	2.00	
	25/4H	5.97	15.39
13/62-63 dated 28.03.1963	70/1A1	1.50	
	70/1A2	3.66	
	73/2	2.27	
	77	5.68	11.61
13/63-64 dated 05.02.1964	25/4I	1.31	
	28/2	0.76	
	25/3A	2.46	
	25/4E	0.92	
	25/4C2	0.85	6.30
			46.04

17 Mr.S.N.Sulaiman, the District Revenue Officer, Chengalpattu, had executed the said document in favour of M/s.W.S. Insulators of India Limited and according to the learned Senior Counsel appearing for the petitioner, the name of the Company has been changed as M/s.W.S. Industries [India] Limited for which, there is no serious dispute. The Encumbrance Certificate bearing No.346/1964 annexed in the typed set of documents as Document No.4 would also contain an entry relating to the registered Deed of Assignment dated 26.02.1964.

18 The 6th respondent has sent a legal notice dated 12.09.2015 under section 106 of the Transfer of Property Act, stating among other things, the lands in occupation of the petitioner admeasuring to an extent of 13.65 acres comprised in S.Nos.70/1, 73/2 and 77 of Porur village, was originally possessed by his father namely, D.Rajagopal and the said lands were purchased by him vide Sale Deed bearing No.1712 dated 09.10.1929 registered on the file of the office of the Sub Registrar and in order to dump waste, the petitioner has approached the father of the 6th respondent and sought permission to use the said abutting land under Leave and License for 50 years and it was allowed to be used for that purpose. The 6th respondent succeeded to the Estate on the demise of his father and he also allowed the petitioner to continue the premises under the same "Leave and License" and since it got expired on 31.12.2014, he had terminated it and called upon the petitioner to vacate and deliver the possession of the said property. The petitioner, in response to the same, sent a reply through its lawyer dated 15.10.2015 denying the allegations and set up their entire right in terms of the Deed of Assignment. The 6th respondent, sent a rejoinder to the reply of the petitioner through his lawyer stating that the lands belonging to his father [late] D.Rajagopal, were never acquired by the Government of Tamil Nadu at any point of time and he never received compensation and it continue in the name of his late father and hence, called upon the petitioner to send a photocopy of the Assignment Deed dated 26.02.1964, Patta as well as the Government Order pertaining to the acquisition and subsequently, approached the 1st respondent in the form of application dated 07/08.09.2015 and the 1st respondent has called for the report from the Revenue Divisional Officer, Ambattur, and after conducting personal enquiry, has passed the impugned order dated 28.12.2015.

19 The writ petitioner has deposited the title deeds in favour of ICICI Bank, No.1, Cenatoph Road, Teynampet, Chennai-600 018, vide Certificate bearing No.TN 00251232346792K dated 06.12.2012. The Second Schedule to the said document also contains the lands in S.Nos.70/1A1, 70/1A2, 73/2 and 77 and the Third Schedule contains description of the properties released by the Punjab National Bank, Indian Overseas Bank, State Bank of India and it also contains the lands in S.Nos.70/1A1 [part], 70/1A2 [part], 70/2 [part] ; the Fourth Schedule to the said document contains list of Encumbrances and also description of the properties mortgaged to Punjab and National Bank, State Bank of India, Indian Overseas Bank and EARC and it also contains the extent of lands in S.Nos.70/1A1, 70/1A2 and 73/2. The Sixth Schedule to the said document refers to the list of documents of title, evidences, deeds and writings and Document No.1 is the Deed of registered Assignment dated 26.02.1964 bearing Document No.495/1964 executed by the Government of Tamil Nadu in favour

of M/s.W.S. Insulators [India] Limited pertaining to 46.04 acres. Thus, the petitioner / Company all along dealt with the property in terms of the rights conferred on them by virtue of the above said Deed of Assignment.

20 The 1st respondent, on receipt of the application dated 07/08.09.2015 from the 6th respondent for rectification of mistake in UDR, had called for the report from the Revenue Divisional Officer and he submitted his report pointing out the alleged discrepancies, on which the 1st respondent has placed heavy reliance to reach the conclusion. The 1st respondent, during the course of enquiry, in inner page No.4 of the impugned order, has recorded the fact that the Assignment Deed dated 26.02.1964 was verified with reference to records and due to efflux of time, the Award proceedings referred to in the Assignment Deed submitted by the respondent [writ petitioner] could not be verified and the Sub Registrar, Saidapet, was also addressed to furnish a copy of the Assignment Deed produced by the respondent [writ petitioner] and it was informed by the said official vide his letter dated 10.09.2015 that the copy of the referred document could not be furnished for the reason that it is in such a condition that, a copy could not be taken and therefore, placed reliance upon the copy of the Assignment Deed and found that at the end of Page No.3, it has been typed as "contd........4" ; but, there is no Page No.4 and in stead, the Survey number and the property description has been typed on the rear side of Page No.3 and therefore, it creates suspicion and also recorded the reasons in inner Page No.5 of his order and ultimately reached the conclusion that the copy of the Assignment Deed dated 26.02.1964 produced by the petitioner / Company is nothing but a manipulated instrument with a view to suit its interest. No doubt, the 1st respondent made an attempt to get the original of the Deed of Assignment from the office of the Sub-Registrar, on whose file it was registered and the fact remains that the original is available in the said office ; however a copy of the same could not be produced on account of the condition of the document. Nothing prevented the 1st respondent to summon a copy of the said document from the Administrative Department of the Government who had acquired the said lands under the provisions of the Land Acquisition Act, 1894 or at least from the office of the District Revenue Officer, Chengalpattu, who had executed the Deed of Assignment bearing Document No.495/1964 dated 26.02.1964 on behalf of the Government. But for the reasons best known, the 1st respondent did not do so.

21 It is also to be remembered at this juncture that two Gazette Notifications filed in the typed set of documents filed in support of this writ petition would disclose that the lands which are in dispute, have been acquired by the Government for the purpose of construction of the factory to be put up by

M/s.W.S. Insulators of India Limited and after effecting its declaration, the lands are vested with the Government, free of all encumbrances and thereafter, it was assigned in favour of the petitioner / Company through the above said Deed of Assignment.

22 It is a well settled position of law that once lands are acquired by the Government for public purpose, it absolutely vest with them free of all encumbrances and it is open to the Government Suo Motu invoke section 48-B of the Land Acquisition Act, 1894 (as amended by the Tamil Nadu Act 16 of 1997) to re-convey the lands to persons from whom the lands were acquired and admittedly, it has not been resorted to.

23 It is the claim of the 1st respondent that in the light of G.O.No.385, Revenue [General-III] Department, dated 17.08.2004, he has rectified the defects in the Updating Registry and in support of the same, the 1st respondent has placed heavy reliance upon the report of the Revenue Divisional Officer, Ambattur. A perusal of the impugned proceedings would disclose that the copy of the same have not been furnished to the petitioner and however, it has been relied upon to reach the conclusion against the petitioner. Be that as it may, the 6th respondent sent a legal notice claiming that Leave and License was granted by his father in favour of the petitioner in respect of the said lands and by invoking section 106 of the Transfer of Property Act, had terminated the lease and however, in the Counter Affidavit, took a contradictory stand that after the demise of his father, who died intestate, he succeeded to his estate and when he wanted to apply for patta for the said lands, he came to know the fact that patta was already granted in favour of the petitioner / company by virtue of the Deed of Assignment dated 26.02.1964 and his father was not at all aware of the proceedings and it was always possessed and enjoyed by his father and after his demise, it devolved on him.

24 It appears that though the father of the 6th respondent died as early as on 29.11.2004, he has woken up from the deep slumber only during the month of September 2015 and realised the above said fact and thereafter, invoked the jurisdiction of the 1st respondent. The 6th respondent is guilty of delay and laches.

25 In the decision rendered in AIR 2007 SCC 1330 [Shiv Dass Vs. Union of India and others], it has been held that “two circumstances which are always important in such cases are, length of the delay and the nature of the acts done during the interval which might affect the either party and cause a balance of justice or injustice in taking the one course or the other so far as relates to the remedy”.

26 In 2015 [3] SCC 695 [Joint Collector Ranga Reddy District and another V. D.Narsing Rao and others], the limitation period for exercising Suo Motu power came up for consideration and by placing reliance upon the earlier decisions, it has been held as follows:-

> "....
>
> 31.To sum up, delayed exercise of revisional jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs which is not the policy of law. Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third-party rights, that cannot be trampled by a belated exercise of a discretionary power especially when no cogent explanation for the delay is in sight. Rule of law it is said must run closely with the rule of life. Even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent will not extend the time for its correction to infinity ; for otherwise the exercise of revisional power would itself be tantamount to a fraud upon the statute that vests such power in an authority."

27 The 6th respondent has not at all offered plausible explanation as to why he allowed the matter to lie over or kept silent for more than ten years and the Court will come to the aid of the persons who are diligent in prosecuting their case. Therefore, this Court is of view that the 6th respondent is guilty of delay and laches.

28 It is the primordial submission of the learned Senior Counsel appearing for the 6th respondent that the Tamil Nadu Patta Passbook Act and the Rules framed thereunder have no application for the reason that the 1st respondent has exercised the powers in terms of G.O.Ms.No.385, Revenue [General-III] Department, dated 17.08.2004. Reliance is also placed on number of decisions. In 1995 [1] MLJ 426 [DB] [Kuppuswami Nainar V. The District Revenue Officer, Thiruvannamalai] , the Division Bench of this Court considered the exercise of powers by the Revenue Authorities in deciding the question of title in respect of immovable property in patta proceedings and has observed that in a petition under Article 226 of the Constitution of India, the question of title regarding immovable property of cannot properly be gone into because a mass of evidence may be required

for adjudicating the question of title and expressed the opinion that the question of title has to be decided by a Civil Court with reference to an order under question and declined to interfere with the order which was the subject matter of challenge in the said writ petition. It is the contention put forth on behalf of the 6th respondent that in the light of the said judgment, it is for the writ petitioner to approach the competent Civil Forum to establish his rights. However, this Court is of the view that said submission lacks merits and substance for the reason that the 6th respondent has very belatedly invoked the jurisdiction of the 1st respondent and also took a contradictory stand as to his right, title and possession and even as per the above cited judgment, in the event of mass of evidence required for adjudicating the question of title, this Court, in exercise of jurisdiction under Article 226, cannot go into / decide the same.

29 In 2009 [8] SCC 310 [State of Uttar Pradesh and another V. Man Mohan Nath Sinha and another], it has been held that the judicial review of finding of facts recorded during departmental enquiry cannot be re-appreciated. There is no difficulty in accepting the said preposition. But the case on hand pertains to the alleged rectification of entry in UDR scheme and a perusal of the impugned order would disclose that the 1st respondent has exceeded his jurisdiction and questioned the validity of the acquisition proceedings done by the superior authority, viz., the Government and without summoning the relevant records either from the Administrative Department of the Government or from the District Revenue Officer, Chengalpattu, who had executed the Deed of Assignment in favour of the writ petitioner, has decided the issue.

30 This Court has also gone through the issue of the correctness of the decision making process on the part of the 1st respondent and without adhering to the relevant facts and summoning the records from the concerned Departments, had decided the issue touching upon the title to the lands in question and therefore, exercising such a kind of process or jurisdiction, is impermissible in law.

31 The decision reported in 2012 [11] SCC 731 [Bhubaneswar Development Authority and Another V. Adikanda Biswal and others] deals with the nature and scope of judicial review of administrative action and in paragraph 19, it has been held as follows:-

"....

19.We are of the view that the High Court was not justified in sitting in appeal over the decision taken by the statutory authority under Article 226 of the Constitution of India. It is trite law that the power of judicial review under Article 226 of the Constitution of India is not directed against the decision but is confined to the decision making process. The judicial review is not an appeal from a decision, but a review of the manner in which the decision is made and the Court sits in judgment only on the correctness of the decision-making process and not on the correctness of the decision itself. The Court confines itself to the question of legality and is concernd only with, whether the decision-making authority exceeded its power, committed any error of law, committed a breach of the rules of natural justice, reached an unreasonable decision or abused its powers."

32 The decision reported in 2015 [II] MCC 557 [A.Najeebur Rahman Vs. The District Revenue Officer, Ramnad District, Ramnad], pertains to the application of Patta Passbook Act, 1983 and the Rules framed thereunder and even according to the writ petitioner, the said statute has no application to the case on hand for the reason that the 1st respondent has invoked G.O.Ms.No.385, Revenue [General-III] Department, dated 17.08.2004 to reach his conclusion.

33 The decision reported in 2012 [8] MLJ 168 [R.Pandian V. The District Revenue Officer, Tiruchirapalli and others] also deals with the Tamil Nadu Patta Passbook Act, 1983 and the Rules framed thereunder and in the light of the stand of the 6th respondent as to the applicability of the said Act and the Rules framed thereunder, the contention put forth in that regard, is liable to be rejected.

34 It is the vehement and forceful submission of the learned Senior Counsel appearing for the petitioner as well as the respective learned counsels appearing for the respondents 7, 8 and 9 that the impugned order virtually amounts to grant of patta and since adjudication as to the title dispute is involved, the 1st respondent ought to have directed the 6th respondent to approach the competent Civil Forum to work out his remedy and placed reliance upon very many judgments.

35 A Single Bench of this Court, in the decision reported in 2015 [6] CTC 654 [Selvaraju V. The District Revenue Officer, Thanjavur District, Thanjavur and others], by placing reliance upon various judgments, has held as follows:-

"...

15 In my considered opinion, no doubt, the 1st respondent is the competent person to order for change of Patta. But, in the instant case, I find that the petitioner is claiming right over the subject properties based on the unregistered Will dated 17.05.2010 said to have been executed by the deceased Subbiah Pillai. Similarly, the 4th respondent, who is the brother of the deceased Subbiah Pillai in his favour. Both the parties are claiming that the document produced on the opposite is forged and concocted document. Therefore, I find that there is serious of facts between the parties. Under such situation, the 1st respondent, instead of ordering for change of Patta by deciding the genuineness of the documents, ought to have relegated the parties to the Civil Court to decide the issue. But, by rendering findings to the effect that the Settlement Deed dated 23.06.2010 is a registered document and the Will dated 17.05.2010 alleged to have been executed by Subbiah Pillai in favour of the petitioner is only an unregistered document, the 1st respondent has ordered for change of patta in the name of the 4th respondent. In my considered opinion, without adducing evidence in respect of those documents, the 1st respondent has no authority to give finding with regard to the genuineness of the documents. In the instant case, the impugned order passed by the 1st respondent ordering for change of patta in favour of the 4th respondent is not correct.

16 Though the learned counsel for the 4th respondent submitted that the patta is standing in his name by virtue of the Order dated 30.08.2010 passed by the Deputy Regional Tahsildar, I find that even before ordering transfer of patta in the name of the 4th respondent, the petitioner herein had also filed an Application on 14.07.2010 before the Tahsildar to change the patta in his name. Therefore, the objection was already by the petitioner in changing the patta in the name of the 4th respondent. But, without considering the said objection of the petitioner, the order

dated 30.08.2010 was passed by the Deputy Regional Tahsildar in favour of the 4th respondent. Under such circumstances, I am not inclined to accept the submission made by the learned counsel for the 4th respondent that since the patta was also standing in the name of the 4th respondent right from 30.08.2010, there is no need to interfere with the findings of the 1st respondent in the impugned order. It is well known legal principle that each case has to be decided only on the factual aspects of that case. A straight jacket formula cannot be applied for all the cases. In the instant case, since the parties have to prove their case by adducing evidence, the 1st respondent ought not to have ordered for change of patta in favour of the 4th respondent. Evidence on record would show that both the parties have made attempts to change the patta in respect of the subject properties clandestinely without the knowledge of the opposite party. In this situation, now no significance could be attached to the order dated 30.08.2010 passed by the Deputy Regional Tahsildar. Therefore, the claim of the 4th respondent that the patta is standing in his name after the demise of Subbiah Pillai does not attract any significance in this case. The respondents 2 and 3 have rightly directed the parties to approach the Civil Court to decide the issue. Whereas, the 1st respondent has erroneously, by deciding the question of title and genuineness of the documents, ordered for change of patta, which is not legally sustainable."

36 Though the 1st respondent has exercised the powers in terms of G.O.Ms.NO.385, Revenue [General-III] Department, dated 17.08.2004, the fact remains that such a power has not been exercised Suo Motu and even for the sake of argument, such a Suo Motu revision power has been exercised, it should be within a reasonable time as held in 2015 [3] SCC 695 [cited supra]. The 6th respondent slept for years together and suddenly thought fit to invoke the jurisdiction of the 1st respondent in the form of an application dated 07/08.09.2015 and after receipt of the application, the 1st respondent called for the report of the Revenue Divisional Officer, Ambattur and by placing heavy reliance upon it, without even furnishing a copy of the same to the persons concerned/have a say, had gone into the said issue in detail and virtually decided the title to the properties in question as if he has exercised the jurisdiction as that of the Civil Court. The writ petitioner, during the course of

proceedings, had also produced the certified copy of the Deed of Assignment bearing document No.495/1964 dated 26.02.1964, certified by the Section Officer, Industries Department, Secretariat, Chennai-9, and the description of the land would also disclose that the lands which are under dispute, were also included in the list of the assigned properties. As already pointed out earlier, the 1st respondent did not make any attempt to summon a copy of the same either from the Administrative Department or from the District Revenue Officer, Chengalpattu. But, acted on surmises and conjectures and as a consequence, reached the erroneous conclusion. The procedure adopted by the 1st respondent is wholly unsustainable in law and in stead of carrying the burden of adjudicating the civil dispute, the said official ought to have directed the 6th respondent to work out his remedy before the competent Civil Forum. But, he fails to do so.

37 This Court, in the light of the above facts and circumstances and the reasons assigned above, is of the considered opinion that the impugned order/proceedings passed by the 1st respondent warrants interference.

38 In the result, the writ petition is allowed and the impugned order/proceedings of the 1st respondent dated 28.12.2015 in proceeding R.C.No. 25496/2015/B.3 are set aside. No costs. Consequently, the connected miscellaneous petitions are closed.

39 However, if the 6th respondent is so advised, he is at liberty to approach the competent Civil Forum to establish his right, title and possession in respect of the said lands / properties, subject to the law of limitation.

s/d-
Assistant Registrar(CSII)

True Copy

Sub-Assistant Registrar

To

1.The District Revenue Officer
Office of the District Collectorate
Thiruvallur-602001.

2.The Revenue Divisional Officer
Thiruvallur Division Thiruvallur-602001.

3.The Thasildar
Thiruvallur Taluk Thiruvallur-602001.

4.The Revenue Divisional Officer
Ambathur Division Ambathur.

5.The Thasildar
Ambathur Taluk Ambathur.

copy to

The Section Officer
VR Section
High Court Madras

+1 cc to Mr.R.Venkataraman Advocate sr 48884
+1 cc to Mr.R.Subramaniam & Associates sr 48991
+1 cc to M/s.Satish Parasaran Advocate sr49174
+2 ccs to M/s.Satish Kumar K.P. Advocate sr 49648
+1 cc to Government Pleader sr 49296

WP.No.1453/2016

aa15/09/2016