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W.P.No.32535 of 2019, etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.09.2022

DELIVERED ON : 09.09.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.Nos.32535 of 2019, 3678 and 4148 of 2021, 488 and 7447 of 2022 and W.M.P.Nos.4207, 4731 of 2021, 533, 5360 and 7450 of 2022

W.P.No.32535 of 2019:

Tripower Enterprises (Private) Limited
Rep. by its Chief Executive Officer and
Authorized Signatory, No.2/569, Sandy Nook
Singaravelan First Main Road, Chinna Neelangarai
Chennai – 600 115.

.. Petitioner

Vs

- 1 State Bank of India
Rep. by its Chief Manager
Stressed Assets Management Branch
Coimbatore.
- 2 The Commissioner of Land Administration
Ezhilagam, Chepauk
Chennai - 600 005.
- 3 The Settlement Officer
Tanjore, Tanjore District.



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- 4 The District Collector
Chennai District, Chennai.
- 5 A.R.Sridharan
- 6 The Divisional Engineer
Highways Department, Government of Tamil Nadu
Highways Project I, Division I
Adambakkam, Chennai.
- 7 The Special Tahsildar (LA)
Inner Ring Road Project
Chrompet, Chennai - 44.
- 8 The Tahsildar
Alandur Taluk, Chennai District. .. Respondents
(R6 to R8 impleaded vide order dated 10.03.2022
made in WMP.29233/2021)

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the 1st respondent to invoke the provision of Sec.14 of the Sarfaesi Act before the 4th respondent to put the petitioner in the physical possession of the properties covered under the sale certificate dated 29/04/2017 less the extent of 6.65 acres and effect mutation entries in the name of the petitioner by considering the representations dated 01/10/2019.

For the Petitioner : Mr.V.Ragavachari
for Mr.P.Krishnan

For the Respondents : Mr.Ragavacharyalu
for Mr.B.Dinesh Kumar
for 1st respondent



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- : Mr.C.Uma Shankar
for 5th respondent
- : Mr.T.Raman Laal
Additional Advocate General
assisted by Mrs.R.Anitha
Special Government Pleader
for respondents 2 and 4
- : Not ready in notice
for respondents 3, 6, 7 and 8

W.P.No.4148 of 2021:

A.R.Sridharan

.. Petitioner

Vs

- 1 The Director of Survey and Settlement
Survey House, Chepauk
Chennai - 600 005.
- 2 The Settlement Officer
Office of Director of Survey and Settlement
Survey House, Chepauk, Chennai - 600 005.
- 3 Associated Trading Corporation (P) Ltd
Rep. by its Director,
No.22 V.P.Rathinasamy Nadar Road
Madurai – 625 007.
- 4 Tripower Enterprises (Private) Limited
Rep. by its Chief Executive Officer and Authorized Signatory
No.2/569, Sandy Nook, Singaravelan First Main Road
Chinna Neelangarai, Chennai – 600 115. .. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the entire records pertaining to the issuance of Enquiry Notice in Se.Ma.(e2) 03/2010 dated 10/10/2019 passed by the 2nd respondent herein, viz., directing the settlement officer, Chepauk, Chennai-05 and to quash the same consequently delete the name of 4th respondent herein namely M/s.Tripower Enterprises (Private) Ltd. Rep. by its Chief Executive Officer and Authorized Signatory, No.2/569, Sandy Nook, Singaravelan First Main Road, Cheinna Neelangarai, Chennai - 600 115 from settlement proceedings in Se.Ma.(e2) 03/2010 dated 10/10/2019 (1) which pertains to Town Survey No.3, Block -1, Ward E, Adambakkam Village, Alandur Taluk, Chennai District since it is not concerned with the 4th respondent.

For the Petitioner : Mr.C.Umashankar

For the Respondents : Mr.T.Raman Laal
Additional Advocate General
assisted by Mrs.R.Anitha
Special Government Pleader
for respondents 1 and 2

: Mr.V.Ragavachari
for Mr.P.Krishnan
for 4th respondent

: Not ready in notice
for 3rd respondent



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W.P.No.7447 of 2022:

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A.R.Sridharan

.. Petitioner

Vs

- 1 The Director of Survey and Settlement
Survey House, Chepauk
Chennai-05.
 - 2 The Settlement Officer
Office of Director of Survey and Settlement
Survey House, Chepauk, Chennai-05.
 - 3 Associated Trading Corporation (P) Ltd
Rep. by its Director,
No.22 V.P.Rathinasamy Nadar Road
Madurai-625 007.
 - 4 Tripower Enterprises (Private) Limited
rep. by its Chief Executive Officer and Authorized Signatory
No.2/569, Sandy Nook, Singaravelan First Main Road
Chinna Neelangarai, Chennai – 600 115.
 - 5 VAK Engineering Pvt Ltd
Rep. by its Managing Director, Rajesh Malhotra
No.294, Thambhu Chetty street
Chennai.
 - 6 The State Bank of India
rep. by its Chief Manager
Stressed Assets Management Branch
Coimbatore.
- .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India
praying for a writ of certiorarified mandamus to call for the entire
records pertaining to patta issued in Na.Ka.No.3273/2005 on



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02.09.2008 by the 2nd respondent in favour of the 3rd respondent M/s ATCO in respect of the land measuring 6.65 acres comprising in T.S.No.282, Ward A, Block-3, Survey No.17/1, Old Paimash Nos.240, 241, 242, 718, 719, 720, 721, 722 and 737 of Adambakkam Village, Alandur Taluk, Chennai District and quash the same; consequently direct the 3rd respondent / M/s ATCO to pursue the statutory appeal in CMA No.33/1992 which is pending before Inam Abolition Appellate Tribunal Chengalpattu.

For the Petitioner : Mr.C.Umashankar

For the Respondents : Mr.T.Raman Laal
Additional Advocate General
assisted by Mrs.R.Anitha
Special Government Pleader
for respondents 1 and 2

: Mr.V.Ragavachari
for Mr.P.Krishnan
for 4th respondent

: Mr.Ragavacharyalu
for Mr.B.Dinesh
for 6th respondent

W.P.No.488 of 2022:

A.R.Sridharan

.. Petitioner

Vs



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- 1 The Director of Survey and Settlement
Survey House, Chepauk
Chennai-05.
- 2 The Settlement Officer
Office of Director of Survey and Settlement
Survey House, Chepauk, Chennai-05.
- 3 Associated Trading Corporation (P) Ltd
Rep. by its Director,
No.22 V.P.Rathinasamy Nadar Road
Madurai-625 007.
- 4 Tripower Enterprises (Private) Limited
rep. by its Chief Executive Officer and Authorized Signatory
No.2/569, Sandy Nook, Singaravelan First Main Road
Chinna Neelangarai, Chennai – 600 115.
- 5 VAK Engineering Pvt Ltd
Rep. by its Managing Director, Rajesh Malhotra
No.294, Thambhu Chetty street
Chennai.
- 6 The State Bank of India
rep. by its Chief Manager
Stressed Assets Management Branch
Coimbatore.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records pertaining to the order dated 30.12.2021 passed by the 1st respondent herein viz. Commissioner of Land Administration, declaring the order dated 20.7.2021 passed by directing the Settlement Officer, Chepauk, Chennai-05 and to quash the same; consequently delete the name of fourth respondent herein namely M/s.Tripower Enterprises



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(Private) Limited, represented by its Chief Executive Officer and Authorised Signatory, No.2/569, Sandy Nook, Singaravelan First Main Road, Chinna Neelangarai, Chennai-600 115 from settlement proceedings in C.Ma.E.2/03/2010(1), dated 24.12.2019 which pertains to Town Survey No.3, Block 1, Ward-E, Adambakkam Village, Alandur Taluk, Chennai District, since it is not concerned with the fourth respondent.

For the Petitioner : Mr.C.Umashankar

For the Respondents : Mr.T.Raman Laal
Additional Advocate General
assisted by Mrs.R.Anitha
Special Government Pleader
for respondents 1 and 2

: Mr.V.Ragavachari
for Mr.P.Krishnan
for 4th respondent

: Mr.Ragavacharyalu
for Mr.B.Dinesh
for 6th respondent

: Not ready in notice
for respondents 3 and 5

W.P.No.3678 of 2021:

Tripower Enterprises Pvt Ltd
Rep by its Director
No.2/569, Sandy Nook
Singaravelan First Main Road
Chinna Neelangarai, Chennai-115.

.. Petitioner



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Vs

- 1 The Commissioner of Land Administration
Chepauk, Chennai-5.
- 2 The Settlement Officer
Directorate of Land Survey and
Land Settlement, Chepauk
Chennai – 5.
- 3 The District Collector
Singaravelar Malaigai
Chennai District, Chennai.
- 4 The Tahsildar
Alandur Taluk
Alandur, Chennai District.
- 5 A.R.Sridharan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing respondents 1 to 4 to restore the mutation entries as it stood prior to 16.6.1988 in Patta for the extent measuring 1.80 acres bearing Paimash No 722/4 corresponding to R.S.Nos.19/2 and 19/3, now T.S.No.3, Adambakkam Village, Alandur Town, Chennai District in line with the orders dated 4.10.1996 made in R. Dis K. RP Nos.9/91, 4/91, 8/91, 10/91 and 12/91 and order dated 4.1.2007 in RC. K1/10489/2002 passed by the 1st Respondent by considering the petitioner's representations dated 19.3.2018, 17 6.2019 and 12.1.2021.

For the Petitioner : Mr.V.Ragavachari
for Mr.P.Krishnan



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For the Respondents : Mr.T.Raman Laal
Additional Advocate General
assisted by Mrs.R.Anitha
Special Government Pleader
for respondents 1 to 4

: Mr.C.Umashankar
for 5th respondent

COMMON ORDER

THE CHIEF JUSTICE

W.P.No.32535 of 2019 is filed by Tripower Enterprises (Private) Limited to seek a direction on the first respondent [State Bank of India, Stressed Assets Management Branch, Coimbatore] to invoke the provisions of Section 14 of the Securitisation and Reconstruction of Financial Assets and Security Interest Act, 2002 [for brevity, "*the Act of 2002*"] before the District Collector, Chennai, to put the petitioner in the physical possession of the properties covered under the sale certificate dated 29.4.2017, less the extent of 6.65 acres, and effect mutation of entries in the name of Tripower Enterprises (Private) Limited, by considering the



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representation dated 1.10.2019.
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2. W.P.No.4148 of 2021 has been filed by A.R.Sridharan to challenge the enquiry notice dated 10.10.2019 issued by the second respondent, i.e., the Settlement Officer, Chepauk, Chennai, and quash the same and consequently delete the name of the fourth respondent, i.e., Tripower Enterprises Private Limited, from the settlement proceedings in Se.Ma.(e2) 03/2010, dated 10.10.2019 which pertains to Town Survey No.3, Block-1, Ward E, Adambakkam Village, Alandur Taluk, Chennai District, since it is not concerned with the fourth respondent

3. Yet another writ petition, being W.P.No.488 of 2022, has been filed by A.R.Sridharan to challenge the order dated 30.12.2021 passed by the Commissioner of Land Administration directing the Settlement Officer, Chepauk to pass orders afresh and to consequently delete the name of the fourth respondent, namely Tripower Enterprises (Private) Limited, from the settlement proceedings in C.Ma.E.2/03/2010(1), dated 24.12.2019 which



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pertains to Town Survey No.3, Block 1, Ward-E, Adambakkam Village, Alandur Taluk, Chennai District, since it is not concerned with the fourth respondent.

4. W.P.No.3678 of 2021 has been filed by Tripower Enterprises (Private) Limited to seek a direction on respondents 1 to 4 to restore the mutation entries as they stood prior to 16.6.1988 to the extent of land measuring 1.80 acres bearing Paimash No.722/4, corresponding to R.S.Nos.19/2 and 19/3, by considering their representations.

5. W.P.No.7447 of 2022 has been filed by A.R.Sridharan to call for the entire records relating to patta No.3273 of 2005 dated 2.9.2008 of the Settlement Officer, Chepauk, Chennai in favour of Associated Trading Corporation (P) Limited in reference to the land measuring 6.65 acres in T.S.No.282, Ward No.A, Block No.3, Survey No.17/1 of Adambakkam Village, Alandur Taluk, Chennai, and to consequently direct Associated Trading Corporation (P) Limited to pursue the statutory appeal in C.M.A.No.33 of 1992



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which is pending before the Inam Abolition Appellate Tribunal, Chengalpattu.

6. All the writ petitions referred to above pertain to the property situated in Paimash Nos.716, 717, 718, 721, 722, 859 and 860. The litigation between the parties in reference to certain extent of land was subject matter not only before the civil court, but the High Court and even the Apex Court. Thus, the parties are in litigation in respect of the land in question for the last many years and for that even a proceeding is pending before the criminal court and also before the Settlement Officer, apart from the Debts Recovery Tribunal.

7. One of the earlier writ petitions was decided on 1.12.2009 by a Division Bench of this court in W.P.No.7890 of 2007 filed by A.R.Sridharan. A reference of the judgment has been given for the reason that the complete history of the dispute pertaining to the property in question has been given therein. The said writ petition was filed by A.R.Sridharan to challenge the order dated 4.1.2007



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passed by the Special Commissioner, Commissioner of Land Administration, Chepauk, Chennai.

8. The order dated 4.1.2007 was passed by the Special Commissioner, Commissioner of Land Administration on remand of the matter to him by a learned Single Judge vide order dated 9.9.2005 passed in W.P.No.710 of 1997. It was observed by the learned Single Judge that the Special Commissioner of Land Administration had only considered the issue of delay in filing the proceedings before the Settlement Officer and the reasons for condonation of delay and there was no discussion on the contention that the rights of parties have already been concluded before the civil court and even confirmed by the Apex Court in favour of A.R.Sridharan. The issue regarding fraud and manipulation in obtaining favourable decree raised by Associated Trading Corporation was also not considered. It was in the light of the fact that qua the property in question, a civil suit was filed by the parties represented by A.R.Sridharan and the decree attained finality. However, the allegation of fraud and manipulation was



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raised in view of the fact that the revenue records were fabricated in collusion with revenue officials which were the basis for decree in civil court. Therefore, the learned Single Judge remanded the case to the Commissioner of Land Administration for consideration of the following points:

"(1) Whether the rights of parties have been concluded in favour of the writ petitioner in the proceedings taken before the Civil Court? If so, whether the Revenue Authorities would be justified to go into the facts and circumstances and on the right of the parties?"

(2) Whether the question of fraud and manipulation of records is true; and if so, how far it would entitle the respondents to re-agitate the rights of parties even after the decree by the Civil Court; or whether the 1st respondent would be justified in raising the plea of fraud and manipulation?"

9. The Division Bench in the order dated 1.12.2009 passed in W.P.No.7890 of 2007 examined the issue whether the Assistant Settlement Officer exceeded his jurisdiction while passing order dated 16.6.1988. After detailed examination of the issue, the



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Division Bench found that the order 4.1.2007 passed by the Special Commissioner, Commissioner of Land Administration on remand is not contrary to the judgment of the Full Bench in the case of ***Srinivasan v. Sri Madhyarjuneswaraswami Pattaviathalai, 1998 (1) CTC 630***, rather it was so directed by the writ court in W.P.No.710 of 1997. It was further found that the issue and allegation of interpolation or material alteration in the revenue records was not dealt with by the civil court and if revenue authorities were satisfied that there was interpolation or material alternation, they were entitled to go into the issue and grant patta only to the person entitled for it. It is for that reason that the learned Single Judge, while passing order in W.P.No.710 of 1997, framed two questions before remanding the matter.

10. The Division Bench gave reference of the enquiry report to show *prima facie* finding on fraud. It was further observed that once fraud or falsification is alleged, a decision will have to be given by the revenue authorities notwithstanding a civil court's decree, after ascertaining the truth and veracity of the records. The



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Division Bench, therefore, did not accept the objection raised by A.R.Sridharan against the order of the Special Commissioner, Commissioner of Land Administration, setting aside the order of the Assistant Settlement Officer. The Division Bench also did not find any fault on the part of the first respondent in remitting the matter to the Assistant Settlement Officer vide order dated 4.1.2007. However, it was of the opinion that matter could be decided by the Settlement Officer himself, considering the prolonged litigation. Accordingly, while remanding the matter to the Settlement Officer, the Division Bench by order dated 1.12.2009 passed in W.P.No.7890 of 2007, issued the following directions:

"(1) He shall issue notice to the petitioner, to the respondent , to the Inamdar, to V.A.K.Engineering and to other persons, who are in occupation of the relevant survey numbers;

(2) To localise the property, he may give directions to Assistant Settlement Officer to do the inspection and furnish the report and the Assistant Settlement Officer while conducting the inspection shall do so in the presence of all parties;

(3) The Settlement Officer shall independently verify



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whether the allegations that there are alterations in the relevant records are true. The observations in the impugned order shall not weigh with him. While he may not have the jurisdiction to fix the guilt on any one, while granting patta on the basis of records, definitely he should satisfy himself whether the allegation made regarding fabrication or falsification is correct or not. The parties are entitled to produce whatever documents that are there to support their case.”

11. The judgment aforesaid was assailed by A.R.Sridharan by maintaining S.L.P. (C) No.4037 of 2010 before the Supreme Court. However, it was withdrawn on 22.8.2014 by making a statement that since the private respondents were already given patta in their names, he would take appropriate steps to challenge the patta.

12. The aforesaid is one part. The facts relevant to W.P.No.32535 of 2019 pertain to the properties comprised in Old Pymash Nos.240, 241, 242, 718 to 722, 737, 854 and 855 measuring 10.07 acres. The auction of the property on 28.2.2017



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was pursuant to the proceedings under the Act of 2002, where Tripower Enterprises (Private) Limited remained successful bidder on a sale price of Rs.60.25 crores and sale certificate was issued in favour of Tripower Enterprises (Private) Limited on 29.4.2017 for the subject property. However, Tripower Enterprises (Private) Limited was given physical possession only of 6.65 acres out of 10.07 acres of land.

13. It is stated that the property originally belonged to Associated Trading Corporation (P) Limited pursuant to the sale deeds dated 23.2.1948, 13.10.1948, 17.1.1950, 31.1.1950 and 15.2.1950. The above properties were given towards collateral security for the loan obtained by Rukmani Mills. As Rukmani Mills committed default in repayment of loans, the aforesaid properties were auctioned and purchased by Tripower Enterprises (Private) Limited, who now becomes the party interested. The dispute now remains in respect of 1.61 acres of land, as admitted by all the parties.



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14. In between, the bank maintained an application and Tripower Enterprises (Private) Limited preferred Civil Appeal No.2373 of 2020 before the Apex Court to challenge the order dated 6.9.2019 passed by the High Court in W.P.No.11522 of 2019. There the issue was limited to the order passed by the Debt Recovery Appellate Tribunal on the application filed by the State Bank of India. It was not an appeal qua settling the issue about the property in question in reference to the revenue or civil proceedings. However, the Apex Court, while addressing the challenge, gave reference to the orders passed by the Debts Recovery Tribunal, followed by the Debt Recovery Appellate Tribunal, and even made an observation about the decree of the civil court in favour of respondent No.11, A.R.Sridharan, in respect of the land measuring 1.80 acres. The Apex Court commented that that the title document in respect of Old Paimash No.722/4 ought not to be released until the final decision in O.A.No.11 of 2018, as the decree of the civil court has attained finality. It also observed that the claim of A.R.Sridharan cannot be overlooked. The observation aforesaid was made as the parties could not refer to the



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judgment of the Division Bench referring the matter to the revenue authorities in reference to the allegation of fraud and manipulation at the instance of A.R.Sridharan, with a finding that the decree of the civil court would not preclude the revenue authorities to determine the issue referred by the Division Bench. It is more so when the order of the Division Bench dated 1.12.2009 in W.P.No.7890 of 2007 attained finality with withdrawal of appeal before the Apex Court by A.R.Sridharan.

15. During the pendency of the writ petition, an application was made by Tripower Enterprises (Private) Limited to seek a report by appointing an Advocate Commissioner. Accordingly, an Advocate Commissioner was appointed. After taking assistance of the revenue officials, the report was submitted to indicate the location of the land of 1.61 acres now in dispute. The objection to the report of the Advocate Commissioner has been made by A.R.Sridharan. It is with the statement that location of 1.61 acres of land auctioned to Tripower Enterprises (Private) Limited is at a different place than indicated by the Advocate Commissioner and,



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accordingly, a map was submitted along with the objection to indicate the location of the land at a different place not in possession of A.R.Sridharan.

16. At this juncture, it needs to be noted that pursuant to the remand of the matter by the Division Bench by its order dated 1.12.2009 passed in W.P.No.7890 of 2007 to the Settlement Officer, an order dated 20.7.2021 was thereupon passed by the said officer favourable to A.R.Sridharan. However, it was quashed by the Commissioner of Land Administration by order dated 30.12.2021 with remand of the case with certain observations. The order dated 30.12.2021 has been assailed by A.R.Sridharan in W.P.No.488 of 2022. It is mainly on the ground that the Commissioner of Land Administration has passed the order dated 30.12.2021 taking suo motu cognizance, though power does not exist for it and otherwise the order could not have been passed without providing an opportunity of hearing to the petitioner A.R.Sridharan, more so when it contains a finding which may adversely affect his rights.



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17. The aforesaid writ petition along with W.P.Nos.3678 of 2021, 488 and 7447 of 2022 were ordered to be listed along with W.P.No.32535 of 2019 so as to give a quietus to the dispute between the parties on the agreement that the matter may be remanded to the Settlement Officer after quashing the observation made by the Commissioner of Land Administration in his order dated 30.12.2021, though while maintaining of remand of the case after quashing the other part of the order dated 20.7.2021 passed by the Settlement Officer.

18. An objection for hearing of the matter by the present Settlement Officer was raised by learned counsel appearing on behalf of A.R.Sridharan, as the said officer had made a complaint against A.R.Sridharan, and, therefore, the officer would be having bias.

19. With the consent of the parties, learned Additional Advocate General was directed to find out whether the Settlement Officer has lodged complaint against A.R.Shridharan and if so, who



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can be nominated as an independent officer to adjudicate the issues raised by the respective parties. Accordingly, all the writ petitions were posted before this court on 2.9.2022, while the hearing of W.P.No.32535 of 2019 was concluded.

20. Learned Additional Advocate General submitted that the matter may be remanded to the Special Commissioner and Commissioner for Land Administration, for which all the parties have agreed.

21. After lengthy arguments by the parties, which includes the assistance of learned Additional Advocate General and learned counsel for the bank, it was agreed by all the parties that the matter may be sent to the Special Commissioner and Commissioner for Land Administration after taking the issues from respective parties and, accordingly, it may be decided by the said officer, who would not be influenced or governed by the decree of the civil court, but would independently decide the issues raised by the parties against each other.



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22. Since a complaint has been initiated by the present Settlement Officer against A.R.Sridharan, this Court is of the view that the matter is to be sent to the Special Commissioner and Commissioner of Land Administration, even in view of the judgment of the learned Single Judge in W.P.No.14418 of 2003, etc. batch, dated 29.4.2022, where the said officer alone was held to be competent to decide such controversy. The counsel for the parties thus agree to refer the matter to the said officer to decide the issues raised and given to the court by the respective parties.

23. The issues raised by the parties, in the form of affidavits, are as under:

**Issues raised on behalf of Tripower Enterprises
(Private) Limited:**

1. Whether the revenue records including SF1 had been tampered by A.R. Sridharan so as to include the names of the "TD 482- Dharmadayam Deivasigamani Pandara Sannathi"?



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2. When the Adheenakarta was held not to have any title on the basis of T.D. No. 482 In S.T.A. Nos. 36 and 37 of 1982 dated 28.02.2001, could Rajagopala Pillai, Sridharan or Kannan make any claim to the property?

3. Whether the order of dismissal from service passed against the 5th respondent A.R. Sridharan for his misconduct as a public servant and the pendency of the criminal case in Spl. CC No. 4 of 2012 (CIM, Chengleput) for tampering of the revenue/public records will have any bearing over his claim in respect of the subject property?

4. When the Hon'ble High Court had recorded the factual findings against the 5th respondent A.R. Sridharan with regard to his illegal act of tampering with the revenue records, can he be allowed to raise his claim on the basis of those bogus records?

5. Whether Mrs. Janaki Ammal, wife of Ramanujam, a real person or a fictional character concocted to cause confusion in title, especially when in the suit filed by A.R. Sridharan and his brother against New Colony, it was affirmed in the pleading that Ramanuja Pillai died unmarried?



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6. Whether the decree of the old court relied by the 5th respondent has any binding effect in view acts of fraud and forgery committed?

7. Whether a settlement deed purported to have been executed by Janakiammal on 05.08.1930, which is unregistered and unstamped is admissible for claiming title?

8. Whether the 5th respondent is entitled to raise a claim in respect of the subject properties on the basis of multifarious claims such as; unregistered and insufficiently stamped settlement deed dated 05.08.1930, dispute as to the identity of Janakiammal who had executed the said settlement deed and the claim under the Adheenam?

9. Whether the property could be ancestral as claimed by A.R Sridharan and Kannan, while they make a claim of grant through Muchalika in 1928 to T.S.No.19/2, 3/3, 20/1 & 1387?

10. When A.R. Sridharan had claimed the property as ancestral in nature, does it not militate against his claim through Janakiammal (who admittedly will have



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no right in an ancestral property)?

11. In the absence of any revenue records standing in the name of Janakiammal and establishing her possession, is the ASO right in relying upon the alleged settlement deed as proof of "title of Janakiammal" to grant patta to Sridharan or Kannan?

12 Patta issued by ASO on 16.06.1988 being the source of title and the same being cancelled by the Settlement Officer on 11.02.1991, have not Sridharan and Kannan played fraud by executing the sale deeds in favour of the State and third parties?

13. Whether A.R. Sridharan and Kannan, along with her sister Mallika have not played fraud by executing sale deeds in favour of third parties or their privies pending the proceedings before the High Court and Settlement Officers?

14. Whether A.R. Sridharan has played fraud by executing a sale deed in favour of the Governor of Tamil Nadu on 04.05.2004 based on the strength of the patta granted, when admittedly, the patta was cancelled by the Settlement Officer on 11.02.1991?



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15. When the property is mortgaged to a Nationalised Bank in the year 1984, and portion of such property is a subject matter of acquisition, can Mr. A.R. Sridharan claim to be a "person interested" in the property to the exclusion of the Bank and the mortgager?

16. When the claim of the 5th respondent A.R. Sridharan is not supported by any lawful title, whether he is entitled to dispute the title of the true owner/ATCO over the mortgaged properties with the secured creditor/S81, who sold it under the SARFAESI Act, 2002, which will have priority over other claims under Sec 26-E of the said Act?

17. In the absence of any dispute as to the entitlement of 6.42 acres mentioned in the sale certificate, whether the 5th respondent A.R. Sridharan could lay his claim over the subject matter property, particularly, when the entire extent of 10.07 acres (now 9.94 Acres) covered under the five sale deeds had been mortgaged with SBI?

18. Whether the report of the Advocate Commissioner appointed by this Hon'ble Court to verify with the title deeds of ATCO is right?



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19. When the Advocate Commissioner in his report and plan have elucidated the matter is dispute in respect of the subject properties based on the correlation register, physical survey and measurements, whether the 5th respondent A.R. Sridharan could raise a dispute afresh to protract the issue endlessly?

20. When the Advocate Commissioner had with the assistance of the revenue officials and settlement authorities have correlated the sale deeds standing in the name of ATCO with the settlement and revenue records and identified the property, is it not binding on all the parties?

21. Whether the extent of the property given by the Advocate Commissioner earmarking the area acquired as 2.38 acres and the compounded area in the occupation of the writ petitioner as 6.42 leaving 1.03 acres as one of dispute be reopened at the instance of the 5th respondent?

22. Whether the settlement officer to be called upon to probe on T.S. No. 282 of Adambakkam Village, which is not even the subject matter of controversy?



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Issues raised by the State authorities:

1. The road in the stretch is very narrow, the public demand that the street stretch is to be expanded further in view of the ongoing litigation, the department is not able to take steps to widen the road.

2. Whether there are alterations in the relevant records?

3. Whether the report along with the plan submitted by the Advocate Commissioner tallied with the Filed Measurement book, SFI, Register and connected revenue records. If the Special Commissioner and commissioner of Land Administration is not able to accept the report of the Advocate Commissioner, the Special Commissioner and Commissioner of Land Administration either by himself or appoint such other officers to inspect the property after due notice to all the parties and come to the conclusion as to the identity of the property.

4. To decide the issues that are directed by this Hon'ble Court in W.P. No. 7890/2007, dated: 31.01.2007.

5. Whether Mr.A.R.Sridharan and the Principals of



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Mr.A.R.Sndharan is entitled to refund the amount received as compensation in the land acquisition proceedings for the acquisition of Land for the formation of inner ring road in Ward E, Block Nos.1, 7, 10 and 9 of Adambakkam Village, Tambaram Taluk in case where Mr.A.R.Sridharan is not entitled to get Patta?

6. Whether the claim of Tr.A.R.Sridharan that the property situate elsewhere is true or not?

7. If the Special Commissioner and Commissioner of Land Administration come to the conclusion that Mr.A.R.Sridharan is not entitled for Patta, as a consequence of that cancel the patta standing in the name of the purchasers from Mr.A.R.Sridharan?

Issues raised by A.R.Sridharan:

Without prejudice to the contentions and the rights of 5th respondent, he agrees that:

- a) the patta proceedings for T.S.No.3, Adambakkam Village can be heard afresh by the Settlement Officer or any other officer as directed by this Hon'ble Court (not by Mrs.Indumathy, the



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present Settlement Officer, since she has given criminal complaint against R5-which is the subject matter of W.P.No 488 of 2022) The said W.P.No.488/2022 may kindly be allowed by setting aside the order passed by The Commissioner of Land Administration dated 30.12.2021 and entire matter be remanded back to officer as directed by the Hon'ble Court.

b) Fresh enquiry can be conducted to locate the lands admeasuring 1.61 acres which is covered under sale certificate dated 29.04.2017.

c) The settlement officer shall also investigate about the nature of lands at T.S. No 22. Adambakkam Village and shall pass suitable orders.

d) The 5th respondent may be given liberty to produce all necessary documents to prove his case the lands at T. No.3."

24. At this stage, learned counsel appearing on behalf of Tripower Enterprises (Private) Limited made a prayer that while the issues raised by the parties would be decided by the Special



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Commissioner and Commissioner of Land Administration pursuant to the direction of this court, the Highway Authorities may be directed to widen the approach road by acquiring the land in accordance with law. Learned Additional Advocate General has agreed to the aforesaid proposal in view of the public demand and otherwise in public interest.

25. The issues given by the parties and referred by this court would be addressed by the Special Commissioner and Commissioner of Land Administration and, while doing so, he would be at liberty to take up the common issues given by the parties together and take two or more issues together. It would not be necessary for him to answer each and every issue separately in the manner it has been given by the different parties, but all the issues would be decided appropriately. It would be without being influenced by the decree of the civil court, as already clarified earlier by the Division Bench in its order dated 1.12.2009 in W.P.No.7890 of 2007 and otherwise in the light of the judgment of the Apex Court in the case of **Satluj Jal Vidyut Nigam v. Raj Kumar Rajinder Singh, (2019) 14**



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SCC 449, wherein it has been held that fraud vitiates every the solemn proceeding and no right can be claimed by the person involved therein on the ground of technicalities, as given in paragraph 68 of the said judgment, which is quoted hereunder:

"68. Fraud vitiates every solemn proceeding and no right can be claimed by a fraudster on the ground of technicalities. On behalf of the appellants, reliance has been placed on the definition of "fraud" as defined in Black's Law Dictionary, which is as under:

"Fraud : (1) A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Fraud is usually a tort, but in some cases (esp. when the conduct is wilful) it may be a crime. ... (2) A misrepresentation made recklessly without belief in its truth to induce another person to act. (3) A tort arising from a knowing misrepresentation, concealment of material fact, or reckless misrepresentation made to induce another to act to his or her detriment. (4) Unconscionable dealing; esp., in contract law, the unconscientious use of the power arising out of the parties' relative



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positions and resulting in an unconscionable bargain."

26. In paragraph 72 of the judgment in the case of **Satluj Jal Vidyut Nigam**, supra, the proposition laid down in the case of **Madhukar Sadbha Shivarkar v. State of Maharashtra, (2015) 6 SCC 557**, was reiterated. For ready reference, paragraph 72 of the judgment is quoted hereunder:

*"72. In Madhukar Sadbha Shivarkar v. State of Maharashtra, (2015) 6 SCC 557, this Court observed that **fraud had been played by showing the records and the orders obtained unlawfully by the declarant, would be a nullity in the eye of the law though such orders have attained finality**. Following observations were made : (SCC pp. 569-70, para 27)*

"27. The said order is passed by the State Government only to enquire into the landholding records with a view to find out as to whether original land revenue records have been destroyed and fabricated to substantiate their unjustifiable claim by playing fraud upon the Tahsildar and



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appellate authorities to obtain the orders unlawfully in their favour by showing that there is no surplus land with the Company and its shareholders as the valid sub-leases are made and they are accepted by them in the proceedings under Section 21 of the Act, on the basis of the alleged false declarations filed by the shareholders and sub-lessees under Section 6 of the Act. The plea urged on behalf of the State Government and the de facto complainant owners, at whose instance the orders are passed by the State Government on the alleged ground of fraud played by the declarants upon the Tahsildar and appellate authorities to get the illegal orders obtained by them to come out from the clutches of the land ceiling provisions of the Act by creating the revenue records, which is the fraudulent act on their part which unravels everything and therefore, the question of limitation under the provisions to exercise power by the State Government does not arise at all. For this purpose, the Deputy Commissioner of Pune Division was appointed as the enquiry officer to hold such



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an enquiry to enquire into the matter and submit his report for consideration of the Government to take further action in the matter. ***The legal contentions urged by Mr Naphade, in justification of the impugned judgment and order prima facie at this stage, we are satisfied that the allegation of fraud in relation to getting the landholdings of the villages referred to supra by the declarants on the alleged ground of destroying original revenue records and fabricating revenue records to show that there are 384 sub-leases of the land involved in the proceedings to retain the surplus land illegally as alleged, to the extent of more than 3000 acres of land and the orders are obtained unlawfully by the declarants in the land ceiling limits will be nullity in the eye of the law though such orders have attained finality; if it is found in the enquiry by the enquiry officer that they are tainted with fraud, the same can be interfered with by the State Government and its officers to***



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pass appropriate orders. *The landowners are also aggrieved parties to agitate their rights to get the orders which are obtained by the declarants as they are vitiated in law on account of nullity is the tenable submission and the same is well founded and therefore, we accept the submission to justify the impugned judgment and order Babu Maruti Dukare v. State of Maharashtra [Babu Maruti Dukare v. State of Maharashtra, 2006 SCC OnLine Bom 1268 : (2007) 2 AIR Bom R 361] of the Division Bench of the High Court."*

[emphasis supplied]

27. The reference of the judgment aforesaid has been given to make it applicable if a finding is recorded by the Special Commissioner and Commissioner of Land Administration to the effect that A.R.Sridharan has played fraud, as a serious allegation in that regard has been made by Tripower Enterprises (Private) Limited. It can very well be defended by A.R.Sridharan by producing the original records pertaining to the property in question



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and submitting that no fraud has been played by him.

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28. While addressing the issues, the Special Commissioner and Commissioner of Land Administration would also take into account the report of the Advocate Commissioner and also the objections raised against it by A.R.Sridharan along with a map. A conclusion on the aforesaid would be required to identify the location of the land of 1.61 acres in dispute, because as per the statement made by A.R.Sridharan and otherwise given in the questionnaire framed by him, he would evict himself from the land, if the location of the auctioned property in regard to 1.61 acres is under his occupation. Therefore, there would be relevance to the report of the Advocate Commissioner and also the objection raised by A.R.Sridharan against it.

29. The State Government can refer to and produce relevant documents to assist the Special Commissioner and Commissioner of Land Administration to draw a proper conclusion on all the issues.



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30. The Special Commissioner and Commissioner of Land Administration would draw the conclusion on the issues given by respective parties after giving proper opportunity of hearing to them and permitting them to produce all relevant documents. The Special Commissioner and Commissioner of Land Administration shall pass appropriate orders within twelve weeks from the date of receipt of a copy of this order.

31. The final outcome of the proceedings before the Special Commissioner and Commissioner of Land Administration would address the prayer made by the respective parties. If the findings are recorded in favour of A.R.Sridharan in reference to 1.61 acres of land, necessary entires in the revenue records and issuance of patta can be claimed pursuant to it. Such claim can be made by Tripower Enterprises (Private) Limited, if the finding is recorded in their favour. If any patta exists in favour of any of the parties in regard to the land of 1.61 acres, then it would be governed by the final outcome of the proceedings before the Special Commissioner and Commissioner of Land Administration and, accordingly, the patta would be issued.



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32. Subject to the final outcome of the proceeding, even the issue about the entitlement to receive the compensation out of the acquisition of land already made would get settled. If A.R.Sridharan is found entitled to it, then compensation received by him would be kept by him. However, if Tripower Enterprises (Private) Limited is found entitled to receive compensation, then A.R.Sridharan would pay the amount aforesaid to the other party.

33. During the course of proceedings before the Special Commissioner and Commissioner of Land Administration, the Highways Authorities would initiate the process to widen the road in view of public demand and public interest, after taking the proceedings as per the provisions of law.

The writ petitions are disposed of accordingly. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(M.N.B., C.J.) (N.M., J.)
09.09.2022

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sasi



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To:

- 1 The Chief Manager
State Bank of India
Stressed Assets Management Branch
Coimbatore.
- 2 The Commissioner of Land Administration
Ezhilagam, Chepauk
Chennai - 600 005.
- 3 The Settlement Officer
Tanjore, Tanjore District.
- 4 The District Collector
Chennai District, Chennai.
- 5 The Divisional Engineer
Highways Department, Government of Tamil Nadu
Highways Project I, Division I
Adambakkam, Chennai.
- 6 The Special Tahsildar (LA)
Inner Ring Road Project
Chrompet, Chennai - 44.
- 7 The Tahsildar
Alandur Taluk, Chennai District.
- 8 The Director of Survey and Settlement
Survey House, Chepauk
Chennai - 600 005.
- 9 The Settlement Officer
Office of Director of Survey and Settlement
Survey House, Chepauk, Chennai - 600 005.



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THE HON'BLE CHIEF JUSTICE
AND
N.MALA, J.

(sasi)

W.P.Nos.32535 of 2019, 3678 and
4148 of 2021, 488 and 7447 of 2022

09.09.2022