IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 17.04.2023

Orders Pronounced on : **27.04.2023**

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.7735, 11186 and 11408 of 2023
and W.M.P.Nos.11054, 7940, 7941 and 11311 of 2023

In W.P.No.7735 of 2023 :

M/s.Tripower Enterprises (Private) Limited,
Represented by its Director,
No.2/569, Sandy Nook,
Singaravelan First Main Road,
Chinna Neelangarai,
Chennai - 600 115. ... Petitioner

Versus

1. The Commissioner of Land Administration,
   Ezhilagam,
   Chepauk,
   Chennai - 600 005.

2. The State Bank of India,
   Rep. by its Chief Manager,
   Stressed Assets Management Branch,
   Coimbatore.

3. The District Collector,
   Chennai District,

Chennai.

4. The Special Tahsildar,
   (Land Acquisition),
   Inner Ring Road Project,
   Chrompet,
   Chennai - 600 044.

5. The Tahsildar,
   Alandur Taluk,
   Alandur,
   Chennai - 600 061.

6. The Divisional Engineer,
   Highways Department,
   Government of Tamilnadu,
   Highways Project - I, Division - I,
   Adambakkam,
   Chennai - 600 088.

7. A.R.Sridharan ... Respondents

In W.P.No.11186 of 2023 :

A.R.Shridharan ... Petitioner

Versus

1. The Commissioner of Land Administration,
   Ezhilagam,
   Chepauk, Chennai - 600 005.

2. Associated Trading Corporation (P) Ltd.,
   Rep. by its Director,
   No.22, V.P.Rathinasamy Nadar Road,
   Madurai - 625 007.

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

4. VAK Engineering Pvt. Ltd.,
   Rep. by its Managing Director,
   Rajesh Malhothra,
   No.294, Thambhu Chetty Street, Chennai.

5. The State Bank of India,
   Represented by its Chief Manager,
   Stressed Assets Management Branch,
   Coimbatore. ... Respondents

In W.P.No.11408 of 2023 :

M/s.VAK Engineering Pvt. Ltd.,
Represented by its Director
Rajesh Malhotra,
No.294, Thambu Chetty Street,
Chennai - 600 001. ... Petitioner

Versus

1. The Commissioner of Land Administration,
   Ezhilagam,
   Chepauk,
   Chennai - 600 005.

2. The District Collector,
   Chennai District,
   Chennai.

3. The Tahsildar,
   Alandur Taluk,

Alandur,
Chennai - 600 061.

4. A.R.Sridharan ... Respondents

Prayer in W.P.No.7735 of 2023 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records relating to the direction given in the penultimate Para No.(ii) of the order impugned, dated 14.02.2023 made in R.O.C.No.K2/1284064/2021 passed by the 1st respondent to the extent of treating the property as "Anadheenam" till the declaration by an appropriate authority, quash the same as illegal and unconstitutional and consequentially, direct the respondents 1, 3 and 5 to issue patta for 7.47 Acres, put the petitioner in possession under Section 14 of the SARFAESI Act, 2002 over an extent 1.03 Acres in T.S.No.2, 3, 140 and 257 Adambakkam Village, Alandur Taluk, Chennai District.

Prayer in W.P.No.11186 of 2023 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the entire records to the order, dated 14.02.2023 passed in R.O.C.No.K2/1284064/2021 by the 1st respondent and quash the same, consequentially, direct the 1st respondent to grant patta to the writ petitioner for the lands at T.S.No.3, Ward No.E, Block-I, Adambakkam village to an extent of 1.80 Acres and T.S.No.138, Ward No.E, Block-I, Adambakkam village to an extent of 3.80 Acres, Adambakkam village within a stipulated time.

Prayer in W.P.No.11408 of 2023 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records relating to the direction given in the penultimate concluded in Para No.29(ii) of the order impugned order, dated 14.02.2023 made in R.O.C.No.K2/1284064/2021 passed by the 1st respondent to the extent of treating the property as "Anadheenam" till the declaration by an appropriate authority and quash the same as illegal and unconstitutional and consequentially, direct the respondents 1, 2 and 3 to issue patta for the lands in T.S.No.138 to an extent of 3.80 Acres.

In W.P.No.7735 of 2023 :

For Petitioner : Mr.V.Raghavachari, Senior Counsel
for Mr.P.Krishnan

For Respondents : Mr.R.Ramanlal,
Additional Advocate General
Assisted by Mr.P.Muthukumar,
State Government Pleader
for RR-1, 3 to 6

: Mr.N.Ramesh, for R2

: Mr.C.Umashankar, for R7

In W.P.No.11186 of 2023 :

For Petitioner : Mr.C.Umashankar

For Respondents : Mr.R.Ramanlal,
Additional Advocate General
Assisted by Mr.P.Muthukumar,
State Government Pleader
for R1

: Mr.P.Krishnan, for R3

: Mr.N.R.Elango, Senior Counsel
for Mr.A.S.Aswin Prasanna, for R4

: Mr.N.Ramesh, for R5

In W.P.No.11408 of 2023 :

For Petitioner : Mr.N.R.Elango, Senior Counsel
for Mr.A.S.Aswin Prasanna

For Respondents : Mr.R.Ramanlal,
Additional Advocate General
Assisted by Mr.P.Muthukumar,
State Government Pleader
for RR-1 to 3

: Mr.C.Umashankar, for R4

COMMON ORDER

D.BHARATHA CHAKRAVARTHY, J.

A. The Writ Petitions :

All these Writ Petitions are filed challenging the order passed by the Commissioner of Land Administration in R.O.C.No.K2/1284064/2021, dated 14.02.2023, in and by which, the Commissioner of Land Administration held that the claim of one *A.R.Sridharan*, in respect of the subject matter land, is not justifiable and is based on fraudulent documents. By the same order, the Commissioner of Land Administration held that since the claim of *M/s.Tripower Enterprises Pvt. Limited*, in respect of land its possession, to grant *patta*, cannot be acceded to since its sale certificate under the *Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002* (hereinafter referred to as '*SARFAESI Act*') remains unregistered. Similarly, the claim of one *M/s.V.A.K Engineering Pvt. Ltd.,* cannot be entertained as they also had a Memorandum of Understanding with the said *A.R.Sridharan* in respect of the land in its possession and the matter is pending in arbitration between the two parties. Since the Commissioner of Land Administration was unable to agree with the claim of all the three parties in respect of the subject matter land, pending further declaration by any appropriate Court of Law regarding the title, the Commissioner of Land Administration also further directed that the said lands in T.S.No.3 and 138 of Block No.I, Ward No.E at *Adambakkam* village, *Alandur* taluk, Chennai district are to be treated as *Anadheenam* and to be maintained as such in the revenue records.

2. Feeling aggrieved, the said *A.R.Sridharan* and the two Companies namely, *M/s.Tripower Enterprises Pvt. Limited* and *M/s.V.A.K Engineering Pvt. Ltd.*, had filed Writ Petitions in W.P.Nos.11186, 7735 and 11408 of

2023 respectively. Thus, the subject matter, being one and the same, all the three Writ Petitions are taken up together and disposed off by this common judgment.

B. The brief facts leading to the filing of the Writ Petitions :

3. There were multiple rounds of litigations in this case. By an order, dated 01.12.2009 in W.P.No.7890 of 2007, an earlier Division Bench of this Court had meticulously encapsulated the facts of the case until that point of time and it is suffice to extract the paragraph Nos.2.1 to 4.4 of the said judgment which read as follows:-

> " ***2.1.*** *The genesis of this writ petition is the order passed by the Assistant Settlement Officer at Thiruvannamalai in S.R.Nos.128, 129 and 132 of 1988 dated 16.6.1988. The inamdar in respect of these properties, who was the original owner is the Adhina Karthar, Kundrakudi. They are minor inams. The lands had been endowed for the Kattalai in respect of Sri Kalakestheeswarar Swamy and Desikar Sannadhi, Thiruvannamalai. On 15.2.1965, the minor inam lands vested with the Government as per the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 ('Act' in short). According to the Assistant Settlement Officer, since no one made any application in respect of the scheduled mentioned properties and since the officers on*

field work, after surveying the lands on site, collected statistics and after sending notices under Section 9(5) of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Rules to all concerned and also the Tahsildar, suo moto took up the matter in S.R.No.128.

***2.2.** The petitioner herein, son of Rajagopala Pillai claimed that he had been enjoying the Kudivaram rights in respect of 0.80 cent in S.No.138 and S.No.20/1, part in S.R.No.132 and submitted certain documents. The Inamdar objected to the grant of patta stating that no right had been passed to the claimant either directly from the Inamdar or from any person authorised by them and further, if there were buildings, they were built after 15.2.1965.*

***2.3.** Singaram, the Village Administrative officer was examined as Court witness. According to him, the land in S.No.19/2 of an extent of 0.6585.0 sq.mtrs. was enjoyed by one Shanmugam Chettiar, Son of Murugappa Chettiar and that when the land was inspected, it was found that in the northern part, there were three buildings, which were dilapidated and not in anyone's occupation. The Village Administrative Officer also gave evidence with regard to the possession of Narasimmalu Naidu vagayara and Purushothaman vagayara, with which we are not concerned. As regards T.S.No.3, he said that it belonged entirely to the petitioner and his brother Kannan and T.S.No.138 belonged to Purushothaman and in T.S.No.138, 60 cents was enjoyed by one Purushothaman, 25 cents by one Nagaraj and Tamilnammal and 80 cents by Rajendran vagayara and balance 3 acres by the sons of late*

Rajagopal Pillai, who are the petitioner herein and his brother.

2.4. *Now, the offcials, who were engaged in field work, had also given evidence that only the petitioner, Purushothaman, Tamilnammal and others were enjoying the property and Shanmugam Chettiar was not there. The Assistant Settlement Officer examined the objections of the Inamdar and rejected them as merely general objections. Thereafter, he held that there was no evidence regarding the ownership of the three built up portions nor any evidence regarding who constructed them and when they were constructed. Then, the Assistant Settlement Officer took into account S.No.19/2 (T.S.No.2), S.No.19/3, T.S.No.3 and T.S.No.138 and held that they were entitled to get patta and though the lands, which were the subject matter of the civil suits, were vacant, since they came within the limits of Chennai City Corporation and within the jurisdiction of Alandur Municipality and since they were in the residential area and incapable of cultivation, he decided to assess it to land tax and to grant patta. Therefore, he passed an order holding that he is granting patta under section 13(1). Against this, a revision petition was filed by the fourth respondent herein before the Settlement Officer.*

3.1. *The Settlement Officer, on 11.2.1991, set aside the order granting patta and remanded the matter for due correlation with the documents filed by both sides and with reference to the correct provisions of the Act. He rejected the preliminary objection regarding limitation. He found that the order of the Assistant Settlement Officer was not served on the fourth respondent* *and he came to the conclusion that the appeal had been filed soon after the fourth respondent had knowledge of the impugned order.*

***3.2.** Then, the Settlement Officer dealt with the merits at length. He referred to certain documents filed by the fourth respondent herein, which are all registered documents of the pre-settlement period relating to Paimash No.718, 719, 720, 721 and 722. A sketch was produced before him to show that the petitioner's lands lay to the west of the road. The Settlement Officer concluded that the issue could be decided only after field inspection. He found that the Assistant Settlement Officer had not correlated the documents with the physical possession on ground and held that the Assistant Settlement Officer should have prepared a fair sketch showing individual possessions and correlated them with reference to the documents filed before passing orders. He held that the areas allotted to the individuals were arbitrary, having no bearing to the documentary evidence. No inspection of the site was made by the officers to survey the holdings and patta was granted only because muchalikas had referred to Paimash Nos.721 and 722. Therefore, the Settlement Officer felt that in view of these lapses, it was not possible to say categorically whether the documents filed by the writ petitioner before the Assistant Settlement Officer really related to the lands in question. The Settlement Officer also noted that though the Assistant Settlement Officer was aware of the interests of the Shanmugavel Chettiar, who is the Director of the fourth respondent company, it was mentioned in the order that he was not in possession of the land at the time of the enquiry. But during the preparation of preliminary* *settlement records in 1973, the name of this person was mentioned by the field staff. Notices had been prepared in the name of the said Shanmuga Chettiar, yet no attempt was made either to serve the notice on this person or to secure the names of all the occupants in the land. Before the Settlement Officer the fourth respondent herein filed panchayat tax receipts, electricity tariff receipts and the Settlement Officer was of the opinion that these cannot be brushed aside lightly. He further found that the Assistant Settlement Officer had exceeded jurisdiction because orders could have been passed under section 13 only in respect of buildings that existed on the notified date and the land appurtenant to them and that section 13 of the Act does not speak of any vacant land liable to be used as house site. After giving all these detailed reasons, he remanded the matter to the Assistant Settlement Officer for fresh enquiry after due correlation on ground with reference to the documents.*

***3.3.** Against this, revision petitions were filed by the writ petitioner and others before the Commissioner of Land Administration, the first respondent herein. According to them, the Settlement Officer ought to have dismissed the matter as time-barred and he ought not to have considered the matter on merits. But, the first respondent rejected this objection and held that it is but proper that adequate opportunity is provided before any finality is reached and since the Assistant Settlement Officer's order did not include the fourth respondent herein, the Settlement Officer by order dated 4.10.1996, dismissed the revision petition as without merit.*

3.4. *Against this, the petitioner and others filed W.P.No.710 of 1997. On 9.9.2005, the learned Judge held that since the only issue which was considered by the Commissioner was the issue of delay and the Commissioner found that there were justifiable reasons, he was not inclined to go into the merits. Before the learned Judge, the petitioner contended that the rights of the parties had already been concluded in the proceedings before the civil Court and had ended in the Supreme Court ultimately in favour of the petitioner and therefore, the revenue authority had no jurisdiction to go into the issue again and to hold against the petitioner contrary to the findings of the civil Court. On the other hand, it was contended by the respondents herein that the documents which were produced before the civil Court were concocted and fraudulently manipulated in collusion with revenue officials and even if there is a civil Court decree, a decree obtained by fraud and manipulation must be held as null and void and so the revenue authority could still go into the issue once again. It was also submitted that the proceedings had been initiated before the criminal Court and the same were pending. The learned Judge thereupon observed that the Settlement Officer had only considered the issue of delay and had not dealt with the contentions that the rights of the parties had been concluded before the civil Court nor was the issue of fraud and manipulation raised nor considered. Therefore, he remanded the matter on 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 rights 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 ?"*

Thereafter, the impugned order was passed on 4.1.2007 by the first respondent, Commissioner of Land Administration.

Effect of the order passed in W.P.No.710 of 1997 *-*

a) The issue of limitation cannot be raised hereafter since this order is unassailed.

b) The first respondent was bound to test whether the allegations of fraud and manipulation were true.

c) No objection regarding the jurisdiction of the first respondent to decide these questions can be raised now.

d) The order has become final.

4.1. *In the meantime, one V.A.K. Engineering company, who is not a party to this writ petition, had sent a representation complaining about fraud and manipulation and forgery in land records by the then Village Headman, Parthasarathy Pillai, who is none other than the father of the petitioner herein.*

Thereafter, the Deputy Collector verified the records, conducted a discreet enquiry and filed his report. The Collector, Kancheepuram filed a criminal complaint with CBCID in F.I.R.No.4 of 1998. On this complaint, the CBCID investigated the matter and the final report was filed and C.C.No. 321 of 2002 is pending before the Judicial Magistrate No.II, Poonamallee.

4.2. *By the order dated 9.9.2005, the first respondent had to examine and decide both questions, extracted above. The petitioner was directed to produce all the original documents with a written statement explaining how each document would prove his entitlement for grant of patta. The petitioner had produced the certified copies of the civil Court orders, photo copy of the High Court orders and the order passed in Crl.O.P.Nos.7457 of 2002 and 17563 of 2003. But the petitioner did not produce any of the original documents of Adheenam patta, muchalika settlement deed, which he relied for grant of patta in the civil Courts.*

4.3. *Before the civil Court, the plea of fraud and forgery was not taken and one of the reasons for which the suit was decreed, was the order of Assistant Settlement Officer dated 16.6.1988. The first respondent, however, found that the Assistant Settlement Officer had not given any opportunity to the respondent and had referred to a civil Court decree though the suit was decreed only on 16.2.1990. The first respondent also specifically found that the notices were not sent to the affected parties, viz., the fourth respondent nor to V.A.K. Engineering Co. In fact, the first respondent has referred to the enquiry by the Assistant Settlement Officer as*

> *a "discreet enquiry" without the knowledge of the fourth respondent herein. He has also observed that the petitioner had obtained patta for the lands belonging to V.A.K. Engineering Co.*
>
> ***4.4.** On merits, the first respondent held that according to Section 13 of the Act 30 of 1963, for granting patta, there must be a building on the appointed date and there should be continuous possession and enjoyment of the land with buildings. But, there was no recorded evidence to show this and yet, the patta was granted. It is also seen from the impugned order that the petitioner had not produced any patta given by the Inamdar. In conclusion, he had held that the order dated 16.6.1988 is one of the pieces of evidence based on which the civil Court had granted decree and since the records produced before the Assistant Settlement Officer are now attacked as manipulated or corrected, the matter should be remanded to the Assistant Settlement Officer to examine the case in detail with reference to the records to be produced by the petitioner and the fourth respondent and to pass appropriate order, after issue of notice to all the parties including the Inamdar concerned. It is against this order that the present writ petition has been filed."*

3.1. By the above order, the Division Bench found that the Assistant Settlement Officer could not have assumed himself the jurisdiction under Section 13 of the *Act 13 of 1963* and that the *Inamdar* has also raised serious objections which were not considered by the Assistant Settlement

Officer and the Assistant Settlement Officer also did not prepare a fair sketch showing the individual possessions and correlated them with reference to the documents and allowed the Writ Petition with 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 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.*"

3.2. The matter was taken up to the Hon'ble Supreme Court of India by *A.R.Shridharan* in S.L.P.No.4037 of 2010, but, however, was subsequently withdrawn by him. As per the directions, an order was passed on 20.07.2021 by the Settlement Officer which is as follows:-

> " ***6)****.....*
>
> *However, the Assistant Settlement Officer, Tiruvannamalai in his order dated: 16.06.1988 while granting patta to A.R.Sreedharan and A.R.Kannan under section 13(1) of the Act 30/63 pertaining to TS No.3 measuring an extent of 0.7350.0 sq.mts. instead of emphasising on the existence of a building, he had opined that the lands cannot be used for agricultural purposes and hence, decided to levy 'Manai Assessment' and accordingly granted patta under section 13(1) of the Act 30/63, which is not legally valid as sec 13(1) applies only to existing buildings and shouldn't be in anticipation of a residential area.*
>
> ***Now, as seen from the field inspection report of the Advocate Commissioner, there was a house in the site i.e., in the said T.S.No.3 and hence, the order dated 16.06.1988 of the Assistant Settlement Officer, Tiruvannamalai under section 13(1) of the Act 30/63 is upheld with the above observations.***
>
> ***7)*** *The Special Tahsildar, Town Settlement, Alandur is directed to make (i) necessary entries in the revenue accounts in furtherance to this order and subsequent, registered sale/settlement deeds arising out of it and to report compliance, immediately."*

3.3. Thereafter, the matter was taken up on appeal before the Commissioner of Land Administration and by an order in W.P.Nos.32535 of 2019 etc., this Court had directed the Commissioner of Land Administration to pass orders thereon. By an order, dated 30.12.2021, after taking into account the findings of this Court in the relevant proceedings, the Commissioner of Land Administration found that the entire proceedings namely, the orders of the Assistant Settlement Officer, Settlement Officer etc., were vitiated by fraud and passed the following order:-

> "***28.*** *Under the exceptional circumstances wherein fraud vitiates all the other proceedings, I have no hesitation that warrants an order declaring the orders passed by the then Settlement Officer to be issued. Hence, the orders passed by the then Settlement Officer in Rc.No.(D4).987/2020 dt. 20.07.2021 and Rc.No.(D4).987-2/2020 dt. 20.07.2021 are hereby declared null and void. The incumbent Settlement Officer is requested to complete the proceedings expeditiously as directed by the Hon'ble High Court and report compliance to the Hon'ble High Court, Madras.*"

3.4. Once again, the earlier Writ Petitions which were pending and the Writ Petition challenging the above order were all taken up together and by a detailed judgment, dated 09.09.2022, this Court remitted the matter back to the Special Commissioner and the Commissioner of Land Administration to come with with independent findings regarding the allegations of fraud and in paragraph No.25, delineated the issues raised on behalf of the respective parties and recording the consent of the parties, agreeing that the Special Commissioner of Land Administration can go into the issues and pass a speaking order, disposed off the Writ Petition and it is essential to extract paragraph Nos.29 to 35 of the said judgment which reads as follows:-

> " ***29.*** *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 and submitting that no fraud has been played by him.*
>
> ***30.*** *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.*

31. *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.*

32. *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.*

33. *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.*

34. *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.*
>
> ***35.** 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.*"

As per the aboveoOrder, the impugned order is passed. Suffice it to say that apart from the above proceedings referred to, there were also several other Writ Petitions and proceedings etc., touching the subject matter, records of which are also provided by the parties in their respective paper books.

C. The Submissions :

4.1. In the above factual conspectus of the matter, we heard *Mr.C.Umashankar*, learned Counsel appearing on behalf of *A.R.Sridharan* in all the Writ Petitions; *Mr.N.R.Elango*, learned Senior Counsel appearing on behalf of *M/s.V.A.K Engineering Pvt. Ltd.,* and *Mr.R.Ramanlal*, learned Additional Advocate General on behalf of the Commissioner of Land Administration and on behalf of the State and its authorities and *Mr. N. Ramesh*, appearing for the State Bank of India.

4.2. *Mr.C.Umashankar*, learned Counsel appearing on behalf of *A.R.Sridharan*, would submit that a false and vicious image is built up all along in respect of the petitioner, *A.R.Sridharan*, as if only because he happened to work as Village Administrative Officer (Truine officer) in respect of the same *Adambakkam* village, in which, the subject matter property is situated, he committed acts of fraud and as such, managed to grab the land. He would contend that as a matter of fact, the truth is otherwise. The petitioner, *A.R.Sridharan* and his forefathers are residents of the same village from time immemorial. Taking this Court through the genealogical tree, *Mr.C.Umashankar*, learned Counsel would submit that one *Ramanuja Pillai* was the great grandfather of *A.R.Sridharan* and since the said *Ramanuja Pillai* and thereafter his wife, *Janaki Ammal* did not have issues, the said *Janaki Ammal*, by an unregistered deed, dated 05.08.1930, termed as 'settlement deed', had given the properties to the grandfather of *A.R.Sridharan,* namely, to one *Parthasarathy Pillai*, from whom they have inherited the property.

4.3. *Mr.C.Umashankar*, learned Counsel would submit that even though the said deed is termed as settlement deed, the nomenclature does not matter and it has to be read as Will. Apart from the same, also taking this Court through the patta given by *Tiruvannamalai Adheenam Matham* in favour of the same *Parthasarathy Pillai* and *Rajagopala Pillai*, he would submit that the land is vested in their family and accordingly, taking consideration of the same, the Assistant Settlement Officer had duly granted patta under the *Act* and all along they were in possession and enjoyment of the same and in the concerned Civil Courts in the connected proceedings, these facts have been established. He would submit that there is no evidence to conclusively prove either the Will or the patta as forged. In that view of the matter, the finding of the Commissioner of Land Administration, regarding the title of *A.R.Sridharan*, is perverse in nature.

4.4. As far as the claim of *M/s.Tripower Enterprises Pvt. Limited* is concerned, learned Counsel took this Court to the earlier proceedings and records to contend that it was erroneous even as per their own records to contend that the entire 10.07 acres stood mortgaged with the State Bank of India and therefore, just because there is a sale certificate in favour of *M/s.Tripower Enterprises Pvt. Limited*, it cannot claim title as the subject matter property was not even mortgaged with the State Bank of India and therefore, it is only the said *M/s.Tripower Enterprises Pvt. Limited* which is trying to grab the land.

4.5. As far as the claim of *M/s.V.A.K Engineering Pvt. Ltd.,* is concerned, he would submit that the dispute between *A.R.Sridharan* and said *M/s.V.A.K Engineering Pvt. Ltd.,* is pending in arbitration before a Retired Judge of this Court. Therefore, the question as to the relative title between *A.R.Sridharan* as well as the said *M/s.V.A.K Engineering Pvt. Ltd.,* can be determined only after the outcome of the award and in any event, cannot be determined by the Commissioner of Land Administration. He would submit that as per the remit of the matter, *inter se* disputes cannot be determined by the Commissioner of Land Administration and therefore, once the findings in respect of *A.R.Sridharan* are perverse in nature, consequently, the claim of the other two Companies have to be rejected. He would submit that even otherwise, independently, as submitted by him in detail, on a closure scrutiny of the title of *M/s.Tripower Enterprises Pvt. Limited* and *M/s.V.A.K Engineering Pvt. Ltd.,* their cases have no merits.

4.6. *Mr.V.Raghavachari*, learned Senior Counsel appearing on behalf of *M/s.Tripower Enterprises Pvt. Limited*, would submit that the entire issue has already been decided by the earlier Division Bench in W.P.No.7890 of 2007 (which is quoted *supra)* and thereafter, in the further round, the matter was remitted to the Special Commissioner and the Commissioner of Land Administration. The detailed findings of fraud committed by *A.R.Sridharan* have already been made in W.P.Nos.32535 of 2019 etc., wherein, the learned Single Judge had given detailed findings in respect of the frauds committed by the said *A.R.Sridharan*, being the Truine Officer of the village. He would submit that the claim of title is made by an alleged unregistered settlement deed, the settlement deed is not registered. A reading of the settlement deed also does not make any sense at all as it only purports to give life estate to the grandfather of *A.R.Sridharan*. Even thereafter, as to how the title had flowed to *A.R.Sridharan* and his brother are not shown. As a matter of fact, in connected proceedings, *A.R.Sridharan* himself has pleaded that the said *Ramanuja Pillai* died as a bachelor and now, as an afterthought, a false document is concocted as if *Ramanuja Pillai* had a wife by name *Janaki Ammal* and that the said *Janaki Ammal* had executed a deed on 05.08.1930. Even the *Adheenam* has categorically denied of having given such a patta, as claimed by *A.R.Sridharan*. Thus, when the detailed report of the then Collector is on record and even the complaints for prosecution of *A.R.Sridharan* for grabbing the land have been forwarded and as on date pending before various Criminal Courts for trial after investigation and filing of charge sheet, it goes without saying that the claim of *A.R.Sridharan* is absolutely fraudulent and therefore, fraud vitiates any or all orders including grant of patta or findings of Civil Court etc. Repeatedly, the question of fraud has been considered by this Court and the issue has been specifically remitted to the Special Commissioner and the Commissioner of Land Administration to decide by considering the records and on the available records, the authority has found that the claim of *A.R. Sridharan* is nothing but fraudulent. Once his claim is negated, there is no other rival claim of any title in respect of the subject matter lands. The fact remains that the property was originally mortgaged to the State Bank of India and upon the mortgagor defaulting, the property was sold under the *SARFAESI Act* and is duly purchased by *M/s.Tripower Enterprises Pvt. Limited* and a sale certificate has been issued. The only ground, on which the claim of *M/s.Tripower Enterprises Pvt. Limited* is rejected by the authority, is that such sale certificate is not registered.

4.7. Learned Senior Counsel would submit that firstly, it has been categorically held by the Hon'ble Supreme Court of India as well as this Court that the registration of sale certificate, in respect of the purchase under the *SARFAESI Act*, is not mandatory. It is enough if it is shown in the book under Section 89 of the *Act*. As a matter of fact, the sale certificate has been recorded and encumbrance certificate reflects the name of *M/s.Tripower Enterprises Pvt. Limited*. Therefore, it is only on the legally erroneous premise that the sale certificate has to be mandatorily registered, the claim has been rejected. In any event, after the order, now, the same has also been duly shown in the book of records have not been taken on file by the very Sub-Registrar and therefore, the ground no longer exists and therefore, *M/s.Tripower Enterprises Pvt. Limited* is entitled for the relief prayed for.

4.8. *Mr.N.Ramesh*, learned counsel appearing on behalf of the State Bank of India, supporting the above submissions, would take this Court through the concerned maps and the particulars of the mortgage and the land acquisition proceedings and submit that the Bank has duly verified and accepted the mortgage in respect of the entire Acre 10.07 Cents and the bank has duly and validly conveyed title to the auction purchaser and issued Sale Certificate.

4.9. *Mr.N.R.Elango*, learned Senior Counsel appearing on behalf of *M/s.V.A.K Engineering Pvt. Ltd.,* would submit that as far as the portion of the land in question, which is held by *M/s.V.A.K Engineering Pvt. Ltd.,* detailed title documents, right from the year 1930, is produced before the Commissioner of Land Administration. As a matter of fact, the authority records the said tracing of title in paragraph No.28 of the impugned order. The Commissioner of Land Administration had not found in anything against the said deeds of title of *M/s.V.A.K Engineering Pvt. Ltd.,* and there is no occasion at all to doubt their title. As a matter of fact, the entire exercise is done and is remanded repeatedly for the authorities to consider only on the fraudulent claim of *A.R.Sridharan* is concerned. Once the claim of *A.R.Sridharan* is rejected, as a natural consequence, the patta, as prayed for, by *M/s.V.A.K Engineering Pvt. Ltd.,* has to be granted. The only ground, on which, the authority has rejected the same is that *M/s.V.A.K Engineering Pvt. Ltd.,* had entered into a Memorandum of Understanding that *A.R.Sridharan* and thereafter, had paid part amount under the said Memorandum of Understanding and thereafter, dispute arose even under the said Memorandum of Understanding and the matter is pending in arbitration before a learned Arbitrator.

4.10. Learned Senior Counsel submits that this entire exercise was a without prejudice compromise attempt by *M/s.V.A.K Engineering Pvt. Ltd.* Having been repeatedly caught in the litigations, as the said *A.R.Sridharan* kept on filing petitions after petitions, inspite of four criminal cases pending against him, in order to buy peace, only as a without prejudice attempt, a compromise was sought to entered into, by which, *M/s.V.A.K Engineering Pvt. Ltd.,* agreed to pay a certain amount to *A.R.Sridharan* so that he will relinquish all his claim and the said *A.R.Sridharan* can enjoy its property and put it into appropriate use. Therefore, he would submit that the said without prejudice proceedings, it cannot be held against the petitioner and the relief be refused.

4.11. *Mr.R.Ramanlal*, learned Additional Advocate General, made a common reply to the submissions made on behalf of all three learned Counsel. He took us to the earlier order and the remit of authority of the Commissioner of Land Administration and submits that the Commissioner of Land Administration has duly and properly applied his mind and by the impugned order which is passed in detail. The impunged order is well speaking and it traces the entire history of *Adambakkam* village itself and thereafter, the facts in respect of the earlier proceedings of the present case. Thereafter, it considers the scope of direction given, as contained in paragraph Nos.29 to 35 of the common order in W.P.No.32535 of 2019 etc., (which is also quoted *supra*) and proceeded to consider the written statements filed by *A.R.Sridharan*, *M/s.V.A.K Engineering Pvt. Ltd.,* and *M/s.Tripower Enterprises Pvt. Limited* and thereafter, dealt with the claim of all the three entities in detail. The claim of *A.R.Sridharan* is discussed in detail in paragraph No.29 of the common order. The Commissioner of Land Administration found that the Assistant Settlement Officer has not correlated the old paimash numbers noted in the documents to resurvey numbers with physical possession on ground. He had simply issued patta without inspecting and identifying the land on ground. Further, the Will document, said to be executed by *A.P.Rajagopal Pillai* in favour of his two sons i.e., *A.R.Shirdharan* and *A.R.Kannan*, relates to paimash Nos.723/3 and 724 only and therefore, the same does not relate to R.S.No.20. *A.R.Sridharan*, who worked as Triune Officer and thereafter, as Village Administrative Officer, was able to manipulate the Government records and field documents. It is found that *A.R.Sridharan*, in S.A.No.1900 and 1901 of 2003, took a stand that *Ramanuja Pillai* died unmarried and therefore, the alleged Will, executed by *Janaki Ammal*, is fraudulent. Even in the said document, there is correction and overwriting. Considering the recitals of the document, the document ought to have been registered. The obvious contradiction in the claim of *A.S.Shridharan*, that a Muchalika was issued by *Tiruvannamalai Adheenam* in favour of *Rajagopal Pillai* on 21.04.1928 for the suit property and the other properties and at the same time, a settlement deed/will was also executed two years thereafter on 05.08.1930, would expose the falsity of the case of *A.R.Sridharan.* Even the patta granted by the said *Adheena Kartha*, on verification, found to be manipulated and the name has been over-written. Thereafter, considering the proceedings of the Assistant Settlement Officer and the Settlement Officer in detail and the findings of this Court in W.P.No.3733 of 2013 etc., the Commissioner of Land Administration had given a detailed finding that the claim of *A.R.Sridharan* is fraudulent.

4.12. As far as the claim of *M/s.V.A.K Engineering Pvt. Ltd.,* is concerned, since he has also entered into a Memorandum of Understanding with the said *A.R.Sridharan*, his claim has been rejected. Similarly, *M/s.Tripower Enterprises Pvt. Limited* did not register its sale certificate and therefore, its claim is also rejected. Learned Additional Advocate General, pointing out the last paragraph in the order impugned in the Writ Petitions, would submit that it is only pending declaration by the appropriate Court of Law, the concerned lands were directed to be treated as *Anadheenam* until anybody established title in the manner known to law. Therefore, he would pray that the impugned order does not require any interference and the Writ Petitions be dismissed.

D. The Findings :

5.1. We have considered the rival submissions made on either side and perused the material records of the case. Firstly, it must be seen that as far as the case of *A.R.Sridharan* is concerned, already, four criminal cases have been registered and are pending trial before the concerned Criminal Courts and therefore, we did not wish to state anything further on the subject matter. So far as to consider the validity of the impugned order, firstly, the *locus standi* of *A.R.Sridharan* dispute the claims of *M/s.Tripower Enterprises Pvt. Limited* and *M/s.V.A.K Engineering Pvt. Ltd.,* would arise if only he establishes the title to the disputed land. As far as the title to the disputed land is concerned, he chose to ride on two horses. On the one hand, it is contended by him that the land was bequeathed to his grandfather by *Janakiammal*. The claim is that the alleged deed, dated 05.08.1930 is to be construed as a Will and that the property is vested in him. On the face of it, the document reads as settlement deed. Even construing it as a Will, there is no bequeath at all. It only grants a life estate to the grandfather of *A.R.Sridharan* and does not state anything as to the vesting of property. Further, *A.R.Sridharan* himself has categorically pleaded that the said *Ramanujam Pillai* did not marry in his life time and died as bachelor in the civil proceedings. Further considering the over-writings of the document, the name of the document, the fact that it is unregistered, the contrary pleadings in the Civil Court and the obvious contradiction between the date of granting of patta in the year 1928 itself, while the settlement deed is in the year 1930, the finding of the Commissioner of Land Administration after due application of mind and hearing of the parties and considering the material records of the case, cannot be termed as perverse or illegal. Therefore, the first limb of the claim of title falls. Even the patta granted by the *Adheenam* by which a diametrically opposite claim is made is also found to be overwritten and the records also fortified that no such patta was indeed granted and it is concluded as a fraudulent document. Therefore, when the very basis of the title, on the face of it and on the basis of the documents produced before the authority are exfacie fraudulent and when the authority has taken into consideration the very many details including the findings in the earlier Writ Petitions, the proceedings of the Assistant Settlement Officer and the Settlement Officer, field location, physical possession etc., and when the authority has concluded that *A.R.Sridharan* has no right or title in respect of the land in question and has only produced false documents and his claim is fraudulent, we are unable to come to a contrary conclusion and therefore, the claim of *A.R.Sridharan* is bound to fail.

5.2. As far as the claim of *M/s.V.A.K Engineering Pvt. Ltd.,* is concerned, their claim for title is recorded in paragraph No.28. However, no finding has been given by the Commissioner of Land Administration on merits. The only ground, on which the case of *M/s.V.A.K Engineering Pvt. Ltd.,* is rejected, is that it had entered into a Memorandum of Understanding with the said *A.R.Sridharan* and the said arbitration proceedings are also pending. As rightly contended by *Mr.N.R.Elango*, learned Senior Counsel appearing on behalf of *M/s.V.A.K Engineering Pvt. Ltd.,* it can be seen that merely because the said Company, which is claiming independent title and which had claimed independent title in all the earlier proceedings, had entered into a without prejudice compromise to buy peace by paying money to *A.R.Sridharan* so that he will relinquish all his claims and that the consequential arbitration, arising out of the said Memorandum of Understanding, will not come in the way of the said Company claiming patta. As a matter of fact, once the Commissioner of Land Administration had found the entire claim of *A.R.Sridharan* itself is fraudulent, then the said benefit has to be granted to the said *M/s.V.A.K Engineering Pvt. Ltd.*

and as such, we find that the conclusion reached by the Commissioner of Land Administration, in respect of *M/s.V.A.K Engineering Pvt. Ltd.,* as erroneous.

5.3. Similarly, as far as *M/s. Tripower Enterprises Pvt. Limited* is concerned, it has purchased the property from the State Bank of India in the statutory auction conducted under the *SARFAESI Act* and a sale certificate has been duly issued to it. The only ground on which the name is rejected is that the sale certificate is not registered. In this regard, the judgment of the Hon'ble Supreme Court of India in ***Shakeena Vs. Bank of India and Ors.***[1] covers the issue. The relevant portion is extracted hereunder:-

> "*...the sale of the secured asset in public auction as per section 13(4) of SARFAESI Act, which ended in issuance of a sale certificate as per rule 9(7) of the Rules is a complete and absolute sale for the purpose of SARFAESI Act and the same need not be registered under the provisions of the Registration Act.*"

Thus, it can be seen that it is not mandatory for the sale certificate to be registered and it is enough if it is shown in the books under Section 89 of the *Registration Act, 1908*. The said exercise has been factually carried out and learned Additional Advocate General would also admit the same.

1 2019 SCC OnLine SC 1059

5.4. A copy of the encumbrance certificate, issued by the concerned Sub-Registrar which duly reflects the name of *M/s.Tripower Enterprises Pvt. Limited* is produced before us. Therefore, premise on which the claim of *M/s.Tripower Enterprises Pvt. Limited* is denied is also without any basis. As a matter of fact, further, *Mr.C.Umashankar*, learned Counsel appearing on behalf of *A.R.Sridharan*, would take this Court through the mortgage deed and the subsequent proceedings to contend that after the acquisition, as a matter of fact, Acres 8.28 Cents is not vested with the State Bank of India. We cannot go into the said question at the instance of *A.R.Sridharan,* once we find that his title as the subject matter land and that his claims of title are fraudulent in nature, the title conveyed by the State Bank of India through statutory auction under the *SARFAESI Act* on the basis of the mortgage deed, is to be taken as correct and accordingly, we hold that the Commissioner of Land Administration erred inasmuch as his finding in respect of *M/s.Tripower Enterprises Pvt. Limited* is concerned to deny its claim on the basis of non-registration of the sale certificate.

E. The Result :

6. In the result,

(i) The Writ Petition filed by *A.R.Sridharan* in W.P.No.11186 of 2023 shall stand dismissed;

(ii) The Writ Petitions filed by *M/s.Tripower Enterprises Pvt. Limited* in W.P.No.7735 of 2023 and *M/s.V.A.K Engineering Pvt. Ltd.,* in W.P.No.11408 of 2023 shall stand allowed;

(iii) There shall be no order as to costs;

(iv) Consequently, connected miscellaneous petitions are closed.

(T.R., ACJ.) **(D.B.C., J.)**

27.04.2023

Index : yes
Speaking order
Neutral Citation : yes
grs

To

1. The Commissioner of Land Administration,
   Ezhilagam,
   Chepauk,
   Chennai - 600 005.

2. The Chief Manager,
   State Bank of India,
   Stressed Assets Management Branch,
   Coimbatore.

3. The District Collector,
   Chennai District,
   Chennai.

4. The Special Tahsildar,
   (Land Acquisition),
   Inner Ring Road Project,
   Chrompet,
   Chennai - 600 044.

5. The Tahsildar,
   Alandur Taluk,
   Alandur,
   Chennai - 600 061.

6. The Divisional Engineer,
   Highways Department,
   Government of Tamilnadu,
   Highways Project - I, Division - I,
   Adambakkam,
   Chennai - 600 088.

T.RAJA, ACJ.,
AND
D.BHARATHA CHAKRAVARTHY, J.,

grs

Pre-Delivery Order in

W.P.Nos.7735, 11186 and 11408 of 2023

27.04.2023