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C.R.P.No.2481 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-12-2024

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

**C.R.P.No. 2481 of 2023
and
C.M.P.No.15412 OF 2023**

M/S.TRIPOWER ENTERPRISES (PVT) LTD
REP BY ITS CHIEF EXECUTIVE OFFICER, NO.2/569, SANDY NOOK,
SINGARAVELAN FIRST MAIN ROAD, CHINNANEELANGARAI,
CHENNAI 600 115Petitioner

-Versus-

1. SELVAM ARULDOSS
W/O LATE ARULDOSS, NO.1/188,
GOVINDASAMY NAGAR, 3RD STREET,
MADIPAKKAM, CHENNAI 600 091.
2. ABDUL RAHEEM
S/O SULAIMON, 7/3, 1ST MAIN ROAD,
SUBRABATH APARTMENTS ,
2ND FLOOR, NANGANALLUR,
CHENNAI -600 114.
3. ALBERT ANNAVEE
S/O BATES, NO.1, 2ND CROSS STREET,
DEIVANESAN NAGAR,
PEERKARANKARANAI, CHENNAI 600 063.
4. K.ANANDA RAO
S/O K.KONDIAH, E BLOCK, 420,
CHOLA GARDEN, SUNDARACHOLAPURAM,
THIRUVERKADU, CHENNAI 600 077.
5. RAVINDRAN VINCENT
S/O LATE BATES, J-102,



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CASA GRANT (MIRO),
URAPAKKAM LINK ROAD,
VANDALURWALAJA ROAD,
MANNIVAKKAM, CHENNAI 600048

6.THE STATE BANK OF INDIA
REP BY THE GENERAL MANAGER AND
AUTHORISED OFFICER,
STRESSED ASSETS MANAGEMENT BRANCH,
NO.1112, RAJA PLAZA, AVINASHI ROAD,
COIMBATORE 641037.

7. M/S RUKMANI MILLS LTD
HAVING OFFICE AT RUKMANI PREMISES,
SILAIMAN, MADURAI 625201.

8. THE ASSOCIATED TRADING CORPORATION (P) LTD
HAVING OFFICE AT RUKMANI MILLS PREMISES,
SILAIMAN, MADURAI 625 201.

9.THE DISTRICT REGISTRAR(ADMIN)
SOUTH CHENNAI, VETINARY HOSPITAL ROAD,
FANPET, COMMERCIAL COMPLEX BUILDING,
NANDANAM, CHENNAI 600 035.

10.THE SUB REGISTRAR
ALANDUR SUB REGISTRAR'S OFFICE,
ST.THOMAS MOUNT, CHENNAI 600 016.

11.THE SETTLEMENT OFFICER
SURVEY AND SETTLEMENT DIRECTORATE OFFICE,
EZHILAGAM, CHENNAI 600 005.

12.THE ASSISTANT SETTLEMENT OFFICER (NORTH)
SURVEY AND SETTLEMENT DIRECTORATE OFFICE,
EZHILAGAM, CHENNAI 600005.

.....Respondent(s)



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For Appellant(s):

Mr.V.Raghavachari,
Senior Advocate for
Mr.P.Krishnan

For Respondent(s):

Mr.R.Udayakumar for RR1 to 5
Mr.N.Ramesh for R6
Mr.R.Ramanlal, Addl. Advocate General
Assisted by Mr.T.Arunkumar,
Addl. Government Pleader for RR9 to 12
RR7 & 8 – Left / AOS not filed

Petition filed under Article 227 of the Constitution of India, praying to call for the records relating to the suit in O.S.No.138 of 2023 on the file of the learned Additional District Munsif, Alandur, and strike off the plaint in O.S.No.138 of 2023 by allowing this civil revision petition in exercise of the power conferred upon this court under Article 227 of the Constitution of India.

ORDER

This civil revision petition seeks to strike off the plaint in O.S.No.138 of 2023 on the file of the Additional District Munsif, Alandur.

2. The revision petitioner is the 1st defendant in the suit and the respondents 1 to 5 are the plaintiffs while the respondents 6 to 12 are the defendants 2 to 8. For the sake of convenience, the parties in this proceeding will hereinafter be referred as per their array in the suit.



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3.The suit in O.S.No.138 of 2023 has been filed for a decree and judgment of permanent injunction against the defendants restraining the 1st defendant, their agents, representatives or any one else claiming on behalf of them from encumbering, alienating and from dealing with the suit schedule mentioned property in any manner without the consent of the plaintiffs.

4. The 1st defendant's case is that

(i) the suit is nothing but a frivolous and vexatious one at the behest of one A.R.Sridharan, who had lost his legal battle before this court in common order dated 27.04.2023 made in W.P.Nos.7735, 11186 and 11408 of 2023 and order dated 09.09.2022 made in W.P.Nos.32535 of 2019, 3678 and 4148 of 2021, 488 and 7447 of 2022.

(ii) The said A.R.Sridharan, who was working as a Village Administrative Assistant (VAO), got dismissed from service on 20.12.2019. He had created certain documents in favour of some third parties.

(iii) The suit properties were originally purchased under five different sale deeds dated 23.02.1948,



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13.10.1948, 17.01.1950, 31.01.1950 and 15.02.1950 by the 4th defendant. Those properties were subsequently given as security for the loan availed by M/s.Rukmani Mills Limited at Madurai. The 2nd defendant-State Bank of India (SBI) was the mortgagee. As the loan amount had not been paid by the mortgagor, the 2nd defendant (SBI) brought those properties for public auction. The 1st defendant bidder was declared as successful bidder in the 14th e-auction held on 28.02.2017. Accordingly, the 2nd respondent-SBI had issued a certificate dated 29.04.2017 in favour of the 1st defendant. The said sale certificate was registered on 01.12.2022. Though an extent of 8.26 Acres of land comprised in T.S.No.282 (old Paimash Nos.240, 241, 242, 718, 719, 720, 721, 722, 737, 854 & 855) with assigned Survey Field No.17/1, situated at Adambakkam Village, Alandur Taluk, was sold in public auction “as is where is” condition, only an extent of 6.65 Acres was given possession to the 1st defendant. Accordingly, the 1st



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defendant has been in possession and enjoyment of 6.65 Acres and the entire area has been compounded with a well-built wall.

(iv) While so, at the behest of A.R.Sridharan, the present suit has been filed seeking to strike off the plaint on the ground that the institution of the suit is gross abuse of the process of law.

5. Heard Mr.V.Raghavachari, learned senior counsel for Mr.P.Krishnan, learned counsel on record for the revision petitioner/1st defendant; Mr.R.Udayakumar, learned counsel for the respondents 1 to 5/plaintiffs; Mr.N.Ramesh, learned counsel for the 6th respondent/2nd defendant; and Mr.R.Ramanlal, learned Additional Advocate General for Mr.T.Arunkumar, learned Additional Government Pleader appearing on behalf of the respondents 9 to 12/defendants 5 to 8.

5.1 The learned senior counsel appearing for the revision petitioner/1st defendant would strenuously submit that

(i) pursuant to the directions issued by this court in W.P.No.32535 of 2019, by order dated 09.09.2022, an inquiry was conducted by the



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Commissioner of Land Administration and a report dated 14.02.2023 was also submitted by the Commissioner of Land Administration. The Commissioner of Land Administration in his report dated 14.02.2023 had clearly recorded the fact that the 1st defendant had taken possession of 6.65 Acres of land and that the remaining extent of 1.61 Acres of land was retained by the 2nd defendant-SBI. Further, while admitting the purchase by the 1st defendant, the Commissioner of Land Administration, declined to grant patta merely on the ground that the sale certified in favour of the 1st defendant was not registered at the relevant point of time and he proceeded to declare the land as Anadheenam.

(ii) challenging the order of the Commissioner of Land Administration dated 14.02.2023

(a) treating the land as Anadheenam till the declaration by an appropriate authority and for a consequential direction for issuance of patta for 7.47 Acres and put the petitioner in possession under Section 14 of the SARFAESI Act, 2002, over an extent of 1.03 Acres in T.S.Nos.2, 3, 140 and 257, Adambakkam Village, Alandur Taluk, Chennai District, M/s.Tripower Enterprises (Private) Limited filed a writ petition in



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W.P.No.7735 of 2023;

(b) challenging the order of the Commissioner of Land Administration and for a consequential direction to the 1st respondent to grant patta for the lands in T.S.No.3, to an extent of 1.80 Acres and T.S.No.138 to an extent of 3.80 Acres situated at Adambakkam village, A.R.Sridharan filed a writ petition in W.P.No.11186 of 2023; and

(c) challenging the order of the Commissioner of Land Administration, treating the land as Anadheenam till the declaration by an appropriate authority and for a consequential direction for issuance of patta for the lands in S.No.138 to an extent of 3.80 Acres, M/s.VAK Engineering Private Limited, filed a writ petition in W.P.No.11408 of 2023.

Thus, the classification made by the Commissioner of Land Administration treating the land as “Anadheenam” was essentially the subject matter of issue in the earlier writ petitions and the order of the Commissioner of Land Administration treating the land as “Anadheenam” was set aside and a



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direction was issued for issuance of patta. Now, based on such order, patta has also been issued by the Government in favour of the 1st defendant.

5.2. The learned senior counsel would further submit that in the earlier writ proceedings in W.P.No.32535 of 2019, this court by order dated 10.03.2022, appointed Mr.M.Karthikeyan, as Advocate Commissioner, who in turn, after having conducted a digital survey of the entire land, submitted his final report in July 2022, wherein the Advocate Commissioner stated that land measuring 6.66 cents in T.S.No.282 was in the name of Associate Trading Corporation, however, in the field an extent of 6.42 Acres in T.S.No.282 was found to have been surrounded with compound wall. Now, the suit has been filed for permanent injunction restraining the defendants from alienating any property except with the consent of the plaintiffs.

5.3. It is also the stand of the learned senior counsel for the revision petitioner/1st defendant that apart from 6.65 Acres of land out of the remaining area that was purchased, certain extent was already acquired by the Department of Highways in respect of which the 1st defendant-ATCO have already taken steps to recover the compensation payable for the acquired land.

5.4. The learned senior counsel would also point out that if the entire



pleading in the plaint is taken as a whole, there is no cause of action and plaint is nothing but an abuse of process of law.

6. Per contra, the learned counsel for the plaintiffs would submit that the plaintiffs are in possession of the small extent of area comprised in S.No.282 and they were not parties in all those earlier proceedings. Therefore, the suit has been filed. According to him, the entire land is Government land however, some documents have been created in favour of private parties and therefore, the plaintiffs should not be dispossessed.

7. I have considered the rival submissions carefully.

8. When a plea is raised to strike off the plaint in exercise of its power under Article 227 of the Constitution of India, the court should be slow and only in extraordinary circumstances the court could strike off the plaint, if the court comes to the conclusion that suit is nothing but a clear abuse of process of law only in order to somehow or other to deny the legal right of the parties.

9. It is not in dispute that the 1st defendant purchased an extent of 8.26 Acres of land through a public auction conducted by the 2nd defendant-SBI in a proceeding initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [SARFAESI Act]. The property was sold “as is where is” condition. Though an extent of 8.26 Acres of



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land was sold through auction, while taking delivery of possession through the court of law—the Chief Judicial Magistrate concerned—the 1st defendant was given physical possession only in respect of 6.64 acres of land alone.

10. As far as the equitable mortgage created over the subject property in favour of the 2nd defendant (SBI) is concerned, though the guarantor pleaded that there was no valid mortgage in respect of the secured assets and that equitable mortgage in respect of the secured properties had been created by incompetent person, the issue had already been decided by the DRT/DRAT and this court and the matter went up to the Hon'ble Supreme Court and the Hon'ble Supreme Court in Civil Appeal No.2373 of 2020 by order dated 24.04.2020 upheld the validity of equitable mortgage created over the subject property.

11. Meanwhile, Mr.A.R.Sridharan set up a claim as if he had a right over the property which was the subject matter before the Division Bench in the writ proceedings in W.P.No.7890 of 2007 and the Division Bench of this Court in its order dated 01.12.2009 encapsulated the facts of the case up to that point of time in para 2.1 to 4.4 which are reproduced hereunder for easy reference:

"2.1. The genesis of this writ petition is the order passed by the Assistant Settlement Officer at Thiruvannamalai in



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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



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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 officials, 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



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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 presettlement period relating to Paimash No.718, 719, 720, 721 and 722. A sketch was produced before him to show that



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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



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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.



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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



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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



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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 CrI.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



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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



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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."

12. The Division Bench of this Court in its order dated 01.12.2019 made in W.P.No.7890 of 2007, while finding (i) that the Assistant Settlement Officer could not have assumed himself the jurisdiction under Section 13 of the Act 13 of 1963; (ii) that the Assistant Settlement Officer did not consider serious objections raised by the Inamdar; and (iii) that the Assistant Settlement Officer also did not prepare a fair sketch showing the individual possessions and correlated them with reference to the documents; and ultimately allowed the Writ Petition giving 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



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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."

13. The matter was taken to the Hon'ble Supreme Court of India by A.R.Shridharan in S.L.P.No.4037 of 2010, but, however, SLP was subsequently withdrawn by him. Thus, the order of the Division Bench of this Court dated 01.12.2019 in W.P.No.7890 of 2007 reached finality. Subsequently, as per the directions, the Settlement Officer passed an order on 20.07.2021, which reads 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 emphasizing on the existence of a building, he had



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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.”

14. Thereafter, the order of the Settlement Officer was taken on appeal to the Commissioner of Land Administration. This court, by order dated 06.08.2021 in W.P.Nos.3678 and 4148 of 2021 and 8747 of 2021, directed the Commissioner of Land Administration to pass orders on the appeal. Accordingly, the Commissioner of Land Administration has passed an order on



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30.12.2021 and the order passed by the Commissioner of Land Administration

on the appeal preferred against the Settlement Officer reads as follows:

"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."

15. Once again, the earlier Writ Petitions which were pending and the Writ Petition challenging the above order were all taken up together and this Court while disposing of the writ petitions in 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 by common order dated 09.09.2022, this court remitted the matter to the Special Commissioner/Commissioner of Land Administration to come up with an independent finding regarding the allegations of fraud. Thereupon, based on such directions, the Special



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Commissioner/Commissioner of Land Administration conducted an independent inquiry and passed an order dated 14.02.2023, wherein he held that the document relied upon by Sridharan is a fraudulent one. He, however, while admitting the sale of properties by the SBI in favour of the revision petitioner through public auction, the Special Commissioner/Commissioner of Land Administration recorded the fact that the 1st defendant has been in physical possession of 6.65 Acres of land out of 8.26 Acres of land which was originally sold to it through auction sale. The Special Commissioner/Commissioner of Land Administration, however, declined to grant patta merely on the ground that the sale certificate was not registered. This order was once again put to challenge in W.P.Nos.7735, 11186 and 11408 of 2023 and the Division Bench of this Court, by order dated 27.04.2023, set aside the order of the Commissioner of Land Administration. The above proceedings would make it clear that though the 1st defendant purchased an extent of 8.26 Acres of land, he was given physical possession of only 6.65 Acres out of 10.07 Acres, which has been encircled with compound wall. This fact has been clearly recorded not only by the Advocate Commissioner appointed by this court in the earlier writ petition but also in the report submitted pursuant to the independent inquiry as directed by this court and



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conducted by the Special Commissioner/Commissioner of Land Administration.

16. Now, the suit in O.S.No.138 of 2023 has been laid for the relief of permanent injunction against the 1st defendant, their agents, representatives, or anyone else claiming on behalf of them from encumbering, alienating, and dealing with the schedule mentioned property in any manner without the consent of the plaintiffs.

17. A careful reading of the entire pleading in the plaint would go to show that there is not even a plea as to how the plaintiffs derived right over the suit property. Though it is stated in Para 3 of the plaint that an extent of 2.6960.0 Hectare Square Meter, in the relief portion, it is stated as if they are in possession of 2 Acres and 6960.0 cents comprised in S.No.282, S.R.No.127/88. There is no specific pleading as to how they derived title or acquired right in the property, except making an evasive pleading.

18. In this regard, it is relevant to refer the judgment in **T.Arivanandam Vs. T.V.Satyapal** reported in **AIR 1977 SC 2421**, wherein the Honourable Supreme Court has held that

“Here is an audacious application by a determined engineer of fake litigations asking for special leave to appeal against an order of the High Court on an interlocutory



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application for injunction. The sharp practice or legal legerdemain of the petitioner, who is the son of the 2nd respondent, stultifies the court process and makes decrees with judicial seals brutum fulmen. The long arm of the law must throttle such, litigative caricatures if the confidence and credibility of the community in the judicature is to survive.

19. In the judgement in **K.K.Modi Vs. K.N.Modi reported in 1998-3-SCC-573**, the Honourable Supreme Court has held as follows :

“One of the examples cited as an abuse of the process of the Court is re litigation. It is an abuse of the process of the Court and contrary to justice and public policy for a party to re litigate the same issue which has already been tried and decided earlier against him. But if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of the court. A proceeding being filed for collateral purpose, or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the Court.”

20. During the course of arguments, when this court posed a query to the learned counsel for the plaintiffs whether the plaintiffs are in possession of the property which was already taken possession by the 1st defendant, it has been admitted by the learned counsel for the plaintiffs that the plaintiffs are not in



possession of the land situated within the area encircled with compound wall and they are in possession of the land situated outside the compounded area only. However, the plaint did not say so, the area on which they have been in possession and no detail whatsoever has been given.

21. Yet another submission of the learned counsel for the respondents 1 to 5 is that the respondents 1 to 5/plaintiffs have been illegally evicted after 2017. This was also not pleaded in the plaint. Therefore, when the plaint has been filed with bereft of particulars with regard to cause of action and for the sake of filing the suit, it cannot be allowed to continue. If at all, the plaintiffs have any independent right, they have to establish the same by way of filing a suit for declaration separately. It appears that the plaintiffs are not in possession of the land, particularly, in the area which is encircled with compound wall and the possession of such land was legally delivered by the court of law. Therefore, seeking a judgement and decree of permanent injunction against the 1st defendant, the revision petitioner restraining them, their agents, representatives, or anyone else claiming on behalf of them from encumbering, alienating or dealing with the schedule mentioned property in any manner without the consent of the plaintiffs would not therefore serve any purpose and such a prayer in the eye of law cannot be maintained. On this score



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alone the plaint must necessarily be struck off.

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22. Considering all the earlier proceedings, which have, in fact, conclusively upheld the right of the revision petitioner/1st defendant now, a suit seeking bare injunction with an omnibus prayer, that too, restraining the 1st defendant, the revision petitioner restraining them, their agents, representatives or anyone else claiming on behalf of them from encumbering, alienating or dealing with the schedule mentioned property in any manner without the consent of the plaintiffs cannot be sustained in the eye of law.

In the result, the civil revision petition is allowed. The plaint in O.S.No.138 of 2023 on the file of the learned Additional District Munsif, Alandur, is struck off. No costs. Consequently, connected CMP is closed.

04-12-2024

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To

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1.The Additional District Munsif, Alandur, Chengalpattu District.



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N.SATHISH KUMAR.J.,

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