

M/S. EDELWEISS ASSET CONSTRUCTION  
COMPANY LIMITED

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v.

R. PERUMALSWAMY AND ORS.

(Civil Appeal No 1318 of 2017)

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FEBRUARY 06, 2020

**[DR. DHANANJAYA Y CHANDRACHUD  
AND AJAY RASTOGI, JJ.]**

*Tamil Nadu Patta Pass Book Act, 1983 – ss.10 and 14 – State of Tamil Nadu issued various notifications seeking to acquire 49.67 acres of land – Registered deed of assignment was executed by Governor of Madras in favour of WSIL (appellant in C.A. No. 1319 of 2017) for 46.04 acres, including the disputed land – WSIL availed loans from banks, secured by deposit of title deeds of disputed lands – Appellant in C.A. No.1318/17 claims an assignment of debts of WSIL – Govt. Order issued by State of Tamil Nadu empowered the District Revenue Officer (DRO) to rectify defects that may have occurred in course of updating records in land registry – 1st respondent sought cancellation of patta in favour of WSIL – During the pendency of proceedings, letter was addressed to Tehsildar for enquiring into 1st respondent's claim – Recommendation made to cancel patta standing in the name of WSIL – Ordered by DRO – WSIL filed writ petition– Allowed by Single Judge – Division Bench restored order passed by DRO– Held: Deed of assignment specifically records that the lands vested in State of Tamil Nadu free of all encumbrances and were allotted to WSIL– Entire case of 1st respondent was founded on alleged sale deed of 09.10.1929 under which his father acquired the land and an alleged oral lease, by which the land was leased in favour of WSIL in 1963 – Neither sale deed nor the terms of alleged oral lease were produced – Once the lands were acquired by State of Tamil Nadu, any pre-existing claim of 1st respondent stood extinguished – Under the 1983 Act and 1987 Rules, the Tahsildar is not empowered to adjudicate upon a 'title dispute' – A combined reading of s.14 & r.4(4) indicates that where there is dispute w.r.t ownership of a land between parties w.r.t a patta entry, the correct procedure is to approach a civil court*

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- A *having competent jurisdiction – Entry records will be updated on the basis of its decree upon adjudication – Further, the purpose of the Govt. Order was to enable the DRO to rectify defects in land registry – DRO exceeded his jurisdiction by engaging in an exercise of investigating the title to the disputed land and substituting the 1st respondent with appellant in land records – Judgment of Division Bench and DRO is set aside while that of Single Judge is restored– Tamil Nadu Patta Pass Book Rules 1987 – r.4(4) – Land Acquisition Act, 1894.*
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**Disposing of the matters, the Court**

- C **HELD: 1.1 The Tamil Nadu Patta Pass Book Act 1983, deals with issues of patta pass book entries with respect to holders of agricultural lands. Section 6 prescribes that entries in the patta pass book will be considered as *prima facie* evidence of title. All entries in the patta pass book issued by the Tahsildar shall be considered as prima facie evidence of title of ownership of the**
- D **person, free of all encumbrances. However, the underlying presumption is rebuttable. Section 10 provides for the procedure to be adopted for modification of the entries in the patta pass book. Section 10 provides for modification in respect of an entry in the patta pass book by submitting an application before the**
- E **Tahsildar. The application shall be accompanied with documents as evidence, if any, relied upon by the applicant to substantiate his claim. The Tahsildar shall make a modification in the patta pass book only after giving a reasonable opportunity to the concerned parties to make their representation. [Paras 15, 16][1171-B-D; 1172-C-D]**
- F **1.2 Under Section 14, the right to approach a civil court is not prohibited in all cases. Section 14 only bars suits being filed against the government and its officials regarding entries made in the patta pass book. The proviso does not prevent parties from filing suits against rival claimants or individuals and seeking**
- G **any of the remedies available under Chapter VI of the Specific Relief Act 1963. The proviso states that any person who is aggrieved by any entry made in the patta pass book is entitled to file a suit for declaration of title and the entry in the patta pass book shall be amended in accordance with such declaration. The**
- H **Tamil Nadu Patta Pass Book Rules 1987 provide for the**

procedure to be adopted to deal with enquiries with respect to the entries made in the patta pass book. Rule 4 provides for the procedure on recipient of an application or information with respect to an entry in the patta pass book. In terms of Rule 4(4), the Tahsildar upon being satisfied that a dispute concerning the ownership of patta is already pending in a court or any issue that is raised before him impinges on personal or laws of succession shall direct the concerned parties to obtain an “order of ownership” from a competent civil court having jurisdiction and accordingly change the entries recorded in various revenue records. Under the Tamil Nadu Patta Pass Book Act 1983 and the Tamil Nadu Patta Pass Book Rules 1987, the Tahsildar is not empowered to adjudicate upon a ‘title dispute’. A combined reading of Section 14 and Rule 4(4) indicates that where there exists a dispute with respect to ownership of a land between parties with respect to a patta entry, the correct procedure to be adopted is to approach a civil court having competent jurisdiction. The entry records will be updated on the basis of the decree of the civil court upon adjudication. [Paras 17-19][1172-H; 1173-A-C; 1174-C-E]

1.3 On 26 February 1964, the State of Tamil Nadu executed a deed of assignment in favour of WSIL. The deed of assignment specifically records that the lands vested in the State of Tamil Nadu free of all encumbrances and were allotted to WSIL. The entire case of the first respondent, was founded on an alleged sale deed of 9 October 1929, under which his father acquired the land and an alleged oral lease, by which the land was leased in favour of WSIL in 1963. Neither the sale deed nor the terms of the alleged oral lease have been produced in the course of the proceedings. Once the lands were acquired by the State of Tamil Nadu, any pre-existing claim of the first respondent would stand extinguished. The purpose of the Government Order dated 17 August 2004, is to enable the DRO to rectify the defects in the land registry. The DRO exceeded his jurisdiction by engaging in an exercise of investigating the title to the disputed land and substituting the first respondent with the appellant in the land records. Once the first respondent has accepted the fact of the acquisition of the lands by the State Government, clearly then, the first respondent would have no subsisting interest in the land.

A **As a result, the first respondent did not have any locus to pursue the application before the DRO for correction of land records. The judgment and order of the Division Bench is set aside . In consequence, the order of the DRO is set aside and the judgment of the Single Judge is restored. [Paras 21-23][1175-A-H]**

B CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1318 of 2017.

From the Judgment and Order dated 22.12.2016 of the High Court of Judicature at Madras in Writ Appeal No. 1201 of 2016.

With

C Civil Appeal No. 1319 of 2017, Contempt Petition (Civil) No. 1906 of 2017 in Civil Appeal No. 1319 of 2017.

D Balaji Srinivasan, AAG, Neeraj Kishan Kaul, C. Ariyama Sundaram, Sr. Advs., Atul Sharma, Ms. Renuka Iyer, Akash Lamba, M/s. M. Rambabu And Co., Amar Dave, Mahesh Agarwal, Ankur Saigal, Ms. Gunika Gupta, Divyang Gobind Chandiramani, Sanjiv Kumar, Shaishir S. Divatia, K.P. Sanjeev Kumar, Ms. Rohini Musa, Abhishek Gupta, Zafar Inayat, K.P. Sathish Kumar, B. Mohanraj, K. Kanagaraj, E. C. Agrawala, M. Yogesh Kanna, T.R.B. Siva Kumar, M. Karthiga, K. V. Vijayakumar, D. L. Chidananda, V. Balaji, Vinod Mehta, Atul Mehta, E Rakesh K. Sharma, Ms. Astha Tyagi, Mullapudi Rambabu, Shravanath Paruchuri (for M/s. M. Rambabu And Co.), S. Gowthaman, Advs. for the appearing parties.

The Judgment of the Court was delivered by

F **DR. DHANANJAYA Y CHANDRACHUD, J.**

G 1. The present appeals<sup>1</sup> arise from a judgment and order of a Division Bench of the High Court of Judicature at Madras dated 22 December 2016. While allowing a writ appeal<sup>2</sup> filed by the first respondent, the Division Bench of the High Court set aside the judgment and order of a learned Single Judge dated 30 August 2016, which was rendered in a challenge by the appellants to an order dated 28 December 2015 of the District Revenue Officer<sup>3</sup>, Tiruvallur.

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<sup>1</sup> Civil Appeal Nos 1318 and 1319 of 2017

<sup>2</sup> WA no 1201 of 2016

<sup>3</sup> “DRO”

2. WS Industries (India) Ltd<sup>4</sup>, the appellant in Civil Appeal No 1319 of 2017 was incorporated on 23 August 1961 under the Companies Act 1956. Between 27 December 1961 and 8 May 1963, the State of Tamil Nadu issued various notifications under Section 4(1) of the Land Acquisition Act 1894<sup>5</sup>, seeking to acquire 49.67 acres of land situated at Porur Village, Ambattur Taluk, Tiruvallar District, Tamil Nadu. The land which was the subject matter of acquisition under a notification dated 20 June 1962, included survey numbers 70/1, 73/2 and 77, comprising an overall area of 46.04 acres. On 4 July 1962, the State of Tamil Nadu issued a notification under Section 6 of the Land Acquisition Act with reference to 11.61 acres comprised in survey numbers 70/1, 73/2 and 77. On 17 October 1962, a notification was issued under Section 6 with reference to 1.50 acres of land comprised in survey number 70/1. This was followed by awards dated 20 August 1963, 28 March 1963, 25 October 1963 and 7 November 1963 covering an aggregate area of 13.11 acres of land.

3. On 26 February 1964, a registered deed of assignment was executed by the Governor of Madras in favour of WSIL for an area of 46.04 acres including the disputed land. The deed of assignment recorded that the State of Tamil Nadu had been paid an amount of ₹ 1,86,528.52 by WSIL towards the cost of acquisition. In August 1964, WSIL availed of a loan from ICICI Bank which was secured by a deposit of the title deeds of the disputed lands. WSIL also obtained various loans and credit facilities from other banks which were secured by the creation of mortgages on land stated to be admeasuring about 29 acres.

4. On 17 August 2004, the State of Tamil Nadu issued a Government Order<sup>6</sup> empowering the DRO to rectify defects that may have occurred in the course of updating the records in the Land Registry. Edelweiss Asset Construction Co Ltd, the appellant in Civil Appeal No 1318 of 2017, claims an assignment of the debts of WSIL.

5. The dispute in the present case arose on 7 September 2015, when the first respondent filed an application before the DRO seeking to rectify the revenue records in respect of the lands bearing survey numbers 70/1, 73 and 77. On 12 September 2015, the first respondent addressed a legal notice to WSIL claiming an area admeasuring

<sup>4</sup>“WSIL”

<sup>5</sup>“Land Acquisition Act”

<sup>6</sup>GO No 385

- A approximately 13.65 acres comprised in survey numbers 70/1, 73/2 and 77. The case which the first respondent set up before the DRO was that his father, D Rajagopal, had purchased a “larger extent of land” in Porur Village, Ambattur Taluk, Tiruvallur District under a registered sale deed dated 9 October 1929. These lands admeasuring 20.47 acres were
- B alleged to be comprised in survey numbers 70/1, 71, 72 and 77. The first respondent claimed that in 1962, his father had leased the above 20.47 acres of land to WSIL for a period of fifty years. According to the first respondent, based on the lease and possession, WSIL obtained a patta in their favour. The first respondent claimed that after the expiry of the
- C term of the lease, WSIL was bound to deliver possession of the land and that it had no right or interest over the land. On this basis, the first respondent sought the cancellation of the patta in favour of WSIL. The first respondent claimed that he was in possession of the original sale deed in respect of 20.47 acres of land which he was ready to produce. Both in the petition before the DRO which was submitted on 7 September 2015, and legal notice sent to WSIL, a similar claim was set up.
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6. During the pendency of the proceedings before the DRO, a letter was addressed on 11 September 2015 to the Tehsildar for conducting an enquiry into the claim of the respondent. The Tehsildar addressed a communication dated 29 October 2015 and recorded the case of the
- E first respondent that his father had acquired the lands under a registered sale deed dated 9 October 1929 and that by an oral lease, an extent of 13.65 acres comprised in survey numbers 70/1, 73/2 and 77 had been granted to WSIL for a period of fifty years. The Tehsildar, in his report to the DRO, took note of the contention of WSIL that the land had been acquired by the State of Tamil Nadu. Eventually, on the basis that WSIL
- F had not furnished any document in respect of the land comprised in survey numbers 70/1, 73/2 and 77 admeasuring 13.65 acres and relying on the case of the first respondent, a recommendation was made for cancelling the patta standing in the name of WSIL. The application was disposed of by the DRO by an order dated 28 December 2015. The DRO ordered that:

- G “It is ordered that the registry in respect of the lands in S. No. 73/2 measuring 0.92.0 hectares and S. No.77 measuring 2.30.0 hectares of Porur Village, Ambattur Taluka, made in the name of W.S. Insulators of India Limited during the updating registry
- H scheme is liable to be cancelled and ordered to register in the

name of the applicant Thiru R. Perumalswamy S/o (late) Thiru Rajagopal.” A

7. Aggrieved by the order of the DRO, WSIL instituted writ proceedings before the High Court under Article 226 of the Constitution. By a judgment dated 30 August 2016, a learned Single Judge allowed the writ petition. The learned Single Judge took note of the acquisition proceedings by the State of Tamil Nadu and came to the conclusion that upon acquisition, the lands vested absolutely in the State Government free of all encumbrances. The learned Single Judge observed that while purporting to rectify the defects in the land registry in terms of the Government Order dated 17 August 2004, the DRO placed reliance on the report of the Revenue Divisional Officer, Ambattur, of which a copy had not been furnished. Moreover, it was noted that though the father of the first respondent died on 29 November 2004, it was only in September 2015 that the jurisdiction of the DRO had been invoked. The learned Single Judge held that the DRO had committed a manifest error in enquiring into the title to the lands in question and had therefore acted in excess of its jurisdiction. The order passed by the DRO was accordingly set aside. B  
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8. In a writ appeal against the judgment of the learned Single Judge, a Division Bench of the High Court by a judgment dated 22 December 2016, set aside the judgment of the learned Single Judge and restored the order passed by the DRO. In the view of the Division Bench, the DRO acted within jurisdiction in rectifying the mistake in the land records and it was open to him to verify the documents on which reliance had been placed by the parties. The finding of the learned Single Judge that the DRO had acted in excess of its jurisdiction in deciding a question of title did not find favour with the Division Bench. Aggrieved by the order of the Division Bench of the High Court, both Edelweiss Asset Construction Co Ltd and WSIL filed two separate Special Leave Petitions before this Court under Article 136 of the Constitution. E  
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9. By an order dated 24 April 2019, this Court recorded the submissions which were urged on behalf of the State of Tamil Nadu in the following terms and issued the directions which are extracted below: G

“Learned counsel appearing on behalf of the State of Tamil Nadu states that he has been able to obtain, upon a thorough search, the relevant documents from the Industries Department which he seeks to place in the form of a compilation. H

A        However, we are of the view that it would be appropriate if any documents that the State seeks to file at this stage are duly supported by an affidavit. We permit the State of Tamil Nadu to do so within a period of two weeks from today.

B        An advance copy of the affidavit together with the compilation of documents shall be made available to the contesting parties in these proceedings.

          The parties would be at liberty to respond to the affidavit which will be filed on behalf of the State of Tamil Nadu within a period of three weeks thereafter.

C        List on 16 July 2019.”

          10. In pursuance of the above directions, the State of Tamil Nadu filed a compilation of additional documents on an affidavit. These documents comprise of the records of the Industries Department. In terms of the order passed by this Court, an opportunity was granted to all the parties appearing before this Court to controvert the contents of the additional documents which were placed on record.

          11. The State of Tamil Nadu has submitted on affidavit that the State Government had acquired the subject land which was assigned to WSIL by way of a deed of assignment dated 26 February 1964 for the purpose of constructing a factory. A copy of the deed of assignment which has been annexed to the affidavit contains a recital that (i) the lands vested absolutely in the State Government free from all encumbrances; and (ii) WSIL had paid an amount of ₹ 1,86,528.52 towards the cost of acquisition. Under the terms of the deed of assignment, the State Government assigned the land to WSIL for establishment of a factory. The State Government reserved to itself the right to resume the land in whole or in part, if it was not used by the company for the purpose for which it was acquired within a period of one year or within such extended period as may be allowed. The affidavit of the State Government further states that a request was made by WSIL for transfer of 7.61 acres from a portion of the land acquired by it to S & S Power Switchgear Limited, a sister concern of WSIL. On 8 June 1977, the State Government allowed WSIL’s request to transfer an extent of 31,311.50 square meters of land. The State Government also directed the transferee to apply for an exemption for holding excess land under the Urban Land (Ceiling and Regulation Act) 1976 as then

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applicable in the State of Tamil Nadu. Subsequently, on 26 February 2002, WSIL made another request to the State Government to transfer an extent of 14 acres to its subsidiary M/s WS Electric Limited for setting up of a Software Technology Park. This request was acceded to by the State Government on 17 September 2002. From the affidavit filed by the State of Tamil Nadu, it appears that subsequently on 30 September 2002 another request was made for deletion of some part of the land which had already been ordered to be transferred on 17 September 2002. On the aspect of addition of certain other lands for the development of Software Technology Park, the State Government stated that it acceded to the request on 13 May 2003. The State Government has also brought this Court's attention to the fact that on 5 October 2017, it had issued a notice to show cause to WSIL for violation of the deed of assignment dated 26 February 1964 and was proposing to resume the land. An important aspect which merits emphasis at this stage is that on 17 May 2019, the Joint Sub-Registrar issued details of the Encumbrance Certificate regarding survey numbers 70, 73 and 77 to the District Collector, Chennai. By a communication dated 16 June 2019, the Joint Sub-Registrar has also forwarded a copy of the HR Register which has a bearing on the disputed lands in question. In the present proceedings, we are not concerned with the merits of the show cause notice and the subsequent proceedings initiated by the State of Tamil Nadu for resumption of the land.

12. Assailing the judgment of the High Court, Mr Neeraj Kishan Kaul and Mr C A Sundaram, learned Senior Counsel appearing on behalf of the appellant have submitted that the lands in question were acquired by the State of Tamil Nadu under the provisions of the Land Acquisition Act. Upon acquisition, the lands vested in the State Government and were assigned under a registered deed of assignment dated 26 February 1964 in favour of WSIL. Learned counsel submitted that the case that was sought to be set up by the first respondent was on the basis that his father had acquired the land under a registered sale deed dated 9 October 1929. Moreover, it was urged by the first respondent that an oral lease had been executed by the predecessor of the first respondent in favour of WSIL in 1962 for a term of fifty years and upon the expiry of the lease, the land was to be reverted back to the owner. Learned Counsel submitted that upon the acquisition of the land in question by the State of Tamil Nadu, the land vested in the government free of all encumbrances and it was not open to the first respondent to move an application for

- A rectification of the land record. Moreover, it was urged that neither the sale deed dated 9 October 1929, nor the terms of the oral lease were proved and placed on record. It has been submitted that in spite of the order of this Court granting a *status quo*, the first respondent attempted to deal with the lands in violation of the interim order. That apart, it has been urged that the Encumbrance Certificates which were relied upon by the first respondent, constituted the sole basis of the claim and the record which was produced by the State of Tamil Nadu, indicated that the encumbrance certificates had been interpolated.

13. Learned Counsel appearing on behalf of the State of Tamil Nadu has submitted that the State Government had issued a resumption notice to WSIL and that it would independently take such action as is necessary in accordance with law. However, it was urged that the first respondent had no locus to move an application for rectification of land records before the DRO. It was argued that the lands had been duly acquired by the State of Tamil Nadu and any interest that the first respondent claimed through his father, would stand extinguished and his claim at the highest could have been to seek a remedy for compensation in accordance with law. In any event, it has been submitted that the entire case of the first respondent is based on a sale deed which has not seen the light of the day either before the DRO or before the High Court. It was argued that the first respondent has failed to produce ownership documents to prove title even before this Court.

14. Insofar as the first respondent is concerned, it is necessary to note that notice had been duly served and leave was granted in both the appeals on 27 January 2017. The first respondent had filed a caveat and appeared at various stages of the hearing of the proceedings. We may note that the appeals were heard in part on 14 February 2019 and 21 February 2019. On 24 April 2019, an order was passed by this Court, the terms of which have already been noted earlier. At all these stages, the first respondent has been duly represented by counsel and has been heard. Eventually, as a result of a change in assignments, the appeals were directed to be released as part heard cases and were accordingly placed before this Bench for hearing. During the course of the hearing of the proceedings, the first respondent was represented by Mr Ramasubramanian and Mr M Munusamy, learned Counsel. Mr Ramasubramanian, however, informed this Court later that he had appeared on the *bona fide* instructions of his junior and has now received

instructions not to appear in the proceedings. We may note that the attention of the Court has been drawn to the fact that in the present case there has been a succession of Advocates-on-Record who have been changed in the course of proceedings. A

15. The Tamil Nadu Patta Pass Book Act 1983, deals with issues of patta pass book entries with respect to holders of agricultural lands. Section 6 prescribes that entries in the patta pass book will be considered as *prima facie* evidence of title. Section 6 provides thus: B

“6. Entries in the patta pass book to be *prima facie* evidence of title.- The entries in the patta book issued by the Tahsildar under section 3 shall be *prima facie* evidence of title of the person in whose name the patta pass book has been issued to the parcels of land entered in the patta pass book, free of any prior encumbrance, unless otherwise specified therein.” C

All entries in the patta pass book issued by the Tahsildar shall be considered as *prima facie* evidence of title of ownership of the person, free of all encumbrances. However, the underlying presumption is rebuttable. D

16. Section 10 provides for the procedure to be adopted for modification of the entries in the patta pass book as follows:

“10. Modification of entries in the patta pass book.- (1) Where any person claims that any modification is required in respect of any entry in the patta pass book already issued under section 3 either by reason of the death of any person or by the reason of the transfer of the land or by reason of any other subsequent change in circumstances, he shall make an application to the Tahsildar for the modification of the relevant entries in the patta pass book. E F

(2) An application under sub-section (1) shall contain such particulars, as may be prescribed, and shall be accompanied by the documents, if any, relied on by the applicant as evidence in support of his claim. G

(3) (a) Before passing an order on an application under sub-section (1), the Tahsildar shall follow such procedure as may be prescribed and shall also give a reasonable opportunity to the parties concerned to make their representations either orally or in writing. H

A If the Tahsildar decides that any modification should be made in respect of entries in the patta passbook, he shall pass an order accordingly and shall make such consequential changes in the patta pass book, as appear to him to be necessary, for giving effect to his order.

B (b) If the Tahsildar decides that there is no case for effecting any modification of the entries in the patta pass book, he shall reject the application.

(c) An order under clause (a) or clause (b) shall contain the reasons for such order and shall be communicated to the parties concerned in such manner as may be prescribed.”

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Section 10 provides for modification in respect of an entry in the patta pass book by submitting an application before the Tahsildar. The application shall be accompanied with documents as evidence, if any, relied upon by the applicant to substantiate his claim. The Tahsildar shall make a modification in the patta pass book only after giving a reasonable opportunity to the concerned parties to make their representation.

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17. Section 14 provides for bar of certain suits against the government or any officer of the government in respect of a claim to have any entry made in any patta pass book. Section 14 provides as follows:

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“14. Bar of suits.- No suit shall lie against the Government or any officer of the Government in respect of a claim to have an entry made in any patta pass book that is maintained under this Act or to have any such entry omitted or amended:

F Provided that **if any person is aggrieved as to any right of which he is in possession, by an entry made in the patta pass book under this Act, he may institute a suit for a declaration of his rights under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963); and the entry in the patta pass book shall be amended in accordance with**

G **any such declaration.”**

(Emphasis supplied)

Under Section 14, the right to approach a civil court is not prohibited in all cases. Section 14 only bars suits being filed against the government and its officials regarding entries made in the patta pass book. The proviso

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does not prevent parties from filing suits against rival claimants or individuals and seeking any of the remedies available under Chapter VI of the Specific Relief Act 1963. The proviso states that any person who is aggrieved by any entry made in the patta pass book is entitled to file a suit for declaration of title and the entry in the patta pass book shall be amended in accordance with such declaration.

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18. The Tamil Nadu Patta Pass Book Rules 1987 provide for the procedure to be adopted to deal with enquiries with respect to the entries made in the patta pass book. Rule 4 provides for the procedure on receipt of an application or information with respect to an entry in the patta pass book. The relevant portion of Rule 4 provides thus:

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“4. Procedure on receipt of application or information. - (1) On receipt of the application or information, the Tahsildar shall make an entry in the “Register of Applications Received” in the order of receipt in Form III. The Register shall be maintained village-wise.

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(2) On the basis of the information furnished in the application and as available in the existing land records or obtained otherwise, the Tahsildar shall cause to be served or despatched, under certificate of posting, to the persons having interest on the land a notice in Form IV calling upon them to make representation either orally, or in writing at a specific place on a specified date which shall be not less than fifteen days and forty days later than the date of receipt of the application or information.

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(3) On the prescribed date, the Tahsildar shall conduct a summary enquiry. At the enquiry, on consideration of age, literacy and occupation, the Tahsildar may permit an authorised agent of the owner to appear on his behalf to supplement whatever the owner has to state orally or in writing. No legal practitioner in his professional capacity shall be allowed to represent any party at such an enquiry. There shall not be adjournment of the enquiry not more than twice and that adjournment shall be granted only on application made by the parties requesting for adjournment. Reasons for granting or refusing the adjournment shall be recorded by the Tahsildar in writing.

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**(4) In the event of the Tahsildar being satisfied that a dispute concerning ownership of patta is already pending in a Court**

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- A        **or issues are raised before him which impinge on personal laws or laws of succession and all the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain order on the ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various**
- B        **revenue records.”**

(Emphasis supplied)

- C        In terms of Rule 4(4), the Tahsildar upon being satisfied that a dispute concerning the ownership of patta is already pending in a court or any issue that is raised before him impinges on personal or laws of succession shall direct the concerned parties to obtain an “order of ownership” from a competent civil court having jurisdiction and accordingly change the entries recorded in various revenue records.

- D        19. Under the Tamil Nadu Patta Pass Book Act 1983 and the Tamil Nadu Patta Pass Book Rules 1987, the Tahsildar is not empowered to adjudicate upon a ‘title dispute’. A combined reading of Section 14 and Rule 4(4) indicates that where there exists a dispute with respect to ownership of a land between parties with respect to a patta entry, the correct procedure to be adopted is to approach a civil court having competent jurisdiction. The entry records will be updated on the basis of
- E        the decree of the civil court upon adjudication.

- F        20. In the present case, Government Order dated 17 August 2004 revoked the powers of rectification of defects in updating of registry cases conferred upon the Tahsildar by Government Order no 921 dated 15 August 2001. Instead, Government Order dated 17 August 2004 empowered the DRO to cure any defects occurring in the land registry after enquiry. In the present case, the first respondent by an application dated 7 September 2015 approached the DRO for change of patta in respect of the disputed lands. The DRO issued summons to the appellant to prove its legal ownership and possession. By an order dated 28
- G        December 2015, the DRO solely relied on the report of the Revenue Divisional Officer and ordered deletion of the appellant’s name from the land records and replaced it with first respondent’s name. The revenue officer had no jurisdiction to adjudicate upon title. A dispute with respect to the title of land is a mixed question of fact and law, which needs to be raised before a competent civil court.

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21. The narration of facts in the earlier part of the judgment makes it clear that on 26 February 1964, the State of Tamil Nadu executed a deed of assignment in favour of WSIL. The deed of assignment specifically records that the lands vested in the State of Tamil Nadu free of all encumbrances and were allotted to WSIL. The entire case of the first respondent, was founded on an alleged sale deed of 9 October 1929, under which his father acquired the land and an alleged oral lease, by which the land was leased in favour of WSIL in 1963. Neither the sale deed nor the terms of the alleged oral lease have been produced in the course of the proceedings. Once the lands were acquired by the State of Tamil Nadu, any pre-existing claim of the first respondent would stand extinguished. The purpose of the Government Order dated 17 August 2004, is to enable the DRO to rectify the defects in the land registry. The DRO exceeded his jurisdiction by engaging in an exercise of investigating the title to the disputed land and substituting the first respondent with the appellant in the land records. The learned Single Judge was correct in holding that the DRO in the guise of acting in accordance with the said Government Order, wrongly adjudicated upon the question of title which was beyond jurisdiction.

22. The first respondent raised an argument before the Division Bench of the High Court that on 26 February 1964, the disputed land was acquired by the State Government and assigned in favour of WSIL but in 1964 itself, the land thereafter was re-conveyed to the State Government. This submission which has been recorded in paragraph 36 of the judgment of the Division Bench of the High Court is in itself sufficient to displace the case of the first respondent. Once the first respondent has accepted the fact of the acquisition of the lands by the State Government, clearly then, the first respondent would have no subsisting interest in the land. As a result, the first respondent did not have any locus to pursue the application before the DRO for correction of land records.

23. For the reasons above, we come to the conclusion that the view taken by the Division Bench of the High Court in the writ appeal is unsustainable and we accordingly set aside the judgment and order of the Division Bench dated 22 December 2016. In consequence, the order of the DRO dated 28 December 2015 is set aside and the judgment of the learned Single Judge is restored. The appeals shall accordingly stand allowed in the above terms. We however clarify that the Court in the

- A present proceedings has had no occasion to make any observation on the merits of the show cause notice which has been issued by the State of Tamil Nadu to WSIL for resumption of the lands. We keep open all the rights and contentions of the parties in that regard.

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24. In view of the order passed in Civil Appeal Nos 1318 and 1319 of 2017, nothing remains to be dealt with in this Contempt Petition. The Contempt Petition is accordingly disposed of.

25. Pending application(s), if any, stands disposed of.

Divya Pandey

Matters disposed of.