

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
Hon'ble Justice Shampa Sarkar

WPA 22009 of 2023

Priyadarshini Educational Society and another
vs.
Steel Authority of India and others

For the petitioners : Mr. Pradyumna Sinha
Mr. Sannidhya Datta
Ms. Anjali Roy

For the SAIL : Mr. L. K. Gupta, Sr. Adv.
Mr. K. Basu
Mr. C. Gupta
Mr. N. Pal
Mr. S. Chatterjee
Mr. D. R. Basu

Hearing concluded on : 16.08.2024
Judgment on : 11.09.2024

Shampa Sarkar J.:-

1. The writ petition had been filed seeking quashing of the notice dated August 31, 2023, issued under sub-Section (1), sub-Section (2)(b)(ii) of Section 4 and Sub-Section (3) of Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as the said Act), by the respondent No.4, i.e., the Estate Officer (SAIL-IISCO Steel Plant, Burnpur) and SAIL Growth Works, (SGW), Kulti. The notice was issued in PP case No EO/AUGUST/KULTI/2023/01.

2. The notice disclosed that the Estate Officer had received an application dated August 22, 2023, from SGW, Kulti, regarding unauthorized occupation of the public premises and non-payment of

outstanding dues, by the petitioners. The Estate Officer was of the opinion that the petitioner No. 1 was in unauthorized occupation of the public premises mentioned in the schedule of the notice and was liable to be evicted under the said Act.

3. The grounds for initiation of proceedings, as stated in the notice are quoted below:-

“(a) The premises described in the schedule below belongs to the Applicant Company with right title and interest and are “public premises” in terms of the Public Premises (eviction of unauthorized occupants) Act, 1971

(b) You are in unauthorized occupation of the public premises belonging to the Steel Authority of India Limited- Growth Works Kulti, the Applicant Company.

(c) You have not paid an amount of Rs. 22,13,216.38 (Rupees twenty-two lakh thirteen thousand two hundred sixteen and paise thirty-eight only) towards rent, electricity, interest of the said premises accrued till 30.06.2023.

Now, therefore in pursuance of sub-section (1) of the Section 4 and sub-section (3) of Section 7 of the Act, I hereby call upon you to show cause on or before 12.09.2023 at 3:00 P.M. why such an order of eviction should not be made.”

4. The petitioners have challenged the notice on the ground of lack of jurisdiction of the Estate Officer to initiate the proceeding under the said Act. The petitioner No.1 claimed to be a lessee by virtue of a registered lease agreement dated December 28, 2012, executed by the SAIL, in favour of the petitioner No.1.

5. The factual background of the case as pleaded in the petition was that the petitioner No.1 as a registered educational society was running an English medium school by the name of Priyadarshini Public School at Kulti near Asansol. The said school was the most affordable English medium school in the vicinity. Kulti was initially a unit of the erstwhile Indian Iron

and Steel Company, (in short IISCO). On the demand of the employees for establishment of a school for their children, the society was formed and registered for the purpose of imparting education in English, within Kulti Township. At the relevant point of time, the school catered to the wards of 7,500 employees of IISCO at Kulti and also to the local children. By an agreement of lease dated November 19, 1992, between IISCO and the petitioner No.1, a plot of land with a building and football ground appertaining to R.S Khatian No.671 of Mouza - Kulti, was entered into. The lease was granted for a period of 33 years with effect from April, 1990. The lease agreement was not registered. IISCO was initially a subsidiary company of Steel Authority of India Limited. In 2006, IISCO merged with SAIL, by to a scheme of amalgamation. After such merger, the Kulti unit of IISCO was renamed as IISCO Steel Plant, (ISP) and later renamed as SAIL Growth Works (Kulti).

6. Mr. Pradyuman Sinha, learned Advocate for the petitioners submitted that SGW continued to be referred to as IISCO in various official documents of SAIL. The late president of the petitioner, No.1, by a letter dated July 21, 2012, requested the Executive Director of SGW, (Kulti) to nominate an executive to represent SAIL for the purpose of registration of a lease agreement in favour of the petitioner No.1. In response to the said letter, SAIL nominated one Mr. Rajeev Kumar, the then Senior Manager (Pers.), to represent SAIL in the process of registration of the lease agreement. A lease agreement dated December 28, 2012, was registered between SAIL as the lessor and the petitioner, No.1, as a lessee in the office of the Additional Registrar of Assurances, III, being deed No. 04931 for the year 2012. By

virtue of the lease agreement, the lessor granted lease of a plot of land with a building and a football ground adjacent to the Kulti Police Station within Mouja Kulti, in plot No. 825, for a period of 33 years, commencing from December 2012, in lieu of rent of Rs.1/-. The petitioners were in possession of the plot of land by virtue of a registered deed of lease, executed by an authorized officer of ISP (SAIL), Kulti. The said Act had a limited operation and provided for eviction of unauthorized occupants from public premises and for other incidental matters prescribed in the statute itself. Initiation of the process of eviction of the petitioners under the said Act, was contrary to law and liable to be quashed. The registered lease deed had created a right in favour of the petitioner No. 1 to use and possess the land for 33 years, with effect from December 20, 2012. It was also urged that a complaint was lodged before the Kulti Police Station by SAIL, alleging that the registered lease deed dated December 20, 2012, was forged and fraudulently obtained. That, Rajeev Kumar did not possess the necessary authorization to execute the said deed. The deed was a product of forgery, fraud and misrepresentation. When allegations of such nature were the subject matter of a police investigation, the estate officer was not equipped to adjudicate the matter.

7. The petitioners claimed that the unregistered lease agreement of November 19, 1992 was novated by the subsequent registered lease agreement dated December 28, 2012, executed in favour of the petitioner No. 1 by the SAIL, for a period of 33 years, commencing from December, 2012.

8. According to the petitioners, the allegations of forgery, lack of competence of the signatory, creation of a void document etc., were subject to proof. Evidence was required to be led. Unless SAIL challenged the registered lease deed and got the same cancelled by a civil court, the question of initiation of eviction proceeding under the said Act, against the petitioners who were in settled possession of the property as lessees, would not arise.

9. If a person occupied any public premises without authority for such occupation and/or continued to occupy the public premises after the authority under which he was allowed to occupy the premises had expired or had been determined for any reason whatsoever, such person would be considered as an unauthorized occupant under Section 2(g) of the said Act. In this case, the petitioners were in authorized occupation by virtue of the registered lease of deed. The said registered lease deed had a presumption of correctness. The lease deed dated December 28, 2012, would indicate that the same was registered between Indian Iron and Steel Company, (ISP SAIL) and the petitioners. The expression "ISP SAIL" was inserted in hand writing with a counter signature.

10. According to the petitioners, (SGW), Kulti continued to be represented as ISP SAIL, in various official documents, and only because Indian Iron and Steel Company Ltd., was mentioned as the lessor with (ISP SAIL), written in hand, the case of the respondents that ISP SAIL as the lessor did not have the authority and competence to enter into the said lease agreement, should not be accepted as correct, without any trial by the civil court.

11. Relying on the decision of the Division Bench of this court in two public interest litigations, it was submitted by Mr. Sinha, that the lease granted by the respondents in favour of the Priyadarshini Public School was the subject matter of the said litigations and the Division Bench had rejected the plea of illegality in grant of lease of the land to the school. According to the Division Bench, the school was running since 1992 pursuant to a lease agreement and it was too late to challenge the action of the respondent authorities in leasing out the land to the school. Moreover, it was recorded that the school was catering to the educational need of the students in the locality, and the allegation of misappropriation of money against SAIL, was found to be vague and non-specific.

12. According to Mr. Sinha, although the terms and conditions of the registered lease deed dated December 28, 2012, were analogous to the unregistered lease deed dated November 19, 1992, the period of lease in the registered lease deed was for 33 years, from December 2012.

13. The letter dated August 9, 2023, issued by the authorities of SAIL, alleging that the petitioners were in unauthorized occupation of the land and calling upon them to vacate the premises, offended the covenants of the registered lease deed. The petitioners replied to the said letter and disclosed that by virtue of the registered lease deed dated December 28, 2012, ISP SAIL had granted a lease for 33 years from December 12, 2012 onwards and the petitioners could not be considered as unauthorized occupants. The proceeding initiated under the said Act, was an erroneous exercise of jurisdiction by the Estate Officer.

14. Mr. Sinha contended that the validity of the transfer on the basis of the deed had to be decided first. The persons alleging forgery, fraud and misrepresentation were required to establish such allegations in a court of law by leading proper evidence. Only if, the lease deed was found to be invalid and was cancelled by the civil court, could the petitioners be termed as unauthorized occupants. Mere statement by the respondents that Rajeev Kumar had subsequently denied his signature, could not be a ground for acceptance of the contention of the respondents that the deed was forged and no right had passed on the basis of the deed. Whether the signature on the lease deed was of Rajeev Kumar or not, whether ISP SAIL was the expression used in official documents and was accordingly used in the lease deed to describe the lessor (SAIL), whether the Executive Director of SAIL Growth Works at Kulti, had actually authorized Mr. Rajeev Kumar to register the lease deed, were all matters of evidence. These questions could not be decided, except by a civil suit.

15. Under the provisions of Section 114(1)(e) of the Indian Evidence Act corresponding to Section 119(1)(e) of the Bharatiya Sakshya Adhiniyam, 2023, a presumption of correctness was attached to such registration. It was beyond the jurisdiction of the Estate Officer to decide such questions. Only a competent civil court could decide on the genuineness of the registered lease deed and also whether such deed had created any right in favour of the petitioners. The instrument could not be ignored. The registered deed could not be considered to be *void ab initio* on the ground of lack of competence of ISP SAIL to execute the same. The civil court was the only forum before which the execution of a registered document, could be impugned.

16. Without appreciating the evidence to be led by the petitioners in support of their contention that despite the merger of IISCO with SAIL, SAIL Growth Works, Kulti was represented as ISP in various official works. Moreover, the denial of Rajeev Kumar was also a matter of evidence and the registering authority, in exercise of power under Section 34 (3), had enquired and satisfied himself as to the identity of the persons who were presenting the deed for registration.

17. Mr. Sinha relied on the following decisions:-

- (i) ***Prem Singh and Ors. vs Birbal and Ors.*** reported in **(2006) 5 SCC 353,**
- (ii) ***Rattan Singh and Ors. vs Nirmal Gill and Ors.*** reported in **(2021) 15 SCC 300,**
- (iii) ***Manik Majumdar and Ors. vs Dipak Kumar Saha (dead) through legal representatives and Ors.*** reported in **(2023) 8 SCC 410,**
- (iv) ***Asset Reconstruction Co. (India) Ltd. v. S.P. Velayutham and Ors.,*** reported in **(2022) 8 SCC 210,**
- (v) ***State of Rajasthan vs. Padmavati Devi (SMT) (DEAD) By LRS. & ors.*** reported in **1995 SUPP (2) SCC 290,**
- (vi) ***Kaikhosrou (Chick) Kavasji Framji v. Union of India and Anr.,*** reported in **(2019) 20 SCC 705,**
- (vii) ***State of U.P. and Anr. v. Zia Khan,*** reported in **(1998) 8 SCC 483.**

18. Mr. L. K. Gupta, learned Senior Advocate appearing for the respondents submitted that the lease deed of 2012 was kept a secret by the

writ petitioners and was not available in the records of SAIL. The lease deed was disclosed for the first time by the petitioners on August 19, 2023, in the reply to letter dated August 9, 2023. Although, the agreement of 1992 was unregistered, SAIL acknowledged the same. On the expiry of the tenure of the lease on April 2023, the letter dated August 9, 2023 was issued to the petitioner No.1 and the Principal, asking them to hand over peaceful possession of the said premises. According to Mr. Gupta, the decision of the Division Bench in the public interest litigation did not mention the lease deed of 2012. The possession of the petitioners was not upheld on the basis of the purported lease deed of 2012. The Division Bench took into account the lease deed of 1992. After the merger of IISCO with SAIL, IISCO could not execute the deed as a lessor, in respect of SAIL's property. Rajeev Kumar, who claimed to be the manager, could not also sign the lease deed, without authorization from the board of directors.

19. The scheme of amalgamation in 2006, provided that all the properties and rights belonging to IISCO would vest in SAIL. IISCO stood automatically dissolved, without being bound up. After the amalgamation in 2006, the owner of the property was SAIL and lease of said property could be granted only by SAIL and neither by IISCO nor ISP. Thus, the document was a void contract. The same was not required to be avoided. The executant Rajeev Kumar was also not authorized by SAIL to execute the lease deed and the purported letter of authorization relied upon, carried no legal value. In view of the above facts, neither any right nor any interest had been created in favour of the petitioner No.1. The said execution was also contrary to the provisions of Section 7 of the Transfer of Property Act. The purported

document of 2012 was not a valid deed in the eye of law, notwithstanding its registration. The presumption of correctness of registration was rebuttable and did not create a complete right in favour of the petitioners. The purported document did not bear the formal seal of SAIL. As the document was *void ab initio*, the status of the petitioners as unauthorized occupants satisfied the definition under Section 2(g) of the said Act. The Estate Officer was the only authority who had jurisdiction to initiate the eviction proceedings. No right had passed in favour of the petitioners on the basis of the alleged registered deed. The same was executed by a person who was not competent to contract. All necessary objections challenging the eviction proceedings, even the issues raised by the petitioners could well be decided by the Estate Officer.

20. According to Mr. Gupta, Section 8 of the said Act conferred powers of the civil court upon the Estate Officer with regard to matters specified therein, and the Estate Officer could also summon witnesses and receive evidence. From the preamble to the said Act, it was evident that the legislature had promulgated the said Act to provide for a speedy conclusion of proceedings of eviction of unauthorized occupants from public premises, thereby, segregating such cases from the applicability of the general tenancy laws. Under such circumstances, the question of relegating the matter to the civil court for adjudication, would not be the proper course of action.

21. According to Mr. Gupta, a company could only act through its board of directors. Even the grant of lease would have to be permitted by the board of directors, by a proper resolution. In the present case, no approval was

granted by the board of directors, permitting execution of the deed of lease dated December 28, 2012.

22. Mr. Gupta urged this court to appreciate that registration was not a curative act, to validate an otherwise invalid transfer. When the deed was itself void ab initio, no declaration from a civil court was required to avoid the document.

23. In this case, the lessor/executant, was a non-existing entity, which stood dissolved in 2006. After passage of six years, any deed executed in the name of IISCO and signed by an unauthorized person, should be treated as void. No interest could have passed on the basis of such lease. In such view of the matter, no complicated questions of fact arose, which would require a civil court to adjudicate the matter, upon appreciation of evidence.

24. Mr. Gupta relied on the following decisions:-

- (i) ***Prem Singh and Ors. v. Birbal and Ors.***, reported in (2006) 5 SCC 353.
- (ii) ***Ranganayakamma and Anr. v. K.S. Prakash, (dead) by L.R.S and others***, reported in (2008) 15 SCC 673,
- (iii) ***Smt. Bismillah v. Janeshwar Prasad and Ors.***, reported in (1990) 1 SCC 207,
- (iv) ***Board of Trustees for the Port of Kolkata and Anr. v. Vijay Kumar Arya and Ors.***, reported in 2009 SCC OnLine Cal 266,
- (v) ***Hitkarini Sabha, Jabalpur v. Corpn. of the City of Jabalpur, and Ors.*** reported in (1972) 2 SCC 325,
- (vi) ***P.P. Raja Reddy, In re***, reported in (1997) 1 Cal LT 387

(vii) Balai Chandra Mondal v. Indurekha Debi and Ors., reported in **AIR 1973 SC 782.**

25. The question which arises before this Court is whether the proceeding initiated by the Estate Officer, by issuance of the notice on August 31, 2023 under the said Act, can be permitted to continue in the facts and circumstances of the case. The petitioners relied on a registered deed of lease executed in their favour on December 28, 2012 and claim that they are not in unauthorized occupation of the public premises. The recital of lease agreement starts as follows:-

“THE INDIAN IRON & STEEL COMPANY LTD. (ISP, SAIL), registered under Companies Act, 1956 and having its registered office at 50, Chowringhee Road, Kolkata – 700071, (hereinafter called as the Lessor, which expression shall unless excluded or repugnant to the context be deemed to include its successors, administrators, executors and assigns) of the **ONE PART”**

26. In this connection, the respondents contended that IISCO could not have executed the deed because IISCO had merged with SAIL and did not have a separate entity and existence. IISCO was incompetent to execute the deed as it was a non-entity. Secondly, Rajeev Kumar, who had signed as the General Manager of “IISCO, Kulti, (SAIL) SGW”, was not authorized by the board of directors to execute such deed. Section 293(1) Companies Act, 1956 was relied upon to substantiate that only the board of directors could grant lease of the property and any authorization without a resolution of the board for such purpose, was contrary to law and could not be accepted as a valid authorization.

27. According to the respondents, the lease deed was a creature of fraud, misrepresentation and forgery. The same was entered into in a clandestine manner and was kept a secret until the notice to hand over possession was

served upon the petitioners. It was also specifically urged before this court that after amalgamation of IISCO with SAIL, IISCO stood dissolved. IISCO merged with SAIL. All actions to be taken, including execution of the deed after 2006, would have to be done by SAIL. Only SAIL as the owner, upon a resolution of the board, could pass any interest or right in respect of the subject property in terms of Section 7 of the Transfer of Property Act. Thus, the deed was *void ab initio* and the document was *non-est* as no right or title had passed to the petitioners. The other line of argument of the respondents was that the Estate Officer was conferred with the jurisdiction under the said Act to adjudicate any matter relating to eviction of unauthorized occupants. The questions whether the petitioners were unauthorized occupants or not, whether the deed was a void document or not, whether denial by Rajeev Kumar of having signed the deed etc, could be decided by the Estate Officer. Moreover, as the deed was null and void, cancellation by a civil court was not necessary. The Estate Officer could proceed with the matter of eviction under the said Act and strictly in terms of the said Act. No right had been created in favour of the petitioners on the basis of the deed. When the document was *void ab initio*, the statutory authority could decide the matter and no suit before the civil court was required to be filed. No bona fide claim of right of possession could be made by the petitioners. The presumption of validity of a registered deed, was a rebuttable presumption. The scheme of amalgamation, the lack of authority of Rajeev Kumar, the absence of the Board's resolution authorizing Rajeev Kumar to execute the deed and finally, the emergence of the deed in 2023 without the same having been mentioned even in the public interest litigations, clearly

indicated that the deed had no existence in the eye of law and thus, no complicated evidence was required to be accepted in this regard, for the Estate Officer to come to a conclusion that the petitioners were unauthorized occupants. Mere registration would not cure the defect of lack of competence of the alleged lessor who executed the deed. Such registration would not perfect the right of the petitioner No.1 as a lessee in the absence of a valid authorization in favour of Rajeev Kumar. When the right to use the land did not pass on the basis of any valid document, the petitioners were unauthorized occupants.

28. A proceeding for eviction of the petitioners who fitted into the definition of unauthorized occupant as per Section 2(g) of the said Act was valid and in accordance with law. In the decision of ***Board of Trustees for the Port of Kolkata (supra)***, the High Court had categorically held that Section 15 of the said Act barred the jurisdiction of the civil court and eviction of a person who was in unauthorized occupation of public premises, should not be decided by a civil suit. The Division Bench held that although an Estate Officer was not required to be versed in law, he had sufficient powers to decide the question as to whether a notice under Section 4 of the said Act should be served upon an unauthorized occupant. The notice would permit the Estate Officer to proceed to evict the occupant who was adjudged to be unauthorized. Just as in the case of a tenancy governed by the Transfer of Property Act, the landlord would have to justify his decision to determine the lease or terminate the authority of the occupier to remain in possession in a civil suit instituted either by the landlord for eviction or by the occupier challenging the notice, so also, the statutory authority as the

landlord under the provisions of the Act of 1971 could determine the tenancy/lease and proceed to evict the unauthorized occupant whose right to remain had been determined by a notice. The Act removed the authority of the civil court to adjudicate such issue and placed the matter before an Estate Officer to be decided in a summary proceeding. The Estate Officer could look into all materials before him and in fit cases receive oral evidence before he could arrive at a conclusion as to whether the noticee was in unauthorized occupation of the premises or not. If the Estate Officer held that the noticee was an unauthorized occupant, he could proceed to remove the noticee and his belongings from the premises in question. The usual process under the Civil Procedure Code was merely substituted by a summary procedure before the Estate Officer and the entire scope of adjudication on the issue of eviction was removed from the civil court's jurisdiction and placed before the estate officer.

29. Under such circumstances, it was submitted on behalf of the respondents that the Estate Officer could decide the entire issue and the petitioner's defence could be urged before the Estate Officer. Reliance was placed in the matter of **Smt. Bismillah (supra)** in support of the contention that exclusion of the jurisdiction of the civil court by a statute, was to be strictly construed. A distinction was drawn by the Hon'ble Apex Court between fraudulent misrepresentation as to the character of a document and fraudulent misrepresentation as to the contents thereof. The Hon'ble Apex Court held that a contract or other transaction induced or tainted by fraud as to the content was not void, but voidable at the option of the party defrauded and such contract was required to be avoided, but the position

was different if fraud or misrepresentation related to the character of the document. It was submitted that in this case the challenge was to the character of the document (lease deed). Strong reliance was placed on the decision of **Prem Singh and others (supra)** and paragraph 16 was referred.

Paragraph 16 is quoted below:-

“When a document is valid, no question arises of its cancellation. When a document is *void ab initio*, a decree for setting aside the same would not be necessary as the same is non est in the eye of law, as it would be a nullity.”

30. Thus, Mr. Gupta drew substantial support from the observation of the Hon'ble Apex Court that if a document was *void ab initio*, a decree for setting aside the same would not be necessary, just as in the instant case. The deed of lease was non-est in the eyes of law and a nullity. Such plea could be raised in this proceeding or collateral proceedings.

31. Further reliance was placed on the decision of **Ranganayakamma and anr. (supra)** on the same proposition that a void document was not required to be avoided, unlike a voidable one. Reliance was further placed on the decision of **Balai Chandra Mondal (supra)**, in support of the contention that it was a well-recognized principle that if the transferor himself had no title to the property, he should at least have the authority to transfer the same as per the provisions of Section 7 of the Transfer of Property Act. Only a person authorized to dispose of a transferable property, not his own, was competent to transfer it either wholly or in part.

32. Reference was made to the decision of **Hitkarini Sabha, Jabalpur, (supra)** in support of the contention that a property which vested in the government, could not be conveyed either by way of lease or license by an administrator, who had no authority to dispose of such property. Similarly,

the officer who executed the lease deed had no power to transfer the property in question. The grant of lease was wholly null and void.

33. Support was also drawn from the decision ***In re: P.P. Raja Reddy (supra)*** for the proposition that, it was beyond the jurisdiction of the writ court to decide the validity of the deed of lease, as no public law element was involved. The disputed questions of fact should not be gone into. The land on which the buildings stood, admittedly belonged to a public authority which was State under Article 12 of the Constitution of India and any transfer of such land must conform to the provisions of Article 298 of the Constitution of India. The writ court should not probe deeper into the factual dispute with regard to the validity of the deed of lease and other circumstances and evidence which led to the execution thereof. It was urged that the matter should be left to be decided by the Estate Officer.

34. The petitioners on the other hand claimed that the registered deed of lease carried a presumption of correctness. The registration took place in the office of the Additional Registrar of Assurance-III, being deed No.04931 for the year 2012. The deed was a public document. Knowledge was presumed. The Division Bench, in the public interest litigations, recorded the possession of the petitioner since 1992. However, this court finds that the deed of 2012, was not mentioned in the order and the petitioner cannot draw any reliance from the said order, with regard to the existence or recognition of the said deed. However, under the provisions of Section 114(1)(e) of the Indian Evidence Act, 1872 corresponding to Section 119(1)(e) of the Bharatiya Sakshya Adhiniyam, 2023, there is a presumption of genuineness of a registered document. The petitioners are not required to

establish the validity of the registered deed dated December 28, 2012 as the same is presumed to be valid, until the presumption is rebutted by strong evidence to be led by the respondents. There is a presumption that the registered deed was validly executed. The onus would be on the persons who deny its existence, to lead evidence and rebut such presumption.

35. In my opinion, the decision of ***Prem Singh and others (supra)***, will not help the respondents. The question before the Hon'ble Apex Court was whether the provisions of Article 59 of the Limitation Act would be attracted in the suit filed for setting aside a deed of sale. The plaintiff filed the suit for declaration and partition of the land consisting of 19 bighas and 12 cottahs, claiming to be a co-sharer with the defendant. The suit was filed by the plaintiff alleging that his father had a share. His father died in 1950. The mother died soon thereafter. At the time of death of the father, the plaintiff was a minor. He started living with the defendant and a deed of sale was allegedly executed in December 1961, in the name of the plaintiff when he was a minor, by showing his age to be 26 years in the same deed. Only in August 1979 he gathered information of such transfer and filed the suit on September 24, 1979. The defendant in the suit pleaded that the suit was barred by limitation. The suit was dismissed by the trial court, inter alia, holding that the same was barred by limitation. An appeal was preferred against the plaintiff (erst-while minor) and the first appellate court held that the deed of sale was executed by playing fraud on the plaintiff who was a minor at the relevant point of time and the deed of sale was, thus, *void ab initio*. The limitation of three years from the date of attaining majority as provided under Article 60 of the Limitation Act, would not be applicable. A

second appeal was preferred by the defendants and the same was dismissed. The matter went up to the Hon'ble Apex Court. The defendant in the suit who was the appellant before the Hon'ble Apex Court contended that the suit was filed on September 24, 1979 for setting aside the deed of sale dated December 1, 1961. Thus, the suit was barred by limitation. The period for setting aside such deed of sale started to run from the date the minor attained majority. The minor was required to file the suit within three years from 1969, when he attained majority. The Hon'ble Apex Court held that Article 59 of the Limitation Act would be applicable, specifically when a relief was claimed on the ground of fraud or mistake. It encompassed fraudulent transactions which were avoidable transactions. Section 31 of the Specific Relief Act was also relied upon which provided that any person against whom a written instrument was void or voidable, or who had reasonable apprehension that such instrument, if left outstanding, would cause him serious injury, could sue for having it adjudged as void or voidable, and the court could, in its discretion, adjudge such matter and pass order by cancelling the said document. According to the Hon'ble Apex Court, Section 31 of the Specific Relief Act referred to both void and voidable documents. It provided for a discretionary relief. The observation of the Apex Court that in case of a document which was *void ab initio*, a decree for setting aside the same, was not necessary, was an observation but not the ratio of the decision. The conclusion arrived at was that, in order to avoid the sale on the ground of lack of competence of a minor to execute it, the suit should have been filed within the period of limitation. On the facts before the Hon'ble Apex Court, the minor, who filed the suit, was successful

before the first appellate court and the second appellate court on the ground that a deed executed by the minor was *void ab initio*, and the provision of the Limitation Act, would not apply. Although, the Hon'ble Apex Court in paragraph 16 has mentioned, that when a document which was *void ab initio*, a decree for setting aside the same would not be necessary, yet the Hon'ble Apex Court held that there was a presumption that the registered document was validly executed. The Hon'ble Apex Court allowed the appeal, inter alia, holding that the plaintiff should have filed the suit within the period of limitation. The Hon'ble Apex Court was of the view that the suit was rightly dismissed by the learned trial judge, inter alia, holding that the period of limitation would apply. Thus, the facts of the case, and the decision of the Hon'ble Apex Court, are contrary to what has been urged by Mr. Gupta. Paragraph 27 of the said decision is quoted below:-

“27. There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption. In the instant case, Respondent 1 has not been able to rebut the said presumption.”

36. In ***Ranganayakamma (Supra)***, the Hon'ble Apex Court relied on paragraphs 16 and 27 of ***Prem Singh (supra)***, and held that a document or a contract would be voidable if it was entered into by coercion, misrepresentation or fraud, and the particulars thereof were required to be pleaded. Paragraphs 37 and 38 of the said judgment is quoted below:-

“37. The aforementioned findings have a direct bearing on the question as to whether the deed of partition as also the powers of attorney were vitiated by reason of any fraud or mistake on the part of Respondents 1 and 2 herein. It is a well-settled principle of law that a void document is not required to be avoided whereas a voidable document must be. It is not necessary for us to advert to a large number of decisions of this Court and other High Courts on this issue as more or less it is concluded by a decision of this Court in Prem

Singh v. Birbal [(2006) 5 SCC 353] wherein this Court held: (SCC p. 368, para 16)

“16. When a document is valid, no question arises of its cancellation. When a document is void ab initio, a decree for setting aside the same would not be necessary as the same is non est in the eye of the law, as it would be a nullity.”

38. Section 16 of the Contract Act provides that any transaction which is an outcome of any undue misrepresentation, coercion or fraud shall be voidable. If, however, a document is prima facie valid, a presumption arises in regard to its genuineness. In Prem Singh [(2006) 5 SCC 353] it was stated: (SCC pp. 360-61, para 27)

“27. There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption. In the instant case, Respondent 1 has not been able to rebut the said presumption.”

It was opined: (SCC pp. 357-58, para 12)

“12. An extinction of right, as contemplated by the provisions of the Limitation Act, prima facie would be attracted in all types of suits. The Schedule appended to the Limitation Act, as prescribed by the articles, provides that upon lapse of the prescribed period, the institution of a suit will be barred. Section 3 of the Limitation Act provides that irrespective of the fact as to whether any defence is set out or is raised by the defendant or not, in the event a suit is found to be barred by limitation, every suit instituted, appeal preferred and every application made after the prescribed period shall be dismissed.”

In Rukhmabai [AIR 1960 SC 335 : (1960) 2 SCR 253] this Court held: (AIR p. 344, para 17)

“17. In unravelling a fraud committed jointly by the members of a family, only such letters that passed inter se between them can give the clue to the truth.”

Yet again in A.C. Ananthaswamy v. Boraiah [(2004) 8 SCC 588] this Court categorically laid down that in establishing alleged fraud, it must be proved that the representation made was false to the knowledge of the party making such representation or that the party could have no reasonable belief that it was true. Level of proof required in such a case was held to be extremely high.

37. Thus, reliance on the said decision also, does not also come to the aid of the respondents. In **Ratan Singh and ors. (supra)**, the principle of law as laid down in paragraph 27 of **Prem Singh (supra)**, was followed.

Relevant paragraphs 33 and 34 are quoted below:-

“33. To appreciate the findings arrived at by the courts below, we must first see on whom the onus of proof lies. The record reveals that the disputed documents are registered. We are, therefore, guided by the settled legal principle that a document is presumed to be genuine if the same is registered, as held by this Court in Prem Singh v. Birbal [Prem Singh v. Birbal, (2006) 5 SCC 353] . The relevant portion of the said decision reads as below : (SCC pp. 360-61, para 27)

“27. There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption. In the instant case, Respondent 1 has not been able to rebut the said presumption.”

(emphasis supplied)

In view thereof, in the present cases, the initial onus was on the plaintiff, who had challenged the stated registered document.

34. Be that as it may, before examining whether the plaintiff discharged that onus and thus shifted it on the defendants, we may take note of procedure prescribed for proof of execution of document. In this regard, we refer to Section 68 of the Evidence Act, 1872 (for short “the 1872 Act”). The same is reproduced hereunder:

“68. Proof of execution of document required by law to be attested.—If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence:

Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Indian Registration Act, 1908 (16 of 1908), unless its execution by the person by whom it purports to have been executed is specifically denied.”

38. In the decision of **Manik Mojumdar (supra)**, the Hon’ble Apex Court held that registration of a document was a solemn act of parties and the recitals of a registered document were presumed to be valid, unless such a presumption was rebutted by strong evidence to the contrary. The document speaks for itself. Once a registering authority accepts a document for registration, it becomes, prima facie, evidence that the conditions required for such registration had been satisfied and the burden of proving any

alleged infirmity was on the person who challenged the registration.

Relevant paragraphs are quoted below:-

“79. It is trite that registration of a document is a solemn act of parties and the recitals of a registered document are presumed to be valid unless such a presumption is rebutted by strong evidence to the contrary, vide *Ishwar Dass Jain v. Sohan Lal* [*Ishwar Dass Jain v. Sohan Lal*, (2000) 1 SCC 434] . This is because, as already stated, the document speaks for itself.

80. In *Chhotey Lal v. Collector of Moradabad* [*Chhotey Lal v. Collector of Moradabad*, 1922 SCC OnLine PC 48 : (1921-22) 49 IA 375 : AIR 1922 PC 279] the Privy Council considered the question as to the presumption of validity of a power of attorney which formed the basis of a registered mortgage deed which was later challenged. The Privy Council noted that since the Sub-Registrar had accepted the document for registration, it is prima facie evidence that the conditions have been satisfied and after registration of the document, the burden of proving any alleged infirmity rests on the person who challenges the registration.

81. Similarly, in *Jugraj Singh v. Jaswant Singh* [*Jugraj Singh v. Jaswant Singh*, (1970) 2 SCC 386] , this Court reiterated the legal position as to the presumption of regularity of official acts, and held that it would be presumed that a Sub-Registrar registering a document would have proceeded with the registration only on satisfying himself as to the fact that the person who was executing the document was the proper person.

82. Reliance may also be placed on the decision of this Court in *Rattan Singh v. Nirmal Gill* [*Rattan Singh v. Nirmal Gill*, (2021) 15 SCC 300] . In the said case, the issue pertained to the validity of a general power of attorney (hereinafter “GPA”) and consequently of sale deed executed on the strength of the GPA. The plaintiff therein, being the executor of the GPA contended that the GPA was obtained fraudulently and was therefore invalid. This Court, while holding that no case of fraud was made out, upheld the validity of the GPA and sale deed executed on the strength of the GPA. The relevant observations of this Court as to the presumption of validity of documents and burden of proof required to rebut such presumption, are extracted as under : (*Rattan Singh case* [*Rattan Singh v. Nirmal Gill*, (2021) 15 SCC 300] , SCC p. 332, para 74)

“74. The presumption in favour of a 30-year old document, therefore, is a rebuttable presumption. Nothing prevented the plaintiff to rebut the presumption by leading appropriate evidence in order to disprove the same. Since the plaintiff failed to do so, the said document would be binding on the plaintiff. As a matter of fact, the parties had acted upon the terms of the said document without any demur since 1963 and it was, therefore, not open to resile therefrom at this distance of time.

Hence, the trial court was right in holding the 1963 GPA, to be a genuine document.”

83. In short, it has been authoritatively laid down by this Court that a registered document carries with it, by virtue of it being registered, the presumption as to the authority of the person executing it. In the present case, the trial court and the first appellate court failed to treat the endorsement made by the District Sub-Registrar on the body of sale deed, as evidence in respect of the authority of Plaintiff 2 to execute sale deed. This is to be considered in light of the fact that at no point of time did the original owner, namely, Braja Mohan Dey dispute the execution of power of attorney in favour of Plaintiff 2.”

39. In ***Padmavati Devi (supra)*** it was held that a summary procedure for eviction of a person who was found to be in unauthorized occupation of government land could not be invoked where the person in occupation raises a bona fide dispute about his right to remain in occupation of the property. The summary procedure was not suited for adjudication of complicated questions of title.

40. In the instant case, the deed of lease is a registered document and there is a presumption of its correctness. The allegation is that the said deed was entered into unauthorizedly, by practicing fraud and misrepresentation as IISCO did not have any existence at the execution of the deed. Thus, the proper remedy of the respondent would be to get the deed avoided by a civil court, by leading evidence against such presumption.

41. The Hon’ble Apex Court in ***Zia Khan (supra)*** held that the question of title could not be decided under the Uttar Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 1972.

42. A similar issue was decided by the Hon’ble Apex Court that, if a bona fide dispute with regard to the right to remain in occupation over

government land was raised, the summary proceeding could not be resorted to.

43. In ***Asset Reconstruction Company Limited, (supra)***, it was held that in a suit for declaration of title or in a suit for declaration that a registered document was null and void, the steps which comprised the entire process of execution and registration would come under challenge. If a party questioned the very execution of a document or the right and title of the person to execute and present the document for registration, his remedy would be to go to a civil court. The declaration that the document was null and void, was exclusively within the domain of the civil court. Relevant paragraphs are quoted below:-

“**57.** In suits for declaration of title and/or suits for declaration that a registered document is null and void, all the aforesaid three steps which comprise the entire process of execution and registration come under challenge. If a party questions the very execution of a document or the right and title of a person to execute a document and present it for registration, his remedy will only be to go to the civil court. But where a party questions only the failure of the registering authority to perform his statutory duties in the course of the third step, it cannot be said that the jurisdiction of the High Court under Article 226 stands completely ousted. This is for the reason that the writ jurisdiction of the High Court is to ensure that statutory authorities perform their duties within the bounds of law.

58. It must be noted that when a High Court, in exercise of its jurisdiction under Article 226 finds that there was utter failure on the part of the registering authority to stick to the mandate of law, the Court merely cancels the act of registration, but does not declare the very execution of the document to be null and void. A declaration that a document is null and void, is exclusively within the domain of the civil court, but it does not mean that the High Court cannot examine the question whether or not the registering authority performed his statutory duties in the manner prescribed by law.”

44. In ***Narendra Kumar Mittal and ors. vs. Nupur Housing Development Pvt. Ltd and anr.*** reported in ***(2020) 20 SCC 158***, the Hon’ble Apex Court held that, as the plaintiff claimed title under the sale

deed of 1998 executed by the first defendant, it was not required to seek a declaration of title. Therefore, the plaintiff had filed a suit for cancellation of the subsequent sale deed executed by the first defendant in favour of the second defendant. Hence, there was no bar under Section 331 of the U.P. Zamindari Abolition and Land Reforms Act, 1950, to the continuation of the suit before the civil court and the civil court had rightly held that the suit was maintainable. Relevant paragraphs are quoted below:-

“6. In the instant case, the plaintiff has pleaded that it had purchased the disputed property under five sale deeds all dated 17-10-1998 from the first defendant. The suit was filed for cancellation of the sale deed dated 15-6-2006 on the ground of fraud and misrepresentation. The plaintiff had not sought any relief with respect to its own right and title as a tenure-holder or declaration of its title or status. As stated above, the only relief sought in the suit filed was for cancellation of the alleged sale deed dated 15-6-2006. We are of the view that Section 331 of the Act does not deprive a party of his right to approach the competent court of law for getting a document cancelled, especially when, prima facie, the title of the recorded tenure-holder is not under cloud. The Revenue Court does not have jurisdiction of granting relief of cancellation of a deed on the ground of fraud and misrepresentation.

7. A similar question in relation to the maintainability of the suit was considered by the Full Bench of the Allahabad High Court in Ram Padarath v. Addl. District Judge [Ram Padarath v. Addl. District Judge, 1988 SCC OnLine All 685 : 1989 RD 21] , and it was held thus : (SCC OnLine All para 46)

“46. We are of the view that the case of Indra Deo v. Ram Pyari [Indra Deo v. Ram Pyari, 1982 SCC OnLine All 334 : (1982) 8 ALR 517] , has been correctly decided and the said decision requires no consideration, while the Division Bench case, Ajodhya Prasad v. Gangotri Prasad [Ajodhya Prasad v. Gangotri Prasad, 1980 SCC OnLine All 551 : 1981 AWC 469] is regarding the jurisdiction of consolidation authorities, but so far as it holds that suit in respect of void document will lie in the Revenue Court it does not lay down a good law. Suit or action for cancellation of void document will generally lie in the civil court and a party cannot be deprived of his right getting this relief permissible under law except when a declaration of right or status of a tenure-holder is necessarily needed in which event relief for cancellation will be surplusage and redundant. A recorded tenure-holder having prima facie title in his favour can hardly be directed to approach the Revenue Court in respect of seeking relief for cancellation of a

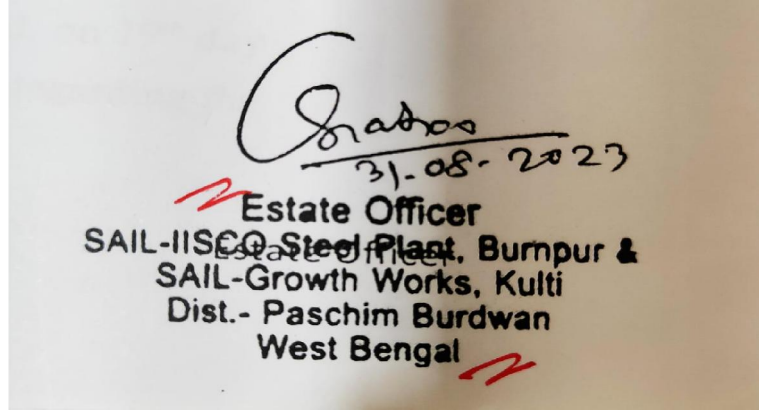
void document which made him to approach the court of law and in such case he can also claim ancillary relief even though the same can be granted by the Revenue Court.”

8. This Court in *Shri Ram v. Addl. District Judge* [*Shri Ram v. Addl. District Judge*, (2001) 3 SCC 24], considered the question relating to maintainability of a suit by a recorded tenure-holder in possession for cancellation of the sale deed in favour of the respondents executed by some imposters. After noticing the aforesaid judgment of the Full Bench of the Allahabad High Court, this Court held that where recorded tenure-holder, having a prima facie title and in possession files suit in the civil court for cancellation of sale deed having been obtained on the ground of fraud or impersonation, it cannot be directed to file a suit for declaration in the Revenue Court, reason being that in such a case, prima facie, the title of the recorded tenure-holder is not under cloud. He does not require declaration of his title to the land. However, if the plaintiff is required to seek a declaration of title, he has to approach the Revenue Court.

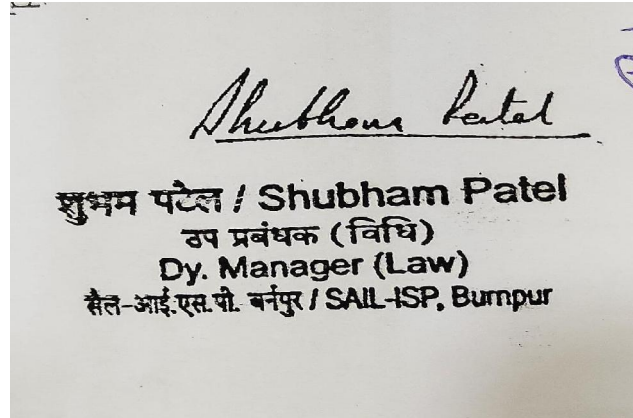
9. In the instant case, since the plaintiff claims title under sale deeds of 1998 executed by the first defendant, it need not be forced to seek a declaration of its title. Therefore, the plaintiff had filed a suit for cancellation of the subsequent sale deed executed by the first defendant in favour of the second defendant. Hence, there is no bar under Section 331 of the Act for the plaintiff to approach the civil court and the suit filed by it was maintainable.”

45. Upon appreciation of the decisions, this court holds that although submissions have been made that IISCO did not have the competence to enter into the lease agreement with the petitioners, the deed of lease being a registered document carries with it a presumption of correctness and thus, must be avoided by the respondents before a proper forum. Such principle has also been explicitly laid down by the Hon’ble Apex Court in ***Prem Singh (supra)***. It is the specific contention of the petitioners that even after the amalgamation of IISCO with SAIL, the expression ISP SAIL was often used in many official documents to denote SAIL’s units. The execution of the deed by IISCO (ISP SAIL) was in accordance with the custom prevailing in the units of erstwhile IISCO. The IISCO Unit at Kulti was later renamed as SAIL Growth Works Kulti and in the lease deed, Rajeev Kumar had signed as General Manager, Indian Iron and Steel Company Kulti Works (SAIL) SGW.

46. From the eviction notice itself, the seal/rubber-stamp and the designation of the Estate Officer appears as hereunder:-



47. From the caveat filed before the civil court, the seal/rubber-stamp and the designation of the Deputy Manager(Law), SAIL-ISP, who filed the same, appears as hereunder:-



48. Thus, the contention of the petitioners that the unit of SGW, Kulti, although merged with SAIL, continued to use the name SAIL ISP or SAIL-IISCO in their official stamp and seal as also in the designations of the authorities, in course of official communication, cannot be treated as unfounded. The contrary will have to be proved by leading evidence.

49. There also appears to be a complaint before the police authorities by one Subasish Sengupta, Chief General Manager, SAIL Growth Works, Kulti against the Executive Director Rajeev Kumar, Krishna Kumar Tiwari the

petitioner No.2 under Sections 420, 406, 467, 468, 471 and 120B of the Indian Penal Code. Thus, the issue of forgery, fraud, mis-representation etc. are part of the criminal investigation, also. In order to prove that the documents were forged, unauthorized and a product of fraud, detailed evidence would be required to be adduced and appreciated by the court. The civil court would be the proper forum for such adjudication.

50. The petitioners have also relied upon a letter dated July 21, 2012 which indicates that Rajeev Kumar as the Senior Manager (Personnel) Kulti Works was nominated as the company's representative to execute the lease agreement. Although, the respondents have raised crucial issues with regard to lack of competence of the lessor, execution of lease by an unauthorized person, absence of board's resolution, such issues alone, cannot be sufficient reasons for the writ court to hold that the deed of lease had not been validly executed and the Estate Officer would retain jurisdiction under the said Act.

51. In the decision of ***Board of Trustees for the Port of Kolkata (supra)*** the question of an alternative bona fide claim of possession and user on the basis of a registered lease deed had not been raised. The simple question before the Division Bench was whether the lease could be determined by the statutory body on the ground of sub-letting (which is violation of the terms of the lease) and whether the Estate Officer could proceed under Section 4 of the said Act, upon determination of such lease by the statutory body.

52. The writ petition is, accordingly, allowed. The notice issued under the said Act of 1971, by the Estate Officer and proceedings under the said Act, are set aside.

53. There shall be no order as to costs.
54. Parties are to act on the basis of the server copy of this judgment.

(Shampa Sarkar, J.)