(2012) 09 JH CK 0051

Jharkhand High Court

Case No: Writ Petition (T) No. 6042 of 2008

M/s. Tata Steel Ltd.		APPELLANT
	Vs	
The State of Jharkhand and Others		RESPONDENT

Date of Decision: Sept. 10, 2012

Acts Referred:

- Evidence Act, 1872 - Section 116
- Transfer of Property Act, 1882 - Section 111(D)

Citation: AIR 2013 Jhar 24 : (2013) 1 JLJR 188

Hon'ble Judges: Prakash Tatia, C.J; Jaya Roy, J

Bench: Division Bench

Advocate: Binod Kanth, Mr. G.M. Mishra and Mr. Indrajit Sinha, for the Appellant; Anil Kumar Sinha, A.G., Mr. V.P. Singh and Mr. R.C.P. Sah, Advocate, Mr. Manish Mohan, Advocate and Mr. C.A. Bardhan, for the Respondent

Final Decision: Dismissed

Judgement

1. Heard learned counsel for the parties. The writ petitioner is aggrieved against the order passed by the Managing Director of the AIADA dated

17.11.2008, (Annexure-20), by which the allotment of land to the petitioner to the extent of 100 acres, out of total leased area of 350 acres has

been cancelled on the ground of not utilizing the said land and which is lying vacant and consequently lease has been terminated with forfeiture of

the Salami/premium.

2. The brief facts of the case are that at the time of unified Bihar State, on 18.03.1969, on request of the petitioner, land measuring 350 acres

consisting of a few hundred plots having different dimensions of very small area were leased out to the writ petitioner. The petitioner paid Rs.

7000/- per acre amounting to Rs. 24 lacs and odd as Salami/Premium. The agreed rent in the lease deed was Rs. 17490.50 per annum. The lease

was renewable after every 20 years. The petitioner started paying rent to the State of Bihar through Special Officer, obviously of the State of Bihar

and set-up an industry over the land in question but not over the entire land.

3. AIADA''s case is that, a big chunk of land including the leased land, which has been leased out to the petitioner, were transferred to the AIADA

by the State of Bihar by Grant dated 23.07.1973. Thereafter, admittedly, the petitioner started paying rent of the leased land to the AIADA. The

dispute arose because of the reason that according to AIADA, the petitioner did not utilize the entire land for the purpose for which it was allotted.

AIADA, therefore, started giving notices to the writ petitioner and one of the notice is annexure-1, dated 02.09.1999, issued by the AIADA to the

writ petitioner stating therein that the petitioner was allotted total land of 350 acres for establishing industry. However, the petitioner even after

passing of 20 years, could not utilize more than 50% of the land and, therefore, he was asked to show cause why the land has not been utilized.

The petitioner was also asked to furnish a future plan, if it has any plan, to utilize the land for industrial purpose. The petitioner was directed to

submit a time bound programme and it was made clear that if, said notice will not be responded within a period of one month, it will be presumed

that the petitioner has no plan for the remaining land. In response to the said letter dated, 02.9.1999, the petitioner submitted a Drawing No. GSE-

01-049, Rev. C, indicating the proposed inclusion of unoccupied land for setting up certain special facilities required for meeting the requirements

of their mother plant, TISCO, Jamshedpur with certain requirement for TISCO under Phase-IV modernization programme, as well as the new

COLD ROLLING MILL facilities to be inaugurated in the year 2000. The expected time of completion was given as July, 2001; October, 2003;

August, 2004; and November, 2003. The petitioner sought support of the AIADA for these projects, in their reply dated 20.11.1999. Again on

01.9.2000, a notice was given to the petitioner by AIADA wherein petitioner was reminded that unutilized land is lying vacant there since last

decades and a sum of Rs. 2,95,98,530/- is due to be paid by the writ petitioner. By this communication, the petitioner was directed to surrender

the excess land lying with it so that it can be utilized for allotment to other entrepreneurs. The petitioner, responded to this letter of AIADA dated

01.09.2000, vide its letter dated 21.11.2000 wherein it has been stated that as regard to the utilization of the land allotted to the Petitioner-

Company, more than half of the remaining vacant land in their Complex colony has been utilized for developing eco-friendly environment by tree

plantation which is an on-going process. It was also stated that the petitioner had envisaged construction of a High School building and a Shopping

Complex and amenities for the employees and residents and their family members and further it was stated that the utilization of the remaining

vacant land for its development is dependent on the ultimate requirement of the Company''s Steel Workshop at Jamshedpur and again the

petitioner referred its proposal given vide letter dated 20.11.1999 disclosing the tentative programme. It appears, even after above

correspondences, the petitioner could not utilize the land left vacant since the year 1969. The petitioner was again served notice dated 03.01.2001

and again said money demand was raised and it was informed that no further action has been taken for remaining unoccupied 150 acres of land

and, therefore, the petitioner may surrender the land. On 15.01.2002, a notice was given to the petitioner by the AIADA inviting petitioner''s

attention to Clause 4(XIV) of the Lease Deed and towards the provision of Section 6(2A) of Jharkhand Industrial Area Development Act, 1993

which provides that if the industry fails to utilise the allotted land, then the Industrial Area Development Authority may cancel the allotment of land

and resume possession of the land. Therefore, exercising such powers, the AIADA gave one month''s notice to the petitioner under the above

provision asking the petitioner as to why action may not be taken against the petitioner for resuming 150 acres of land which remained unutilized

since last more than 30 years. The petitioner gave reply on 13.2.2002 and objected that provision of Section 6(2A) cannot be invoked in view of

the fact that the said property was leased to the petitioner on 18.3.1969, i.e., much before coming into force of the Act of 1993 containing Section

6(2A). It is also submitted by the petitioner that provisions of Clause 4(xiv) of the lease also cannot be invoked as petitioner has already utilized a

portion of the land for establishing its units and, therefore, has already taken effective steps for utilization of the allotted land within prescribed

period. The petitioner''s stand was that petitioner already vide letter dated 21.11.2000, explained that the industry like petitioner''s industry cannot

remain stagnant and therefore, scope has too be left for future growth and development. It is further submitted that more than 60% of the land has

already been utilized for the factory and other purposes and the entire area is bounded by the walls and a portion of the land is used for providing

eco-friendly environment, and, therefore, it is not fair on the part of AIADA to apply the above provisions.

4. In consequence of the above, continuous communications and show-cause notices, ultimately the AIADA passed an order on 01.8.2002

conveying that from record, it appears that petitioner was asked to surrender the land of 150 acres because of the reasons mentioned in the above

communications and considering the facts referred above, obviously, with respect to the proposal of the petitioner for expansion etc., the matter

was kept in abeyance.

5. It appears that the AIADA did not find any progress in the matter with respect to the utilization of the land, then on 08.08.2002, issued a fresh

show-cause notice for cancellation of allotment of the land measuring 150 acres out of 350 acres.

6. This show cause notice was replied in the same terms of the replies which were already given and again indicating that now, the petitioner will

start activities on the said vacant land and expected year of completion of the project of proposed 300 TPD (Sponge Iron Plant), proposed Crash

barrier/collecting electrode manufacturing facility and Power Distribution Network is the year 2005, 2004 and 2006 respectively with project cost

of Rs. 30 crores, Rs. 01 crore and Rs. 20 crores for respective projects and it was requested that no adverse action be taken.

7. Thereafter, again on 08.10.2005, a further notice of the same effect for cancellation of the land measuring 150 acres was given on the same

ground by the AIADA and it was replied by the petitioner vide letter dated 04.11.2005 reiterating that they are going to install the industry and will

start production.

8. Thereafter, again one after another notices were given and they were replied in the same fashion by the petitioner and ultimately, impugned order

dated 17.11.2008 was passed by the AIADA holding that after elapse of 38 years of the allotment and lease, 150 acres of land is still lying

unutilized and vacant and, therefore, petitioner violated the terms and conditions under the lease. The petitioner''s all contentions were taken note of

with respect to its proposal for utilization of land for future projects etc. and it was ordered that even when petitioner has not utilized the land as

per its own undertakings given at several times, a lenient view is taken and out of 150 acres, only 100 acres of land is cancelled and the lease is

terminated with direction to the petitioner to utilize the remaining portion of the vacant land (50 acres out of 150 acres) within six months failing

which necessary action would be taken to cancel the land, obviously, remaining 50 acres. The petitioner in these facts and circumstances

approached this Court by filing writ petition for quashing the said order.

9. Learned counsel for the petitioner vehemently submitted that the lease was granted by the erstwhile State of Bihar with clear stipulation in the

lease deed itself as well as there is a Clause in the lease deed being Clause 3 (iv) which says that if, subsequently any part or parts of the said land

is required by the State Government for a public purpose, the State Government shall be the sole judge to decide and shall, on being asked by the

State Government the lessee will hand over the leased area or part of the said land as the State Government shall specify. Therefore, in this

situation the State Government alone would have resumed the leased land. It is also submitted that the State of Bihar has not initiated any

proceeding for not utilizing the entire land by the petitioner which could have been initiated just after expiry of the period of one year within which

the petitioner was required to establish the industry. It is submitted that it is nowhere provided that every inch of the land will be utilized for the

purpose of construction of the building etc. for the big unit like petitioner''s unit. The petitioner, in fact, has utilized the land by constructing the plant

and bounded it with boundary wall. The petitioner''s unit needs some breathing space for which plantation is necessary which also has been

conveyed to AIADA when AIADA raised objection about the petitioner alleged vacant land.

10. Learned counsel for the petitioner vehemently submitted that AIADA has no authority to issue any notice to the writ petitioner for very many

reasons. One of the reasons which goes to the root of the matter is that the land in question never vests in the AIADA even in view of the

Government''s Grant dated 23.07.1973. It is also submitted that the AIADA relied upon the Grant of 23.07.1973 whereas in another matter

between the same parties, the AIADA has submitted one another Grant dated 25.08.1987, which contains the verbatim same language in the letter

seeking the consent of the AIADA for handing over the land to AIADA. The area is exactly the same i.e., 1266 acres of land, which was the land

mentioned in the Notification of 1973. Therefore, the AIADA is not sure by which Grant the land has been transferred to AIADA. Secondly,

Grant of 1973 is absolutely vague as it says Grant of land of 1266 acres ""more or less"". In this Grant, it has not been provided for resuming the

land already leased nor it contains any recital that the land which has already been leased out to other lessee, also stand transferred to AIADA.

Not only this but the Grant deals with the land of five villages having its total area more than 5000 acres spread over four villages whereas the

petitioner''s lease is spread over five villages. Therefore, it is not established by the AIADA that by which Grant, Grant of 1973 or 1987, the

leased area has been transferred to AIADA. Learned counsel for the petitioner was more empathetic that once there is a provision for resuming

the lease, then in that situation, the Government could have resumed the lease for the purpose of handing over it to the AIADA but admittedly the

leases have not been resumed. Learned counsel for the petitioner submitted that when Grant itself is doubtful, then its giving effect is also seriously

doubtful and consequently, the land did not vest in the AIADA. It is also submitted that when AIADA failed to establish its title over the property,

mere payment of the rent by the petitioner to AIADA will not make the AIADA owner of the land in any manner nor plea of estoppal can be

raised by the AIADA.

11. Learned counsel for the petitioner submitted that it is well settled law that when document is clear, the intention of the party is absolutely

irrelevant and document is required to be read literally and not necessarily, even meaningfully.

12. Learned counsel for the petitioner relied upon judgments of Supreme Court in the case of Sahebzada Mohammad Kamgar Shah Vs. Jagdish

Chandra Deo Dhabal Deo and Others, , in the case of Prakash Chand Khurana Vs. Harnam Singh & Others reported in AIR 1973 SC 2065 and

in the case of Express Newspapers Pvt. Ltd. and Others Vs. Union of India (UOI) and Others, and further submitted that Hon''ble Supreme Court

has specifically dealt with the issue of Grant in a case of Marathwada University Vs. Seshrao Balwant Rao Chavan, .

13. It is also submitted that the AIADA''s contentions that the order passed by the Managing Director, who, according to the petitioner, had no

authority to cancel the lease has been ratified, is contrary to the law laid down by the Hon''ble Supreme Court that administrative order can be

ratified but there can not be ratification of the judicial orders or the quasi-judicial orders. It is submitted that in this case, the order of cancellation of

the lease/allotment of the land of the petitioner is a quasi-judicial order.

14. It is also submitted that the Managing Director of AIADA was not competent officer to pass any order u/s 6(2) of the Act of 1974 and the

authority''s executive function, at the most, can be discharged by the Managing Director of AIADA but not the quasi-judicial function. It is

submitted that therefore, in spite of having Section 6(2) of the Act, a separate Section 2A has been incorporated so as to give a limited power of

cancellation of allotment of plots much less to the right to cancel the lease as has been given u/s 2A of Section 6 of the Act. Therefore, in this

situation also, the order passed by the authority is wholly without jurisdiction.

15. At the cost of repetition, we may recapitulate here again that learned Counsel for the petitioner was empathetic in his argument that the land

never vest in AIADA and in this case, by the impugned order grave injustice has been done of not even giving compensation if the AIADA wanted

to resume the unutilized land for which specific provision in the Act as well as in lease deed itself provide for giving compensation to the lessee if

excess part of the leased land is resumed in public interest.

16. Learned counsel for the petitioner relied upon several judgments in support of his right as lessee which deal with the issue of implied surrender

of lease wherein it has been held that lease is a valuable right and implied surrender cannot be inferred easily. In support of his argument, learned

counsel relied upon judgment of the Hon''ble Supreme Court delivered in the cases of Pramod Kumar Jaiswal and Others Vs. Bibi Husn Bano and

Others, Narayan Vishnu Hendre and others Vs. Baburao Savalaram Kothawale since deceased by his heir Anant Baburao Kothawale, and in the

case of Corporation of the City of Bangalore Vs. Bangalore Stock Exchange reported in (2003) 10 SCC 212. Learned counsel for the petitioner

also relied upon Section 111(D) of the Transfer of Property Act whereunder such action as taken by the AIADA is prohibited and has been

already considered in the judgments referred above.

17. Learned counsel for the AIADA as well as learned counsel for the Managing Director of AIADA and the State all supported the impugned

order. It is submitted that the petitioner was given on lease huge land of 350 acres by a deed of lease and at that time the idea of establishing

Adityapur Industrial Area was in contemplation which is apparent from the lease deed itself wherein there is specific reference of ""Adityapur

Industrial Area"". It is also submitted that after the lease, the land in question was transferred to the AIADA by the Gazette notification of the year

1973 referred above. There is no ambiguity in the description of the property which has been transferred to the AIADA and it has been specifically

cleared by giving description of property in well known way i.e., by describing the property by boundaries and it is not the case of the writ

petitioner in any manner that the writ petitioner''s land is falling outside the boundaries mentioned in the Gazette notification. It is also submitted that

the petitioner paid rent to the AIADA almost regularly with some defaults and also sometimes sought permissions and also submitted his plan and

project through the AIADA itself and prayed for giving some time for establishing the industry on the vacant land. The land lying vacant was

admitted case of the writ petitioner throughout in writing and the petitioner also admitted unequivocally in their replies that the land of big area is

lying vacant. Before passing this order, the AIADA gave more than sufficient opportunity to petitioner to comply with the conditions of the lease

and petitioner firstly, undertook to comply with the conditions of the lease and when in several years it could not do, then its allotment of the land of

only that area has been cancelled which has not been utilized and while cancelling the lease, even a concession has been given to the petitioner to

now take steps to utilize atleast 50 acres of the land which could have been acquired but has not been acquired by the impugned order. It is

submitted that the petitioner is estopped from questioning the relationship of the landlord and tenant between the AIADA and the petitioner.

Learned counsel for the AIADA submitted that the land covered in the notification of 1973 is different and the land covered under the notification

of 1987 is entirely different which has been given subsequently to the AIADA which is in addition to the already allotted land.

18. Learned counsel for the AIADA submitted that the Division Bench of this Court has already considered the issue of powers of the Managing

Director in the matter of cancellation of lease in L.P.A. No. 174 of 2011 in the case of AIADA & Another Vs. M/s. Sanderson Industries Limited

& others and decided the matter on 24.07.2012 (By us).

19. Learned counsel for the AIADA vehemently submitted that the question of identity of the property which has been handed over to the AIADA

or the plea that the lease land of the petitioner is not included in the notification was never raised by the petitioner before any authority even after

several notices to the petitioner and, therefore, this question of fact cannot be raised in the writ jurisdiction that too, without laying down the factual

foundation for which particularly the petitioner did not even annex the map which was part of the lease deed by which the lease was granted to the

writ petitioner, reference of which map is already there in the lease deed.

20. We considered the submissions of the learned counsel for the parties and perused the facts in detail as well as the relevant communications and

the Gazette Notifications and the judgments relied upon the by learned counsel for the parties.

21. The first question which arises is that what is the right of the writ petitioner in the land in question. The answer to this question is very simple in

view of the fact that nobody has disputed the nature of right of the writ petitioner in the land and the petitioner is lessee and the erstwhile State of

Bihar was the lessor.

22. The next question is whether the property in question vests in the AIADA by virtue of Grant dated 18.07.1973 or by the Grant of 1987 in

view of the communication dated 25.08.1987 annexing one Grant with no date in the Grant itself but bearing the dated 25.08.1987 under the

signatures of the Additional Secretary, Bihar and the witnesses or these Grants do not include the land in question. Further question is that even if

the land is covered under this Grant whether it was necessary for the Government to first resume the land for the purpose of handing it over to the

AIADA, in view of Sections 9(1) and 9(2) of the Act of 1974 and whether the Grant since contains no specific mention of the lease area of the

writ petitioner, therefore, the intention of the Government was not to transfer, by way of Grant, the land leased to the petitioner, in favour of

AIADA.

23. So far as question of challenge to the title of the AIADA which was acquired by the AIADA by virtue of the Grant dated 18.07.1973 or

petitioner''s and AIADA as tenant and landlord are concerned, that title and relation cannot be questioned by the writ petitioner in view of Section

116 of the Evidence Act as admittedly the petitioner has attorned the tenancy and accepted the AIADA as landlord and that position continued

since last several decades.

24. The challenge to the title of the AIADA by the petitioner appears to be a desperate afterthought and that too, after decades and further, on the

basis of absolutely wrong premises. The petitioner not only paid the rent to the AIADA time to time but in all communications accepted AIADA as

lessor and without questioning the title of the AIADA. Apart from it, the Gazette notification dated 11.12.1974, wherein the Grant dated

18.07.1973 has been published, is a Grant of the immovable property with clear stipulation that the Grant is for the land together with structures

and appurtenances thereto which is fully described in the schedule mentioned below the Grant itself. The schedule contains full, complete and

identifiable description of the property of different areas of different villages. Each set of the lands have been separately described by giving

description by giving its North, East, South and West sides covered by plot numbers. The petitioner, for the first time in writ petition, wants to

submit that the petitioner''s land is not covered under such notification by raising the question of fact in this writ petition but not only without laying

proper foundation for such plea but also by suppressing the important material evidence which is in possession of the petitioner itself and that is the

map annexed to the lease granted to the writ petitioner, reference of which is in the petitioner''s lease deed dated 18.03.1969. The petitioner tried

to submit under this Grant there is reference of four villages whereas petitioner''s property is falling in five villages. Assuming for the sake of

argument, so to be correct, even then admittedly lease is one and has not been partitioned at any point of time and the petitioner''s case is not that

he has paid rent proportionally by dividing the tenancy of the area of the village, reference of which village name is not in the Grant dated

18.07.1973. The tenant, during the currency of the tenancy, has no right to question the title or relationship of landlord and tenant, and he is under

obligation to surrender the leased property to the landlord on termination of lease in accordance with law. Therefore, the petitioner is firstly

estopped from challenging the title and relation with the AIADA and secondly, on facts failed to prove that the petitioner''s lease land property is

not covered by the Gazette notification and thirdly, the plea has been raised without any factual foundation laid by the petitioner in the proceedings

in which impugned order was passed and thereafter, without laying down proper factual foundation in this writ petition and is also guilty of

suppression of important piece of evidence; the map annexed with the lease deed of the petitioner.

25. The petitioner''s lease deed, copy of which is on record, clearly indicates the description of the property which has been leased out to the

petitioner and the properties can be described by giving either boundaries and neighbourhood of the property or by giving Plot Number or Survey

Number or Khata Number whichever is sufficient to identify the property. In the schedule annexed with the Grant, the full and clear description of

the entire property is given.

26. The contention of the writ petitioner that since the petitioner''s lease property has not been resumed which could have been resumed in view of

Sub-Section (2) of Section 9 or in view of Sub-Clause (iv) of Condition 3 of the lease deed, therefore, it may be held that by Gazette notification

dated 18.07.1973 only the land which has not been let out by the State of Bihar, has been transferred to the AIADA. The contention of the

learned counsel for the petitioner is that when there is specific provision in the Act as well as in the lease deed itself of resuming the land and of

giving compensation upon resumption of the lease land or part of the lease land, then in that situation, when such procedure has not been followed,

then it may be presumed that the lease land has not been transferred by the Grant. This argument of the learned counsel for the petitioner is

absolutely misplaced argument. The lease does not affect the title of the owner of the property who let out the property nor there can be any

restriction against the owner of the property in the matter of transfer of property once he has let it out to any tenant is the settled law. Otherwise

also any condition putting restriction against transfer of the property against the owner because of the lease will affect the ownership right of the

owner of the property which is impermissible in law and if there is any such covenant then that covenant will be absolutely illegal as transfer of

property is incidence of ownership. However, here in this case, neither such condition is available in the lease deed or in the Act referred above

which provides that the lessor shall not have right to transfer his property. Once a property is fully described by giving neighborhood of the

property or describing it by its numbers is transferred, it stands transferred along with its rights and obligations of the seller which includes the

obligation of the owner as of lessor which protects the tenant by giving him one choice either to surrender the tenancy or to attorn the tenancy to

the new landlord. Once the tenant attorns to the new landlord he is estopped from questioning not only the relationship of landlord and tenant but

also title of the successor owner.

27. In the lease deed as well as in the Act of 1974 there is a provision that the Government/lessor may resume the lease property or part of the

lease property but for that purpose they have to take a decision in accordance with the provisions of law and as per the condition in the lease deed

and for that purpose the lessor is bound to pay the compensation as agreed by the parties or determined by law. This option does not exclude the

right of lessor to cancel the lease or terminate the lease. Because of the right of lessor to resume the lease land, the lessor''s right to terminate

tenancy is not affected in any manner and both can co-exist. Therefore, in this case when the lessor has decided to proceed to terminate the lease

and resume the part of the land, it proceeded according to rights vesting in the lessor by virtue of the provisions of Tenancy Act as well as by virtue

of present lease deed dated 18.03.1969. Not only this, the lessor could have terminated the lease as a whole but the lessor reserved the right to

terminate the lease in part for the purpose of resuming that portion of the land which has not been actually used for the purpose for which the

property was let out. The Sub-Clause(4) of Condition 3 of the lease deed is relevant which is as under :-

(iv) That if subsequently any part or parts of the said land is/are required by the State Government for a public purpose, (of which matter the State

Government shall be the sole Judge), the lessee shall on being asked by the State Govt. transfer to then such part or parts of the said land as the

State Government shall specify to be necessary for the purpose, aforesaid and in consideration of such transfer the State Government shall pay

back to the lessee a sum proportionate or equal as the case may be.

28. A bare perusal of Sub-Clause(4) will clearly indicate that it deals with two subjects one is based on the requirement of the State

Government/or its successor which may required for resuming the lease or part of the lease ""for public purpose"". Here in this case the proceeding

was not initiated under this provisions as it is not the case of the Government / lessor that the Government requires the land in question for any

public purpose"". The lessor has started proceeding for eviction of the lessee under proviso to the Sub-Clause(4) of Condition 3 because of non-

use of the part of the lease land therefore, in view of the proviso to Clause-4 of the lease condition No. 3 of Part II of the lease, the lessor had right

to proceed for determining the lease of the part of the property which has not been utilized for the purpose for which it was acquired by the lessee

on lease.

29. It is also submitted that the petitioner established the industrial unit on the land in question and, therefore, fully complied with the conditions of

the lease and it is not necessary that every inch of the land is required to be used for industrial purpose. Such plea can be taken in large number of

cases but in view of the peculiar lease of a very big chunk of land measuring 350 acres, both the parties, with open eyes, entered into this

agreement of lease and provided that the lessor shall have right to resume the part or parts of the land leased out to the lessee which were not

actually used for the purpose of manufacturing or which is not essentially required for any purpose connected with the industry. Therefore, the

lessee is bound by its condition and it gives right to the lessee to resume the land or part of the land which in fact has not been utilized for the

purpose as agreed. Therefore, the above plea cannot be applied to the facts of the case that petitioner has since established and started the

industry on part of the land, therefore, he has complied with the condition in full of the lease deed.

30. The petitioner is further estopped from taking above plea in view of the fact that the petitioner, knowing fully well the above proviso to Sub-

clause(4) contained in Part II of the lease deed, repeatedly tried to save the termination and resumption of the leased property by giving assurances

to the AIADA again and again that it will utilize the land and will establish the industry in remaining part of the land and admittedly the petitioner

failed in discharging that obligation and the assurances given to AIADA. The AIADA has taken liberal attitude towards the petitioner and instead

of cancelling/terminating the lease of 150 acres, cancelled the lease of only 100 acres which is apparent from the impugned order itself. Before

taking such an action, the petitioner was granted nearly 10 years time to comply with the condition of the lease and permitted to fulfill his

assurances, therefore, in this fact situation also, the petitioner deserves no indulgence so far as factual aspect is concerned.

31. The petitioner''s submission that lease is a valuable right is concerned, there cannot be any quarrel nor it has been disputed even by AIADA or

the State. A right which may be however strong can be destroyed only in accordance with law is also a settled law. It is not the case of the

petitioner that he has indefeasible right and in spite of his being a tenant he acquired such right which cannot be even taken away in terms of the

contract or by following the procedure of law. Therefore, the judgments relied upon by learned counsel for the petitioner do not support to the writ

petitioner in any manner with the help of which the petitioner wants to state that by cancellation or termination of his lease, his valuable right has

been taken away and which could not have been taken away, has no application to the facts of the case.

32. At this juncture, we may observe that creation of the AIADA was under contemplation before the lease was granted to the writ petitioner by

the State of Bihar is a fact which cannot be disputed by the writ petitioner in view of its own lease deed wherein there is a clear reference of

Adityapur Industrial Area and in fact that was not an afterthought of the State of Bihar or AIADA but the idea was already conceived and

mentioned in the lease deed itself. The petitioner who is having such huge land of 350 acres spread over five villages cannot deny the resumption of

the excess land from the writ petitioner even when it could not utilize the land for more than 40 years by now in a fact situation where large number

of entrepreneurs are waiting for the allotment of land in the Adityapur Industrial Area as per the reply statement of AIADA.

33. Learned counsel for the petitioner also submitted that such large area is not lying vacant. This plea cannot be accepted in view of the admission

of the writ petitioner made in the reply submitted before the authority concerned wherein in unequivocal terms, in two of the letters they admitted

that 40% of the land is lying vacant against the claim of the AIADA of 50% land lying vacant and out of 350 acres, the order of resumption of the

land is with respect to 100 acres of the land only. Therefore, in view of this admitted fact, we do not find any force in the submission of the learned

counsel for the petitioner that the land is not lying vacant.

34. Learned counsel for the petitioner relied upon judgments of the Hon''ble Supreme Court delivered in the cases of Sahebzada Mohammad

Kamgarh Shah (supra), Prakash Chand Khurana (supra), Express Newspapers Pvt. Ltd. (supra) and in the case of Marathwada University

(supra) in support of his argument that the Grant is required to be construed as it is and literally. We are of the considered opinion that the law is

now well settled that when the document is unambiguous, nothing can be added or subtracted in or from the document by the pleadings and the

evidence of the parties. Here in this case, we are not called upon to find out the meaning of the document and we have read the Grant literally and

we do not find any ambiguity in the Grant so as to find out the intentions of the parties. The Grant unambiguously on 18.07.1973 has transferred

the land to the AIADA with all rights. Once a piece of land described by the boundaries as a whole is transferred and there may be misdescription

of the buildings or appurtenances available on the land, but that will not render the Grant invalid for any reason because all other things goes with

the land upon transfer of the identifiable land, therefore, also we do not find any force in the submission of the learned counsel for the petitioner that

since there is no specific mention of the leased property of the petitioner in the document, it be presumed that lease property has been excluded.

Learned counsel for the petitioner also submitted that area of the land mentioned in the Grant is vague as in the Grant it has been stated that land

measuring more than or less 1266 acre ""more or less"" has been given to the AIADA. This also is not a vagueness in view of the detail description

of the entire property as well as boundaries given in the Grant. At this juncture, we may again recapitulate even 350 acres of land was leased out to

the writ petitioner consisting of hundreds of plots and those plots may have a very nominal measurement then in that situation where the land of

1266 acre has been transferred, then the Government rightly mentioned there may be slight more or less area than 1266 acre but the land has been

demarcated by drawing a map which made the document certain. Otherwise also, in a big chunk of land, outer description of the land covers a

smaller piece of land and which is subject matter of dispute then in that situation, the only important thing is to find out as to whether the said

smaller piece of land finds place in the given area and boundaries of the outer description of the property. We have already noticed that the

petitioner has never disputed title or the lessor''s right over the property at any point of time in decades and paid the rent for entire lease property

admitting it to be ownership property of the AIADA and leased property to the petitioner, therefore, the petitioner cannot take any plea on the

basis of imaginary ambiguity in the description or the area of the land in question for which the Grant has been given by the State Government to

the AIADA. The alleged Grant of 1987 is for different land as per the AIADA but otherwise also, if first grant of 1973 is valid grant, second

similar grant cannot invalidate first grant and second grant to the extent of the area covered under first grant only can be void.

35. The petitioner has questioned the authority and jurisdiction of the Managing Director of the AIADA in cancelling the lease or resuming the

lease. We are of the considered opinion that we have already considered the issue of the authority of the Managing Director of the AIADA in the

case of AIADA and Another Vs. M/s. Sanderson Industries Limited and Others (Supra) and in view of the said decision we are of the considered

opinion that Managing Director of the authority was competent to take all actions with respect to the powers conferred by Sub-Section (2) and

(2A) of the Act of 1974. We do not find any force in the submission of the learned counsel for the petitioner that the order in question is a quasi

judicial order and, therefore, it could not have been validated by ratification by the authority. We are of the view that the Managing Director himself

has the power to proceed u/s 6(2) in view of the resolution of the authority.

36. We are of the considered opinion that in the facts and circumstances of the case a lenient view was taken by the AIADA and it cancelled only

100 acres of the land out of 150 acres. We are also of the considered opinion that petitioner took risk of termination of entire lease by denying the

title of the AIADA in the property in question and by denying the relationship of lessor and lessee between the AIADA and the petitioner because

of the reason that under the provisions of the Transfer of Property Act, if the lessee, during the continuation of the tenancy, denies the title or even

relationship of landlord and tenant, his tenancy can be terminated and he could be evicted from the entire property.

37. Presently we are concerned with the impugned order which appears to be factually correct in view of the admission of the writ petitioner that

about 40 % of the land was lying vacant. The petitioner again and again assured the AIADA that it will comply with the conditions of the lease and

admitted that the land is lying vacant and this land is fit for use for industrial activity and thereafter petitioner did not take benefit of the indulgence

given by the AIADA for such a long period. Therefore, the writ petition of the petitioner is dismissed. However, no order as to cost. However, we

are granting 60 days time to the writ petitioner to handover the vacant possession of the land in question for which order has been passed.