

## **TOUGH TALK ON 'GREAT LAND ROBBERY'**

*The Sunday Leader* of October 25, 1998, under the caption – "Breach of policy statement ? ", focused upon the privatisation of the plantation companies, that had been carried out by the People's Alliance government, posing the cogent and pertinent question, as to whether the government had gone against the very grain of its own policy statement placed before Parliament ?

*The Sunday Leader* gave extracts of the dicta of the People's Alliance government's policy statement made to Parliament on January 6, 1995 by President Chandrika Bandaranaike Kumaratunga, herself. The government's policy statement had unambiguously stated, that the government's approach to privatisation will be distinguished by full transparency and accountability and that there will be no crony privatisation in the future. [*Emphasis added*]

The government's policy statement had, inter-alia, further stated: -" We have also to ensure that the process of government is transparent and free of corruption, and that everyone in public life is accountable for their actions." . [*Emphasis added*]

The People's Alliance government in the said policy statement to Parliament, in no uncertain terms, had categorically stated that –"Some government shareholdings in companies will be disposed of in the market. Also, the government will enter into long-term management leases in the plantation sector. [*Emphasis added*]

### **LAND NATIONALISATION & DE-NATIONALISATION**

In the article of October 25, 1998, *The Sunday Leader*, inter-alia, pragmatically stated –

"On the disastrous socialist principle, that the plantations should not be owned privately by the people of this country, all the plantations were nationalised by the Sri Lanka Freedom Party led coalition Government headed by Prime Minister Sirima Bandaranaike."

"The plantations that belonged to a very large segment of the people of this country were virtually plundered from their private ownership, under the policy of nationalisation by the Sirima Bandaranaike government. The plantations were to be owned by the state for and on behalf of all the people of this country, presumably for their benefit. Nevertheless, it is now surfacing that several politicians of both sides of the political divide had obtained valuable land from the Land Reform Commission at questionable prices, putting in issue the whole process of nationalisation."

"Nationalisation was a thunderous bolt and the death knell to the capital formation in the hands of the people of this country, and only contributed towards thwarting private initiative and enterprise and stifling the economic emancipation and prosperous growth of the people of this country."

"Ironically, on the contrary, what has happened today? The Sri Lanka Freedom Party led People's Alliance government headed by Prime Minister Sirima Bandaranaike's daughter President Chandrika Bandaranaike Kumaratunga, has handed over the plantations, virtually on a platter, to about a dozen parties or groups, the very plantations that had been plundered under the policy of nationalisation from several thousands of people of this country by a

coalition government of the Sri Lanka Freedom Party led by Prime Minister Sirima Bandaranaike. How could this ever be social justice ?"

### **PRESIDENT KUMARATUNGA ON LAND NATIONALISATION**

A few days after *The Sunday Leader* article of October 25, 1998, the government controlled *Daily News* of Friday, October 30, 1998, under the caption –"President announces : Tough action to recover lands plundered by UNP cronies", – carried a report on pronouncements made by President Kumaratunga at a public rally at Divulapitiya. The *Daily News* report of October 30, 1998, inter-alia, stated –

"Stringent new laws will be drafted and enacted to take back thousands of acres of land plundered by cronies of the previous Government, President Chandrika Bandaranike Kumaratunga announced on Wednesday."

" `The Ministry of Lands is already taking action to recover these lands. But in case the present laws are inadequate to deal with this problem, we will introduce tough new laws to get those lands back and vest them in the people again.' President Kumaratunga told a public rally at Divulapitiya where Jayabhoomi deeds were presented to 1,047 families."

"The President said that in most cases, cronies and relatives of UNP MPs had chased away the legal occupants and forcibly taken possession of the lands."

"She said the 1970-77 United Front Government imposed a 50-acre limit on the individual ownership of land and established the Land Reform Commission (LRC) to give land to the landless. It took back nearly one million acres. Land was given to the landless and to farming projects."

"Recalling the history of the `Great Land Robbery' she said the LRC was subject to various manipulations after 1977, culminating in the seizure of land from the people. `These lands were then illegally distributed among the henchmen of ruling party figures.'"

"The Government is investigating these shady land deals and all those responsible will be brought to book, she added."

"`We will pass laws to ensure that no one could plunder the land given to the people by the State. After we recover the lands now possessed illegally and distribute them among the legitimate owners, no one else will be able to touch them again.'"

"She observed that the previous Government also handed over the management of state-owned tea estates to individuals and companies which had no experience in the industry at all."

"The PA Government has now handed them over to experienced estate management companies, revitalising the tea industry."

## **QUESTIONABLE DE-NATIONALISATION OF ESTATE LANDS ?**

*The Sunday Leader* leaves it to the intelligent and commonsensical public of this country to decipher, as to whether President Kumaratunga's pronouncements at the public rally at Divulapitiya, reported in the *Daily News* of October 30, 1998, was in response to *The Sunday Leader* analytical focus on October 25, 1998 on the privatisation of the plantation companies by the People's Alliance government, in the given background of the previous nationalisation policies ?

Or on the other hand, as to whether, such counter prognosis by President Kumaratunga, was an amazingly strange and rare coincidence, given the fact, that the public have been led to believe, that President Kumaratunga does not read *The Sunday Leader*? Do not President Kumaratunga's pronouncements appear to directly bear upon the pragmatic prognosis that had been made by *The Sunday Leader* on the nationalisation of the estates and the privatisation of the plantation companies?

Were not the controlling majority shareholdings of the profitable plantation companies virtually gifted on a platter to pre-selected parties, notwithstanding the People's Alliance government's policy pronouncement, made to Parliament on January 6, 1995, that the government will enter into long-term management leases in the plantation sector?

In addition to the sale of such controlling majority shareholdings in the plantation companies to pre-selected parties, the plantation companies have been given long-term leases of the respective estate lands of the plantation companies for a 53-year term going up to the year 2045, with a committed option of renewal for a further term.

The Indentures of the Leases pertaining to the estate lands so leased, startlingly reveals that the Lessees, i.e. the plantation companies, have been conferred the right to use the estate lands, as freehold owners would be entitled to use, and that the Lessor, i.e. the government, shall and will not prevent the Lessees, i.e. the plantation companies, inter-alia, from mortgaging their rights over such estate lands.

The Lessees i.e. the plantation companies have been expressly entitled to create any charge, mortgage including pledge, lien, hypothecation of the estate lands, without let or hindrance from the Lessor i.e. the government, for the purpose of obtaining financial accommodation from any financial institution.

The relevant extracts from an Indenture of Lease of the estate lands and the Amendment thereto are given separately. [See box.]

## **QUESTIONS THAT ARISE**

What would the consequences be, when the rights over the estate lands are heavily mortgaged and hypothecated by the plantation companies to locally or foreign owned financial institutions, as collateral for borrowings, and the plantation companies run to ground, with huge unpaid loans secured by such mortgages over the estate lands? Would it not be worse, if such monies borrowed have been diverted to be invested in other businesses undertaken by subsidiary or associated companies of the plantation companies? Has this already happened and if so, what action has the government taken?

In the very teeth of the foregoing, why has there been make belief, that the plantation companies have been given on management leases to estate management companies, whereas the controlling majority ownerships of the 20 plantation companies have been sold to a dozen or so pre-selected parties, with the respective estate lands having been given to the plantation companies to be used, as freehold owners would be entitled to use such estate lands, also with the right and entitlement to mortgage and hypothecate such estate lands, to obtain financial accommodation from financial institutions?

No one, no doubt, would expect Her Excellency the President to be fully acquainted and knowledgeable with the fine print of the complex agreements entered into. Nevertheless, ought not those, who carried out the privatisation of the plantation companies, have fully briefed President Kumaratunga of such crucially important and very material facets? Had they not done so?

Is it that, not only the government, but also the public of this country that have been misled, inasmuch as, the infamous "strike price" formula, by which the controlling majority shareholdings of the most profitable plantation companies have been virtually gifted at a pre-determinable price of Rs. 10/- per share only, together with a further convertible shareholding also at Rs. 10/- per share only, as a bonanza, to the grave loss and detriment of the public, and the unjust enrichment of a pre-selected favoured few ?

Have not *The Sunday Leader* exposures patently revealed blatant manipulations in the recent privatisations of the plantations, whereas regardless thereof, President Kumaratunga alleges various manipulations of the Land Reform Commission, well over a decade ago !

Would the de-nationalisation process of the estate lands, that had been previously nationalised, be in conformity with or cut across President Kumaratunga's pronouncement, that – " the 1970-77 United Front Government imposed a 50-acre limit on the individual ownership of land and established the Land Reform Commission to give land to the landless. It took back nearly one million acres. Land was given to the landless and to farming projects " ?

How would the de-nationalisation process of the estate lands, that had been previously nationalised, ironically compare with the statement attributed to President Kumaratunga –" Recalling the history of the `Great Land Robbery' she said the LRC was subject to various manipulations after 1977, culminating in the seizure of land from the people. `These lands were then illegally distributed among the henchmen of ruling party figures'" ?

*The Sunday Leader* leaves it to the public of this country to consider, the de-nationalisation process of the estate lands, that had been previously nationalised, particularly in the context of President Kumaratunga's recent pronouncement, that the government is investigating land deals and that tough action to recover lands plundered by cronies would be taken, even enacting stringent new laws.

*The Sunday Leader* investigations, on the other hand have revealed, that President Kumaratunga need not look very far to the opposition benches in Parliament, in that, one questionable land deal concerns one of her lieutenants, not too far away from her. As to whether, President Kumaratunga would take stringent action, in terms of her strong assertion, would be left to be seen, once the details are divulged with evidence thereof!

PHOTOGRAPH

President Kumaratunga

- *Counter prognosis to The Sunday Leader exposures ?*

## ESTATE LAND LEASES TO PLANTATION COMPANIES

### CONDITIONS IN THE INDENTURE OF LEASE AS AMENDED

"1 (a) The term of the lease shall be for a period of fifty three years (hereinafter referred to as the Term) and shall be deemed to have commenced on the Twenty Second (22<sup>nd</sup>) day of June One Thousand Nine Hundred and Ninety Two (1992) and shall end on the Twenty First (21<sup>st</sup>) day of June Two Thousand and Forty Five (2045) unless terminated earlier or extended under the terms herein set out"

#### 4. Rights of Lessee

"4 (a) .....The Lessor shall not prevent the Lessee from relocating, diminishing or increasing the number of and/or the sizes of the factories and or buildings standing on the Demised Premises and or the Lessee causing and or permitting such relocation, diminution or increase or the Lessee from sub-leasing, ceding, assigning, or mortgaging in part or in whole its rights created by These Presents or sub-leasing, ceding, assigning, or parting with the possession of the Demised Premises or any portion thereof and using the Demised Premises as a freehold owner would be entitled to use provided that such management, development, relocation sub-lease, cession, assignment, parting with possession or use shall be subject to such manager, developer, sub-lessee, cedent, assignee, possessor or user as the case may be being subject to all the obligations and terms of These Presents mutatis mutandis and all reasonable precautions being taken by the Lessee and such person to protect the rights and interests of the Lessor under These Presents.

"4 (b) The Lessee shall be also entitled to create any charge, mortgage including pledge, lien, hypothecation, over the Lessee's rights arising under These Presents in respect of the Demised Premises or any portion thereof without let or hindrance from the Lessor for the purpose of obtaining financial accommodation from any Financial Institution."

#### 7. The Lessor and Lessee agree that

"7 (g) If the Lessee shall be desirous of renewing These Presents for a further period from the date of expiration of the term hereby granted and shall not less than ten (10) years prior to the expiration of the Term hereof have given the Lessor notice in writing of such intention of the Lessee the Lessor shall grant to the Lessee at a time prior to the said expiration a renewal of These Presents for such period at such rent and upon such terms and conditions as may be mutually agreed between the Lessor and the Lessee."