

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 27/07/2015

DATED:10/08/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.7965 of 2015

&

M.P.Nos.1 and 2 of 2015

T.Rajam @ Kaveri Kutty,  
Rep. by her General Power of Attorney Agent,  
Mr.A.Radhakrishnan,  
S/o.Arumugam,  
No.3/82, Pillaiyar Koil Street,  
Kazhipattur Village,  
Chengalpattu Taluk,  
Kancheepuram District.

...Petitioner

Vs.

1. The Government of Tamil Nadu,  
Rep. by its Secretary,  
Revenue Department,  
Secretariat, Chennai - 600 009.
2. The Special Commissioner and Commissioner of  
Land Administration,  
Chepauk,  
Chennai - 600 005.
3. The Director of Town and Country Planning,  
No.807,  
Anna Salai, Chennai.
4. The Joint Director,  
Land Reforms,  
Villupuram.
5. The District Revenue Officer,  
Kancheepuram District,  
Kancheepuram.

6. The Tahsildar,  
Tiruporur Taluk,  
Tiruporur.

7.E.Sathyanarayana Reddy  
8.C.Yeshwant Narayana Reddy  
9.C.Dhavanthini  
10.S.Nagarajan  
11.A.Hasan Ali Alim  
12.Rajan Dev  
13.Benen Rajesh Kumar

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Certiorari, to call for the records pertaining to the order of the fourth respondent in Rc.No.A1/1463/2008, dated 23.10.2008.

For Petitioner : Mr.Doraisami, Senior Counsel  
For Mr.Muthumani Doraisami

For Respondents : Mr.P.Sanjay Gandhi  
Additional Government Pleader  
For Mr.M.S.Ramesh  
Additional Government Pleader  
for R1 to R6

Mr.V.K.Vijayaraghavan  
for R7 to R9

Mr.N.Anand Venkatesh  
for R10 to R13

O R D E R

The short facts of the case are as follows:-

The petitioner submits that she is the owner of the land bearing Survey No.164/1 situated in Thazhambur Village, Kelambakkam Firca, to an extent of 5 acres. The said land was part of a large extent of 600 acres purchased by one Sri. Perumalsamy Reddy in a Court auction sale held in the year 1929. These lands came to be vested with the Government under Act 26 of 1948 hereinafter referred to as "the said Act". The petitioner further submits that during the Settlement Proceedings there were no claimants as a result of which, Settlement Officer classified these lands as Anadheenam land. Even after many years, there were no claims over the said lands. An extent of about 150 acres were classified as assessed dry waste and assigned to 36 political

sufferers by the Tahsildar, Chengalpattu, the sixth respondent herein. One such plot measuring an extent of 5 acres in Survey No.164/1 in Thazhambur Village, Chengalpattu Taluk was assigned in favour of one B.S.Radhakrishnan.

2. The petitioner further submits that the said B.S.Radhakrishnan was a political sufferer and the Government assigned the said land through the Proceedings of the Tahsildar dated 07.06.1966 and after the assignment, the said Radhakrishnan obtained patta in patta No.341 as per the provisions of the Patta Pass Book Act. The said B.S.Radhakrishnan by a Deed dated 24.01.1974 sold the said land to the petitioner herein through Document No.74 of 1974 registered on the file of Sub-Registrar, Tiruporur. From the date of purchase, the petitioner herein has been in continuous possession and enjoyment of the land and no one else has got any right over the same. The petitioner further submits that the second respondent herein has claimed patta to the lands which were taken over by the Government under the said Act. According to him, there was an oral partition between the brothers of Perumalsamy Reddy and after the death of his father, he had applied for grant of patta in respect of the share of his father outside the scope of the said Act as per the guidelines contained in G.O.Ms.No.1300, Revenue Department, dated 30.04.1971. The claim made by the seventh respondent and other family members was initially rejected and they have filed writ petitions before this Court in W.P.Nos.6165, 6125 and 7346 of 2000 and this Court, by an order dated 13.05.2003, has passed the following order:-

"Pursuant thereto the Government passed a G.O.Ms.No.794, dated 07.12.2006 holding that the seventh respondent and other family members could be granted patta subject to ceiling of 15 standard acres to the lands in Thazhambur Village excluding lands where pattas have been granted and lands assigned in favour of political sufferers. It seems that the fourth respondent while passing consequential order based on the order passed by the High Court and Government had wrongly passed an order directing the issuance of patta to land in Survey No.164/1 which was already excluded by the order of this Court and Government. The fourth respondent by an order dated 23.10.2008 in R.C.No.A1/1463/2008 passed the consequential order granting patta to the seventh respondent which included land in Survey No.164/1 which was already assigned to the said Radhakrishnan."

The petitioner further submits that the fourth respondent has not conducted any enquiry before passing the order and it is only a consequential order to the Government Order and as such, the fourth respondent cannot deviate from the Government Order and also orders

of this Court. So far, no notice is given to him and it seems that the seventh respondent has sold the property to the respondents 8 to 13 after obtaining patta from the sixth respondent-Tahsildar. The petitioner further submits that the petitioner was not aware of any proceedings initiated by the seventh respondent herein for the grant of patta and no notice was given to the petitioner by the Official respondents. In any event, it is very clear that the assignment of lands granted to the political sufferers was excluded from the consideration of lands to which patta has to be granted. However, for the first time, the fourth respondent allowed the seventh respondent to furnish the list of lands which he decided to keep within his ceiling limit and it seems that he has given a list and included S.No.164/1 and the petitioner came to know about the misdeeds only when the respondents 8 to 13 came to prepare layout in the lands. Immediately, a complaint was lodged before the Deputy Commissioner of Police, Land Grabbing and is pending. Before the Police Officials, the respondents 8 to 13 produced a copy of the order passed by the fourth respondent. Hence, the petitioner has filed the above writ petition.

3. The respondents 1, 2 and 5 have filed a counter statement and resisted the above writ petition. The respondents submit that the petitioner has no locus standi to question the impugned order, as he lost all his rights over the land, consequent on the cancellation of assignment made to Thiru.B.S.Radhakrishnan from whom the petitioner purchased the lands. The respondents submit that the petitioner is not the owner of the land bearing S.F.No.164/1 of Thazhambur Village of Kelambakkam Village for an extent of 5 acres. The above land was originally assigned to one Thiru.B.S.Radhakrishnan by the Tahsildar, Chengalpattu in his order in DC 69/75, dated 07.06.1966. The said Thiru.B.S.Radhakrishnan sold the land assigned to him in favour of the petitioner on 24.01.1974 through Doct.74 of 1974. As the assignee Thiru.B.S.Radhakrishnan violated the conditions of assignment, by selling the land assigned to him within the conditional period of 10 years, the assignment made to Thiru.B.S.Radhakrishnan was cancelled by the Sub Collector, Chengalpattu on 09.05.1981. The petitioner has completely hidden the above facts to this Court only to mislead the Court and to get benefit out of it. The respondents further submit that when the order of assignment was cancelled for violation of conditions of assignment, the sale made to the petitioner by the assignee in the year 1974 becomes null and void and against the order of cancellation, as no appeal was preferred, it becomes final. Therefore, the petitioner cannot claim any right, title, over the land and therefore, the contention of the petitioner that he is the owner of the land is contrary to truth and false.



4. The respondents 1, 2 and 5 further submit that as stated supra, the subject land was originally assigned to a political sufferer Thiru.B.S.Radhakrishnan on 07.06.1966 and as he sold the land to the petitioner within the conditional period of 10 years, the assignment made to him was cancelled by the Sub Collector, Chengalpattu on 09.05.1981. The order of cancellation of assignment was not challenged and therefore, it becomes final and conclusive. When it is so, the sale of subject land made by the assignee in Doct.No.74, dated 24.01.1974 to the petitioner lost its validity and no right or title can be derived from it. The petitioner with an ulterior motive to get a favourable order has made a false affidavit, by completely hiding the fact of cancellation of assignment made to the original assignee Thiru.B.S.Radhakrishnan. The respondents further submit that the history of how the seventh respondent and other family members have been conferred title and patta over 150.95.0 hectares of lands including the subject land is summarized as follows, with reference to the orders of Special Commissioner and Commissioner of Land Administration and Government dated 25.09.1998 and 07.12.2006 respectively. The father of the seventh respondent Thiru.C.Ethirajulu Reddy (C.E.Reddy) was a member of the joint family with other members C.Perumalsamy Reddy and C.Govindaraju Reddy purchased 626.72 acres of land in a Court auction in Thazhambur Village in 1930. The lands in Thazhambur Village came to the share of Thiru.C.E.Reddy as per the partition effected by way of Koor-chit in the year 1958. The partition was registered subsequently in the year 1962 among Thiru.C.E.Reddy and his brothers, where also the same properties in Thazhambur Village came to share of C.E.Reddy. As Thazhambur Village was an inam Village, ryotwari settlement was introduced on taking over of it under the Tamil Nadu Estate Abolition Act, 1948 (Act No.26/48).

5. The respondents 1, 2 and 5 further submit that on a representation made by the seventh respondent requesting grant of patta outside the scope of the Tamil Nadu Estate Abolition Act, 1948, the Government in their order in G.O.Ms.No.239, Revenue Department, dated 19.03.1996 have condoned the delay in preferring the claim for issuance of patta and requested the District Revenue Officer, Chengalpattu to examine the request on merits with reference to the guidelines issued in G.O.Ms.No.1300, Revenue Department, dated 30.04.1971. The District Revenue Officer, Kancheepuram in his order in 30281/97/N2, dated 13.08.1997, issued orders for granting patta outside the scope of the Abolition Act 26/48 for an extent of 15 standard acres in Thazhambur Village to Thiru.C.E.Sathyanarayanan and rejected the claims of C.E.Sulochana, Tmt.Samuktha Paramahamsam, Tmt.Lakshmi Banu and Thiru.C.E.Suryanarayanan for proportionate shares and directed them to approach the Government to get suitable orders for grant of

patta or the civil Court for getting appropriate relief. Against the above order, the above persons filed an appeal before the Special Commissioner and Commissioner of Land Administration in the year 1998. The Special Commissioner and Commissioner of Land Administration in his order dated 25.09.1998 set-aside the orders of the District Revenue Officer and ordered that Thiru.C.E.Sathyanarayanan and Tmt.C.E.Sulochana, Tmt.Samuktha Paramahamsam, Tmt.Lakshmi Banu and Thiru.C.E.Suryanarayanan be granted patta outside the scope of the Abolition Act to have equal share in 150.95.0 hectares subject to the ceiling of 15 standard acres in each one's holding which shall include the already owned patta lands if any held by each of them. Accordingly, each of the above persons are granted patta for an extent each not exceeding 15 standard acres in each one's holding to be measured and demarcated on ground separately. Then, the Tahsildar, Chengalpattu in his order dated 18.12.1998 has ordered to issue patta of 15 standard acres to Tmt.C.E.Sulochana, Thiru.C.E.Suryanarayanan, Tmt.Lakshmi Banu and Tmt.Samukta Paramahamsam. In respect of C.E.Sathyanarayana Reddy, he ordered to issue patta for an extent of 6.97 standard acres, as he was already having 6.28.5 hectares of wet and 0.44.0 hectares dry land which works out to 8.03 standard acres and therefore, he is entitled to only 6.03 standard acres.

6. The respondents 1, 2 and 5 further submit that the Government in their order in G.O.Ms.No.164, Revenue Department, dated 22.03.2000 have cancelled the earlier Government Order in G.O.Ms.No.239, Revenue, dated 19.03.1996, whereby the Government condoned the delay in claiming patta in respect of the subject land. The reasoning given for cancelling the earlier Government Order is that the time limit for granting patta outside the scope of Tamil Nadu Estates Abolition (Conversion into Ryotwari) Act, 1948 (Act 26/48) has expired already and there is no reason whatsoever assigned by the petitioners to condone the delay and the delay so condoned would create problem for lawful occupants of the land and the freedom fighters objection to the grant of patta to the petitioners. Against the order of Government dated 23.03.2000, Writ Petition Nos.6165, 6525 and 7346 of 2000 were filed before this Court and this Court, by an order dated 13.05.2003 allowed the writ petition and set-aside the impugned order. Against the above order, the State filed Writ Appeal before the Hon'ble Division Bench and this Court in its judgment in W.A.Nos.2785 to 2787 of 2003, dated 27.04.2004, dismissed the writ appeal with an observation that the freedom fighters who got the allotment of lands in Thazhambur Village objected the grant of patta and the same was taken into consideration by the Government while passing the order and so it cannot be said that the Government had lost sight of all these objections and passed the earlier order dated 19.03.1996 in favour of the respondents and so the reasonings set

out in the impugned order are not only not supported by any materials but also contrary to the records. The Government in their G.O.Ms.No.704, Revenue Department, dated 07.12.2006 have confirmed the order of Special Commissioner and Commissioner of Land Administration passed in his proceedings dated 25.09.1998 granting patta to all five persons i.e., Thiru.C.Sathyanarayana Reddy and Tmt.C.Sulochana and three others to have equal share subject to the ceiling of the 15.00.0 standard acres in each one's holding which shall include already owned patta lands if any held by each of them.

7. The respondents 1, 2 and 5 further submit that as per the orders of the Special Commissioner and Commissioner of Land Administration dated 25.09.1998 and as confirmed by the Orders of Government in G.O.Ms.No.704, Revenue, dated 07.12.2006, the fourth respondent after keeping the lands to an extent of 15.00.0 standard acres to each of the family members made declaration of excess lands of 150.95.0 hectares as surplus in the order dated 23.10.2008 under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, as amended. The respondents further submit that the petitioner having lost all his right and title over the subject land on the cancellation of assignment made to Thiru.B.S.Radhakrishnan in the year 1981 itself, cannot have any claim as the sale by which, he claims right itself lost its validity. The respondents further submit that each family members of Thiru.C.E.Reddy including the seventh respondent is entitled to hold 15.00.0 standard acres, as per the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, as amended and as per the orders issued by the Special Commissioner and Commissioner of Land Reforms dated 25.09.1998 and by the Government dated 07.12.2006, the land under dispute was placed under the retainable portion of the seventh respondent. When the petitioner has lost all his right over the land consequent on the cancellation of assignment made to Thiru.B.S.Radhakrishnan from whom the lands have been purchased by the petitioner, he is not entitled for any notice to the proceedings initiated under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, as amended. The respondents further submit that the order of the fourth respondent has been passed with reference to the orders of the Special Commissioner and Commissioner of Land Administration dated 25.09.1998 and the orders of the Government dated 07.12.2006. The respondents further submit that the writ petitioner has no locus standi to question the impugned order as he lost all his rights over the land consequent on the cancellation of assignment made to Thiru.B.S.Radhakrishnan from whom he purchased the lands.

8. The respondents 1, 2 and 5 further submit that the fourth respondent has passed orders with reference to the



provisions contained under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 as amended and also based on the orders issued by the Special Commissioner and Commissioner of Land Reforms dated 25.09.1998 and by the Government dated 07.12.2006. The respondents further submit that as per the provisions contained under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 as amended, each person is entitled to hold up to 15.00.0 standard acres and the land which the landowner desires to retain within the ceiling area of 15.00.0 standard acres are placed in the retainable portion by the fourth respondent. The respondents further submit that the order of this Court in W.P.Nos.6165, 6525 and 7346 of 2000 have the effect of permitting the condonation of delay by Government and giving of patta to Sathyanarayana Reddy, the respondent 7 and 4 others. It is hence not relevant to the case and the petitioner is not entitled to any benefits of the orders of this Court referred, since no benefits would accrue to the assignee on condonation of delay. Further, the order passed by the fourth respondent is legally valid and sustainable in law. Hence, the respondents 1, 2 and 5 entreat the Court to dismiss the above writ petition.

9. The seventh respondent, viz., E.Sathyanarayana Reddy has filed a counter affidavit on behalf of him and on behalf of respondents 8 and 9. The seventh respondent submits that 5 acres of land in S.No.164/1 situated at Thazhambur Village was assigned to one B.S.Radhakrishnan on 07.06.1966 by the Tahsildar, Chengalpattu. The writ petitioner contends to have purchased the land on 24.01.1974. However, the order of assignment was cancelled on 09.05.1981 by the Sub Collector, Chengalpattu in Rc.No.747/80 as the sale was impermissible. As against the order of cancellation of assignment dated 09.05.1981, no appeal was filed by the assignee nor was it challenged. It became final. The writ petitioner was aware of it. The seventh respondent further submits that the assignee did not enjoy the lands after the grant of assignment. Therefore, the sale in favour of the writ petitioner, even if true, was not valid. The seventh respondent further submits that the writ petitioner has no possession or legally enforceable right and the seventh respondent herein has been in possession and patta was also granted to him and he paid the kist. The seventh respondent further submits that on 24.02.2010, the lands were sold by him and his children to the respondents 10 to 13. They were duly inducted into possession of the lands purchased by them. They are the absolute owners of the lands. The seventh respondent further submits that the assignment of land was made to freedom fighters. Such of those assignees who were not in possession of land assigned to them and those whose assignments were cancelled by the competent authority cannot claim benefits of assignment or title to the lands. Therefore, the petitioner's claim is legally unsustainable.



10. The seventh respondent further submits that he and his predecessors are the owners of large extent of land in Thazhambur Village as admitted by the writ petitioner. Due to inadvertence, they did not apply for patta in time when the Village was taken over by the Government under the provisions of Act 26 of 1948. Subsequently, he applied for patta. The Village was a zamin village. The Settlement Department because of disclaimer, erroneously classified the lands as anadheenam. The second respondent conducted detailed enquiry in this regard and ultimately granted patta for an extent of 15.00.0 std. acres to him and his family members consisting of his brother, mother and sisters. Each was granted patta for 15.00.0 standard acres of land. The seventh respondent further submits that as per the provisions of Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 58/1961 as amended by Act 17/1970, a person is entitled to hold only 15.00.0 std. acres. Accordingly, he and his family are entitled to hold only 15.00.0 standard acres. In this connection, the fourth respondent conducted detailed enquiry and passed final order on 23.10.2008 and his title was confirmed by the fourth respondent. The seventh respondent is entitled to exercise his option in the matter of retention of lands and accordingly, it was exercised by him. The title available to him and his family was affirmed in the order dated 23.10.2008. The seventh respondent further submits that the Power Agent representing the petitioner was aware of the cancellation of assignment. The writ petitioner and power agent are not residents of suit village. The seventh respondent further submits that the sale deed dated 24.01.1974 to the writ petitioner was only a paper exercise made deliberately by the assignee. The sale deed did not come into effect. The assignee was not competent to sell the lands. As the assignee being a freedom fighter, the land was assigned to him and by reason for violation of condition the assignment stood cancelled and became non-est. The earlier assignment given is not enforceable in law.

11. The seventh respondent further submits that by reason of grant of patta was outside the Scope of Abolition Act by the second respondent, the right and title available to him and his family cannot be questioned. The seventh respondent further submits that he sold the lands to the respondents 10 to 13, on 24.02.2010 and they are in possession. The enquiry by the fourth respondent was conducted under a statute and the order passed by the fourth respondent cannot be faulted nor was it illegal. The fourth respondent has to conduct the statutory enquiry and accordingly, it was done and the surplus lands in his holding was declared and taken over by the Government under Section 20 of the Tamil Nadu Land Reforms Act, 1961 as amended by Act 17/70. The seventh respondent further submits that the order of fourth respondent

dated 23.10.2008 was not challenged by the aggrieved person either by way of appeal under Section 70 or revision under Section 82 of the Act. The seventh respondent further submits that the writ petitioner has no locus standi to question the impugned order as the assignment given by the Government was not subsisting and was cancelled long back. The writ petition therefore, is not maintainable.

12. The seventh respondent further submits that originally the Government issued Government Order in G.O.Ms.No.239, Revenue Department, dated 19.03.1996 in regard to condonation of delay in the matter of claiming patta. Subsequently, on 25.09.1998, order was passed by the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai-5 granting patta for 15.00.0 standard acres each. The Government, again passed order in G.O.Ms.No.164, Revenue Department, dated 23.03.2000 as though public interest arose in the matter and issued a revised Government Order. The said Government Order was challenged by him and his family members in W.P.Nos.6165 of 2000, 6525 of 2000 and 7346 of 2000. This Court was pleased to allow the writ petition and set-aside the Government Order. The Government filed Writ Appeal Nos.2785 to 2787 of 2003. On 27.04.2004, the writ appeals were dismissed by the Hon'ble Division Bench of this Court. Subsequently, G.O.Ms.No.794, Revenue Department, dated 07.12.2006 was issued by the Government affirming the benefits given to him. The order of this Court was implemented. The order passed in G.O.Ms.No.164, Revenue Department, dated 23.03.2000 was cancelled. The seventh respondent further submits that this was accepted by the Government. He further submits that the writ petitioner is not entitled to the benefits of the order passed in W.P.Nos.6165, 6525 and 7346 of 2000. Because of cancellation of assignment, no benefit would accrue to the assignee. The seventh respondent further submits that the subject lands did not come under assignment as it was cancelled. Hence, the seventh respondent entreats the Court to dismiss the above writ petition.

13. The tenth respondent has filed a counter affidavit on behalf of him and on behalf of the respondents 11 to 13. The tenth respondent submits that the petitioner has no possession or legally enforceable right. The certificate dated 17.07.1978 available at page No.20 of the typed-set has been fabricated. His vendors were in possession of the land. Adangal was recorded in their names to prove possession. Patta was also granted to them and they paid the kist. The tenth respondent further submits that the assignment of land was made to freedom fighters. Such of those assignees who were not in possession of lands assigned to them and those whose assignments were cancelled by the competent authority cannot claim benefits of assignment or title now. The tenth respondent further

submits that the seventh respondent and his predecessor in title are the owners of large extent of land in the Village as admitted by the writ petitioner. Due to inadvertence, they did not apply for patta in time when the Village was taken over by the Government under the provisions of the Act 26/1948. Subsequently, they applied for patta. The Village was a zamin village. The Settlement Department because of disclaimer of patta, erroneously classified the lands as anadheenam. The second respondent conducted detailed enquiry in this regard and ultimately granted patta for an extent of 15.00.0 standard acres to seventh respondent. The tenth respondent further submits that as per the provisions of Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 58/1961 as amended by Act 17/1970, a person is entitled to hold only 15.00.0 std. acres. Accordingly, his vendors are entitled to hold only 15.00.0 standard acres. In this connection, the fourth respondent conducted detailed enquiry and passed final order on 23.10.2008. The title of his vendor was accepted by the fourth respondent. His vendor was entitled to exercise his option in the matter of retention of lands and accordingly, it was exercised by him. The title available to him was affirmed in the order dated 23.10.2008.

14. The tenth respondent further submits that the Power Agent representing the petitioner was aware of the cancellation of assignment. Proceedings are pending at his request before the District Registrar at Coimbatore for cancellation of power given to him. The District Registrar directed the parties to produce the order of cancellation of assignment. The above proceedings pending before the District Registrar, Coimbatore have also been suppressed. The writ petitioner and power agent are not resident of suit village. The sale deed dated 24.01.1974 to the writ petitioner was only a paper exercise made deliberately by the assignee. The deed did not come into effect. The assignee was not competent to sell the lands. As the assignee being a freedom fighter, the land was assigned to him and by reason of violation of condition the assignment stood cancelled and became nonest. By reason of grant of patta Outside the Scope of Abolition Act by the second respondent, the right and title available to his vendor cannot be questioned. The tenth respondent further submits that the respondents 7 to 9 sold the lands to him and to the respondents 11 to 13 on 24.02.2010. The tenth respondent and other respondents after purchase, became owners and are in possession. The enquiry by fourth respondent was conducted under a statute and the order passed by the fourth respondent cannot be faulted nor was illegal. The fourth respondent has to conduct the statutory enquiry and accordingly, it was done and the surplus lands in the holding of respondent No.7 was declared and taken over by the Government under Section 20 of the Tamil Nadu Land Reforms Act 1961 as amended by Act 17/70. The lands purchased by him were kept in the retainable



holding of the seventh respondent. The tenth respondent further submits that the order of fourth respondent dated 23.10.2008 was not challenged by the aggrieved person either by way of appeal under Section 78 or revision under Section 82 of the Act. The tenth respondent further submits that the writ petitioner has no locus standi to question the impugned order as the assignment given by the Government was not subsisting and was cancelled long back. Therefore, the writ petition is not maintainable. The tenth respondent further submits that the writ petitioner is not entitled to the benefits of the order passed in W.P.Nos.6165, 6525 and 7346 of 2000 and because of cancellation of assignment, no benefit would accrue to the assignee. The lands purchased by him have been improved and electricity connection was obtained. Hence, the tenth respondent entreats the Court to dismiss the above writ petition.

15. The seventh respondent has filed a rejoinder affidavit and submits that it is true 5 acres of land were assigned to one B.S.Radhakrishnan. It was made on 07.06.1966 by Tahsildar, Chengalpattu. The assignee did not enjoy the land. He sold on 24.01.1974 to the petitioner herein in violation to the terms of assignment. The sale deed dated 24.01.1974 clearly recites the deed of assignment deed given to B.S.Radhakrishnan. The petitioner has not filed the said deed into Court. Knowing the order of assignment, the petitioner had purchased the land. Therefore, she was not a bonafide purchaser for value. The petitioner has no locus standi to question the order of cancellation. The deed contains the conditions of assignment under which it was given. The seventh respondent further submits that the recital in the sale deed as though B.S.Radhakrishnan gave possession to the writ petitioner was false to her knowledge as the assignee himself did not enjoy the land. The writ petitioner was not a resident of Thalambur Village, where the land is situated. The assignor B.S.Radhakrishnan was not residing in Thalambur Village to do cultivation. As the land remained uncultivated and as the assignee did not have possession of the land and as he committed violation and executed sale deed, the assignment was cancelled on 09.05.1981 by the Sub Collector who was competent to pass order. 46 assignments made by the assigning authority stood cancelled in the proceedings of Sub Collector. The reason for cancellation of the order has been noted against each assignee / because of non-cultivation, want of taking possession of land and sale deed executed to the writ petitioner on 24.01.1974, the assignment made to him was cancelled. The proceedings of cancellation would show that the assignees were issued with show cause notice. The notice was served on them. The assignees did not give explanation to the show cause notice given nor had they protested for the cancellation proposed. As the cancellation was not objected to nor was appealed, it became final.

16. The seventh respondent further submits that the petitioner, when assignment was cancelled, does not have any right in the land purchased by her. Further, at this distant point of time, the proceedings pertaining to cancellation of assignment cannot be called in question nor be re-opened. The order of cancellation became final. As the assignee did not challenge the order of cancellation, the petitioner cannot be heard to complain about cancellation proceedings. The petitioner had purchased the land during the prohibited period of alienation as per BSO/RSO. The petitioner was bound by the cancellation proceedings. The relevant provision is as follows:-

"RSO-15:

Under the assignment policy of the Government as enunciated in 1949, political sufferers were given first preference in the matter of assignment of land. The assignment of 4.4.5 hec of dry or 2.2.5 of wet was free of land value but subject to the Special condition of bringing the land under cultivation within a period of three and not selling or otherwise alienating within a period of ten years from the date of assignment and cancellation and resumption of the land in the event of violation of conditions."

The seventh respondent further submits that the contention of the petitioner that the order of cancellation was without jurisdiction that the Authority was incompetent to pass the said order that no resumption or re-entering of lands could be made by the Revenue Divisional Officer / Sub Collector and that the Commissioner of Land Administration alone was competent to cancel the assigned lands prior to 14.05.1973 are incorrect. As an alienee, from the assignee, the petitioner cannot question the power of Government to cancel the order of assignment when the assignee did not question cancellation. By execution of sale deed, the assignee had committed fraud on Government land and the writ petitioner is a party to his conduct. The seventh respondent further submits that the classification of land at the relevant point of time was "Anatheenam". It was not land at the disposal of the Government. The assignment to B.S.Radhakrishnan itself was without jurisdiction. The land belonged to the seventh respondent. The seventh respondent was not dispossessed before assignment was made. The order dated 25.09.1998 confirms his possession of land. He was having title. No notice was given to the seventh respondent before assignment. His title was accepted by the Government and subsequent proceedings. The seventh respondent further submits that the cancellation took place after notice to the assignee. Assuming that the cancellation was void this issue was not raised by the assignee himself and void orders also in law require cancellation and challenge and this was not done. The cancellation of assignment

made was valid and the authority was empowered to pass order.

17. The seventh respondent further submits that the writ petitioner has been utterly unjustified in disputing title. The petitioner had no title at the time of purchase. The seventh respondent's title to the land does not require investigation now as it was already accepted by the Government. Once the writ petitioner has no title for the lands at the time of purchase on that score, the writ is liable to be dismissed and consideration of title in the writ petition does not arise. The seventh respondent further submits that it is true that the land was purchased by his ancestors. In the earlier deeds and E.P. Proceedings, the Old S.No. pertaining to subject land had not been mentioned. Therefore, the petitioner's contention that S.No.164/1 was not mentioned in the Court auction and in the partition deed are not correct. The seventh respondent further submits that while granting patta under OSA, the eligible extent as per Act 58/68 as amended by Act 17/70 was taken note of and order was passed by the Special Commissioner of Land Administration. Land comprised in S.No.164/1 and 163/1, belonged to seventh respondent and he was in possession. On that basis, the Joint Commissioner on 23.10.2008 passed order accepting his option exercised to retain the lands. The petitioner cannot fault his proceedings. Moreover, the seventh respondent's right has not been under challenge now. The petitioner cannot now challenge the proceedings of Joint Commissioner as the petitioner was not aggrieved and as the sale deed was illegal. Further, the petitioner did not challenge the G.O. passed accepting the right to land and thus, the writ petition is not maintainable. The seventh respondent applied to the Government for grant of patta outside the scope of Abolition Act 26 of 1948. The Government on 19.03.1996 has condoned the delay in preferring the claim for issuance of patta and directed the District Revenue officer, Chengalpattu MGR District to examine his request on merits in the light of G.O.Ms.No.1300, dated 30.04.1971. The seventh respondent further submits that the above order came to be passed in G.O.Ms.No.239-1, Revenue (SSI) Department dated 13.03.1996. Subsequently, the District Revenue Officer conducted enquiry. He passed order on 13.08.1997. In this order, the District Revenue Officer, Kancheepuram granted patta under Act 26/1948 for an extent of 15.00.0 standard acres in Thazhambur Village. He rejected the claims of the other legal-heirs. They preferred appeal before the Special Commissioner and Commissioner of Land Administration Chepauk, Chennai-5. The Commissioner, on 25.09.1998, passed orders in proceedings No.K3/17322/1998. In para 15 of the order of Commissioner, it was held as follows:-

"Thus, the lands for which patta is being claimed outside the scope of Abolition At 26/1948 for the properties of the Joint Family and should be treated as



such."

The Commissioner subsequently directed 15.00.0 Standard Acres being given to the remaining members also. They are:-

- 1) C.E.Sulochana
- 2) Samuktha Paramahamsam
- 3) Lakshmi Banu
- 4) C.E.Surya Narayanan

Thus, all the members were benefited under the Abolition Act. The seventh respondent further submits that the Government in G.O.Ms.No.239-1, Revenue (SSI) Department dated 13.03.1996, as reported by Assistant Settlement Officer, Tiruvannamalai has referred the lands as under:-

|              |   |                                           |
|--------------|---|-------------------------------------------|
| Patta land   | : | 17.11 Acres (Perumal Samy Reddy)          |
| Anadenam     | : | 332.11 Acres                              |
| Poramboke    | : | 90.48 Acres                               |
| Patta lands  | : | 152.75 Acres (for others / third parties) |
| Unclassified | : | 34.27 Acres                               |
| Total        | : | 626.72 Acres                              |

The seventh respondent further submits that on 25.09.1998, the Special Commissioner and Commissioner of Land Administration, gave patta for each member in the family measuring 15.00.0 standard acres. The seventh respondent further submits that G.O.Ms.No.164, dated 23.03.2000 was issued by the Government cancelling the Government Order in G.O.Ms.No.239-1 dated 19.03.1996. The said Government Order was challenged in W.P.Nos.6165, 6525 and 7346 of 2000. The challenge was made by seventh respondent, his brother and sisters and mother in separate writ petitions. On 13.05.2003, this Court passed common order holding that the cancellation was bad and held that the Government Order could not be sustained and it was set-aside. Subsequently, writ appeal was filed by the Government in Nos.2785 to 787 of 2003. The Division Bench, on 27.04.2004, dismissed the writ appeal and upheld the order dated 13.05.2003.

18. The seventh respondent further submits that on 07.12.2006, G.O.Ms.No.794, came to be passed by the Government. The proceedings of the Commissioner in which order was passed on 25.09.1998 were also stayed by the Government. The Government declared in G.O.Ms.No.794, dated 07.12.2004 that the order passed in G.O.Ms.No.164 has not been brought into fore and the stay of proceedings of the Commissioner was also vacated. The patta granted to him and other family members was confirmed by the Government. In view of the proceedings of the Government and various Government Orders issued, his right and title for the lands, he has sold to the respondents 10 to 13 are acceptable, far from doubt and does

not suffer due to legal infirmity. The seventh respondent further submits that impugned order passed dated 23.10.2008 is only a consequential order to the above Government Orders and proceedings dated 25.09.1998. In law, the challenge of the consequential order is impermissible and illegal. The seventh respondent further submits that the petitioner was not entitled to S.No.164/1 and that is sufficient to dismiss the writ petition and the seventh respondent's title need not be discussed. The seventh respondent further submits that the petitioner is going beyond the points that arose for determination in the writ petition. Hence, the seventh respondent entreats the Court to dismiss the above writ petition.

19. The writ petitioner has filed reply affidavit and submits that the contentions found in the counter affidavit filed on behalf of the respondents 7 to 13 are liable to be rejected on the ground of suppression of material facts. The respondents 7 to 13 have suppressed vital factual aspects which resulted in the issuance of the impugned order. The contesting respondents 7 to 13 placed before this Court only the distorted narrative to suit their convenience. The petitioner further submits that the respondents 7 to 13 originally traced their title to the land in question, viz., the land in S.No.164/1 of Thazhambur Village to the alleged purchase by one Perumalsamy Reddy, who is the grandfather of the seventh respondent through Court auction in E.P.No.298 of 1929 in O.S.No.279 of 1921 on the file of District Munsif, Chengalpattu. But, the Decree dated 05.08.1930 in E.P.No.298 of 1929 in O.S.No.279 of 1921, on the file of District Munsif, Chengalpattu did not contain the land in O.S.No.164/1 of Thazhambur Village. Therefore, the grandfather of the seventh respondent, viz., Perumalsamy Reddy himself has no right or title over the land in S.No.164/1 of Thazhambur Village. The petitioner further submits that the respondents 7 to 13 claimed that as per Decree passed in a suit for partition in C.S.No.30 of 1960, a Partition Deed was executed between the wife of Perumalswamy Reddy and the brothers of the said Perumalswamy Reddy and the same was registered in Document No.780 of 1962, on the file of Sub Registrar, Thyagaraya Nagar and this Partition Deed is relied upon by them to trace their title. However, this Partition Deed also did not contain the land in S.No.164/1 of Thazhambur Village.

20. The petitioner further submits that it is claimed that the Government passed a G.O.(Ms)No.239, Revenue (SS.I) Department, dated 19.03.1996 for grant of patta on the basis of Partition Deed. However, the Government Order also did not cover the land in question viz., the land in S.No.164/1 of Thazhambur Village. The petitioner further submits that on the basis of objections made by Villagers, Freedom Fighters etc, the above G.O. (Ms)No.239, Revenue (SS.I) Department, dated 19.03.1996 was

cancelled through the G.O.Ms.No.164, Revenue (SS.I) Department, dated 23.03.2000. This Government Order also did not contain the land in S.No.164/1 of Thazhambur Village. Under these circumstances, challenging the G.O.Ms.No.164, Revenue (SS.I) Department, dated 23.03.2000, the seventh respondent and others filed W.P.Nos.6165 of 6526 and 7346 of 2006 before this Court. By an order dated 13.05.2003, this Court was pleased to allow the above writ petition. Pursuant to the above Order of this Court dated 13.05.2003, the Government through G.O.Ms.No.794, Revenue Department, dated 07.12.2006, upheld the G.O.Ms.No.239, Revenue Department dated 19.03.1996. The petitioner further submits that the land in question viz., the land in S.No.164/1 of Thazhambur Village was not at all included in all the above said proceedings. However, the impugned order has been passed by including the land in S.No.164/1 of Thazhambur Village illegally / mistakenly. Therefore, the impugned order is liable to be set-aside in so far as the land in S.No.164/1 of Thazhambur Village is concerned. The petitioner further submits that the respondents 7 to 9 had no right or title over the land in question viz., the land in S.No.164/1, as they illegally sold the same to and in favour of the respondents 10 to 13 by virtue of a registered sale deed dated 24.02.2010 in Document No.1658 of 2010, on the file of the Sub Registrar, Tiruporur.

21. The petitioner further submits that even assuming without admitting that the assignment in favour of B.S.Radhakrishnan was cancelled, it will not enable the respondents 7 to 13 to claim any right to the property. Once, the land was taken over by the Government, it is vested with the Government only. Only because S.No.164/1 of Thazhambur Village was vested with the Government, the same was assigned to the said B.S.Radhakrishnan. Therefore, the claim of the contesting respondents that they had the right to choose the land for the purpose of bringing the holding to be retained within 15 standard acres is not available to the contesting respondents. Further, the existing holding of the contesting respondents is in excess of 15 standard acres. Even without adding the 5 acres of the petitioner, the contesting respondents holding will be in excess of 15 standard acres. Therefore, in any event, the impugned order allowing the land in S.No.164/1 of Thazhamur Village to be opted within the holding of 15 standard acres is unacceptable and illegal and could not be sustained by any stretch of imagination. Looked at from any angle, the respondents 7 to 13 have no right to the land in S.No.164/1 of Thazhambur Village and therefore, the impugned order is liable to be quashed in so far as it relates to Survey No.164/1 of Thazhambur Village. The petitioner further submits that the respondents 7 to 13 have admitted the assignment of 5 acres of land in S.No.164/1 of Thazhambur Village to and in favour of one



B.S.Radhakrishnan by the Tahsildar, Chengalpattu through his proceeding in D.C.No.69/75, dated 07.06.1966 and the respondents 7 to 13 have also admitted that the said 5 acres of land was purchased by the writ petitioner and the said B.S.Radhakrishnan through a registered sale deed. The petitioner further submits that the cancellation of order of the Assignment dated 07.06.1966 on 09.05.1981 is false and incorrect. In fact, the so called order of cancellation dated 09.05.1981 in Rc.No.747/80, dated 09.05.1981 is a created and fabricated document because no signature of the Sub-Collector or initial of his sub-ordinates have been found in the copy of the so called order of cancellation dated 09.05.1981. The endorsement dated 24.02.2015 made by the P.A. to the Revenue Divisional Officer, Chengalpattu in the copy of the said order of cancellation dated 09.05.1981 clearly proves that the same is not a genuine one and more over the file in Na.Ka.No.338/2011, dated 16.03.2011 as mentioned in the endorsement has not been produced. The petitioner further submits that in any event even assuming without admitting that the order of Assignment was cancelled, the cancellation is a nullity since it is passed without jurisdiction. According to the stand of the respondents, the assignment was cancelled by the Revenue Divisional Officer / Sub Collector by Order in Proceeding No.747/80, dated 09.05.1981. In so far as the assignment in this case was admittedly made on 07.06.1966, the Revenue Divisional Officer / Sub Collector has no jurisdiction to cancel the same and / or resume the land. As per the provisions contained in the Standing Orders of the Board of Revenue, only the Commissioner of Land Administration will have the jurisdiction to cancel the assignment made on or before 14.05.1973. The Standing Order of the Board of Revenue 15(3) sub para 2, Clause (xi) reads as follows:-

"(xi) Resuming authority:- The Authority competent to resume or re-enter on the lands for breach of any condition of assignment shall be as follows:-

- a. The Tahsildar, if the land is non-valuable;
- b. The Revenue Divisional officer if the land is valuable; and
- c. The Commissioner of Land Administration / Government, for the lands assignment prior to 14.05.1973."

22. The petitioner further submits that in view of the above specific provisions contained in the Standing Orders of the Board of Revenue, the order of resumption made by the Revenue Divisional Officer / Sub Collector, even if it is true, would be a nullity and void ab-initio since the same is without jurisdiction. The petitioner further submits that the contention of the respondents that as against the so called order of cancellation of assignment dated 09.05.1981, no appeal was filed by the assignee is

untenable. In fact, the alleged order of cancellation of assignment had not been communicated either to the original assignee or to the petitioner and therefore, the question of filing of appeal or revision does not arise. In fact, no notice of the proposed cancellation was served on the original assignee or on the petitioner. The averment that the writ petitioner was aware of the order of cancellation of assignment is incorrect. The petitioner further submits that the contentions of the respondents that the assignee did not enjoy the lands after the grant of assignment is false, frivolous and incorrect. It is contrary to the findings of this Court which held that the political sufferers who got assignment are in possession of the land. The petitioner further submits that the contentions of the respondents that the writ petitioner had no possession or legally enforceable right is incorrect. In fact, till the date of purchase of the property by the writ petitioner, the original assignee was in continuous possession and enjoyment and after subsequent purchase, the writ petitioner is in continuous possession and enjoyment of the property till date. The petitioner further submits that the seventh respondent and his children had no right or title over the property to sell the same to and in favour of the respondents 10 to 13 because the very same property was assigned to and in favour of the vendor of the petitioner viz., B.S.Radhakrishnan, who was a Freedom Fighter way back as on 07.06.1966 and patta No.341 was also issued in the name of the said B.S.Radhakrishnan and subsequently, by virtue of a registered sale deed, the property was sold by the said B.S.Radhakrishnan to and in favour of the writ petitioner by receiving proper sale consideration. The averment that the respondents 10 to 13 were inducted into possession and they are the absolute owners of the lands is apparently false and incorrect. In fact, from the date of assignment till date, the vendor, viz., the original assignee and the subsequent purchaser viz., the writ petitioner have been in continuous possession and enjoyment of the above property.

23. The petitioner further submits that the allegation that the assignees were not in possession of the lands assigned to them is apparently false and incorrect. Regarding the allegation that the assignments were cancelled by the competent authority and the assignees cannot claim benefit of assignment, it is submitted that as submitted earlier, the so called order of cancellation of assignment is a fabricated one and more over, even if it is true, the same is a nullity, void ab-initio and without jurisdiction since the same is in violation of the provisions of Order 15(3) Sub Section 2, Clause (xi) of the Standing Order of the Board of Revenue extracted above. The petitioner further submits that according to the seventh respondent, there was oral partition between the brothers of his grandfather Perumalsamy Reddy and after

the death of his father, he had applied for grant of patta in respect of the share of his father and these are incorrect allegations. The averment that the fourth respondent conducted detailed enquiry and passed the impugned order dated 23.10.2008 is incorrect. In fact, the fourth respondent did not conduct any enquiry before passing the impugned order and it was passed even without giving notice to the writ petitioner. The petitioner further submits that the contention of the respondents that the Power Agent representing the writ petitioner is aware of the cancellation of assignment is incorrect. The Power Agent as well as the writ petitioner came to know about the so called cancellation of assignment only after production of the copy of the same by the respondents 7 to 13. The petitioner further submits that the contention of the respondents that the sale deed executed in favour of the writ petitioner was only a paper exercise made by the assignee is incorrect. In fact, the physical possession of the property was handed over to the writ petitioner on the date of execution of the sale deed and from the date of execution, the writ petitioner is in continuous possession and enjoyment of the same. The averment that the sale did not come into effect is incorrect. The averment that the earlier assignment was cancelled and therefore, the same is not enforceable is incorrect since as submitted earlier, the so called order of cancellation is a fabricated one and even if it is true, the same is nullity, void ab-initio and without jurisdiction as per the provisions of Order 15 (3) Sub Section 2, Clause (xi) of the Standing Order of the Board of Revenue. The petitioner further submits that the contention of the respondents that the right and title available to the seventh respondent because of the issuance of patta in his favour by the second respondent cannot be questioned is incorrect. In fact, the Authority has no jurisdiction to grant patta to the third party since the property was assigned to the Vendor of the petitioner by the Government and subsequently the same was purchased by the writ petitioner and therefore, the sale deed executed by the seventh respondent in favour of the respondents 10 to 13 is a void one. The petitioner further submits that the contention of the respondents that the fourth respondent conducted enquiry under a statute and passed order is incorrect. The allegation that the writ petitioner has no locus standi to question the impugned order as the assignment was not subsisting due to the cancellation is incorrect. As submitted earlier, the so called order of cancellation is a fabricated one and even it is true, the same is a nullity, void ab-initio and without jurisdiction. Hence, the petitioner entreats the Court to allow the above writ petition.

24. The highly competent senior counsel Mr.Doraisami appearing for the petitioner submits that the petitioner is the owner of the land comprised in Survey No.164/1 situated in



Thazhambur Village, Kelambakkam Firca, to an extent of 5 acres, the same was purchased by one Sri. Perumalsamy Reddy in a Court auction sale held in the year 1929. This land came to be vested with the Government under the Act 26 of 1948. Further, during the settlement proceedings, there were no claimants, as a result of which, the Settlement Officer classified the said land as Anadheenam land, the subject land was part of a large extent of 600 acres. An extent of 150 acres were classified as assessed dry waste land and assigned to 36 political sufferers by the Tahsildar, Chengalpattu, now the sixth respondent herein. The subject land was assigned to and in favour of one Radhakrishnan. After assignment to political sufferer, viz., Radhakrishnan, he had obtained patta which is bearing No.341. The said land had been assigned on 07.06.1966. Subsequently, the said Radhakrishnan had executed a registered sale deed bearing No.74 of 1974, on the file of Sub Registrar, Tiruporur, dated 24.01.1974. Since the date of purchase, the petitioner has been in continuous possession and enjoyment of the land. The seventh respondent herein, viz., Sathyanarayana Reddy claimed patta to the lands, which were taken over by the Government under the said Act. The seventh respondent and his family members claimed patta to the larger extent of 600 acres which was purchased by his grandfather Perumalswamy Reddy. As per the seventh respondent's contention, there was oral partition among the brothers of Perumalswamy Reddy. After his life time, he had applied for patta in respect of share of his father outside the scope of the said Act as per the guidelines contained in G.O.Ms.No.1300, Revenue Department, dated 30.04.1971.

25. The highly competent senior counsel appearing for the petitioner further submits that the seventh respondent and his family members had filed writ petitions before this Court and this Court holding that the seventh respondent and other family members could be granted patta subject to ceiling of 15 standard acres of land situated at the said Village, excluding the lands where pattas have been granted and lands assigned in faovur of political sufferer. It seems that the fourth respondent while passing consequential order based on the order passed by this Court and Government had wrongly passed an order directing the issuance of patta to land in Survey No.164/1, which was already excluded by the order of this Court and the Government. The fourth respondent granted patta to the seventh respondent through proceedings dated 23.10.2008, which included the subject land comprised in Survey No.164/1 which was already assigned to the said Radhakrishnan and as such, the said patta proceedings runs against this Court order passed in W.P.Nos.6165, 6125 and 7346 of 2000 and as such, the patta proceedings is not valid. Before granting patta, the fourth respondent had not conducted any enquiry or sent any notice to the petitioner. It is seen that the respondents, 7, 8 and 9 sold the

said property to the respondents 10 to 13. Therefore, the sixth respondent / Tahsildar granted patta to the respondents / new purchasers.

26. The highly competent senior counsel appearing for the petitioner further submits that the sixth respondent had initiated proceedings for grant of patta to the respondents 10 to 13, but no notice was given to the petitioner, who is in possession and enjoyment of the property. The fourth respondent allowed the seventh respondent to furnish the list of lands which he decided to keep within his ceiling limit and it seems that he was given a list and excluded the land in Survey No.164/1 and the petitioner came to know about the misconduct only when the respondents 7 to 13 came to prepare a lay out in the said lands. The petitioner had levelled a complaint before the Deputy Commissioner of Police, Land Grabbing which is pending enquiry, wherein, the respondents / private individuals had produced fourth respondent's order.

27. The highly competent senior counsel appearing for the petitioner further submits that the respondents 7 to 13 have suppressed material facts as a result, the impugned order has been passed. Further, as per the Court auction proceedings which was conducted on the basis of decree and judgment passed in O.S.No.279 of 1921, on the file of District Munsif Court, Chengalpattu, in the said decree, the subject matter of the land had not been included and as such, the grandfather of the seventh respondent, viz., Perumalswamy did not possess valid title deeds over the said property. The respondents 7 to 13 also claimed rights as per the decree passed in suit for partition in C.S.No.30 of 1960. As per the partition decree granted in favour of Perumalswamy Reddy, wherein also the subject land is not included. On the basis of a partition deed, the Government issued in G.O., dated 19.03.1996, for grant of patta, wherein the land in S.No.164/1 situated at Thazhambur Village was not included. Hence, the respondents 7 to 13 have no rights over the subject matter of the land. Further, the alienation of the said land by the respondents 7 to 9 to and in favour of the respondents 10 to 13 by virtue of a sale deed bearing No.1658 of 2010, on the file of Sub Registrar, Tiruporur, dated 24.02.2010 is not sustainable under law. The contesting respondents possess in excess of 15 standard acres excluding the subject land.

28. The highly competent senior counsel appearing for the petitioner further submits that the respondents have admitted that the Government had assigned an extent of 5 acres of land to and in favour of Radhakrishnan by the Tahsildar, Chengalpattu. The cancellation of the order of assignment dated 07.06.1966, on 09.05.1981 is incorrect since the competent authorities attached to

the Government had not signed. Further, the Revenue Divisional Office has no jurisdiction to cancel the assignment order since as per the standing orders of the Board of Revenue, only the Commissioner, Land Administration has jurisdiction to cancel the assignment order. As such, the cancellation of assignment order made by the Sub Collector is against the Standing orders of Board of Revenue. However, the said assignment order had not been communicated to the original assignee. Therefore, the cancellation of assignment order is not fit to be operated upon any further. Besides, the petitioner is in possession. The original assignee viz., Radhakrishnan was a freedom fighter who had sold the property after a specific period as per the condition mentioned in the assignment order. Hence, the highly competent counsel entreats the Court to allow the above writ petition and consequently set-aside the impugned order passed by the fourth respondent.

29. The highly competent Additional Government Pleader Mr.P.Sanjay Gandhi appearing for the respondents 1 to 6 submits that the office of the fourth respondent has been disbanded and assigning authority have been conferred to the Sub Collector / Revenue Divisional officer in the State as per the orders of the Government Order in G.O.Ms.No.34, Revenue Department, dated 14.01.2015, the same was published in the Government Gazette. Further, the writ petitioner has no locus standi to question the impugned order as he lost all his rights over the land consequent on the cancellation of assignment order under the original assignee, viz., Radhakrishnan and as such, the said transaction regarding the subject matter of the land between the original assignee and the petitioner is invalid and as such, the petitioner is not the owner of the property. The assignment order dated 07.06.1966 and the sale deed had been executed to and in favour of the writ petitioner on 24.01.1974 and as such, it is evident that the sale deed had been executed within 10 years, which is violative of one of the assignment conditions. The Sub Collector, Chengalpattu, cancelled the assignment order dated 09.05.1981. Therefore, the sale deed has become null and void. The cancellation of the assignment order passed by the Revenue Divisional Officer dated 09.05.1981 has become final since no appeal has been filed against the said order. Further, the petitioner did not possess any valid title over the subject land.

30. The highly competent Additional Government Pleader appearing for the respondents 1 to 6 submits that the seventh respondent and other family members had been conferred a title and patta over 150.95.0 hectares of lands including the subject land which is summarized with reference to the Orders of the Special Commissioner and Commissioner of Land Administration and Government dated 25.09.1998 and 07.12.2006 respectively. The seventh



respondent and his joint family members have purchased lands in a Court auction in the year 1930 to an extent of 626.72 acres. thereafter, the said land had been partitioned in the year 1958 orally. Subsequently, the same was registered. The Thazhambur Village was an inam Village, ryotwari settlement was introduced on taking over of it under the Tamil Nadu Estate Abolition Act, 1948 (Act No.26/48). The seventh respondent made a representation to the District Revenue Officer for the grant of patta and the same was granted on 13.08.1997, for an extent of 15 standard acres in the said Village to the seventh respondent. The applications of others on the same relief was rejected. Against the rejection of the order, an appeal has been filed before the Commissioner of Land Administration in the year 1998 and the same was allowed and patta granted to the others to an extent of 15 acres and the same was measured and demarcated. The Taluk Tahsildar, Chengalpattu, issued patta of 15 standard acres to others and the seventh respondent had been issued patta to the extent of 6.97 acres.

31. The highly competent Additional Government Pleader appearing for the respondents 1 to 6 submits that at the time of granting patta, the freedom fighters made objections and the same was considered on merits on the basis of documentary proof. The Special Commissioner, Land Administration had issued patta to 5 persons, including the seventh respondent herein, subject to the ceiling of the 15 standard acres, which included already owned patta lands, if any, possessed by each of the pattadars. The patta proceedings granted by the Commissioner of Land Administration dated 25.09.1998 was confirmed by the Government, as per G.O.Ms.No.704, Revenue dated 07.12.2006. The fourth respondent, viz., Joint Commissioner, Land Reforms, Villupuram, after keeping the lands to an extent of 15 standard acres to each of the family members, made a declaration of excess lands of 150.95.0 hectares as surplus lands in the order dated 23.10.2008.

32. The highly competent Additional Government Pleader appearing for the respondents 1 to 6 submits that the original assignee lost his right in the year 1981 itself, since the cancellation of assignment order was passed. Further, each of the family members of the seventh respondent is entitled to hold 15 standard acres as per the Tamil Nadu Land Reforms Act. The writ petitioner is not entitled for any notice to the proceedings initiated under the Tamil Nadu Land Reforms Act, as amended. The fourth respondent had passed the impugned order with reference to the orders of the second and first respondents respectively. As such, the impugned order passed by the fourth respondent is suitable for execution. Hence, the highly competent Additional Government Pleader entreats the Court to dismiss the above writ petition.

33. The highly competent counsel Mr.V.K.Vijayaraghavan appearing for the respondents 7 to 9 submits that it is an admitted fact that 5 acres of land comprised in Survey No.164/1 situated at Thazambur Village was assigned to one Radhakrishnan on 07.06.1966 by the Tahsildar, Chengalpattu. The writ petitioner had purchased the subject matter of the land on 24.01.1974. Hence, the Revenue Divisional Officer cancelled the assignment order on 09.05.1981, since the original assignee had alienated the said property within 10 years from the date of assignment order and it violates one of the conditions of the assignment order. Against the cancellation of assignment order dated 09.05.1981, no appeal was filed. As such, the cancellation order passed by the Revenue Divisional Officer dated 09.05.1981 has become final. The original assignee did not enjoy the said property after assignment. Further, the writ petitioner was not in possession. Actually, the respondents are in possession. Patta also has been granted by the authorized persons of the Revenue Department. The respondents are remitting the mandatory tax to the Statutory Authorities. As such, the seventh respondent and his children sold the said property to and in favour of the respondents 10 to 13, dated 24.02.2010. As such, the respondents 10 to 13 are absolute owners of the property.

34. The highly competent counsel appearing for the respondents 7 to 9 further submits that the assignment of lands allotted to freedom fighters was with certain conditions. After assignment order, the assignee were not in possession of the lands. The highly competent counsel further submits that the settlement patta has been given to the seventh respondent herein on 25.09.1998. Further, the respondents are in possession and enjoying the same. Further, the Secretary to Government has passed a G.O.Ms.No.794, dated 07.12.2006 and confirmed the pattas issued in favour of the seventh respondent and four others. As such, the patta proceedings have become final. The seventh respondent and his family members sold the lands to and in favour of respondents 10 to 13, who were also granted patta by revenue authorities. As such, the petitioner has no legal right over the said property. Further, the chitta and adangal records disclose that the seventh respondent has remitted land tax to the statutory authorities. Hence, the highly competent counsel entreats the Court to dismiss the above writ petition.

35. From the above discussion, this Court is of the view that:-

(i) The order of assignment had been issued by the Tahsildar, Chengalpattu dated 07.06.1966 with some conditions imposed on the assignee, viz., Mr.B.S.Radhakrishnan and the land to an extent of 5 acres classified as dry land comprised in Survey No.164/1 was assigned as the assignee was a political sufferer /

freedom fighter. From the said conditions, the original assignee had violated a condition by executing a sale deed dated 24.01.1974 to and in favour of the writ petitioner herein. As per the specific condition, the assignee should not alienate the land within a period of 10 years i.e., from the date of assignment. In the instant case, the original assignee violated the said condition. Hence, the cancellation order passed by the Sub Collector, Chengalpattu, dated 09.05.1981 is valid.

(ii) The writ petitioner and the respondents 1 to 6 have no concern to deal with the said assignment land. The writ petitioner has no locus standi to level the writ petition against the respondents since the original assignee viz., B.R.Radhakrishnan had not been impleaded as a party. As per the original cause of action arising on 07.06.1966 and subsequent cause of action on 09.05.1981, wherein, the writ petitioner is not a party. On the basis of a sale deed / cause of action dated 24.01.1974, the writ petition is not maintainable since the writ petitioner is claiming a title over the said land. The writ Court has no jurisdiction to decide the title on the basis of a sale deed dated 24.01.1974 which had been executed by the original assignee viz., B.S.Radhakrishnan.

(iii) The cancellation of the assignment order dated 09.05.1981, was not challenged by the writ petitioner at once and a long period has lapsed.

(iv) The alienation made between the original assignee, viz., B.S.Radhakrishnan and the writ petitioner through a sale deed dated 24.01.1974 is not sustainable under law. As such, any documents or title of any Government records standing in the name of the writ petitioner will not be termed as valid documents.

(v) The impugned order dated 23.10.2008 passed by the fourth respondent herein, the writ petitioner was not a party. As such, the writ petitioner is not an aggrieved person to challenge the said order before this Court. As such, the writ petition is not maintainable.

36. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on all sides and on perusing the typed-set of papers and the views of this Court as mentioned above (i) to (v), the above writ petition does not exert sufficient force to allow it. Hence, the above writ petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar



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To

1. The Secretary,  
Government of Tamil Nadu,  
Revenue Department,  
Secretariat, Chennai - 600 009.
  2. The Special Commissioner and Commissioner of  
Land Administration,  
Chepauk,  
Chennai - 600 005.
  3. The Director of Town and Country Planning,  
No.807,  
Anna Salai, Chennai.
  4. The Joint Director,  
Land Reforms,  
Villupuram.
  5. The District Revenue Officer,  
Kancheepuram District,  
Kancheepuram.
  6. The Tahsildar,  
Tiruporur Taluk,  
Tiruporur.
- 1 CC to Mr.N.Anand Venkatesh, Advocate SR.No.41564
- 1 CC to Mr.Muthumani Doraisami, Advocate SR.No. 41345
- 2 CCs to Mr.V.K.Vijayaraghavan, Advocate SR.No. 41685

UG(CO)  
PSI (11.08.2015)

W.P.No.7965 of 2015 &  
M.P.Nos.1 and 2 of 2015

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