IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON:30/10/2015

DATED:16/11/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.19128 of 2009
and
M.P.Nos.1 and 2 of 2009

R.Murali Krishnan ... Petitioner

Vs.

1. Union of India,
   Union Territory of Puducherry,
   Rep. by its Secretary to Government,
   Revenue Department, Govt. of Puducherry,
   Puducherry - 605 002.

2. The Sub-Collector (Revenue) North-cum-
   Authorised Officer (Land Reforms)
   Saram, Puducherry - 605 008.

3. P.C.P. Radhakrishnan .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Certiorarified Mandamus to call for the entire records in connection with the Final Statement made under Section 11 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 published in the Gazette of Pondicherry dated 29.12.2000 and the consequential proclamation made by the second respondent in No.5398/SC(R) N/LR/08 dated 03.11.2008 and quash the entire proceedings and consequently direct the respondents 1 and 2 to exclude the petitioner's lands or in the alternative to treat these lands within the retained portions of the lands of the erstwhile land holdings of P.C.Purusothama Reddiar.

For Petitioner : Mr.M.Sriram
For Respondents : Mr.A.Tamilvanan (for R1 and R2)
Government Advocate (Pondicherry)
Mr.T.P.Manoharan (for R3)

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ORDER

The short fats of the case are as follows:-

The petitioner has submitted that his father T.Ramakrishnan entered into a Sale Agreement dated 19.03.1965 with one P.C.Purusothama Reddiar and purchased the lands in question from him. It is further submitted that the lands were given possession on the date of Agreement as most of the sale consideration has been paid and possession was handed over to the petitioner's father. The petitioner has further submitted that the lands already existed as a Thope on state of ground on the date of agreement. The petitioner's father thereafter added more trees and it is being maintained as a Coconut Thope. For that purpose, the loans were obtained from the Banks. It is further submitted that as per the French Civil Court, which had governed the field, a Sale transaction is completed as and when the parties agree on the sale price and on the date of delivery of possession. Therefore, even as per the law, the lands purchased by the petitioner's father from P.C.Purusothama Reddiar got severed from the vendor and belonged to the petitioner's father absolutely. It is further submitted that the sale was registered on 06.08.1975 and 07.08.1975. The petitioner continues to be in possession and enjoyment and usage of the Thope all these years right from 1965. The revenue records will also vouch for the above said claim. So far as the Union Territory of Puducherry is concerned, the Act 9/1974 viz., Pondicherry Land Reforms (Fixation of Ceiling on Surplus Land) Act, 1973 came into force on 14th October 1974. However, the appointed date under the Act relevant back to 24.01.1971. The Act which is somewhat similar to Tamil Nadu Act, 58/1961 fixed ceiling and granting exemption, protecting transfer, appointed and notified etc. It seems in the year 1975, proceedings came to be initiated against P.C.Purusothama Reddiar under the provisions of the Act determining his holdings. It is further submitted that the said P.C.Purusothama Reddiar had a major son and married two daughters. Therefore the ceiling was determined on the appointed date i.e. 24.01.1971. The said P.C.Purusothama Reddiar died on 22.09.1977 and he has not filed any returns. It has submitted that since the lands were parted with in the year 1965, it cannot be and should not form part of holdings of the said P.C.Purusothama Reddiar as on the appointed date. However, assuming it is to be taken into account then it should be included in the permitted holdings of the said P.C.Purusothama Reddiar.

2. The petitioner has further submitted that the petitioner was shocked to see a proclamation made by the second respondent under Rule 21 of the Land Reforms (Fixation and Ceiling on Land) Act, 1973 that is really a notification under

Section 17(1) of the Act which seems to have been made somewhere on 27.08.2008. It is the only pursuant to this notification when the authorities approached for demarcation, the petitioner hurriedly submitted a representation and made investigation and found out the happenings. The petitioner is continues to be in possession and enjoyment of the lands through his father all these years. From the proclamation, it is made known that P.C.Purusothama Reddiar seems to have filed a Statement and Form-10 was issued on 29.12.2008. The notification under Section 17(1) in Form-13 was made on 27.08.2008 and after considering the objections, declaring the lands in Kirumanampakkam Revenue Village in various CAD Numbers in Sl.No.14 to 31 as excess lands that deemed to be vested with the Government. The petitioner thereafter made enquiries and found that the petitioner's lands are allowed to be retained by the erstwhile land owners in Annexure-E. It is in these circumstances, the petitioner was not affected by the Land Ceiling proceedings published in the Gazette No.71, dated 17.04.1990 in Annexure-E and was virtually kept at dark by the said P.C.Purusothama Reddiar and respondents 1 and 2. However, after a period of 10 years, there was a Final Statement which was Gazetted on 29.12.2000 without any rhyme or reason, notice to the petitioner, the Final Statement includes the lands of the petitioner in the Schedule of surplus lands declared. Hereagain, the petitioner was kept at dark. No proceeding of any kind was taken for nearly about 8 years.

3. It is only pursuant to this, the notification under Section 17(1) was published in 16.09.2008 containing the lands of the petitioner as surplus lands. As stated already, the proclamation was made on 03.11.2008, proclaiming that the petitioner's land was also included in the surplus lands. When the respondent approached, he was informed that the heirs of the land owners viz., P.R.Srinivasan and R.Mangaiyarkarasi has already approached this Court by filing two writ petitions challenging the Final Statement on various other grounds. The petitioner and his brother received a notice on 25.09.2008 issued by the second respondent under Section 68 of the Land Reforms Act fixing the date of enquiry on 26.09.2008 i.e. on the very next day. However, the petitioner approached and sought for time and also brought it to the notice of the second respondent about their claim and there title etc. The second respondent virtually promised to consider this aspect and issue fresh notice and the petitioner was not issued any fresh notice but the second respondent proceeded further and made the proclamation on 03.11.2008. Thereagain, no reference was made to the petitioner as well as the copies are not served on the petitioner. It is only when the authorities wanted to demarcate the lands, the petitioner was put in knowledge and immediately he submitted his explanation on 13.03.2009. As there was no reply from the respondents, the petitioner sent a reminder dated

29.04.2009 for which also the petitioner has not been received any reply. Hence, the petitioner has filed the above writ petition.

4. The third respondent has filed a counter statement which are as follows:-

"(i) The third respondent has submitted that he is the son and legal-heir of Late P.C.Purushothama Reddiar. His father had died on 22.09.1977. His father was owning agricultural lands in Abishekapakkam (Now in T.N.Palayam Revenue Village) and Kirumambakkam Revenue Village. To meet his family and personal expenses, he had been selling one land after another to various third parties from the year 1940. Further, P.C.Pusushothama Reddiar had also borrowed huge amounts from one Muthumalla Reddiar of Polambakkam Village viz., his father-in-law and was not able to repay the said amount. Hence, in lieu of repayment of the said loan amount, he had offered to sell 20 items of his agricultural lands having the value equal to the loan amount to the said Muthumalla Reddiar. However, as Muthumalla Reddiar had desired to give some properties to his daughter R.Mangaiyarkarasi viz., the third respondent's wife for her welfare, he had instructed P.C.Purushothama Reddiar to execute sale deed in favour of R.Mangaiyarkarasi, selling the said 20 items of agricultural lands to her. Accordingly, P.C.Purushothama Reddiar had also executed a registered sale deed dated 18.03.1970 (registered as Doc.No.831/1970 on 24.03.1970) in favour of third respondent's wife R.Mangaiyarkarasi, selling 20 items of agricultural lands in Abhishekapakkam Revenue Village (now in T.N.Palayam Revenue Village), including the lands bearing (i) Cadastre No.1042/2/2 (R.S.No.151/4), measuring 0.24.90 HAC and (ii) Cadastre No.1042/2/3 (R.S.No.151/1), measuring 0.37.00 HAC and also handed over possession of the same to her on the same day.

(ii) On that day, the law relating to sale of immovable properties in force in the U.T. of Puducherry was the French Code Civil (F.C.C.) In view of Ar.1582 of F.C.C., the Sale Agreement dated 19.03.1965, signed by the parties to it viz., P.C.Purushothama Reddiar and T.Ramakrishnan viz., the father of the petitioner were valid and in view of Art.1583 of F.C.C., the moment P.C.Purushothama Reddiar and T.Ramakrishnan had agreed as to the agricultural lands sold and the sale price payable therefor, the sale is complete between them. Even if the said agricultural lands were not actually delivered to the purchaser T.Ramakrishnan nor he had not paid the sale price payable therefor to the vendor

P.C.Purushothama Reddiar, those agricultural lands had passed on to the purchaser T.Ramakrishnan as of right between them. but, under the sale agreement dated 19.03.1965, P.C.Purushothama Reddiar and the purchaser T.Ramakrishnan had specifically mentioned the agricultural lands sold to T.Ramakrishnan, the sale price payable by him for the said lands to P.C.Purushothama Reddiar, the payment of most of the sale consideration by him to P.C.Purushothama Reddiar and also the delivery of possession of the said agricultural lands to him on the same day. In fact, in confirmation of the said sale, P.C.Purushothama Reddiar had executed registered sale deeds dated 29.11.1971 and 05.08.1975 and 3 sale deeds dated 07.08.1975 in favour of the family members of T.Ramakrishnan. Therefore, the sale of the above agricultural lands in Kirumambakkam Revenue Village owned by P.C.Purushothama Reddiar in favour of T.Ramakrishnan viz., the father of the petitioner were complete and P.C.Purushothama Reddiar was not holding the said lands as its owner on and from 19.03.1965. The non-inclusion and non-partition of the said agricultural lands in the registered partition deed dated 20.03.1970 entered between him and the third respondent as his son for partition of all the agricultural lands held by him on that day would confirm the same.

(iii) The third respondent has further submitted that after the above transfers made by P.C.Purushotham Reddiar, under registered partition deed dated 20.03.1970, he and third respondent as his son had partitioned the agricultural lands remaining with him, between themselves. As stated above, the agricultural lands sold by P.C.Purushothama Reddiar to T.Ramakrishnan viz., the father of the petitioner under the sale agreement dated 19.03.1965 and handed over possession to him, was a complete sale as per Art.1582 of F.C.C. in force on that date and the said lands had not been taken into account and not partitioned by P.C.Purushothama Reddiar with the third respondent as his son under the above partition deed dated 20.03.1970. The third respondent has further stated that under registered partition deed dated 20.03.1970, he and his two sons viz., Srinivasa Reddiar @ P.R.Srinivasan and Sundara Reddiar @ Srikanth have partitioned the properties allotted to him in the earlier partition deed between him and his father P.C.Purushothama Reddiar.

(iv) The third respondent has further submitted that in the year 1973, the Government of Puducherry has enacted the Pondicherry Land Reforms (Fixation of

Ceiling on Land) Act, 1973 (Act No.9/1974) (hereinafter called as "The Pondy L.R. Act 1974") and published the same in the Gazette of Pondicherry dated 14.10.1974. The Act 1974 has come into force on 14.10.1974 and notified on 01.03.1975. Under Section 2(4) of the Pondy L.R.Ac 1974, the "Appointed Day" is defined as 24.01.1971. In view of Section 4(4) of the Pondy L.R.Act 1974, for the purpose of calculating the extent of land held by any person for determining his ceiling area, all the lands held by him on the "Appointed Day" viz., 24.01.1971, have to be taken into account. It is further clarified in Section 4(4) that if such person transferred any land by way of sale, gift or otherwise or partitioned after "Appointed Day" viz., 24.01.1971 and before the commencement of the Act i.e., 22.09.1974 shall also be taken into account for calculating the extent of land held by him and determining his ceiling area under the Act as if such land has not been transferred or partitioned. Therefore, the lands transferred by him by way of sale, gift or otherwise or partitioned prior to the Appointed Day viz., 24.01.1971 were executed and cannot be taken into account therefor. In short, the authorized Officer (Land Reforms) has power, authority and jurisdiction to take into account, determine the ceiling area and include only the agricultural lands held by him on "the Appointed Day" in the Draft Statement and the final statement and those statements should contain only those lands and no other lands. He has no power, authority or jurisdiction to take into account and owned by others, determine the ceiling area of P.C.Purushothama Reddiar and include those lands also in the Draft and Final Statements. If those lands owned by others are included therein, those statements in so far as it is relating to those other lands, are incorrect, illegal, nullity, non-est in law and unenforceable.

(v) The third respondent has further submitted that after the above sales, exchange and partitions made from the year 1965 to 20.03.1970, P.C.Purushothama Reddiar and his wife-Thilakavathi were holding subject agricultural lands, that too, only in the T.N.Palayam Revenue Village as on the Appointed Day viz., 24.01.1971. In view of Section 4(4) r/w Section 1(4) of the Act, 1974, the Authorized Officer (Land Reforms) has power, authority and jurisdiction to take into account only the above agricultural lands actually owned and held by him on "the Appointed Day", calculate, determine his ceiling area and include those lands in the Draft Statement and also the final statement and those statements should contain only those lands and no other lands. In view of Section 4(1) of the Pondy L.R. Act, the family consisting of P.C.Purushothama Reddiar and his wife Thilakavathi were entitled to hold 6 Standard HAC. However, as stated above, they were holding only 5.58.45 Ordinary HACs - 4.50.82 Standard HACs. i.e., less than the ceiling area of 6 Standar HAC. Therefore, in view of Section 7(1) of the Pondy L.R. Act, 1974, P.C.Purushothama Reddiyar and his wife-Thilakavathy need not file a Return before the Authorized Officer (Land Reforms) and they had also not done so. Further, the Authorized Officer (Land Reforms) cannot also initiate any proceedings under the Pondy L.R. Act, 1974 against them for fixation of the Ceiling Area of the Agricultural lands held by them.

(vi) The third respondent has further submitted that as on the Appointed Day viz., 24.01.1971, the agricultural lands situated in T.N.Palayam Revenue Village were owned by various third persons and their names were also entered as owners in the Revenue Records. The third respondent has further submitted that the name of his father is P.C.Purushothama Reddiar S/o. Chinnasamy Reddiyar and his name is P.C.P.Radhakarishnan S/o.P.C.Purushothama Reddiyar and they were natives and permanent residents of T.N.Palayam Village, Ariyankuppam Commune. In the same T.N.Palayam Village, Ariyankuppam Commune, another father and son were having the same name viz., the father's name is R.Purushothama Reddiyar S/.Ramasamy Reddiyar and his son's name is P.R.Radhakrishnan @ Ramasamy Reddiyar S/o.R.Purushothama Reddiyar were living permanently. The third respondent has further submitted that on the appointed day i.e., 24.01.1971, Arulmighu Sundara Vinayagar Temple is the absolute owner of one part of the agricultural lands . A plain perusal of the notification bearing No.689/HRI/Co.1/83-84 published by the Commissioner of Religious Institutions in the Gazette of Pondicherry No.127, dated 06.11.1986 and also the Revenue Records would prove the same. One V.Purushothama Reddiyar was the absolute owner of the remaining part of the agricultural lands. Under registered sale deed dated 14.02.1981, he had sold the said land to one Ramalingam @ Ramamoorthy. In turn, under registered sale deed dated 06.01.1986, he had sold the said land to one Subramanian S/o.Veerappa Gounder. Under registered gift settlement deed dated 21.11.1987, he settled the said land in favour of one Geetha etc. A verification in the Office of the Sub Registrar, in the revenue records and on the spot by making spot inspection and enquiry would confirm the same. Therefore, on the appointed day i.e., 24.01.1971, Arulmighu Sundara Vinayagar Temple and

V.Purushothama Reddiyar was the absolute owner of the agricultural lands. By virtue of the registered partition deed dated 20.03.1970 (registered as Document No.829/1970) and the registered partition deed dated 20.03.1970 (registered as document No.875.1970). The third respondent's son Sundara Reddiyar @ Srikanth is the absolute owner of the agricultural lands. By virtue of a registered settlement deed dated 29.11.1948, M.S.Padmanaba Reddiar & Srinivasa Reddiar were the owners of the part of agricultural land. Only under registered sale deed dated 26.09.1981, their legal-heirs prema and others had sold the said land to Mayavan and and Jayalakshmi. Thereafter, under registered sale deed dated 29.06.1985, they have sold the said land to one Venkataraman. Therefore, on the Appointed Day i.e., 24.01.1971, M.S.Padmanaba Reddiar and Srinivasa Reddidar were the absolute owner of the agricultural land. By virtue of the registered partition deed dated 20.03.1970 (registered as Document No.829/1970 and the registered partition deed dated 20.03.1970 (registered as document No.875/1970), the third respondent's son Srinivasa Reddiyar @ P.R.Srinivasan is the absolute owner of the agricultural lands described in serial Nos.5,7 and 18 of the above Tabular Column on the appointed day i.e., 24.01.1971. By virtue of a registered settlement deed dated 01.12.1948, M.S.Padmanaba Reddiar and Srinivasa Reddiar were the owners of the agricultural land. Only under registered sale deed dated 26.09.1981, their legal-heirs Prema & others had sold the said land to one Vasantha & Lakshmiammal. Therefore, on the Appointed Day i.e, 24.01.1971, M.S.Padmanaba Reddiar & Srinivasa Reddiar were the absolute owner of the agricultural lands.

(vii) The third respondent has further submitted that under registered exchange deed dated 23.01.1968, the third respondent's father P.C.Purushothama Reddiar and P.R.Radhakrishnan @ Ramasamy Reddiar, S/o.Late R.Purushothma Reddiar had exchanged some of the agricultural lands owned by each of them between themselves. Even though, it is recited in the said Exchange Deed that the agricultural lands had been given to third respondent's father P.C.Purushothma Reddiar, as the said Exchange Deed was not acted upon in respect of the said 2 agricultural lands and those agricultural lands were not given physical possession to P.C.Purushothma Reddiar. IT is pertinent to refer here that actually one Louis Francois & Victor Sinnas were the owners of the agricultural land and they have executed sale deed, selling the same in favour of R.P.Radhakrishnan @ Ramasamy Reddiar only on 29.04.1978 and would confirm that he is owning and possessing the said land till this date. Hence, those 2 agricultural lands are remaining with R.P.Radhakrishnan @ Ramasamy Reddiar S/o.Late R.PUrushothama Reddiar and the revenue records is also standing in his name. A verification in the revenue records would confirm the same. Therefore, on the Appointed Day i.e., 24.01.1971, only R.P.Radhakrishnan @ Ramasamy Reddiar S/o.Late R.Purushothma Reddiar was the absolute owner of the two agricultural lands. As stated above, under the registered sale deed dated 18.03.1970 (registered as Document No.831/1970 on 24.03.1970. The third respondent's father P.C.Purushothma Reddiar had sold 20 items of agricultural lands, including the agricultural lands to the third respondent's wife R.Mangayakarasi and handed over possessing of the same to her. Therefore, on the Appointed Day i.e., 24.01.1971, the third respondent's wife R.Mangayakarasi is the absolute owner of the agricultural lands. By virtue of a registered settlement deed dated 01.12.1948, M.S.Padmanaba Reddiar and Srinivasa Reddiar were the owners of the agricultural lands. Only under the registered sale deed dated 25.05.1987, their legal-heirs Prema and others had sold the said land to one Govinda Reddiyar. Therefore, on the Appointed Day i.e. 24.01.1971, M.S.Padmanaba Reddiar and Srinivasa Reddiyar were the absolute owner of the agricultural lands. One V.Purushothama Reddiyar was the absolute owner of the agricultural lands. Under a registered sale deed, he had sold the said land to one Ramalingam S/o.Asvatha Reddiyar. A verification in the Office of the Sub Registrar, in the revenue records and on the spot by making spot inspection and enquiry would confirm the same. Therefore, on the Appointed Day i.e., 24.01.1971, V.Purushothma Reddiyar or his vendee Ramalingam S/o.Asvatha Reddiyar was the absolute owner of the agricultural lands. One Lakshmiammal, Vaithilinga Reddiyar and others were absolute owners of the agricultural lands. Subsequently, under registered sale deed dated 14.06.1978, they have sold the said land to one Manohari and she is in possessing and enjoyment of the said land as its absolute owner. Now, the person claiming through her viz., Dhanabakkiam is in possession and enjoyment of the same. A verification in the Office of the Sub Registrar, in the revenue records and on the spot by making spot inspection and enquiry would confirm the same. Therefore, on the Appointed Day i.e, 24.01.1971, Lakshmiammal, Vaithilinga Reddiyar and others were the absolute owner of the agricultural lands.

(viii) The third respondent has further submitted by virtue of a registered settlement deed dated 01.12.1948, M.S.Padmanaba Reddiar and Srinivasa Reddiar were the owners of the agricultural land. Only under registered sale deed dated 14.05.1987, their legal-heirs Prema & others had sold the said land to one Minor Om Prakash S/o.R.P.Radhakrishnan. Therefore, on the appointed day i.e., 24.01.1971, M.S.Padamaba Reddiar & Srinivasa Reddiar were the absolute owner of the agricultural lands. By virtue of the registered partition deed dated 20.03.1970 (registered as Document No.829/1970) the third respondent is the absolute owner of the agricultural lands on the appointed day i.e., 24.01.1971. The third respondent has further submitted that the then Authorized Officer (Land Reforms) has prepared a Draft Statement, showing (i) the total agricultural lands held by his father P.C.Purushothama Reddiar and his mother Thilakavathy on the appointed day as 24.01.1971 as 14.89.13 Ordinary HACs = 11.52.63 Standard HACs i.e., including the lands owned and possessed by third parties and also the lands sold by him prior to the appointed day, (ii) the agricultural lands to be retained by him within his ceiling area as 7.97.53 Ordinary HACs = 6.00.30 Standard HACs and (iii) the agricultural lands to be declared as surplus as 6.91.60 Ordinary HACs. = 5.52.33 Standard HACs. Even after publication of the Draft Statement, the then Authorized Officer (Land Reforms) was bound to follow the procedures provided under Section 9(5) and (6) of the Pondy L.R. Act 1974, including to issue notices to the interested persons and take decisions on questions of title as required under Section 10 of the Pondy L.R.Act, 1974. However, without doing the same, he has simply prepared and published a Final Statement under Section 11 of the Pondy L.R. Act, dated 15.02.1990 and published the same in the Gazette of Pondicherry No.71, dated 17.04.1990, containing the same lands as included in the Draft Statement i.e., including the lands owned and possessed by third parties and also the lands sold by his father Late P.C.Purushothma Reddiyar prior to the appointed day. Again, without following the procedure, issuing notice to the legal-heirs of the landowners and hearing them, he has prepared and published an another Final Statement under Section 11 of the Pondy L.R.Act 1974, dated 22.11.2000 and published the same in the Gazette of Pondicherry No.173, dated 29.12.2000, containing the same lands as included in the Draft Statement i.e., including the lands owned and possessed by third parties and also the lands sold by his father Late P.C.Purushothama Reddiyar prior to the appointed day. But, in this Final Statement, without issuing notice and hearing the legal-heirs of the landowners and giving opportunity to them to choose the lands to be retained by him, he has on his own completely altered the lands to be retained and to be declared as surplus. Thereafter, he has also published a Notification dated 26.08.2008 under Section 17(1) of the Pondy L.R. Act, 1974. The above mistakes in preparing the Final Statement has rendered the same illegal, invalid and unenforceable and caused substantial injury, irreparable loss, prejudice, inconvenience and hardship to the legal-heirs, including the third respondent.

(ix) The third respondent has further submitted that as on the Appointed Day viz., 24.01.1971, his father P.C.Purushothma Reddiar and his mother-Thilakavathi were holding agricultural lands measuring only 5.58.48 Ordinary HACs - 4.50.82 Standard HAcs. i.e., less than the Ceiling Area of 6 Standard HAC. Therefore, the Authorized Officer (Land Reforms) cannot also initiate any proceedings under the Pondy L.R.Act 1974 against them for fixation of the Ceiling Area of the agricultural lands held by them. However,by mistake, the then Authorized Officer (Land Reforms) has also incorrectly taken (i) the agricultural lands mentioned in the counter, measuring 3.28.03 Ordinary HAc = 2.28.31 Standard HAC and (ii) also the agricultural lands sold by his father P.C.Purushothma Reddiar prior to the Appointed Day viz., 24.01.1971, measuring 6.25.15 Ordinary HAC = 4.94.86 Standard HAC to T.Ramakrishnan viz., the father of the petitioner and also handed over possession of the same to him i.e., in total 9.30.68 Ordinary HAC - 7.01.88 Standard HAC. Based on such mistake, he has incorrectly arrived at the holdings of his father P.C.Purushothma Reddiar and his mother-Thilakavathy on the Appointed Day viz., 24.01.1971 as 14.84.03 Ordinary HACs = 11.50.93 Standard HACs, the said extent more than the Ceiling Area prescribed in the Pondy L.R.Act 1974, initiated proceedings against them, prepared the above Draft Statement and Final Statements and published the same in the Gazette of Pondicherry. The above mistakes have completely vitiated the said Draft Statement and Final Statements and made them illegal, invalid, perverse and unenforceable. In view of the provisions contained under Section 14 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1974, the said mistakes have to be corrected in accordance with the procedures after giving notice and hearing the legal-heirs of Late P.c.Purushothama Reddiar, including the third respondent and prepare and publish a fresh final statement. Otherwise, the third respondent and other legal-heirs will be put to substantial injury, irreparable loss prejudice, inconvenience and hardship.

(x) The third respondent has further submitted that his son P.R.Srinivasan and his wife R.Mangaiarkarasi have filed W.P.Nos.26512 and 26513 of 2008 before this Court against the respondents 1 and 2 praying for a Writ of Certiorari to quash the Final Statement dated 22.11.2000 in so far as the same is relating to their respective absolute lands. On 07.11.2008, this Court was pleased to Order notice of motion in the said Writ Petitions and also granted interim stay of the operation of the said final statement for a period of 4 weeks and subsequently, the said stay order was extended. The said writ petitions are pending. The third respondent has further submitted that he has filed an application under Section 14 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act 1973 before the second respondent herein - the Authorized Officer (Land Reforms) in March 2014, requesting him to exercise the powers conferred under Section 14 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act 1974, delete the agricultural lands not owned and held by his father P.C.Purushothma Reddiar and his mother Thilagavathy Ammal on the appointed Date viz., 24.01.1971. The third respondent has further submitted that this Court may be pleased to issue appropriate directions to the second respondent to delete the lands wrongly included in the Final Statement under Section 11 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act 1973, dated 22.11.2000 viz., the lands stated in para-12 above, including the land of the petitioner and make necessary consequential concretions in the Final Statement dated 22.11.2000 made under Section 11 of the Pondicherry Land Reforms (Fixation of Ceiling of Land) Act, 19743 and published in the Gazette of Puducherry No.173, dated 29.12.2000 and prepare and publish a fresh Final Statement in respect of the agricultural lands held by his father Late P.C.Purushothma Reddiar and his mother-Thilakavathi on appointed day. Hence, the third respondent entreats the Court to dismiss the above writ petition."

5. The learned counsel Mr.M.Sriram, appearing for the petitioner submits that his father purchased the subject matter of the land in the year 1965. From date of sale agreement, the petitioner's father is in physical possession and enjoying the said property. As per the French Civil Court, which was governed the field, a sale transaction is completed as and when the parties agree on the sale price and on the date of delivery of possession. As such, the petitioner's father is the absolute

owner of the property. The respondent Government had initiated land acquisition proceedings under the Pondicherry Land Reforms Act to acquire the surplus lands. The said proceedings had been initiated against the erstwhile owner Purushothama Reddiar, who had one son and two married daughters. The Government officials approached for demarcation and then only he came to understand that the second respondent had proclaimed that the property had been acquired under the said Act. Immediately the petitioner made representation. The respondent overruled the send objection and declared that the excess land had been acquired.

6. The highly competent counsel further submitted that the petitioner made enquiries and found that the petitioner's lands are allowed to be retained by erstwhile land owners. As such, the petitioner was not affected by the land ceiling proceedings, which has been published in the Gazette dated 17.04.1990. However, the petitioner was kept in dark by the erstwhile owner and the first and second respondents. The proclamation was made as per Section 17(1) on 03.11.2008, wherein the petitioner's land was also included in the surplus lands. Further, the petitioner approached the respondents and he was informed that the legal heirs of the land owners namely Srinivasan and Mangaiyarkarasi had already approached this Court by filing two writ petitions and challenging the final statement on various grounds. The petitioner and his brother had received a notice on 25.09.2008 issued by the second respondent for enquiry. The petitioner also appeared and sought for time to produce their title, but the second respondent had not issued any fresh notice and made proclamation on 03.11.2008. Subsequently, no reference was made to the petitioner and the copies were not served on the petitioner. The authorities wanted to demarcate the lands and then only be came to know the current position and immediately submitted his explanation on 13.03.2009. The petitioner subsequently had sent one more representation but the respondent did not said any reply. Hence, the learned counsel entreats the Court to quash the proclamation dated 03.11.2008.

7. The highly competent Government Advocate Mr.A.Tamilvanan, appearing for the Government submits that the petitioner agreement with one Purushothama Reddiar does not transfer title of property, since it is mere agreement. The sale has not been executed by the said Purushothama Reddiar. As such, the writ petition is not maintainable. The laws of French Civil Court has no relevance to the case in hand. Actually, the agreement was made in the year 1965 and sale was registered in the year 1975. This kind of transaction has been done with an intention to trounce the very purpose of Land Reforms Act. Therefore, such a transaction is void irrespective of whether it is bonafide or not and is liable to be set aside. Further, the transaction is only after the appointed day under the Land

Reforms Act dated 24.01.1971. As such, the transaction becomes null and void.

8. The learned counsel further submits that the original owner namely Purushothaman Reddiar challenged the said proceedings by way of two writ petitions in the year 1975 and the same was dismissed, with a direction to the land owner to file returns before the authorised officer, land reforms. As per the revenue records the said Purushothama Reddiar of T.N.Palayam was found to hold agricultural lands in excess of the ceiling limit as prescribed under the Pondicherry Land Reforms Act.

9. The authorised officer issued notice under Section 8 (1) of the Pondicherry Land Reforms Act to Purushothama Reddiar of T.N.Palayam on 15.10.1975, with a request to furnish return in respect of his family land holding in the Union Territory of Pondicherry. The Purushothama Reddiar has furnished the particulars, but it was not in the prescribed format. Thereafter, the summons in Form-6 was served to the said Purushothama Reddiar. Thereafter, publication was published in the Gazette and declared that the said Purushothama Reddiar was holding surplus lands. The land owner / assessee preferred an appeal against the final statement before the land Tribunal and the same was dismissed. Thereafter, revised final statement was published and declared that to an extent of 7.1600 standard hectares as surplus lands. Further, the authorised officer informed to the son of Purushothama Reddiar that the lands declared as surplus will be taken possession by the authorised officer on 28.09.1978 at 9.30 a.m. Subsequently, the legal heirs of the assessee had filed an appeal before the Land Reforms / Principal Subordinate Judge, Pondicherry and the same was dismissed. Hence, the learned counsel entreats the Court to dismiss the above writ petition.

10. The very competent counsel Mr.T.P.Manoharan, appearing for the third respondent submits that the third respondent is the son of erstwhile owner Purushothama Reddiar. The learned counsel further submits that the father of the petitioner is selling one land after another to various third parties from the year 1940. His father, due to non-payment of loan amount, had offered to sell 20 items of his agricultural lands to Muthamalla Reddiar and also decided to give some properties to his daughter Mangaiyarkarasi. The father of the third respondent had executed a registered sale deed to Mangaiyarkarasi and possession also was handed to her on 18.03.1970. As per the sale agreement detail dated 19.03.1965 executed by the father of the third respondent in favour of the father of the petitioner, to an extent of 4.94.86 standard hectares had also handed over possession. By virtue of the registered partition deeds dated 20.03.1970, the third

respondent's son is the absolute owner of the property. Hence, the learned counsel entreats the Court to issue direction to the second respondent to delete the lands wrongly included in the final settlement and prepare and publish a fresh final statement in respect of the agricultural lands.

11. On considering the facts and circumstances of the case and arguments advanced by the learned counsels on all sides and on perusing the typed set of papers, this Court is of the view that the authorised officer had given opportunity to the interested persons after receiving summons. Subsequently, the authorised officer ascertaining the present ownership of the notified lands, as per the revenue records, acquired the surplus lands. Further, sale agreement executed in favour of the petitioner dated 19.03.1965 is an unregistered one. As per the sale agreement, the petitioner is in physical possession and enjoying the said lands. To that effect, no relevant documents had been produced before this Court namely Chitta, Adangal, Enjoyment certificate and tax receipts over the lands. Therefore, the above writ petition does not generate sufficient force to allow it. Hence, the writ petition is dismissed.

12. In the result, the above writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

vs

Sd/-
Assistant Registrar (CO)

True copy

Sub Assistant Registrar.

To

1. The Secretary to Government,
   Union of India,
   Union Territory of Puducherry,
   Revenue Department, Govt. of Puducherry,
   Puducherry - 605 002.

2. The Sub-Collector (Revenue) North-cum-
   Authorized Officer (Land Reforms)
   Saram, Puducherry - 605 008.

+ 1 cc to Govt.Pleader cum Public Proseutor, (Pondicherry)
+ 1 cc to Mr.T.P.Manoharan, Advocate SR 61933
+ 1 cc to Mr.M.Sriram, Advocate SR 62076

svi(co)
prk1/3 W.P.No.19128 of 2009 &M.P.Nos.1 and 2 of 2009