IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 30/10/2015

DATED: /11/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.19129 of 2009
and
M.P.Nos.1 and 2 of 2009

R.Gopi 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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O R D E R

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) 6of 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 second respondent has filed a counter affidavit and resisted the above writ petition. The second respondent has submitted that before this Court that there is no merit at all in basic contention of the petitioner that his father had purchased the impugned property through a 'Sale Agreement from one Thiru.P.C.P.Purushothma Reddiar, in assessee under the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 (Act No.9 of 1974). He has further submitted that an agreement to sell is merely a document to obtain another document, i.e., sale deed and it does not transfer title of property. No person becomes owner of a property by mere execution of agreement to sell in his favour. Thus, an agreement for sale does not confer any right over the property and the right is transferred only after the sale is effected as per agreement. Therefore, a person will get the absolute right over the property only after the sale has been executed in pursuance of the sale agreement and the claim that the petitioner's father got the title over property and its possession soon after the execution of the sale agreement is totally absurd, without any legal preposition and bad in law and is therfore liable to be dismissed in limini. The petitioner, with an intention to confuse and divert the issue has unnecessarily quoted the laws of French Civil Court, which has no relevance to the case in hand. The second respondent has further submitted that before this Court as stated by the petitioner, his father Thiru.T.Ramakrishnan has entered into a 'sale agreement' in the year 1965, but the sale was registered only in the year 1975 that is after a very long break of 10 years, which itself will explain that the 'sale agreement' is made with an intention to trounce the very purpose of Land Reforms Act. The second respondent has further submitted that the Constitutional validity of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 was already challenged once by the original assessee Thiru.P.C.Purushothamma Reddiar before this Court vide W.P.No.6907/75 and W.P.No.6908/75, wherein this Court was pleased to upheld the Constitutional validity of the said Act. Therefore, the petitioner ought not to have raised any question on Constitutional validity in his present petition before the same Court, where it has already been decided in writ petitions filed before this Court vide W.P.No.6907 of 1975 and W.P.No.6908 of 1975 challenging the

Constitutional validity of the Pondicherry Land Reforms (Fixation on Ceiling on Land) Act, 1973, wherein the Hon'ble Court was pleased to dismiss the said writ petitions with a direction to the landowner to file returns before the Authorized Officer (Land Reforms).

5. The second respondent has further submitted that as per the Revenue Records, Thiru.P.C.Purushothama Reddiar, son of Chinnasamy Reddiar of T.N.Palayam was found to hold agricultural lands in excess of the ceiling limit as prescribed under the Pondicherry Land Reforms (Fixation of Ceiling on Land) Ac, 1973 (Act No.9 of 1974). Therefore, Authorized Officer (Land Reforms), Pondicherry issued notice under sub-Section (1) of Section 8 of the Pondicherry Land Reforms (Fixation of ceiling on Land) Act, 1973 (Act No.9 of 1974) to Thiru.P.C.Purushothama Reddiar S/o.Chinnasamy Reddiar, T.N.Palayam on 15.10.1975 with a request to furnish a returnin respect of his family land holdings in the UT of Pondicherry on or before 24.10.1975 (Form 4) In response Form No.2 submitted by Thiru.P.C.Purushothama Reddiar on 29.11.1975, wherein he has furnished particulars of land held or demand to have been held on 24.01.1971. Meanwhile, Thiru.P.C.Purushothama Reddiar and P.C.P.Radhakrishnan filed writ petitions before this Court of Judicature of Madras vide W.P.No.6907 of 1975 W.P.No.6908 of 1975 challenging the constitutional validity of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973, wherein this Court was pleased to dismiss the said writ petitions with a direction to the landowner to file returns before the Authorized Officer (Land Reforms). Thereafter, Thiru.P.C.Purushothama Reddiar vide this letter dated 26.08.1976 has furnished a statement of particulars of land held by him as on 24.01.1971, but it was not in the prescribed format. Therefore, the summons in Form 6 was served on the assessee Thiru.P.C.Purushothama Reddiar on 13.09.1976 to appear in person to produce or cast to produce relevant documents for assessment of surplus land. In pursuant to the dismissal of the writ petitions by the High Court, the Authorized Officer published Form-8 (Draft Statement) under Sub-Section(1) of Section 9 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 in respect of lands held by Thiru.P.C.Purushothama Reddiar has been published as required under Sub-section (5) of Section 9 in Form 7 published in Extraordinary Gazette No.290 on 13.06.1976, declaring 33-27-80 Hac (or) 20.9348 Std. Hec of land as the total holding of the assessee and 14.934 Std. Hec. of land as the surplus.

6. The second respondent has further submitted that the landowner / assessee filed written statement of objections against the Draft Statement with the averment that certain portion of lands which were transferred by way of sale or by partition was to be excluded. An enquiry was made on the above said petition and based on a report, which was submitted on

08.10.1976, the Authorized Officer held that the family of the landowner was holding surplus lands of 7.1027 Std. Hec after excluding the lands alienated to and in favour of third parties before the appointed day i.e., 24.01.1971, and ignored the sales effected between the appointed day and the date of commencement of the Act. Thereafter, the Authorized Officer, vide his proceedings No.14448/75/D3, dated 02.11.1976 and in exercise of the power conferred on him under Section 9(6)(b) of the Act, ordered the preparation and publication of final statement under Section 11 in respect of the assessee and the family. The final statement in Form 10 under Section 11 / Section 13 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 was published in Government Extraordinary Gazette No.495, dated 12.11.1976 declaring 17.13.65 Hac of land as the total holdings, 07.58.15 Hac (or) 6.000 Std Ha extent of land as the retention portion and 09.55.50 Hac (or) 7.1027 Std.Hec. of land as the 'surplus' portion held by the assessee as on the appointed day i.e., 24.01.1971. The second respondent has further submitted that the landowner/assessee preferred an appeal against the said Final Statement before the Land Tribunal in LTCMA No.51/76 and the same was dismissed on 30.07.1977. On publication of the final statement on 12.11.1976, one Thiru.Janakiraman S/o.Muthumala Reddiar represented before the Authorized Officer that the said final statement had not considered the exchange of land made between himself and his mother-in-law on one side and Thiru.P.C.Purushothama Reddiar on the other above 20 years back. As stated by him Cad.No.807 bis and 805 of T.N.Palayam Revenue Village were given by him in exchange for Cad Nos.726/2, 715, 727 and 1170 of the same Village and that later, now enjoyed by him, have been treated as if held by P.C.Purushothama Reddiar in in the final statement. Thereafter, the authorized officer on getting satisfied about the genuineness of the representation, and in exercise of his power conferred on him under Section 14 of the Act, ordered the modification of the final statement dated 12.11.1976 vide proceedings No.14448/75/D3, dated 30.05.1975. Accordingly, revised final statement under Section 11 was published in Extraordinary Gazette No.105, dated 29.06.1978, wherein 17.00.75 Hac (or) 13.1600 Std.Hc. extent of land has been declared to be held by the assessee on 24.01.1971. Among these lands to an extent of 07.58.15 Hac (or) 6.000 Std Ha were to be retained by the assessee and land to an extent of 09.42.60 Hac (or) 7.1600 Std Ha were declared as 'Surplus'. Thereafter, an Erratum to the final statement in Form 10 in respect of the holdings of Thiru.P.C.Purushothama Reddiar S/o.Chinnasamy Reddiar of T.N.Palayam published in the State Extraordinary Gazette No.105, dated 29.06.1978 was issued by the Authorized Officer vide No.14448/75/D3, on 01.08.1978. In the meantime, the landowner expired on 22.09.1977.

7. The second respondent has further submitted that the Notification under sub-section (1) of Section 17 of the

Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 in Form 13 in respect of assessee Thiru.P.C.Purushothama Reddiar was issued vide G.O.Ms.142, dated 26.08.1978, wherein lands to an extent of 090.42.60 Hac were notified as surplus and to be acquired for public purpose and the same was published in Gazette No.130 on 15.09.1978, wherein the names of the legal-heirs of landowner were incorporated. Subsequently, ' Proclamation' under Section 17(2)(a) of the Act for the above said lands was issued by the Authorized Officer vide No.14448/75/D3 on 21.09.1978. Thereafter an Erratum to the said notification in Form 13 was issued on 21.09.1978 vide No.14448/75/D3. The Authorized Officer vide Letter No.14448/75/D3, dated 21.09.1978 has informed to Thiru.P.C.P.Radhakrishnan, S/o.P.C.Purushothama Reddiar that the lands declared as surplus will be taken possession by the Authorized Officer on 28.09.1978 at 9.30 a.m. Consequent to that the legal-heirs of the assessee had filed an appeal under Section 46(1) of the Pondicherry Land Reforms (fixation of Ceiling on Lan) Act, 1973 against the order of authorized officer dated 12.11.1976 vide LTCMA No.51 of 1977 in the Court of Principle Subordinate Judge, Pondicherry and the Hon'ble Court had dismissed the appeal vide its order dated 30.07.1977.

8. The second respondent has further submitted that at this point of time, the legal-heirs of the assessee had filed a writ petition before this Court in W.P.No.3807 of 1978 on the grounds that no opportunity was given to them before the publication of final statement and the same was dismissed by this Court vide its order dated 31.04.1978 with an observation that the petitioner had remedy by way of appeal as per the provisions of the Act. In pursuance of above said order of this Court, the petitioner Thiru.P.C.P.Radahakrishnan filed an appeal in LTCMA No.39/1978 before the Land Tribunal on the grounds that on the date of the order the original assessee Thiru.P.C.Purushothama Reddiar was not alive and his first class heirs viz., his two married daughters, one married major son and his widow were each entitled to 6.0000 Std Ha of land and that the excess is declared as 9.4200 Std Ha and if the heirs are each entitled to 6.000 Std Ha then nothing will be left over. While dismissing the above said contention of the petitioner vide its order dated 21.02.1979 in LTCMA No.39, the Land Tribunal has ruled that the assessment of the estate of Thiru.P.C.Purushothama Reddiar made with reference to the appointed day under Act, on which date the assessee was alive and was alive until the final stage of action when a notification under Section 17(1) was published in the State Extraordinary Gazette No.130, dated 15.09.1978. Therefore, the death of P.C.Purushothama Reddiar would not in any way affect or tilt the position and ruled that the publication of final statement is not affected by the death of P.C.Purushothama Reddiary. The second respondent has further submitted that the

Land Tribunal, while ruling on the claim of the petitioner that 5 items of lands sold by the assessee Thiru.P.C.Purushothama Reddiar prior to the appointed day had been wrongly included by the authorized officer, the Tribunal has observed that the assessee did not produce any documentary evidence before the Authorized Officer to substantiate his claim that five items of lands were sold prior to the appointed day and even failed to do so before the Tribunal. The second respondent has further submitted that aggrieved by the above said order of the Land Tribunal, the son of assessee, Thiru.P.C.P.Radhakrishnan filed a revision petition before the Court of Land Commissioner vide CARP No.11/78, the Land Commissioner vide his order dated 04.06.1979, allowed the revision petition and remanded the matter to Authorized Officer for fresh enquiry. Thereafter, the Authorized Officer issued summons in Form-C under Rule 12(2) of the Pondicherry Land Reforms (Fixation of Ceiling on land and disposal of Surplus lands) Rules, 1976 to legal-heirs of the assessee viz., Thiru.P.C.P.Radhakrishnan, Tmt.Thilagavathiammal, Tmt.Brindavathiammal and Tmt.Sankari to appear before the Authorized officer. Consequent to that, the legal-heirs filed their objections on 07.09.1979 along with a copy of Partition Deed No.829/1970, dated 20.03.1970 and a Sale Deed No.831/1970 dated 18.03.1970 and prayed for declaration of some portions of land. Incidentally, the Government vide Memorandum No.8794/811D, dated 06.01.1982 has decided that the notification under Section 17(1) of the Pondicherry Land Reforms Act in the case of Late P.c.Purushothamma Reddiar published in Extra-ordinary Gazette No.130, dated 15.09.1978 need not be rescinded and directed that action may be taken to take over surplus lands as per the said 17(1) notification dated 15.09.1978 by ignoring the order of Land Commissioner in CARP No.11/1978, dated 04.06.1979. Accordingly, the Authorized Officer had taken possession of the surplus land on 15.02.1982.

9. The second respondent has further submitted that aggrieved by the action of the Authorized Officer, Thiru.P.C.P.Radhakrishnan S/o.P.C.Purushothama Reddiar filed a writ of Mandamus in W.P.No.1212 of 1982 from taking delivery of possession of the surplus lands, wherein the High Court remanded the matter to the Authorized Officer with directions to proceed in accordance with the remand order of the Land Commissioner in CARP NO.II/1978, dated 04.06.1979. As per the remand order, Authorized Officer issued notice to the legal-heirs of the deceased landowner for fresh enquiry and proceeded further with the provisions of the Land Reforms Act. After providing sufficient opportunities to the legal-heirs from making representations and filing of evidences, the Authorized Officer passed an order under Section 9(6)(b) of the act on 13.02.1990 for preparation and publication of final statement, wherein he has held that the family of the landowner was holding 4.7226 Std. Hec of land in excess of the ceiling area. The final

statement was prepared and sent for publication on 16.02.1990 and the same was published on 17.04.1990 in Extra-ordinary Gazette. The second respondent has further submitted that aggrieved by the orders of the Authorized Officer, Thiru.P.C.P.Radhakrishnan S/o.P.C.Purushothama Reddiar preferred an appeal against the order of Authorized Officer dated 13.02.1990 in LTCMA NO.1/1990 and I.A.No.13/1990 in LTCMA No.1/1990 for grant of interim stay and accordingly interim stay was granted. The Land Tribunal dismissed the appeal in LTCMA No.1/1990 vide its order dated 07.10.1993, against which appellant filed Civil Revision Petition before the High Court of Judicature at Madras in CRP No.3508 of 1993. The CMP No.16580 of 1993 in CRP No.3508 was filed for grant of stay of operation of order of Authorized Officer dated 13.02.1990 and against the final statement dated 17.02.1990. The second respondent has further submitted that in CRP No.3508/1993, this Court vide its order dated 07.01.1994 has dismissed the revision petition with a direction to file fresh representation within two months time and accordingly, fresh representation was filed by Thiru.P.C.P.Radhakrishnan on 17.01.1994. Meanwhile, the revision petition No.1/1990, filed by Thiru.P.C.P.Radhakrishnan S/o.P.C.Purushothamma Reddiar (Late) before the Land Commissioner was disposed vide order dated 26.09.1994 in accordance with the orders of High Court in CRP No.3508 of 1993 and remanded the matter to the Authorized Officer (Land Reforms). Consequent to that, the Authorized Officer (LR) conducted enquiries on 10.03.1994, 18.04.1994, 05.05.1994, 21.10.1994 and 18.11.1994 to arrive at a decision on the lands that are to be retained by the assessee in compliance with the orders of this Court.

10. The second respondent has further submitted that the legal-heirs of assessee through there counsel had filed a statement on 16.12.1994 reiterating that 32 items of land working to an extent of 06-00-59 Hac. may be demarcated and to delete 00-00-59 Hac. in any of those lands so as to have a compact field for peaceful enjoyment. The Authorized Officer (LR), with an intention to ascertain the exact area of surplus lands, decided to demarcate the lands in Cadastre No.594 of Kirumampakkam Revenue Village on 27.06.1997. In the meantime, Thiru.P.C.P.Radhakrishnan has filed an objection on 09.07.1997 against Form-9B Notice stating that it is not in accordance with the provision of Sub-Section 3 and 4 of Section 9 of the Act and also filed another statement on 21.08.1997, wherein he has enclosed a copy of High Court Judgment and a copy of sale agreement deed between his father (assessee) and one Thiru.T.Balakrishna Reddiar of Kirumampakkam. The said Thiru.P.C.P.Radhakrishnan has raised objection that the lands in Survey Nos.853, 1055Bis 1/2, 1056 Bis/2, 1066 Bis and 1289 of TN Palayam was not owned by his father Thiru.PCP Purushothamma Reddiar on the appointed day and similarly, in Kirumampakkam

Revenue Village the lands in Survey Nos.579, 592 and 594 were sold to Thiru.B.Abimannan after the appointed day but before the notified day by virtue of Document No.2891/1971 dated 29.11.1971. After a thorough scrutiny of the objections filed by the said Thiru.P.C.P.Radhakrishnan, the objections were overruled by the Authorized Officer (LR) as per Section 4 of the Act. Further, as per the Revenue records and the property returns filed by the legal-heirs of Thiru.P.C.P.Radhakrishnan on 17.01.1994, total holdings were stood in the name of the assessee Thiru.P.C.Purushothamma Reddiar. Thereafter, the Authorized Officer (LR), worked out the total holdings of the assessee as 14-89-13 HAC (or) 11.5207 Std. Hec and after deducting of 06.0063 Std. Hec. of lands to be retained by the family of the deceased assessee and declared 05.5207 Std. Hec. of lands as surplus lands of assessee. Therefore, in exercise of the power conferred under Section 9(6)(b) of the Act, the Authorized Officer (LR) ordered for the preparation and publication of Final statement under Section 11 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 and published the final statement in Form-10 under Section 11 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 vide EOG No.173, dated 29.12.2000 and a Corrigendum No.MRI, dated 19.03.2001 was issued in Gazette No.14, dated 03.04.2001, declaring the total holding of the assessee as 14-89-13 HAC (or) 11.5270 Std. Hec, 07-48-90 HAC (or) 6.0063 Std. Hec as "Retention" portion and 07-40-23 HAC (or) 5.5207 Std. Hec as "Surplus" portion.

11. The second respondent has further submitted that the copies of the above said corrigendum was sent to the concerned Tahsildar with an instructions to serve the same on the legal-heirs of deceased Thiru.P.C.P.Purushothama Reddiar and other interested parties vide Memorandum No.14448/75/D3/MRI, dated 11.10.2001. As the said acknowledgment for the service of corrigendum was not available, the final statement in Form-10 under Section 11 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 was published vide EOG No.173, dated 29.12.2000 was once again served to the legal-heirs of the assessee Thiru.P.C.Purushothama Reddiar on 16.02.2008 by the Tahsildar, Taluk Office, Puducherry and a copy of notification was also displayed in the Notice Board in the Office of Village Administrative Officer, T.N.Palayam. The second respondent has further submitted that as no objections was received by the Authorized Officer (LR) in serving of Form-10 to the legal heirs of the assessee, the Authorized Officer (LR) under section 68 of the Land Reforms Act, summoned the legal heirs of the assessee viz., on 16.02.2008 Thiru.P.C.Radhakrishnan S/o Purushothama Reddiar, Tmt.Brindavathi Ammal and Sankari Ammal (Daughter of the P.C.Purushothama Reddiar) for obtaining information about pendency of any litigations on Land Reforms Proceedings in any of the Court. The legal heirs of the assessee with the help of

counsel appeared before the Authorized Officer on 01.04.2008 and sought time for producing documentary evidence and further stated that 'No' litigations were pending in this regard with any of the Court. On 27.08.2008, Form-13 under Section 17(1) of the Pondicherry Land Reforms (Fixation of Ceiling on Surplus Land) Act, 1973 in respect of the assessee Thiru.P.C.Purushothama Reddiar was sent for publication by the Authorized Officer vide Letter No.5398/SC(R)N/LR/08, wherein the Authorized Officer (LR) notified the surplus lands to an extent of 07-40-23 Hac (or) 5.5207 Std.Hec. to be needed for public purpose.

12. The second respondent has further submitted that the Authorized Officer requested for the state on ground particulars in respect of the each Cadastre Number that figured in Form-13 along with correlating R.S.No. vide Memorandum No.5398/SCR(N)/LR/08 dated 29.08.2008 from the concerned Tahsildar. Accordingly, the Tahsildar Bahour vide Letter No.3099/TOB/A2/2008/510 dated 11.09.2008 and Tahsildar, Puducherry vide Letter No.4910/TOP/A/2008 dated 17.09.2008 submitted a revised state on ground particulars. The Authorized Officer (LR) under Section 68 of the Land Reforms Act, issued notice to all the interested persons who were under the enjoyment of the Lands that were notified in Form-13 with an intention to give an opportunity to such interested persons to establish the extent of their lands and requested such persons who were claiming interest to be present on the site on 07.09.2008 at 9.30 a.m. On 23.10.2008, the Authorized Officer (LR) issued notice vide No.5398/SCR(N)/LR/2008 to the legal heirs of Thiru.P.C.Purushothama Reddiar viz., Thiru.P.C.Radhakrishnan S/o Purushothama Reddiar, Thiru.Srinivasan S/o Radhakrishnan, Tmt.Mangayarkarasi W/o Radhakrishnan with an intention to provide an opportunity for identifying the lands that are handed over to the Government from the present retain holdings of the lands in lieu of the transfer of the notified surplus lands by the assessee Thiru.P.C.Purushothama Reddiar / his legal heirs and further requested to appear for enquiry for 28.10.2008 at 11.00 a.m.

13. The second respondent has further submitted that Thiru.P.C.P.Radhakrishnan appeared through counsel and prayed time to submit his averments but failed to appear in this regard. Tmt.Sankari Ammal and Brindavathi Ammal represented through their counsel and prayed for reopening the proceedings on the ground that they constitute a separate family ignoring the fact they were minors and constitute 'family' of assessee as on the appointed day. The Authorized Officer in process of ascertaining the present ownership of the notified land gave opportunity to all the persons known are believed to be interested as per Revenue Records for local enquiry by issuing notice under Section 68 of the Act thereby directing all the

interested persons to be present on the day of the inspection and demarcation of the lands with all the relevant documents. On the day of inspection it was found that the assessee and his family has alienated / transferred 1.6307 Std.Hec of notified surplus land after the appointed day i.e. 24.01.1971 in contravention to Section 22(1) of the Act. In pursuance to the field enquiry, a notice was further issued on 23.10.2008 to the legal heirs thereby bringing to their knowledge the provisions of Section 22 of Land Reforms Act and giving them opportunity to identify the lands held by them and to hand over such lands in lieu of the notified surplus lands, which was transferred. But, the legal heirs of the assessee had failed to do so and not even responded to this notice. After duly taking into consideration, the partition deed submitted by Thiru.P.R.Srinivasan, Grandson of the assessee and documents received from the various purchasers and inferences made during field inspection it has been decided as per the proviso of Section 22 i.e. to take possession of 3,8900 Std. Hec of lands of the 5.5207 Std. Hec of lands, which was declared as surplus and the shortfall of 1.6307 Std. Hec. from the Retention portion of lands held by the assessee keeping in view of contiguity of their location. Thereafter, proclamation under sub-section (2) of the Section 17 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 (Act No.1974) was issued by the Authorized Officer (LR) vide proclamation No.5398/SC(R)/N/LR/08 dated 03.11.2008 thereby proclaiming that the surplus lands to an extent of 07-21-20 HAC (or) 5.5207 Std. Hec. in respect of the assessee Thiru.P.C.Purushothama Reddiar are needed for public purpose and have been acquired for public purpose and vested in the Government free from all encumbrance with effect from 27.08.2008.

14. The second respondent has further submitted that the Authorized Officer, only with bonafide intention of giving one more opportunity of being heard, served copies of above said Gazette, in which the Final Statement published to the legal heirs of assessee on 16.02.2008. Therefore, the Final Statement was published as per procedures laid down by the Act, on 29.12.2000 itself vide Extra ordinary Gazette No.173 and subsequent corrigendum on 03.04.2001 vide Gazette No.14. However, due to several litigations and administrative reasons the proceedings taken some time to reach its logical and legal conclusion. The petitioner has tried to usurp the lands which are under the Land Reforms in collusion with the assessee by wantonly entering into a transaction with assessee. Therefore, the entire sale transaction itself is sham before law and null and void ab-initio. The second respondent has further submitted that if the vendor has any doubt about the status of the Lands covered under the Lands Reforms, he ought to have very well come to the office of Authorized Officer (Land Reforms) to know about the status. Therefore, without making any effort to know about the status of the Land Reforms case, he himself came to a

conclusion that his lands are not covered under Land Reforms proceedings is something far beyond truth and not justifiable in law. The second respondent has further submitted that the above said transaction of lands that are covered under Land Reforms, are sold out by the assessee with the intention of dragging the Land Reforms proceedings and to unnecessarily create hassles to the Government. Therefore, the contention of the petitioner that he was not aware about the fact that impugned lands are covered under the surplus portion of the land reforms proceedings is without merits.

15. The second respondent has further submitted that on several occasion has ruled that, before purchasing a land, the buyer is supposed to verify the records of the lands, its possession, etc., it is the same general rule that "caveat emptor" (Ignorance of law is not excusable) applies to the above case. The second respondent has further submitted that as per Section 19 of the said Act, the transferee of the lands that are covered under land reforms shall make a declaration before the registering authority in certain cases, which he has failed to do. Therefore, the second respondent has further submitted that the vendor-cum-assessee, the third respondent herein has wantonly violated in transferring the lands that are covered under land reforms and the purchaser, the petitioner's father herein, has purchased the lands under land reforms without verification of the records. As stated above, once the proclamation is issued under Section 17 of the said Act, the said lands are vested with the Government free from all encumbrances. Therefore, the lands purported to have been purchased by the petitioner's father are already vested with the Government. The prayer of the petitioner praying this Court to grant stay of all further proceedings under Land Reforms is not justifiable in law.

16. 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 hte 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."

17. 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 said objection and declared that the excess land had been acquired.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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

svi(co)
prk1/3