

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN**

AND

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

WRIT APPEAL No.1332 OF 2016

JUDGMENT (ORAL) : (Per Hon'ble The Chief Justice Sri Thottathil B. Radhakrishnan)

We have heard the learned Government Pleader for Assignment appearing for the appellants and Sri Jithender Rao Veeramalla, learned counsel for the respondent.

2. The impugned order was issued by the learned single Judge on 06.07.2015. The writ petition instituted in 2015 was decided essentially on the premise that the learned Assistant Government Pleader for Revenue (TS) has not disputed either the facts or the legal position to the effect that an ex-serviceman is entitled to sell the assigned land after 10 years of the assignment and that in the instant case more than 10 years had elapsed after assignment of the land. However, it is undisputed situation that the State did not have any opportunity to file counter affidavit and contest on the issue whether the prior vendor was actually an ex-serviceman though the substance of the writ petition revolves fundamentally on that issue.

3. Therefore, it is necessary that the Government gets an opportunity to place a counter affidavit on record before the learned single Judge on relevant aspects. To facilitate that process, we deem it appropriate to set aside the impugned order and remit the matter for reconsideration.

4. In the result, the impugned order is vacated and the matter is remitted for reconsideration leaving open all issues. The appellants shall file counter affidavit before the learned single Judge within four (4) weeks from today.

5. With the above directions, the Writ Appeal is allowed.
No order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the Writ Appeal stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

V. RAMASUBRAMANIAN, J

August 3, 2018.
PV

