IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
26.04.2022	06.06.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.14418 OF 2010 & 24148 OF 2011

S.Vijayakumar .. Petitioner in WP 14418/2010

1. Indira
2. Sankar
3. Sundaramurthy
4. Saravanan
5. Vennila
6. Anjala

.. Petitioners in WP 24148/2011

- Vs -

1. The Special Commissioner &
   Commissioner of Land Administration
   Land Administration Department
   Chepauk, Chennai 600 005.

2. The District Revenue Officer
   Thiruvannamalai.

3. The Revenue Divisional Officer
   Thiruvannamalai Circle
   Thiruvannamalai District.

4. The Tahsildar
   Thiruvannamalai Taluk
   Thiruvannamalai District.

.. RR-1 to 4 in both petitions

5. P.Sankar
6. P.Mottaian
7. P.Saravanan .. RR-5 to 7 in WP 14418/10

8. The Village Administrative Officer
Melchettipattu Village
Kilsirupakkam Post
Thiruvannamalai Taluk & District.

.. R-5 in WP 24148/2011

9. Vijayakumar
10.Murugesan .. RR-6 & 7 in WP 24148/11

W.P. No.14418 of 2010 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the order of the 1st respondent in Rc.No.G2/7446/09 dated 14.5.2010 and quash the same and consequently direct the respondents to restore the grant of assignment and patta issued in favour of the petitioner with respect to the extent of 1.19.0 hectares in S. No.2/8, Melchettipattu village, Thiruvannamalai Taluk, Thiruvannamalai District.

W.P. No.24148 of 2011 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari calling for the records of the impugned order dated 14.5.2010 in Rc.No.G2/7446/09 on the file of the 1st respondent and quash the same.

For Petitioners: Mr. K.J.Shiva Arudhra in WP 14418/10
Mr. G.Rajan in WP 24148/11

For Respondents: Mr.Yogesh Kannadasan, Spl. GP
For RR-1 to 4 in WP 14418/10 &
For RR-1 to 5 in WP 24148/11
Mr. K.J.Shiva Arudhra for R-6 in WP 24148/11
Mr. M.Sathish Kumar for R-7 in WP 24148/11

COMMON ORDER

Assailing the order passed by the 1st respondent, while the petitioners in W.P. No.24148/11 question the act of the 1st respondent in cancelling the patta granted to the petitioners in respect of the lands, which had initially been assigned in favour of the original assignee, which was subsequently purchased by the father of the petitioners in W.P. No.24148/11 after a passage of five decades, the petitioner in W.P. No.14418/10 has questioned that portion of the order in and by which the 1st respondent had cancelled the assignment granted in his favour with regard to the very same lands, which were earlier assigned to the original assignee in W.P. No.24148/11.

2. For the sake of convenience the petitioners in W.P. No.24148/2011 will be referred to as ‘purchasers’ and the petitioner in W.P. No.14418/10 will be referred to as ‘assignee’.

Brief facts of the case in W.P. No.14418 of 2010 :-

3. It is the case of the assignee that he belongs to the depressed class of landless poor and earning his livelihood as an agricultural labour. Coming to know of Revenue Standing Order 15 (41) in and by which the government allots land to the depressed class persons, the assignee applied for allotment of land and, accordingly, his case was considered by the 4th respondent, viz., Tahsildar, and was assigned land to an extent of 1.19.0 hectares vide proceedings dated 12.3.1997, with specific condition that the said lands shall not be alienated for a period of 10 years. The assignee was also issued with a separate patta in his name. On and from the said date, the assignee had been cultivating the lands and is in lawful and peaceful possession of the same without any encumbrance and paying the dues to the Government regularly and the name of the assignee is also reflected in the revenue records and adangal extracts since the year 1997.

4. It is the further case of the assignee that the father of the purchasers, claiming to have purchased the above referred to land by way of two sale deeds dated 24.11.1982 from one Annamalai, filed a petition before the 3rd respondent to cancel the patta assigned in favour of the assignee and to issue fresh patta in the name of the father of the purchasers and the 3rd respondent, after issue of notice called for the records from the 4th respondent to which the 4th respondent has stated that the files are not available. The 3rd respondent, on the basis of the materials available, on an erroneous view, while cancelled the assignment granted in favour of the assignee vide proceedings dated 6.8.2008 permitted transfer patta in favour of the purchasers against which the assignee preferred appeal and the 2nd respondent, vide order dated 13.2.09, set aside the order passed by the 3rd respondent and restored the patta granted in favour of the assignee and the assignment of lands were held in-tact. Aggrieved by the same, the father of the purchasers filed revision, belatedly, after a period of five years, before the 1st respondent and the 1st respondent passed the impugned order directing the 2nd respondent to resume the land in favour of the Government for assigning the same to eligible depressed class persons, which is in clear violation of the Revenue Standing Orders and aggrieved by the same the present writ petition is filed.

Brief facts of the case in W.P. No.24148 of 2011 :-

5. It is the case of the purchasers that the subject lands, which were classified as 'Kallan Kuthu (Parai – land struned stones) in the resurvey and resettlement register of Melchettipattu village and that patta was initially granted in

favour of Muthan, a person of depressed class, by proceedings dated 9.12.1931, whereby lands were assigned to the said Muthan on condition that the said Muthan shall not obstruct the canal running in the land and no other conditions were imposed. It is the further case of the purchasers that the said Muthan, who was the original assignee, way back in 1931, was not imposed with any condition disentitling him from alienating or encumbering the property. The said Muthan was in continuous possession and enjoyment of the property and had sold the same through a registered sale deed to one Parasuraman on 24.7.1957, almost after a period of 25 years from the original assignment. Subsequently patta was also changed in the name of the said Parasuraman, who sold the property to one Jawahar on 26.4.1963 and in turn it was alienated to one Rajammal by way of a registered sale deed on 2.6.1965. Thereafter, the said lands were sold to one Annamalai by way of a registered sale deed on 29.1.1974, which was thereafter purchased by the father of the petitioners vide registered sale deeds dated 24.11.1982 and 10.10.1984 and since then the purchasers are in continuous possession and enjoyment of the land and personally cultivating the same.

6. It is the further case of the purchasers that the purchasers belong to schedule caste community and they have no other lands except the above mentioned lands and that since the date of purchase, they have been paying the taxes to the revenue authorities from the date of purchase. It is the further averment of the purchasers that respondents 6 and 7, viz., the assignee, who are not residents of Melchettipattu, filed application before the 4th respondent for assignment of the subject lands in their favour suppressing the fact that they are not residents of the locality and that they are in possession of sufficient lands of their own. The assignee have also suppressed the fact that the property is in possession and enjoyment of the purchasers. Without giving any opportunity to the purchasers, the 4th respondent has passed the order assigning the subject lands in favour of the assignee in clear violation of the Revenue Standing Orders and the said assignment is illegal, arbitrary and perverse.

7. It is the further averment of the purchasers that their father approached the 5th respondent for grant of chitta in his favour, but under one pretext or the other, the same was not given to him. However, once again in the year 2003, when the father of the purchasers approached the 5th respondent for issue of chitta and adangal in his favour, to his utter shock and surprise he was informed by the 5th respondent that the subject lands were assigned in favour of the assignees, viz., respondents 6 and 7 and that patta is also standing in their name. Aggrieved by the same, the father of the purchasers gave

a representation dted 29.9.03 to the District Collector, Thiruvannamalai, which was forwarded to the 3rd respondent for conducting an enquiry and passing orders, pursuant to which the 3rd respondent conducted enquiry by calling for report from respondents 4 and 5 and in the report of the 4th respondent, it has been categorically stated that the above lands are in possession of the father of the purchasers and that the subsequent assignees are not residents of the locality in which the lands are situate. It is further averred by the 5th respondent in his report that the assignees have not taken possession of the lands since the date of assignment and that the purchasers are in possession of the same. The 3rd respondent, after conducting enquiry by affording opportunity to the parties and taking into consideration the materials available on record, held that the assignee are not residents of Melchettipattu village and, accordingly held the assignment illegal and invalid. Further, it is the case of the purchasers that the 3rd respondent found the sale deeds of the father of the purchasers to be genuine and that the purchasers had been in continuous possession and enjoyment of the lands of the lands from the date of purchase, cancelled the assignment of the lands made in favour of the assignee.

8. It is the further case of the purchasers that aggrieved by the said order dated 6.8.2008 passed by the 3rd respondent, appeal was preferred by the assignee before the 2nd respondent. The 2nd respondent, though framed many questions, however, without rendering any findings, went on to cancel the patta granted in favour of either parties. Aggrieved by the said order, though the father of the purchasers file W.P. No.8156/09, however, in view of the revisional remedy available to the purchasers, the petition was dismissed granting liberty to file revision and agitate their rights.

9. It is the further case of the purchasers that pursuant to the said order, the purchasers filed revision before the 1st respondent in addition to the revision already filed by the assignee, which were taken up together and dealt with by the 1st respondent and vide the impugned order dated 14.5.2010, both the revisions were dismissed and the assignment granted in favour of the assignee and the purchase made by the purchasers were set aside and the lands were restored back to the Government.

10. It is the further case of the purchasers that though the aforesaid impugned order was challenged in W.P. No.12132/2010 by the father of the purchasers, however, before admission, the father of the purchasers having breathed his last and difficulty having been experienced in substituting the purchasers in the said petition, the purchasers have filed this petition craving the leave of this Court and also assailing the

order impugned herein as being one wholly unsustainable, illegal, perverse and passed without proper application of mind.

11. Learned counsel appearing for the purchasers submitted that the subject lands having been assigned way back in the year 1931, which was alienated only after a period of 25 years, though there was no condition imposed with regard to alienation, without the said assignment being cancelled in a manner known to law, the purchase being subsequent to alienation made by the original assignee in favour of the purchasers predecessors-in-title, cannot be said to be bad, illegal or impermissible.

12. It is the further submission of the learned counsel that the purchasers also being persons from depressed class and they having purchased the lands only after a period of about 50 years from the date of initial assignment and the lands having been alienated more than thrice during the interregnum and finally landing at the hands of the purchasers, who have purchased the same for valuable consideration and have been in continuous possession, enjoyment and cultivation of the lands and their possession being legal, as they have been paying the necessary statutory dues to the Government, the act of the 1st respondent in reverting the lands back to the Government without appreciating the materials in its entirety is wholly unsustainable.

13. It is the further submission of the learned counsel for the purchasers that the purchasers also being members belonging to depressed class and having been in continuous possession and enjoyment of the subject property for nearly three decades since its purchase, which is evident from the report of the Village Administrative Officer, the 1st respondent ought not have disturbed the patta granted in their favour by the Tahsildar, and interference with the patta granted without appreciating the materials as above, reveals total non-application of mind on the part of the 1st respondent.

14. Countering the aforesaid submissions, learned counsel appearing for the assignee, viz., the petitioner in W.P. No.14418/10, submitted that the case of the purchasers is directly hit by the decision of the Hon’ble Supreme Court in Lingappa Kochanna – Vs – State of Maharashtra (AIR 1985 SC 389), wherein the Hon’ble Apex Court has held that alienation of land given to depressed community to any other person other than persons belonging to Adi-Dravida class is in violation of the conditions of assignment and the said assignment is liable for cancellation, as the same is constitutionally not valid.

15. It is the submission of the learned counsel for the assignee that the original assignee, viz., Muthan, having

alienated the lands in favour of a person belonging to depressed class, but thereafter, the lands having been alienated to persons not belonging to depressed class, the alienation is in contravention of the conditions of assignment, the sale itself is invalid and the subsequent purchasers have no right to over the land by application of RSO 15 (41)(4).

16. It is the further submission of the learned counsel for the assignee that once there is violation of condition, the assignee loses his right on the land and the lands would stand resumed to the Government as per Revenue Standing Order 15 (41) (4)(iii) and, therefore, on and from 1963, the land stood resumed and vested with the Government and, therefore, the Tahsildar was within his power to grant assignment in favour of the assignee, who is also a member of the depressed class, as per Revenue Standing Order 15 (41).

17. It is the further submission of the learned counsel for the assignee that once the condition of assignment is violated, there could be no question of holding over of land as held by the 1st respondent. It is the further submitted by the learned counsel that the assignee is residing within a radius of four kilometers from the village, in which the assigned lands are situated and, therefore, it cannot be said that the assignee is not entitled for assignment of the lands and in the said backdrop, the findings of the 1st respondent as to the entitlement of the assignee to the said lands is wholly arbitrary, perverse and unsustainable.

18. It is the further submission of the learned counsel that nativity is not the criteria for grant of assignment as per Revenue Standing Order 15 (41) and the object of the assignment is only to provide lands to the landless scheduled caste persons/depressed class persons. It is therefore the submission of the learned counsel that assignment of lands is only for the interest of the scheduled castes and the same cannot be frustrated by restricting the assignment of lands only to the persons residing in the said village.

19. Further, it is the submission of the learned counsel for the assignee that insofar as the assignee is concerned, the assignment has been granted in his favour by a valid order of assignment in the year 1997 and that he has been continuously paying the dues to the Government, which has not been appreciated by the 1st respondent while cancelling the assignment.

20. It is the further submission of the learned counsel that the father of the purchasers has no right to claim patta for the disputed land on the strength of the sale documents, as

such land in question has already been sold to undepressed class person in violation of RSO 15 (41)(iii) and further to the assignment, the assignee having been in possession, enjoyment and cultivating the lands for the past 13 years and that his name has also been entered in the revenue records and the assignee having paid all the statutory dues to the Government, the order of the 1st respondent in cancelling the assignment is nothing but snatching away the legitimate rights of the assignee to the subject lands. Therefore, it is submitted that the impugned order of the 1st respondent reveals total non-application of mind to the materials and the provisions of the Revenue Standing Orders and, therefore, the said order deserves to be set aside to the benefit of the assignee.

21. Learned Special Government Pleader appearing for the official respondents, viz., respondents 1 to 5, basing his submissions on the counter filed by the 2nd respondent, submitted that the lands were initially assigned to one Muthan, a member of depressed class with condition that the lands should not be alienated within a period of 10 years and, thereafter, only with the prior approval of the competent authority. However, the said lands have been alienated, but no proof of the said alienation having been approved by the competent authority has been filed and, therefore sale of the said land in the absence of approval is null and void.

22. It is the further submission of the learned Special Government Pleader that the lands, having been earmarked for assignment to persons from depressed class, the same having been sold to a person from non-depressed class, which has since been purchased by the father of the purchasers, being a member of depressed class, the said sale is hit by the conditions of assignment, as the predecessors-in-title of the father of the purchasers being a member of non-depressed class, are stopped from purchasing the said land, earmarked for members of the depressed class and, therefore, the said sale itself is bad. Further, the father of the purchasers have also not furnished copies of having paid the taxes due to the Government for the lands purchased by them.

23. It is the further submission of the learned Special Government Pleader that the village accounts regarding the classification of the lands show that even as early as on 9.12.1931, when the lands were assigned in favour of one Muthan, a member of the depressed class, the classification of lands have been changed as ‘Depressed Class’ as per the provisions contained in RSO 15 (41) and the lands have been shown for the interest and welfare of the depressed class people, the change of classification cannot be questioned by the assignee.

24. It is the further submission of the learned Special Government Pleader that the petitioners have not claimed violation of principles of natural justice and that the impugned order has been passed only after affording opportunity of hearing to all the parties concerned and, therefore, the orders impugned herein cannot be put to question as the said order has been passed after careful perusal of the materials and reports obtained from the concerned authorities and after hearing the petitioners.

25. It is therefore the submission of the learned Special Government Pleader that the sale of land without the approval of the competent authority and also to a member of non-depressed class, has resulted in the cancellation of the patta granted in favour of the purchasers, viz., the petitioners ion W.P. No.24148/11 and the subsequent assignment in favour of the assignee, viz., the petitioner in W.P. No.14418/10 being not in consonance with the requirements of the Revenue Standing Orders, as the assignee was not residing in the locality in which the lands are situate, the 1st respondent has rightly cancelled the assignment granted in favour of all the persons concerned and, therefore, no interference is warranted with the order passed by the 1st respondent and, accordingly, prays for dismissal of both the petitions.

26. This Court bestowed its careful consideration to the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record as also the relevant provisions of the Revenue Standing Orders to which this Court's attention was drawn.

27. The facts in the present case are not in dispute. Initially the lands were assigned in favour of one Muthan in the year 1931, which, after a period of about 25 years changed hands and once again changed hands multiple times to finally land at the hands of the father of the purchasers in the year 1982 and 1984 through registered sale deeds. It is also not in dispute that in the year 1997, the very same lands were assigned in favour of the assignee on his application. There is no quarrel on the above facts.

28. Upon the application by the assignee, the lands which had already been assigned to one Muthan in the year 1931, which assignment was never disturbed by respondents 1 to 5, was assigned to the assignee in the year 1997. A perusal of the order of the 1st respondent reveals that initially the subject land was classified as 'Kallankuthu Poramboke' and subsequently reclassified as 'Panchamar Tharisu'. The order further reveals that the initial assignment of the subject lands were as per the scheme, in that it was assigned to the person belonging to

depressed class. The said assignment, as already stated above, was in the year 1931. Thereafter, in the year 1957, the lands were sold by the said Muthan to another person from the depressed class. It is evident from the order of the 1st respondent that the only condition imposed on the said Muthan when the lands were initially assigned in the year 1931 was that the lands should not be alienated within the prescribed period of 10 years. From the above it is evident that the said lands having been sold only after a period of 25 years, there is no embargo on the said Muthan, the original assignee, to sell the lands. Further, the said lands have been sold to a person from the depressed class, which is also not disputed by the respondents. Therefore, from the above it is evident that there is no violation in the sale of the lands by the said Muthan, the original assignee.

29. The order of the 1st respondent further reveals that thereafter, the subject lands were sold to another person of non-depressed class in the year 1963 and, thereafter, once again sold to another person in the year 1965, who also belongs to non-depressed class. The said fact is also not disputed. The above alienation to persons belonging to non-depressed class is definitely against the scheme of assignment. However, it is to be pointed out that no action was taken by respondents 1 to 5 with regard to the said alienation and the sale transactions of the year 1963 and 1965 were left undisturbed.

30. Thereafter, in the year 1974, the subject lands were sold to a person by name Annamalai, a person belonging to depressed class and the same was thereafter sold to the father of the purchasers, who is also a person from depressed class. The said aspect is not disputed by respondents 1 to 5. Therefore, on the date when the matter was put under the consideration of the concerned authorities, the subject lands were held by a person belonging to depressed class, which is well within the scheme of assignment.

31. Be that as it may. It further fructifies from the order of the 1st respondent that under the UDR Scheme, a new survey number was allotted to the extent of 1.39.0 hectare in the place of the old survey number and the land was registered as 'ryoti-punchai' and remarks were made as 'held over case – depressed class land' in the 'A' Register of the village and without proper verification the said lands were assigned to the assignee.

32. From the above, it is evident that while the earlier assignment in favour of Muthan, which was subsequently, alienated number of times and finally purchased by the father of the purchasers, was subsisting and not disturbed in a manner

known to law, the fresh assignment has been made in favour of the assignee, may be due to erroneous classification of the land, but nevertheless definitely not for any fault or discrepancy pointing to the original assignment.

33. Further, it is evident from the order of the 1st respondent that not only the assignment in favour of the assignee was held bad, as the land, registered as 'Held Over' in the 'A' register cannot be assigned, the further order of the 1st respondent that the testimony of the Village Administrative Officer that the assignee was not a resident of Melchettipattu and is residing away from the said village has not been put in issue by the assignee. In fact, in the affidavit filed in support of the writ petition, the assignee himself has stated that he is not residing in Melchettipattu Village, where the land is situate, but is residing in a village adjacent and which is about 4 Kms., from the said Melchettipattu Village. It is pertinent to point out that as per the Revenue Standing Order, assignment of land in a village is impermissible to be assigned in favour of a person, who is not a resident of the said village. Further, the said lands, which had already been assigned way back in the year 1931 and subsequently after a passage of almost 50 years, the same having been purchased by the father of the purchasers, the said assignment having not disturbed in a manner known to law, the wrong classification of the lands by the revenue cannot be put against the father of the purchasers, who has purchased the lands from a person of depressed class for valuable consideration. Therefore, rightly, as held by the 1st respondent, the assignment granted in favour of the assignee, who is the petitioner in W.P. No.14418/10 is wholly unsustainable and the order of cancellation passed by the 1st respondent is just and reasonable and based on sound reasoning and the same does not warrant any interference.

34. Further, as noted by the 1st respondent, the original classification of the subject land is 'Kallan Kuthu Poramboke', which was later reclassified as 'Panchamar Tharisu'. The subsequent UDR classification pursuant to the renumbering of survey number has classified the land as 'Held Over Case – Depressed Class Land' in the 'A' Register and, rightly so the land is very well a land, earmarked for being assigned for depressed class persons and the said finding also does not warrant any interference.

35. Pursuant to the cancellation of assignment made in favour of the assignee, in the next leg of the order, the 1st respondent, to cancel the patta granted in favour of the purchasers and to resume the land back to the Government from the purchasers, has relied on RSO 15 (41) (4) and for better appreciation the same is quoted hereunder :-

> "If the conditions of non-alienation is violated or if the land ceases to be owned by the assignee or his legal heirs (after ten years) other members of their class, owing to sale by process of law or otherwise, or if default is made in the payment of the Government revenue on the dates prescribed, the grant made under depressed class condition will be liable to be resumed by the Government who will be entitled to re-enter and take possession of the land without payment of any compensation or refund of the purchase money."

36. The main ground on which the land has been resumed to the Government is that the land, which had been earmarked for depressed class person, had been alienated by a depressed class person to a non-depressed class person, which is in violation of the conditions of assignment and, therefore, the Government is entitled to re-enter and take possession of the land.

37. There is no dispute about the fact that the lands were assigned in the year 1931 to one Muthan, a person belonging to depressed class. After a period of 25 years, the lands were sold to another person, viz., Parasuraman, also a person belonging to depressed class, in the year 1957. The said Parasuraman had alienated the property in the year 1963 to one Rajammal, who belongs to non-depressed class and in the year 1967 it was once again alienated to one Jawahar Mudaliar, who is also a non-depressed class person. Thereafter, the lands were sold in the year 1974 to one Annamalai, a person belonging to depressed class and, thereafter, the lands were sold in the year 1982 and 1984 to the father of the purchasers. Therefore, between 1963 and 1974, the lands were at the hands of persons belonging to non-depressed class.

38. The conditions of assignment provides that the lands should not be alienated before the completion of 10 years and that after the completion of the mandatory period, if at all the said lands are sold, the sale should be only in favour of depressed class persons, as the lands are ear-marked only for depressed class persons. After the period of 25 years, the lands were alienated in terms of the conditions to a depressed class person. However, thereafter, the alienation has been done in favour of a non-depressed class person and the lands have been held by non-depressed class persons from 1963 to 1974. However, the revenue records in the form of patta was in the name of the said Parasuraman, who belongs to depressed class. The father of the purchasers had come into the picture and purchased the said lands only in the years 1982 and 1984 and it is not disputed that the purchasers belong to depressed class

and the predecessor-in-title is also a person, who belongs to depressed class.

39. It is borne out by record that the respondents 1 to 5 have not taken any steps between the year 1963 and 1974 when the lands were held by non-depressed class persons. Thereafter, from 1974 the patta had stood in the name of Parasuraman, however, during that point of time the lands were at the hands of persons belonging to depressed class and till date, the lands are at the hands of depressed class persons.

40. True it is that there have been alienations at certain points of time in the whole chain of events when the lands were at the hands of non-depressed persons, contra to the conditions of assignment. True it is that in the decision in Lingappa Kochanna's case (supra), the constitutional validity of the violation with regard to conditional assignment resulting in cancellation of the assignment has been upheld. However, when no action has been taken by the respondents 1 to 5 during the particular point of time between 1963 and 1974 when the lands have been held by persons belonging to non-depressed class, could the subsequent alienation in favour of the persons belonging to depressed class, more so for valuable consideration, be set at naught merely on the ground that there was violation of the conditions of assignment, though not by the persons, who are the subsequent purchasers of the said lands.

41. It is to be pointed out that the scope of the scheme is only for the benefit of uplifting the depressed class persons and that being the object of the benevolent scheme, the action of the 1st respondent in resuming the lands back to the Government by applying RSO 15 (41)(4) would fall foul of the interests of the depressed class persons, as the purchasers, who are depressed class persons, have been in possession and enjoyment of the property from the year 1982 till date, much over a period of 40 years and they are innocent purchasers having not committed any violation or perpetrated any fraud, but bona fide purchasers for valid consideration. Therefore, due to efflux of time, the illegality has reverted back to legality, in that the lands have come back to the hands of depressed class persons and in such a scenario, the act of the 1st respondent in resuming the land back to the Government through the impugned order is not only detrimental to the interests of the purchasers but is a direct attack on the scheme and the interest of the depressed class persons.

42. There is also no claim by respondents 1 to 5 that there has been default in payment of the statutory dues due to the Government and that all along, all the persons, who were holding the land, have been duly remitting the share of the Government,

including the purchasers. That being the uncontroverted position, merely because there has been a violation of the condition for a brief period of time which is in violation of RSO 15 (41)(4), during which time the respondents 1 to 5 have also been silent without taking any action, negating the right of the purchasers, who have purchased the lands for valuable consideration should not stand negated for certain acts, which had occurred at certain point of time, though not traceable to the purchasers and of which the purchasers were not aware of.

43. Further, it is also not the case of respondents 1 to 5 that the purchasers were oblivious of the infraction of the conditions of assignment by their predecessors-in-title. Such being the position, when the purchasers are innocent persons, who had purchased the property from their vendor, who also belonged to depressed class, for valuable consideration, putting the purchasers to detriment by resuming the lands back to the Government is wholly against the spirit of the scheme and also the interest of the depressed class persons. In such circumstances, this Court definitely has to invoke its extraordinary jurisdiction vested in it under Article 226 of the Constitution to redress the wrong committed to the purchasers, else the innocent purchasers, who are members of depressed class community, would have to suffer for no wrong done by them.

44. For the reasons aforesaid, while this Court dismisses W.P. No.14418/2010 as devoid of merits, however, by exercising its extraordinary powers under Article 226 of the Constitution, allows W.P. No.24148/11 by setting aside the direction of the 1st respondent in and by which the lands were ordered to be resumed back to the Government from the possession and enjoyment of the petitioners in W.P. No.24148/11 and, consequently, direct the 4th respondent not only to restore possession of the said lands but also issue patta in favour of the petitioners in W.P. No.24148/2012. In the circumstances of the case there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Special Commissioner &
   Commissioner of Land Administration
   Land Administration Department
   Chepauk, Chennai 600 005.

2. The District Revenue Officer
   Thiruvannamalai.

3. The Revenue Divisional Officer
   Thiruvannamalai Circle
   Thiruvannamalai District.

4. The Tahsildar
   Thiruvannamalai Taluk
   Thiruvannamalai District.

5. The Village Administrative Officer
   Melchettipattu Village
   Kilsirupakkam Post
   Thiruvannamalai Taluk & District.

+2ccs to Mr.K.J.Shiva Arudhra, Advocate, S.R.No.32123, 32124

+1cc to Mr.R.Raja Rajan, Advocate, S.R.No.32200

W.P. NO.14418 OF 2010
&
W.P. NO. 24148 OF 2011

SKM(CO)
UMA(13/06/2022)