

**W.A(MD) No.348 of 2023**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**Dated : 05.08.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN  
AND  
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD) No.348 of 2023  
and  
C.M.P.(MD)No.3751 of 2023**

- 1.The Special Tahsildar,  
Sivagangai.
  - 2.The Revenue Divisional Officer,  
Sivagangai.
  - 3.The District Revenue Officer,  
Sivagangai.
  - 4.The District Collector,  
Sivagangai.
- ... Appellants / Respondents

**Vs.**

- 1.G.Lakshmanan
  - 2.G.Muralidharan
  - 3.G.Balaji
- ... Respondents / Writ Petitioners



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**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the Judgment dated 06.09.2022 in W.P.(MD)No. 20060 of 2013 on the file of this Court.

For Appellants : Mr.Veerakathiravan  
Additional Advocate General  
assisted by  
Mr.N.Satheeshkumar  
Additional Government Pleader

For Respondents : Mr.G.Prabhu Rajadurai  
for Mr.Chengizkhan

### **JUDGMENT**

(Judgment of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. One P.K.Govindan Chettiyar was assigned 2.65 acres in Melavanியangudi Village on 12.08.1970. Govindan Chettiyar passed away in the year 2011. During his life time, he applied for computerized patta for the purpose of registering the settlement deed executed by him in favour of his sons. Enquiry was eventually conducted by the DRO, Sivagangai. By that time, Govindan Chettiyar passed away. The District Revenue Officer, Sivagangai vide order dated 01.11.2013 rejected the



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request for issuance of patta. Challenging the same, W.P.(MD)No.20060

of 2013 came to be filed. The learned single Judge quashed the said order and allowed the writ petition in the following terms:-

“10. There is no dispute that an order of assignment was granted in favour of the writ petitioners' father for an extent of 2.65 acres on 12.08.1970. The said order of assignment is said to have been cancelled by an order, dated 27.08.1983. No records have been produced on the side of the respondents either to show that any show cause notice was issued prior to passing of the order or relating to the communication of the cancellation order to the writ petitioners' father. That apart, despite directions from this Court, the respondents have not produced the order, dated 27.08.1983, under which, the assignment order is said to have been cancelled. Hence, it is clear that the assignment order has been cancelled in violation of the principles of natural justice and hence, the same is not legally sustainable.

11. As rightly pointed out by the learned Counsel for the petitioner, the assignment of the order 1970 cannot be cancelled in the year 1983. The learned Counsel for the petitioner had relied upon a judgment of this Court reported in (2021) 2 LW page 548 paragraph Nos. 16 and 17 is extracted as follows:

"16. As it has been repeatedly held by this Court in several precedents above referred to above, assignment of land made prior to 1973 cannot be cancelled beyond a period of three years from the date of assignment. Even on the ground of misrepresentation or on the ground of want of authority for assignment, it is not open for the respondent to cancel assignment after a lapse of a few decades.

17. In the present case, having regard to the contention of petitioner that no notice was issued prior to cancellation of assignment



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and that the order of cancellation of assignment was not communicated to petitioner's husband or his legal representatives, this Court has no hesitation to hold that the cancellation of assignment is non est in law....."

12. After reviewing all the judgments passed by this Court in relation to the power of cancellation of assignment order, this Court has arrived at a finding that assignment of land made prior to 1973 cannot be cancelled beyond a period of three years from the date of assignment. In view of the above said judgment, the order impugned in the writ petition is not legally sustainable and the same deserves to be set aside."

Assailing the said order, the department has filed this writ appeal.

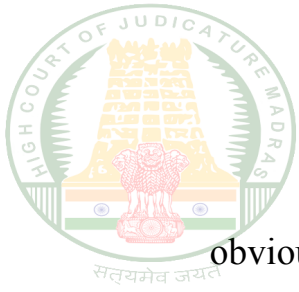
3. The prime contention of the appellants is that the assignment issued in favour of Govindan Chettiyar was cancelled on 27.08.1983. We went through the original file. It is true that notice was issued to the assignee. But there is nothing on record to show that the order copy was formally served on the assignee whose assignment stood cancelled. The name of Govindan Chettiyar continued to be reflected in the revenue record. The learned counsel for the writ petitioner also produced the copy of the patta pass book issued in the name of Govindan Chettiyar. More than anything else, the assignment made in the year 1970 could not have been cancelled in the year 1983 on the ground that the assignment



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condition of bringing the land to cultivation was not fulfilled. If that be so, it should have been done within three years. Though on this sole ground, we are not in a position to endorse the cancellation order dated 27.08.1983, certain other facts have to be taken note of.

4. Even during the life time of Govindan Chettiyar, a portion of the land appears to have been alienated in favour of two private parties. The alienees subsequently filed O.S.No.38 of 2006 on the file of the District Munsif Court, Sivagangai. The suit was decreed on 26.09.2016. A.S.No.100 of 2010 was filed before the Sub Court, Sivagangai. The appeal was allowed and the matter was remanded. Post remand, the trial Court dismissed the suit on 26.09.2016. Govindan Chettiyar during enquiry went to the extent of claiming that he was not a party to the sale transaction. But then, no action has been taken to formally get those sale deeds nullified. In these circumstances, the legal heirs of Govindan Chettiyar, to the extent of the land covered by the sale deed, cannot have any claim for issuance of patta. It also appears that government buildings have been put up in the petition-mentioned lands. No patta can be issued in favour of the writ petitioners in respect of those portions also. It is too



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obvious that Govindan Chettiyar had left for Chennai and had nothing to do with the lands since 1983. In these circumstances, they can have patta only in respect of the available balance land. To this extent, the order of the Single Judge warrants interference and is set aside.

5. The Writ Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

**(G.R.S., J.)      (K.R.S., J.)**  
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