BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **28.04.2025**

Delivered on : **09.05.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)Nos.1399, 1401, 2772 and 2860 of 2024
and
W.M.P.(MD)Nos.1437, 1438,1439,1440,2767, 2768,2858 & 2859 of 2024
and W.M.P.(MD)Nos.3391 and 3393 of 2024

W.P.(MD)No.1399 of 2024

M/s. IIFL Facilities Services Limited,
(Formerly Known as IIFL Realty Limited),
Rep. by its Authorized Representative,
Mr.Rahul Doshi, Iifl House,
Sun Infotech Park, Mumbai. ... Petitioner

/Vs./

1. The Commissioner of Land Administration,
Ezhilagam, Chennai 600 005.
2. CSI Madurai Ramnad Diocese
AVH Building, 1st Floor,
162, East Veli Street,
Madurai District - 625 001.

3. Shreyans Foundation
   No.809, Poonamalle High Road, Kilpauk,
   Chennai - 600 010.
4. M/s.Golden Lotus Owners
   Welfare Residential Association,
   A-100, Sambakulam Road,
   Moorumavadi, K.Pudur,
   Madurai - 625 007. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the impugned order passed by the 1st respondent in Proc.No. F2/1378022/2022 dated 11.01.2024 quash the same.

For Petitioner : Mr.A.K.Sriram, Senior Counsel
for Mr.C.Kulanthaivel

For Respondents : Mr.J.Ravindran,
Additional Advocate General
Assisted by Mr.C.Satheesh
Government Advocate for R1

: Mr.V.Prakash, Senior Counsel
for M/s.Ajmal Associates for R2

: Mr.T.Mohan, Senior Counsel
for Mrs. Abinaya Raj for R3

: Mr.R.T.Arivu Kumar for R4

W.P.(MD)No.1401 of 2024

M/s. Shreyans Foundation
Represented by its Authorized Representative
P. Mohan, No.809, Poonamalle High Road,
Kilpak, Chennai - 600 010. ... Petitioner

/Vs./

1. The Commissioner of Land Administration,
   Ezhilagam, Chennai - 600 005.
2. The District Collector
   Madurai District, Madurai - 625 020.
3. CSI Madurai Ramnad Diocese
   AVH Building, 1st Floor,
   162, East Veli Street, Madurai District - 625 001.
4. M/s. Iifl Realty Limited
   A 203, Green Gowen, Plot No.14, Lokan Wale
   (Township) Kandivel (E), Mumbai - 400 001.
5. M/s. Golden Lotus Owners
   Welfare Residential Association,
   A-100, Sambakulam Road, Moorumavadi, K. Pudur,
   Madurai - 625 007. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the impugned order passed by the 1st respondent in Proc.No.F2/1378022/2022 dated

11.01.2024 quash the same in respect to the lands owned by the petitioner herein .

For Petitioner : Mr.T.Mohan, Senior Counsel for Mrs. Abinaya Raj

For Respondents : Mr.J.Ravindran, Additional Advocate General Assisted by Mr.C.Satheesh Government Advocate for R1 &2

: Mr.V.Prakash, Senior Counsel for M/s.Ajmal Associates for R3

: Mr.V.Prakash, Senior Counsel for Mr.D.Rozario Adrian for R4

: Mr.R.T.Arivu Kumar for R5

W.P.(MD)No.2772 of 2024

CSI Madurai Ramnad Diocese
Rep. by its Lay Secretary, Avh Building,
1st Floor, 162, East Veli Street, Madurai
District - 625 001. ... Petitioner

/Vs./

1. The State of Tamil Nadu
Rep. by its Principal Secretary to
Government, The Revenue Department,
Secretariat, Chennai.

2. The Commissioner of Land Administration,
 Chepauk, Chennai.
3 The District Collector
 Madurai District, Madurai.
4. The District Revenue Officer
 Madurai District, Madurai.
5.The Tahsildar
 Madurai North Taluk, Madurai.
6. Devasahayam D ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a of the Constitution of India praying this Court to issue a Writ of Certiorari calling for the records relating to the order passed by the 2nd respondent in his proceedings in Proc.No.F2/1378022/2022 dated 11.01.2024 and the consequential public notices of encroachment put up by the respondents on the property of the petitioner comprised in T.S.Nos. 6/1 to 6 in Block No.13 T.S.Nos. 5/0, 6/0, 7/0, 9/0 and 10/0 in Block No.19 and T.S.Nos. 17/0, 18/0, and 19/0 in Block No.20 Ward No.16 Thallakulam Village, Madurai North Taluk, Madurai and quash the same as illegal.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.D.Rozario Adrian

For Respondents : Mr.J.Ravindran,
Additional Advocate General
Assisted by Mr.C.Satheesh
Government Advocate for R1 -5

: Mr.S.I.Muthiah
for Mr.T.L.Thirumalaisamy for R6

W.P.(MD)No.2860 of 2024

Church of South India Trust
Association (Csita), Represented by its
General Secretary, 5, Whites Road,
Royapettah, Chennai. ... Petitioner

/Vs./

1. The State of Tamil Nadu
Represented by its Principal Secretary to
Government, The Revenue Department,
Secretariat, Chennai.
2. The Commissioner of Land Administration,
Chepauk, Chennai.
3. The District Collector
Madurai District, Madurai.
4. The District Revenue Officer
Madurai District, Madurai.
5. The Tahsildar
Madurai North Taluk, Madurai.
6. Devasahayam. D ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the order passed by the 2nd respondent in his proceedings in Proc. No.F2/1378022/2022 dated 11.01.2024 and the consequential public notices of put up by the respondents on the property of the petitioner comprised in T.S. Nos.6/1 to 6 in Block No.13 T.S. Nos.5/0 6/0 7/0 9/0 and 10/0 in Block No.19 and T.S. Nos.17/0 18/0 and 19/0 in Block No. 20 Ward No.16 Thallakulam Village, Madurai North Taluk, Madurai and quash the same as illegal.

For Petitioner : Mr.V.Prakash, Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.J.Ravindran,
Additional Advocate General
Assisted by Mr.C.Satheesh
Government Advocate for R1 -5

: Mr.S.I.Muthiah
for Mr.T.L.Thirumalaisamy for R6

ORDER

Considering the common issues involved in all four these writ petitions, these writ petitions have been heard together and are being disposed of, in and by this common order.

2. Brief facts in W.P.(MD)No.1399 of 2024 is as follows:

The petitioner is a Private Limited company registered under the Companies Act, dealing with real estate, construction and sale of apartments. The said writ petition has been filed challenging the order of the first respondent Proc.No.F2/1378022/2022 dated 11.01.2024, in and by which the first respondent has cancelled the assignment of land measuring 31 Acres, situated at Thallakulam Village, Madurai. The petitioner has purchased an extent of 6.74 Acres out of said 31 Acres and has therefore filed the said writ petition, challenging the cancellation of the assignment, which pertains to the larger extent of 31 Acres. The Foreign Mission, by name, United Church Board for World Missionaries (herein after referred to as UCBWM) has according to the petitioner, transferred without consideration, the said lands measuring 31.1 Acres, which is the subject matter of all these writ petition by document No. 2297/1974 dated 31.12.1973, in favour of the Church of South India Trust Association (hereinafter referred as CSITA), which is also a company incorporated under the Indian Companies Act, 1956. CSI Madurai

Ramanad Diocese, passed a resolution on 29.08.2006 resolving to sell properties under the control of the second respondent and one of the items of the properties that was subject matter of the resolution was the said extent of 6.74 Acres, forming part and parcel of 31.1 Acres. The petitioner has purchased the said extent by registered document vide document No.929/2008 under sale deed dated 15.02.2008, on the file of the Sub Registrar, Thallakulam, for valuable sale consideration. It is the further case of the petitioner that the second respondent has issued a public notice regarding intent of selling the said property and the petitioner having obtained legal opinion from a reputed law firm and also finding that the patta, chitta, Adangal were mutated in the name of the second respondent, proceeded to acquire the subject lands. It is further contended that another extent of 1.32 Acres was sold to the third respondent and the petitioner vide sale deeds dated 21.07.2008, vide document Nos.3306/2008 and 3307/2008 respectively on the file of the Sub Registrar, Thallakulam, each for an extent of 50% undivided share of the total extent of 1.32 Acres. The revenue records were also mutated pursuant to the said two sale deeds and therefore, the petitioner, right from 2008 has been in physical possession and enjoyment of the lands, purchased for valuable sale consideration. The petitioner proposed to construct multistoraged apartments in the subject lands and in that regard, the petitioner approached the Commissioner of Municipal Administration. The planning permission was granted by the Commissioner of Municipal Administration on 05.04.2013 and the petitioner and the third respondent, thereafter, approached the Director of Town and Country Planning, seeking approval of the plan layout and the same was approved on 06.06.2013 in Na.Ka.No.1741/2013/MD. As part of the requirement, the petitioner and the third respondent also gifted Open Space Reservation (OSR) land to an extent of 2730.36 sq.mt. under registered deed vide document No.1559/2013, on 18.04.2013. Thereafter, the petitioner and the third respondent have also commenced construction of 5 towers and according to the petitioner, 2 towers have been fully completed and more than 150 families have purchased apartments and have taken possession and are resided there and the flat owners have also formed an Association, viz., Golden Lotus Owners Welfare Residential Association. According to the petitioner, due to want of sufficient funds, the remaining 3 towers were not completed. The third respondent has also transferred its 99% share holding to the petitioner's Group company for consideration.

3. It is the specific grievance of the petitioner that while matters stood there, the petitioner received a notice of enquiry from the first respondent, which has been passed pursuant to the direction issued by the Hon'ble Division Bench of this Court in W.P.(MD)No.24352 of 2022 vide order dated 13.12.2022. According to the petitioner, the said writ petition was filed as a Public Interest Litigation, by one Mr.Devasagayam, alleging irregularity and violations by the second respondent. It is the further case of the petitioner that the petitioner was not a party to the said writ petition.

4. The petitioner further states that the first respondent, while passing the impugned order, has not taken into account the explanation offered by the writ petitioner and has merely endorsed the averments and the allegations of Mr.Devasagayam, and proceeded to cancel the assignment to the entire extent of 31.1 Acres. It is further contended that

the first respondent had no right to cancel any assignment issued prior to 14.05.1973, after a period of three years. The petitioner, claiming to be a *bonafide* purchaser, has therefore challenged the order passed by the first respondent.

5. Brief facts in W.P.(MD)No.1401 of 2024 is as follows:

The petitioner herein is the third respondent in W.P.(MD)No.1399 of 2024. The very same order under challenge in W.P.(MD)No.1399 of 2024 is also under challenge in this writ petition. Similar grounds that have been raised in W.P.(MD)No.1399 of 2024, have been raised in the present writ petition as well.

6. Brief facts in W.P.(MD)No.2772 of 2024 is as follows:

CSI Madurai Ramnad Diocese has filed this writ petition challenging the very same order, which is under challenge in the W.P.(MD)Nos.1399 and 1401 of 2024. In this writ petition, it is contended that the lands measuring 31.1 Acres have been assigned to American Board of Commissioners for Foreign Missions (hereinafter referred to as

"ABCFM") subject to certain conditions in G.O.(Ms.)No.3581, Revenue Department, dated 29.11.1912 for the purposes of establishing an industrial home for needy women and the assignment was subject to four conditions. ABCFM has paid full market value and during the re-survey and re-settlement in or about 1920, the subject lands were classified as wet lands and ABCFM has paid even revised land tax and that no condition of assignment was mentioned in the remarks column of the said register. Further, the second respondent also obtained a recognition from the Director of Public Institution, Madras for Lucy Pery Noble Institute for Women as a Special School and therefore, according to the petitioner, there is no violation of the Government order.

7. It is further contended that the said School has been functioning ever since. G.O.(Ms.)No.1751, Revenue Department, dated 17.05.1943 was also relied on by the petitioner, where alienation was permitted subject to four conditions, which reads as follows:

(I) The lands shall be used as the site of the Lucy Perry Noble Institute and for no other purpose;

(ii) The Institute shall be open to girls of all communities;

(iii) Full land revenue shall be levied if at any time any net income is derived from the lands or if any of the conditions of alienation are infringed. In the latter case, the land revenue shall be levied from the date of the infringement. The decision of the Collector on the question whether any net income is derived from the lands or not shall be final;

(iv) If rent is charged for any buildings on the lands in question at any time, the land occupied by that building shall be liable to full assessment from the date from which rent is charged. No rent shall be charged on any building without previous intimation to the District Collector so that action may be taken to levy assessment.

8. It is further contended by the petitioner that the Government has no power to resume the lands, already alienated and it is further contended that even if there is violation of condition of assignment, the Government is entitled only to collect the full land revenue, in view of the modified conditions issued under G.O.(Ms.)No.1751, Revenue Department, dated 17.05.1943. It is also contended by the petitioner that the lands were subsequently converted to ryotwari lands and patta was

mutated in the name of ABCFM alone. In the year 1947, Church of South India was formed and CSITA was incorporated as a Company, as the body legally holding all movable and immovable properties of CSI. The successor of ABCFM, viz., United Board for World Missionaries (Foreign Mission), transferred the properties including the subject lands in favour of CSITA vide transfer deed dated 31.12.1973 registered under document No.2297/1974. Thereafter, patta and revenue records have been mutated in the name of CSITA, vide proceedings dated 05.07.1990 on the file of the Tahsildar, Madurai North. Even at that point of time, there was no objection taken with regard to any violation of conditions of assignment. CSITA has been paying land tax all along and has been in absolute possession and enjoyment of the entire extent of 31.1 Acres. In order to develop its Dental and other colleges, CSITA passed a resolution dated 10.02.2007 and decided to alienate a portion of the subject lands and according, power of attorney had executed the sale deeds on 05.02.2008 and 15.02.2008 and the lands have been sold to the petitioner in W.P.(MD)No.1399 and 1401 of 2024. The sale proceeds, according to the petitioner, have been exclusively used for charitable purposes only. In the remaining lands assigned to Lucy Perry Noble Institute, which is functioning from 1922 a School has been developed for the benefit of girls and a hostel, women weaving unit I and unit II, tailoring institute, computer training and type writing institute, nursery and primary School are also functioning. Apart from that, CSI Ratchanyapuram LPN church, Church office, staff quarters and junior Church Administrative office are also there. According to the petitioner, the sixth respondent, who filed the Public Interest Litigation in W.P.(MD)No.24352 of 2022 was having a personal grudge against the Church, for not providing him employment and therefore, the said writ petition was filed only with an ulterior motive and no real public interest. In any event, it is contended that the Hon'ble Divisoin Bench directed the second respondent to consider the sixth respondent's representation, regarding the resumption of the lands. It is further contended that when an enquiry was pending, the fourth respondent herein has filed a contempt petition and fearing any adverse orders, the second respondent in this writ petition, who is the first respondent in the other earlier writ petitions, hurriedly passed an order, without application of mind and without reference to the various material documentary evidence, brought on record by the present petitioner as well as the petitioner in W.P.(MD)Nos.1399 and 1401 of 2024. The impugned order is also challenged on the ground of delay, which ground is also taken in the earlier two writ petitions.

9. Brief facts in W.P.(MD)No.2860 of 2024 is as follows:

This writ petition has been filed by CSITA, challenging the very same order, that is impugned in the earlier three writ petitions. The facts that has been set out in W.P.(MD)No.1401 of 2024 have also been elaborately set out in the present writ petition and the impugned order dated 11.01.2024, cancelling the assignment in respect of 31.1 Acres is challenged on the ground of delay, arbitrariness and irrationality. It is also contended that no notice was issued to the petitioner before passing the impugned order, especially, when the lands were belonging to the petitioner and therefore, additional ground of violation of principles of natural justice is also advanced.

10. In short, in all these four writ petitions, the order under challenge is the order of the Commissioner of Land Administration, Chepauk, Chennai, in Proc. No.F2/1378022/2022, dated 11.01.2024.

11. A counter affidavit has been filed in all these writ petitions. For the sake of brevity and convenience, the essence of the counter affidavits in all these writ petitions is extracted hereunder:

11.1. According to the respondents, in the year 1912, Miss.E.M.Swift, who was attached to ABCFM, had applied to the Collector, Madurai, seeking assignment of 31.1 Acres of land in Thallakulam village, for setting in an "Industrial Home for needy Women" that caters training to women of all classes in weaving, sewing, embroidery, lace making, gardening, poultry, dairy-farming, printing and book binding to enable them to lead their own res. The then Collector, Madurai, vide Ref.No.519/Rev dated 30.10.1912 has recommended the proposal to assign lands of an extent of 31.1 Acres to the Board of Revenue (Land Revenue). The Board in its reference No.5594/12-1 dated 19.11.1912 accepted the proposals of the Collector and recommended the same to the Government, with a modification to the effect that only condition No.1 of the Collector's suggestions may be imposed.

11.2. However, despite recommendation of the Board of Revenue (Land Revenue), the Government in G.O.(Ms.)No.3581 dated 29.11.1912, sanctioned the land measuring 31.1 Acres in favour of ABCFM, subject to the following conditions:-

> *(a) The Board shall pay the full market value of the land fixed by the Collector.*
>
> *(b) The land shall be assessed at the rate fixed by the Collector which will be liable to periodical revision at re-settlement.*
>
> *(c) The land shall be used only for industrial and charitable purposes and if the land is not used or at any time ceases to be used for such purposes, the Government may resume it.*
>
> *(d) In the event of such resumption or in the event of the compulsory acquisition of the land by the Government for any other reason, the compensation payable thereof shall not exceed initial cost or the value at the time of resumption or acquisition, whichever shall be the less, of any buildings erected or other works executed on the land*

by the Board of Commissioners for Foreign Missions.

11.3. It is further contended that during resettlement, the subject lands were recorded as "Government Wet lands" and there was no mention about the holdings in the remark columns. It is further stated that as a concessional measure, the Government vide G.O.(Ms.)No.1751, Revenue Department, dated 17.05.1943, sanctioned alienation of lands in favour of ABCFM, which alienation was also subject to four conditions, which reads as under:

> *(A) The lands shall be used as site of the Lucy Perry Noble Institute and for no other purposes*
>
> *(B) The Institute shall be open to the girls of all communities*
>
> *(C) Full and revenue shall be levied if at any time at net income is derived from the lands or if any of the conditions of alienation are infringed. In later case, the land revenue shall be levied from the date of infringement. The decision of the Collector on the question whether any net income is derived from the lands or not shall be final*
>
> *(D) If rent is charged for any buildings on the lands in question at any time, the land occupied by that building shall be liable to full assessment from the date from which*

rent is charged. No rent shall be charged on any building without previous intimation to the District Collector so that action may be taken to levy assessment.

12. It is also contended that ABCFM, without consent from the Government, has transferred the lands to CSITA as if the full owner of the subject lands. According to the respondents, the assignee has violated the conditions of assignment and therefore, the Government is vested with the power of resumption, which has been rightly exercised in the present case. Further, CSITA has concealed and misrepresented the facts and indulged in the act of selling the Government assigned lands at their own whims and fancies, to the third respondent for valuable and huge consideration. According to the respondents patta transfer order issued in the year 1990 was without proper verification by the then Tahsildar, Madurai North and in any event, the Commissioner of Land Administration is vested with *suo-motu* power under Revenue Standing Orders 31(8), to cancel the patta transfer order issued by the subordinates, if found illegal, at any point of time. It is further contended that pursuant to the order passed by the Hon'ble Division Bench in W.P.(MD)No.1507

of 2021, directing the Commissioner of Land Administration to dispose of the petition, the Commissioner has given an opportunity to the parties and found that the conditions stipulated in the assignment order had been violated by CSI Trust and therefore, there is absolutely, no infirmity or perversity in the order impugned passed. It is also set out in detail in the counter affidavit as regards the total lands, categorizing them into four categories, namely, A. vacant lands; B. Commercial establishments; C. Educational Institutions and D.Residential apartments. The counter affidavit therefore primarily proceeds on the footing that proper exercise has been carried out by the Commissioner of Land Administration and the same does not require interference under Article 226 of the Constitution of India.

13. I have heard Mr.A.K.Sriram, learned Senior Counsel for Mr.C.Kulanthaivel, learned counsel for the petitioner in W.P.(MD)No. 1399 of 2024; Mr.T.Mohan, learned Senior Counsel for Mrs.Abinaya Raj, learned for the petitioner in W.P.(MD)No.1401 of 2024 and third respondent in W.P.(MD)No.1399 of 2024, Mr.V.Prakash, learned Senior

Counsel for for the petitioner in W.P.(MD)No.2722 of 2024 and W.P.(MD)No.2860 of 2024 and second respondent in W.P.(MD)No.1399 of 2024 and third respondent in W.P.(MD)No.1401 of 2024; Mr.S.I.Muthiah, learned counsel for the sixth respondent in W.P.(MD)Nos.2772 and 2860 of 2024; Mr.R.T.Arivu Kumar, learned counsel for the fourth respondent in W.P.(MD)No.1399 of 2024 and fifth respondent in W.P.(MD)No.1401 of 2024; Mr.J.Ravindran, learned Additional Advocate General, assisted by Mr.C.Satheesh, learned Government Advocate for the official respondent in all the writ petitions.

14. Mr. Devasahayam has also filed applications to implead himself in W.P.(MD)No.1399 of 1401 of 2024, which have been serious oppposed by the petitioners in the said writ petitions. Therefore, the said impleading applications have also been heard along with the main writ petitions.

15. The learned Senior Counsel, Mr.A.K.Sriram, would primarily contend that though in the assignment order of the year 1912 there were

some conditions attached, in terms of the Government order, it is not for gratis, but for full market value. He would therefore contend that the assignment would amount to a regular sale. As regards the transfer in favour of CSITA in the year 1972, the learned Senior Counsel A.K.Sriram would submit that the said transfer was never objected to and right up to 2008, when the petitioners in W.P.(MD)Nos.1399 and 1401 of 2024, proceeded to purchase the portions of the said lands, there was no change in the revenue records and it were only in the name of CSITA. He would also invite my attention to the mutation of revenue records in favour of the petitioner, plan approval granted by the statutory authorities and also lay out approval and the gift deed executed gifting the requisite OSR lands in favour of Madurai Corporation. While matters stood there according to the learned Senior Counsel after a lapse of 10 years, the petitioner in W.P.(MD)No.24352 of 2022, filed a Public Interest Litigation and has reopened the issue with an ulterior motive. The learned Senior Counsel would also invite my attention to the Government Grants Act, more specifically, Sections 2 and 3 and relying on the order of the Hon'ble Division Bench of this Court, filed by the proposed impleading applicant in two of the writ petitions and the sixth respondent in the remaining two writ petitions, he would contend that the Government Grants Act has been repealed with effect from 05.01.2018 and therefore, the Transfer of Property Act, would apply. He would also forcefully contend that the entire proceedings are belated and hopelessly barred by limitation, contending that the petitioners in W.P.(MD)Nos.1399 and 1401 are *bonafide* purchasers for consideration and the Commissioner of Land Administration exceeded his jurisdiction by discussing issues of title and he would pray for the writ petition being allowed as sought for by the petitioner.

16. Mr.T.Mohan, learned Senior Counsel for the writ petitioner in W.P.(MD)No.1401 of 2024 would state that at the time of deed of transfer having been executed on 31.12.1973, there was no clog on the title of the vendor of the petitioner. The learned Senior Counsel would invite my attention to the registered sale deed in favour of the petitioner and subsequent mutation of revenue records and also planning permission issued for construction of multistoraged building. He would further

invite my attention to the approval of local body, gift deed executed by the petitioner and also the Government Pleader's opinion that was obtained by the planning authorities. He would contend that as many as 156 families have been living there, having purchased apartments for valuable sale consideration, expanding their that hard earned savings / obtaining loans etc. The learned Senior Counsel would also invite my attention to the inordinate delay on the part of the officials in initiating action and would further contend that the Transfer of Property Act alone would apply to the facts of the present case and even in terms of the Revenue Standing Orders, the impugned order passed by the Commissioner of Land Administration was without any power or jurisdiction. He would therefore contend that the impugned order is *per se*, illegal and unsustainable.

17. Mr.V.Prakash, learned Senior Counsel for the writ petitioner in W.P.(MD)Nos.2772 and 2860 of 2022, would also invite my attention to the facts that have already been narrated and discussed hereinabove. That apart, he would submit that a School has been established by CSI and the

District Educational Officer has also approved the same. He would further contend that the transfer to CSITA from ABCFM constituted was an absolute transfer and no fetters can be placed on the enjoyment of the subject land at the hands of CSITA. He would invite my attention to the conditions in the original assignment and state that even if any of the actions amounted to violation, no cancellation could be effected after a period of 3 years from 1973.

18. In this regard, the learned Senior Counsel would rely on the judgment of the judgment of this Court in ***Seria Pushpan rep. by her Power of Attorney M.Jayakumar V. The Special Commissioner and Commissioner for Land Administration*** reported in ***2021-Writ L.T-568*** and also a decision of the Hon'ble Supreme Court in ***Gajraj Singh and others V. State Transport Appellate Tribunal and others*** reported in ***1997-1-SCC-650***.; and my order in ***A.Palanichamy V. The Revenue Divisional Officer, Palani Taluk, Dindigul District,*** made in ***W.P.(MD)Nos.2065, 4407, 4471 of 2023 and 18345 of 2024, dated 20.03.2025***. He would therefore contend that the law is well settled with

regard to the power to resume lands, citing violation of assignment conditions belatedly and on the ground of delay and laches, seeks for the writ petitions being allowed.

19. Mr.S.I.Muthiah, learned counsel for the sixth respondent in W.P.(MD)Nos.2772 and 2860 of 2024 and the impleading applicant in W.P.(MD)Nos.1399 and 1401 of 2024 would submit that the lands measuring 31.1 Acres have already been encumbered to an extent of 6.74 Acres and it is only of an extent of 6.74 Acres that permission was sought for and not in respect of the remaining 24.36 Acres, which still lies with CSI, where the CSI has constructed 344 commercial shops, church and also a School. He would further submit that the transfer deed dated 31.12.1973 vide document No. 2297 /1974 was not for any consideration. He would therefore submit that the conditions of assignment have to be scrupulously adhered to and in the event of any breach of violation, it is always open to the Government to cancel the assignment and resume the lands. The learned counsel would submit that the grant of assignment was made under Revenue Standing Orders, which was subject to the

Government Grants Act, 1895. He would contend that the grant being under the Government Grants Act, 1895, the defence taken by the petitioner that the assignment prior to 1973 cannot be cancelled within a period of 3 years is untenable and unsustainable. He would rely on Sections 2 and 3 of the Government Grants Act and would contend that the conditions in respect of assignment would always be in force at any point of time and therefore, his argument is that the reliance placed on the various orders of this Court are of no relevance to the present facts of the case.

20. As regards the repeal of the Government Grants Act and the applicability of the same to the present issue, the learned counsel would submit that Section 4 of the Repeal Act, saves the right of the Commissioner of Land Administration / Government to initiate action and he would therefore pray for all the writ petition being dismissed.

21. The learned counsel would also place relying on the decision of this Court in W.P.(MD)No.1507 of 2021, where the sixth respondent /

proposed respondent has filed a writ petition for direction, seeking disposal of his representation dated 25.01.2020, which again revolves around the very same extent of 31.1 Acres. He would contend that the Church of South India, the petitioner in W.P.(MD)No.2860 of 2024 was the second respondent in the said writ petition and this Court had passed an order, finding illegalities and fraudulent transactions and issued directions to the CBI to register the case regarding fraudulent transaction and conduct an investigation in a proper manner. He would therefore pray for dismissal of all the writ petitions.

22.Mr.J.Ravindran, learned Additional Advocate General, would contend that the very object of issuing the Government Order in G.O.(Ms.)No.3581, Revenue Department, way back in the year 1912 was to empower Women and make them self relevant and only with such laudable objections, the lands were assigned originally. He would invite my attention to Clause II of the said Notification, where power of resumption has been reserved, though he would fairly contend that the Board had suggested for retaining only condition one, but however the

Government has imposed all the conditions. He would emphasis on the fact that Miss. E.M.Swift, who had originally sought for the assignment had consented to all these conditions and therefore, *dehors* any passage of time, the respondents were absolutely vested with a right to cancel the assignment and resume the lands. The learned Additional Advocate General would also contend that the judgments that have been relied on by the learned counsel for the petitioners would not apply to the facts of the present case, which is an assignment covered by the Government Grants Act. He would further submit that the conditions imposed in 1912 have been suppressed while obtaining mutation of revenue records and planning approvals. He would further contend that admittedly there has been a violation of the assignment conditions and rightly the Commissioner of Land Administration has gone into grant detail with regard to the various categories of usage of lands as on date and has passed the impugned order, after giving fair opportunity to all the parties. The learned Additional Advocate General would therefore pray for the dismissal of the writ petition.

23. I have carefully considered all the submissions advanced by the learned counsel on either side.

24. The admitted facts are that one Miss.E.M.Swift, who was part of American Board of Commissioners for Foreign Missions (ABCFM) sought for assignment of lands of an extent of 31.1 Acres, for certain philanthropic purposes, agreeing to pay full market value. The Secretary, Revenue Department, favourably recommended assignment in favour of ABCFM, subject to the condition that the rate of assignment would be liable to periodical revision. However, in and by G.O.(Ms.)No.3581, Revenue Department, dated 29.11.1912, the said lands of an extent of 31.1 Acres were assigned for the purposes of establishing and industrial home for needy woman. The said assignment was subjected to certain conditions, which reads as follows:

> *"(i) The board shall pay the full market value of the land fixed by the Collector.*
>
> *(ii) The land shall be assessed by the rate fixed by the Collector which rate will be liable to periodical*

revision at resettlement.

(iii) The land shall be used only for industrial and charitable purposes and if the land is not used or at any time ceases to be used for such purposes the government may resume it.

(iv) In the event of such resumption or in the event pf compulsory acquisition land by the Government for any purpose, the compensation payable therefor shall not exceed the initial cost or the value at the time of resumption or acquisition, which ever shall be less of, any building erected or other work executed on the land by the Board of Commissioners for Foreign Mission."

25. It is not in dispute that subsequently ABCFM has paid the full market value and has been promptly paying taxes fixed by the Government. During 1921, at the time of resurvey and resettlement, the said lands were also registered in the name of ABCFM on 25.08.1921, where the lands were classified as "wet lands". Revised taxes were also duly paid by ABCFM. ABCFM also obtained recognition / approval from the Director of Public Institution for setting up Lucy Pery Noble Institute for Women as a Special School. Subsequently, the said Special School

has been functioning in the land, as LPN Girls Special Higher Secondary School.

26. Later, in the year 1943, more specifically, in and by G.O.(Ms.)No.1751 dated 17.05.1943, alienation was permitted subject to the following conditions:

> *(i)The lands shall be used as the site of the Lucy Perry Noble Institute and for no other purpose;*
>
> *"(ii)The Institute shall be open to girls of all communities;*
>
> *(iii)Full land revenue shall be levied if at any time any net income is derived from the lands or if any of the conditions of alienation are infringed. In the latter case, the land revenue shall be levied from the date of the infringement. The decision of the Collector on the question whether any net income is derived from the lands or not shall be final;*
>
> *(iv)If rent is charged for any buildings on the lands in question at any time,the land occupied by that building shall be liable to full assessment from the date from which rent is charged. No rent shall be charged on any building without previous intimation to the District Collector so that action may be taken to levy assessment."*

27. It is contended by the learned Senior Counsel for the petitioners that while imposing fresh set of conditions in the year 1943, the Government did not retain the power of resumption in the event of violation of assignment conditions and the only right conferred on the State was to collect full land revenue. Therefore, the sum and substance of the arguments of the petitioners is that the original conditions imposed in the year 1912 retaining the power of resumption with the Government were watered down and the Government is entitled to collect the full land revenue. Thereafter, the patta and other revenue records have also been mutated in the name of ABCFM. Subsequently, in the year 1973, more specifically on 31.12.1973, vide transfer deed registered under document No.2297/1974 ABCFM through its duly constituted attorney, unconditionally transferred its properties, including the subject lands measuring 31.1 Acres, in favour CSITA. There is no dispute with regard to the fact that the said transfer is an absolute transfer, with all powers of alienation and no conditions mentioned therein. It is the arguments of the

learned Additional Advocate General that ABCFM has suppressed the conditions of assignment, while transferring the lands to CSITA and therefore, CSITA cannot claim that they are not bound by the original assignment conditions.

28. Even, subsequent to the transfer deed, dated 31.12.1973, I find that the revenue records have been mutated in the name of CSITA as early as on 05.07.1990. Even at that point of time, there was no mention about any assignment condition or breach or violations thereof. In the year 2007. CSITA passed a resolution to alienate an extent of 6.74 Acres in favour of the petitioners in W.P.(MD)Nos.1399 and 1401 of 2024. The said alienations have also taken place for consideration and even thereafter, the revenue records have been mutated in the names of alienees, viz., the petitioners in W.P.(MD)No.1399 and 1401 of 2024. It is also the specific contention of CSITA that the entire sale proceeds have been utilized only establish the CSI Dental College along with Hospital at East Veli Street, Madurai, where 50 women students pass out every year as qualified Dentists. The sale proceeds have also been utilized for the

betterment of 2 B.Ed. Colleges, run by CSITA at Madurai and Ramanathapuram and there has been no deviation from original objectives. Even as regards, Lucy Perry Noble Institute ear marked, which was established in the year 1922, it is contended that the School has now developed as a Government Higher Secondary School and there is a girls hostel, besides various other women empowerment activities, like, weaving unit I and unit II, tailoring institute, computer training and type writing institute, nursery and primary School, etc., which are being run in the assigned lands, till date.

29. It is the further contention of the petitioners that the sixth respondent, who was denied employment in the Diocese, with an ulterior motive and with a personal agenda has approached this Court in W.P.(MD)No.24352 of 2022, styled as a Public Interest Litigation and only subsequent to the said writ petition being ordered, directing necessary enquiry to be conducted, the notices have been issued calling the petitioners for enquiry and thereafter, the Commissioner of Land Administration has, for various reasons assigned in the impugned order,

proceeded to cancel the entire assignment of 31.1 Acres. In this backdrop, having discussed the conditions imposed in the 1912 assignment and the subsequent conditions imposed in G.O.(Ms.)No.1751 dated 17.05.1943, it is seen that in 1943, consent was sought for alienation of about 10.68 Acres comprised in survey No.88/1B2 (64 cents) 91/1 (9.06 Acres, and 91/3 (98 cents). Therefore, *perse* the arguments of the petitioners that the conditions were watered down in 1943 cannot be countenanced. At best the conditions imposed in the 1912 Government Order were relaxed only in respect of an extent of 10.68 Acres, as seen from G.O.(Ms.)No. 1751 dated 17.05.1943. Therefore, insofar as at least remaining 21 and odd Acres, the conditions that were imposed in G.O.(Ms.)No.3581, Revenue Department, dated 29.11.1912 would continue to subsist and be valid.

30. It is in this connection that the argument of delay and laches is raised as a preliminary ground by the petitioners. Placing reliance on the various orders of this Court, including an order passed by me, it is contended by the learned Senior Counsel for the petitioners that an

assignment granted prior to 1973, cannot be cancelled beyond a period of 3 years from 1973. No doubt, the line of decisions passed by this Court in this regard have fairly well settled the issue as regards action being taken for violation of assignment conditions. In all those writ petitions, the assignments were issued by the Government and it has been consistently held that insofar the assignments granted prior the year 1973, the same can be cancelled only within three years, that is, before 1976 and not thereafter. In my order dated 20.03.2025, made in W.P.(MD)Nos.2065, 4407, 4471 of 2023 and 18345 of 2024, I have held that if there is a breach or violation of conditions, it can not be stated even in such cases that no action can not be taken beyond three years. However, I have held that it would be permissible to initiate action alleging breach or violation of assignment conditions, only if such action was initiated within a reasonable time and any exercise of such right of cancellation or resumption belatedly would necessarily have to be struck down.

31. At this juncture, the arguments of the learned counsel on either side with regard to the Government Grants Act, assumes significance. It is

not in dispute that the present assignment was only under the Government Grants Act, 1895. Therefore, ordinarily, it is only be the Government Grants Act that would apply and not any other law. The Government Grants Act was repealed by the Repealing and Amending (Second) Act, 2017, Act 4 of 2017 in and by which on 05.01.2018, the Government Grants Act, 1895 has been repealed.

32. As rightly contended by the learned Senior Counsel appearing for the petitioners once the Act has been repealed, it is only the provision of the Transfer of Property Act that would come into play and no reliance can be placed on by the respondents on the provisions of the Government Grants Act. Per contra, it is contended by the learned Additional Advocate General that when G.O.(Ms.)No.3581, Revenue Department, dated 29.11.1912 had specifically vested the power of resumption with the Government and Miss. E.M.Swift having consented to all the conditions, it can not be contended by the petitioners that such an exercise of resumption cannot be made belatedly.

33. Arguments were also advanced by either side on the Repealing Act, viz., Act 4 of 2018. On and from 05.01.2018, the Government Grants Act, 1895, stands repealed. There is a savings clause in Section 4 of the Repealing Act 4 of 2018 and the same is extracted for easy and useful reference :

> *"4. Savings:- The repeal by this act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;*
>
> *and this Act shall not affect the validity,invalidity,effect or consequences of anything already done or suffered, or any right, title,obligation, liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted,or the proof of any past act or thing;*
>
> *nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or*

appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force."

34. It is argued by the learned Senior Counsel appearing for the petitioners that Section 4 will not have any effect on anything that had already been done or happened and it is contended that penal consequences, like cancellation of assignment or resumption can never be saved under a savings clause. However, relying on the very same savings clause, the learned Additional Advocate General as well as the learned counsel for the sixth respondent would contend that the power of the State to resume the lands and cancel the assignment was also saved by the said savings clause.

35. But, for the savings clause, there cannot be any second opinion that the provisions of Transfer of Property Act, would become applicable. The Government Grants Act, 1895 was repealed, on 05.01.2018. Now, let us examine the savings clause. I have already extracted the same herein above. The Repeal Act only saves the validity, invalidity effect or consequence of anything already done or suffered and also does not affect any right, title, obligation or liability already acquired, accrued or incurred. Similarly, any remedy or proceeding in respect of any such right, title and obligation or liability or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted or the proof of any past act or things have also been saved. The repeal Act also does not affect any rule or law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, etc, and also does not revive or restore any jurisdiction, office, custom, liability, right, title, privilege, etc, not existing or in force as on the date of the Repeal Act. Interestingly, both sides have relied on this savings clause to advance this respective contentions. Proper interpretation of the said savings clause is only that any right that has

accrued or liability incurred already would not be affected, because of the Repeal of the Government Grants Act, 1895. It is to be borne in mind that admittedly, no proceedings were initiated prior to 05.01.2018. More over, only after W.P.(MD)No.24352 of 2022 came to be filed, proceedings were initiated for the first time, seeking cancellation of assignment as well as resumption of lands. Even on the date of the said writ petition being disposed of, the Government Grants Act was not in force and had been repealed. Therefore, we have to necessarily test the effect of the savings clause. The right of resumption was available to the respondents / Government under the Government Grants Act right from 1912, when it was in force, even according to the respondents. In my considered opinion, the savings clause in the Repeal Act would not confer a right for the first time, to invoke the power of resumption and cancel the assignment. If at all the Government had already taken a decision prior to 2018, and initiated proceedings, then atleast it can be stated that such proceedings would not be affected by the Repeal Act, Act 4/2018. In my considered view, Act 4/2018, viz., the Repeal Act, certainly does not create or vest a right with the Government to cancel the assignment for breach of conditions that were imposed way back in the year 1912. It is also relevant to note that the breach of conditions were never put against the original assignees or against even the successors and as late as in 2008 alienations were made and the respondents themselves have gone ahead to mutate revenue records in the names of the purchasers. Lay out has also been approved and planning permissions have also been granted as late as 2013. Also, Madurai Corporation has accepted a gift deed, pursuant to one of the conditions of the plain sanction. Therefore, there has been a conscious and express acceptance of the rights of the alienees. The moment, the Government Grants Act has been repealed, the savings clause would not come to the rescue of the respondents, who can only fall back on the provisions of the Transfer of Property Act. Section 11 of the Transfer of Property Act, needs to be examined, to see whether the assignment conditions of the year 1912 would create any clog on subsequent transferees. Section 10 of the Transfer of Property Act deals with conditions restraining alienation and Section 11 deals with restriction repugnant to interest created. Sections 10 and 11 of the Transfer of Property Act, are extracted hereunder :

10. Condition restraining alienation.—Where property is transferred subject to a condition or limitation absolutely restraining the transferee or any person claiming under him from parting with or disposing of his interest in the property, the condition or limitation is void, except in the case of a lease where the condition is for the benefit of the lessor or those claiming under him: provided that property may be transferred to or for the benefit of a woman (not being a Hindu, Muhammadan or Buddhist), so that she shall not have power during her marriage to transfer or charge the same or her beneficial interest therein.

11. Restriction repugnant to interest created.—Where, on a transfer of property, an interest therein is created absolutely in favour of any person, but the terms of the transfer direct that such interest shall be applied or enjoyed by him in a particular manner, he shall be entitled to receive and dispose of such interest as if there were no such direction.

[Where any such direction has been made in respect of one piece of immovable property for the purpose of securing the beneficial enjoyment of another piece of such property, nothing in this section shall be deemed to affect any right which the transferor may have

to enforce such direction or any remedy which he may have in respect of a breach thereof.]

36. Therefore, it can be seen from the above that under Section 10 the only except to the conditions or limitation being void is where the property is transferred to or for the benefit of a woman (not being a Hindu, Muhammadan or Buddhist). It is not so in the present case. Insofar as Section 11 also, any restrictions imposed would not bind the transferee and he receives the property and shall be entitled to dispose of interest in the said property as if there was no such condition. Even in Section, 11 the only exception that is carved out is a direction in respect of one immovable property for the purposes of securing beneficial enjoyment of another piece of property. Therefore, both the exceptions to Sections 10 and 11 of the Transfer of Property Act are not available in the facts of the present case. Therefore, the conditions of assignment / restrictions thereon, are void and will not bind the alienees / transferees.

37. Therefore, even assuming the assignment conditions were valid and subsisting, on and from 05.01.2018, when the Government Grants

Act, 1895, stood repealed, the provisions of the Transfer of Property Act, the general Law kick-in and in terms of Sections 10 and 11, the conditions imposed originally can only be void conditions, which can be ignored by the alienees. Therefore, in the light of above, I do not even find any requirement to go into the arguments advanced by the learned Senior Counsel for the petitioners with regard to belated exercise of right of resumption / cancellation of the assignments. Consequently, there is also no necessity to deal with the various decisions that have been relied on in support of the said contention.

38. In the light of the above, the writ petitioners are entitled to relief, firstly, on the ground that the conditions of assignment, which were imposed in the year 1912 become void and unenforceable with the coming into force of Repeal Act 4/2018 dated 05.01.2018 and secondly, at no point of time, the respondents have chosen to even raise their little finger of protest as against the violations, even prior to 2018 and on the contrary, by their positive acts of mutation of revenue records, including patta, issuance of plans, lay out, approvals and acceptance of gift of a

portion of assignments, the respondents are clearly estopped from now seeking to cancel the assignment and resuming the lands.

39. As regards the impleading applications, no doubt the impleading applicant is the petitioner in W.P.(MD) No.24352 of 2022 and he has been impleaded as sixth respondent in W.P.(MD)Nos.2772 and 2860 of 2024, but he has not been impleaded and in two writ petitions, viz., W.P.(MD)Nos.1399 and 1401 of 2024. Hence, the learned counsel for the impleading petitioners pray for allowing the impleading petitions.

40. Firstly, I see no serious prejudice caused to the impleading petitioner, since common cause espoused by him has already been heard and dealt with in subsequent two writ petitions and therefore, there is no necessity to implead him in W.P.(MD)Nos.1399 and 1401 of 2024. Secondly, as rightly contended by the learned Senior Counsel for the petitioner in W.P.(MD)Nos.1399 and 1401 of 2024, the impleading applicant only set the ball in motion by filing the Public Interest writ petition and admittedly, he did not carry any private interest in the matter.

Therefore, a person, who filed a Public Interest Litigation cannot be an aggrieved party and seek impleadment in a writ petition, which is filed by the persons, aggrieved by the impugned order passed by the Commissioner of Land Administration. Therefore, I see no merit or requirement in entertaining the impleading applications.

41. For all the above reasons, the impleading petitions in W.M.P.(MD)No.3391 of 2024 in W..P.(MD)No.1401 of 2024 and W.M.P.(MD)No.3406 of 2024 in W.P.(MD)No.1399 of 2024 are dismissed.

42. In fine, these writ petitions are allowed as prayed for and the impugned order passed by the Commissioner of Land Administration, Chennai and consequent public notices of encroachment are hereby set aside. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

09.05.2025

Index : Yes / No
NCC : Yes / No
LS

TO:-

1. The Principal Secretary to Government,
 Revenue Department,
 Secretariat, Chennai.
2. The Commissioner of Land Administration,
 Chepauk,
 Chennai.
3. The District Collector
 Madurai District,
 Madurai.
4. The District Revenue Officer
 Madurai District, Madurai.
5. The Tahsildar
 Madurai North Taluk,
 Madurai.

P.B. BALAJI, J.

LS

Pre-delivery Order made in
W.P.(MD)Nos.1399, 1401, 2772 and 2860 of 2024

Dated:
09.05.2025