

(2012) 10 MAD CK 0080

In the Madras High Court

Case No : Writ Petition (MD) . No. 1278 of 2006, W.P.M.P. No's. 1433, 242 of 2006 and connected M.Ps.

Thiruvavaduthurai Adheenam

APPELLANT

Vs

Commissioner, Land Revenue, Survey and Settlement and
Others

RESPONDENT

Date of Decision : 17-10-2012

Acts Referred:

Citation : (2013) 2 MLJ 274

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Advocate : M.P. Senthil, for the Appellant; K. Chellapandian, Additional Advocate General assisted by T.S. Mohammed Mohideen, Additional Government Pleader, N.R. Balaji and S.M. Mohangandhi, for the Respondent

Final Decision : Dismissed

Judgement

S. Manikumar, J.—Thiruvavaduthurai Adheenam, Thiruvavaduthurai, through its Adheenakartha, Sri La.Sri.Siva Prakasa Pandara Sannidhi Avargal, Mayiladuthurai Taluk, Nagapattinam District, the petitioner herein has questioned the correctness of the proceedings of the Assistant Settlement Officer, (South - incharge), Office of the Director of Land Revenue, Survey and Settlement, Chennai, the second respondent herein, who has issued notices to all the 592 claimants/tenants for holding an enquiry as per the order of this Court dated 28.11.2002 made in W.P. No. 42572 of 2002. The petitioner Adheenam has prayed for a direction to the respondents to conduct the enquiry as per the order dated 31.1.1984, of the Inam Abolition Tribunal (Principal Subordinate Judge), Tirunelveli, in R.A.I.A.T. No. 5 of 1980 in accordance with the provisions of Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 26 of 1963. Facts of the case, in nutshell, as stated in the supporting affidavit, are that Sivandhipuram Village, Ambasamudram Taluk, Tirunelveli District, is an Inam Estate, covered by Inam Title deed No. 202. It is an absolute property of the petitioner Adheenam. The entire village is covered to an extent of 1008 Acres

and 34 cents. The petitioner Adheenam has leased out the said properties to various individuals, under various lease deeds and that the lessees were in possession of the lands, paying the respective lease amounts. It is the further case of the petitioner Adheenam that a total extent of 1078 Acres and odd were in possession and enjoyment of the petitioner Adheenam. While so, the Government of Tamil Nadu passed an enactment, viz., Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 26 of 1963, (for brevity, "the Act") with an object to provide for the acquisition of the rights of the landholders in inam estates in the State of Tamil Nadu and the introduction of the ryotwari settlement in such estates.

2. On the basis of the pleadings and material on record, Mr. P. Senthil, learned counsel for the petitioner Adheenam fairly submitted that the said Act has been upheld. Thereafter, the Assistant Settlement Officer initiated suo motu proceedings and notices were issued to the occupants of the lands and also to the petitioner Adheenam in respect of the lands covering an extent of 1026.87 acres on the basis of the survey conducted by the authorities. The enquiry was only in respect of the lands other than communal lands. The Assistant Settlement Officer, Madurai - II by his proceedings dated 2.4.1980 in S.R. Nos. 1 to 592/AMS/79 granted patta in respect of all the lands except S. No. 152, 159/1, 162/61 relating to the site wherein constructions have been put up by Harvey Mills Co-Operative Society Ltd and Madura Coats Ltd., Ambasamudram. However, ground rent patta has been granted in favour of the petitioner Adheenam u/s 15(4) of the Act.

3. Learned counsel for the petitioner further submitted that the Settlement Officer after due consideration of the rival contentions raised on either side accepted the claim of the petitioner Adheenam and also held that the objectors were only cultivating tenants and that they had no right whatsoever to claim title over the lands. Out of 592 persons, 111 persons claiming themselves as cultivating tenants filed an Appeal before the Inam Abolition Tribunal (Principal Subordinate Judge), Tirunelveli in R.A.I.A.T. 5/1980. The Inam Abolition Tribunal by order dated 2.4.1980, allowed the Appeal insofar as the said 111 persons are concerned and remanded the matter for fresh consideration merely on the basis that they were not given an opportunity and only for above said limited purpose the matter was remanded to the Settlement Officer, Madurai.

4. Learned counsel for the petitioner Adheenam further submitted that in respect of the remaining 481 persons against whom the Settlement Officer had passed orders dated 2.4.1980 in favour of the petitioner, no appeals were filed. However, not satisfied with the remand order passed by the Inam Abolition Tribunal, Madurai, the petitioner Adheenam filed an appeal before this Court in S.T.A. 51/1984. A Division Bench of this Court has confirmed the decision of the Tribunal and further directed the Assistant Settlement Officer to consider the matter afresh.

5. Learned counsel for the petitioner further submitted that earlier when 481

persons filed an application to the Settlement Officer seeking for a direction to permit them to participate in the enquiry proceedings initiated after remand by the Settlement Officer on the basis of the order made in S.T.A. No. 51/1984 dated 5.9.1996, the Settlement Officer vide order dated 5.10.2000 rejected the request of 481 persons.

6. Taking this Court through the averments made in the counter affidavit filed by the respondents and the order made in W.P. No. 4057 of 2001, learned counsel for the petitioner Adheenam submitted that when the order dated 5.10.2000, stated supra was sought to be quashed by Sivanthipuram Vivasayigal Sangam, Sivanthipuram Village, Vickramasingapuram Post, Ambasamudram Taluk, Tirunelveli District represented by its President, by a Writ of Certiorari Mandamus, the same was dismissed by this Court vide order dated 22.1.2003 and thus the rejection of the claim of 481 persons to participate in the enquiry has reached finality.

7. Inviting the attention of this Court to the order made in W.P. No. 42572 of 2002 dated 28.11.2002, relied on in the impugned notice, learned counsel for the petitioner Adheenam submitted that the said order has been passed without impleading the petitioner Adheenam as a party respondent to the Writ Petition and without giving any opportunity to the petitioner. He further submitted that since W.P. No. 42572 of 2002 has been filed by Sivandhipruam Vivasaya Sangam rep. by its Secretary, the Writ Petition by an Association was not maintainable. According to him, had the Sangam impleaded petitioner Adheenam as a party respondent, the Adheenam could have opposed the above Writ Petition, on the ground of maintainability and also brought to the notice of this Court, the dismissal of W.P. No. 4057 of 2001, filed by the same petitioner challenging the order dated 5.10.2000, and the denial of this Court of the claim of 481 claimants/tenants to participate in the enquiry proceedings. Learned counsel for the petitioner Adheenam further submitted that when W.P. No. 42572 of 2002 has been dismissed, the Settlement Officer, the second respondent herein ought not to have issued notices to all the members of the Sangam, to participate in the enquiry.

8. Thus, inviting attention of this Court to Rule 9(4) of Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Rules, 1965, the suo motu proceedings initiated by the Settlement Officer, order made in S.T.A. No. 51 of 1984 dated 5.9.1996, made by the Hon"ble Division Bench of this Court the proceedings dated 5.10.2000 of the Assistant Settlement Officer, Madurai, rejecting the request of 481 persons to participate in the enquiry, order made in W.P. No. 4057 of 2001 dated 22.1.2003, learned counsel for the petitioner Adheenam submitted that the orders stated supra, were confined only to 111 persons who have filed an appeal before the Tribunal in R.A.I.A.T. 5 of 1980 and the enquiry cannot be extended to all the remaining 481 claimants/tenants. He further submitted that what-ever be the nature of disposal of W.P. No. 4057 of 2001, dismissal of the said writ petition by the Sangam, representing the cause of 481 persons,

challenging the order dated 5.10.2000 of the Assistant Settlement Officer and refusing permission to 481 persons to participate in the enquiry has already reached finality and therefore, the impugned notice is bad in law.

9. Learned counsel for the petitioner Adheenam submitted that the impugned notice to all the claimants/tenants to submit the documents and appear for an enquiry would amount to resurrection of a stale matter which has already reached finality.

10. On the basis of the counter filed by the Personal Assistant to the Commissioner and Director of Survey and Settlement, Chennai -5, Mr. K. Chellapandian, learned Additional Advocate General, Government of Tamil Nadu appearing for the respondents 1 to 4, submitted that Sivanthipuram Village covered by Title Deed No. 202 in Ambasamudram Taluk, Tirunelveli District was taken over by the Government on 15.4.1965. But, the Inamdar viz., the petitioner herein preferred an appeal against the action of taking over of the Inam, before the Settlement Officer, Madurai. The Settlement Officer, Madurai, in his order in S.R. 5/Amb/67, dated 15.7.1971 held that the village as an existing Inam Estate. Aggrieved by that order, the petitioner Adheenam filed an appeal before the Inam Abolition Tribunal, Tirunelveli and that the Inam Abolition Tribunal in its order in R.A. No. 165/71 dated 23.9.1974 confirmed the order of the then Settlement Officer, Madurai. The Inamdar filed a further appeal before this Court contending that the declaration of the village as an existing Inam Estate is against law. Upholding the orders of the Inam Abolition Tribunal, Tirunelveli, this Court disposed of the appeal by its order in C.R.P. No. 3771 of 1974 dated 24.11.1974, thereby giving effect that on and from the notified date the entire Inam Estate shall stand transferred to the Government and vest in them free from all encumbrances. Subsequently, the then Assistant Settlement Officer, Madurai initiated suo motu proceedings under Rule 9(4) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Rules, 1965 and passed orders in S.R. No. 1 to 592/Amb/79, dated 2.4.1980.

11. Learned Additional Advocate General further submitted that during introduction of the Settlement in the year 1980 based on G.O. Ms. No. 1971, Revenue Department dated 14.10.1998, the District Collector and the authorities have taken steps to survey and settle the lands classifying them as "Natham".

12. Being aggrieved by the action of the District Collector, Tirunelveli and the authorities in taking steps to survey and settle the lands classifying them as "Natham", the petitioner Adheenam filed a suit in O.S. No. 9 of 2002 on the file of the learned District Munsif Court, Ambasamudram, contending that the lands have been erroneously classified as "Natham". The suit was allowed on 31.3.2004. On an appeal preferred by the petitioner A.S. No. 74 of 2004, the decision was confirmed by the learned Sub Judge, Tirunelveli and that thereafter, the District Collector, Tirunelveli, has filed a second appeal before this Court in S.A. No. 617 of 2005. On this day, it was represented that the second appeal has ended in favour of the District collector, Tirunelveli and an S.L.P has been

preferred by the petitioner Aheenam and that there is an order of status quo by the Apex Court.

13. Referring to the orders made in S.T.A. No. 51 of 1984, dated 5.9.2006 and W.P. No. 42572 of 2002, dated 28.11.2002, learned Additional Advocate General submitted that when the Hon''ble Division Bench in S.T.A. No. 51 of 1984 has categorically observed that there was no controversy about 592 claimants agitating for grant of patta in respect of their individual holdings on the ground that they were ryots and cultivating the lands for a longer period and also further observed that the original authority in his order dated 2.4.1980 has only considered the aspect regarding the cultivable lands generally when the entitlement of the parties have not been considered individually, while taking up for consideration the various claims in the matter where individual consideration was necessary and when the Hon''ble Division Bench has also observed that the individual claims or claims more than one forming under distinct and separate claims together on merits required to be adverted to and considered objectively, it is not open to the petitioner Adhinam to contend that the enquiry should be restricted only to 111 persons who had filed an appeal before the Sub Court, in R.A.I.A.T. No. 5 of 1980, Tirunelveli. He also submitted that W.P. No. 42572 of 2002 has been dismissed only on the ground that when the Bench had already directed to consider the claim of all the persons, there was no need to issue further directions, to the Assistant Settlement Officer, once again to hear all the members of the Sangam which comprises of 592 persons.

14. Learned Additional Advocate General further submitted that the petitioner Adheenam has no legal or statutory right to challenge the action of the Assistant Settlement Officer, in conducting a proper enquiry by issuing notices to all the persons claiming patta as per the above said decisions of this Court. He also submitted that W.P. No. 4057 of 2001, filed challenging the order dated 5.10.2010 has been dismissed only for default and that would not preclude the said authority to act as per the directions of the Hon''ble Division Bench and the order made in W.P. No. 42572 of 2002 incorporating the decision made in S.T.A. No. 51 of 1984.

15. According to him, as per the Government order issued in G.O. No. 781, dated 12.2.1965 possession of the property has been taken over in the year 1965 itself and in such circumstances, there is absolutely no right for the petitioner Adheenam to question the authority and competence of the Assistant Settlement Officer, Chennai, the second respondent in issuing notices to the claimants. He further added that the impugned notice is nothing but an implementation of the orders of this Court and no writ would lie against such action. For the reasons stated supra, he prayed for dismissal of the writ petition.

16. Heard the learned counsel appearing for the parties and perused the materials available on record.

17. In exercise of powers under Rule 9(4) of the Tamil Nadu Inam Estates

(Abolition and Conversion into Ryotwari) Rules, 1965 framed, the Assistant Settlement Officer, Madurai has issued notices to the occupants of the lands and also to the petitioner Adheenam and published the same in the village panchayat. Notices have been issued to 592 claimants. There were separate and distinct claims made under the Act. The Assistant Settlement Officer, Madurai vide order dated 2.4.1980 held that out of 592 claimants 111 persons can be granted ryotwari pattas. Being aggrieved by the same, all the 111 persons have filed appeals in R.A.I.A.T. 5 of 1980, before the learned Principal Sub Judge, Tirunelveli. The petitioner Adheenam was a respondent in the appeal. After considering the rival submissions, the learned Principal Sub Judge, Tirunelveli, vide order in R.I.A.T. No. 5 of 1980, dated 31.1.1984, at paragraph 6 to 8 has ordered as follows:

18. Perusal of the order made in the appeal R.A.I.A.T. 5 of 1980, dated 31.1.1984, shows that the learned Subordinate Judge, Tirunelveli, the appellate authority, under the Act, having gone through the specific pleading that 592 persons have made individual claims and their cases ought to have been considered by the Assistant Settlement Officer, on the basis of relevant documents and that the enquiry conducted by the Assistant Settlement Officer in a generalised manner is not in accordance with law and justice and after accepting the contentions of the claimants, held that the order passed by the Settlement Officer is not correct. Granting pattas has also been held as incorrect. The appellate authority has also categorically observed that the enquiry conducted was improper.

19. Being aggrieved by the remand, the petitioner Adtheenam, has filed an appeal, in S.T.A. No. 51 of 1984 on the file of this Court. Though the learned counsel for the petitioner Adheenam, in the above appeal, has contended that the order of remand has to be set aside on various grounds, the Hon''ble Bench while confirming the order of remand, at paragraphs 4 and 5 has held as follows.

4. We have carefully considered the submissions of the learned counsel appearing on either side. Whatever may be correctness or otherwise of the reason assigned by the Tribunal on the basis of absence of proper notice to some of the claimants the order of remand made by the Tribunal deserves to be sustained on the grounds and reasons assigned in paragraph 6 of the order under challenge. There is no controversy that about 592 claimants have been agitating for the grant of patta in respect of their individual holdings on the ground that they are ryots and cultivating the land for long. In respect of the same, the original authority except dealing with the legal issues concerning the character of the land severally the entitlement of parties have not been considered to individually but taking up for consideration the various claims particularly when in a matter like this such individual consideration is absolutely necessary. Legal submissions apart which may be uniform, the individual claims more than one forming under distinct and separate class together individual on merits require to be adverted to and considered objectively. In view of the fact

that the order of the original authority does not appear to have undertaken such an exercise, the order of remand has to be sustained and does not call for any interference.

5. Even that apart, we are of the view that the character of the land and the entitlement of parties the land holder and the tenants claimants have to be considered in the light of the latest decisions of Courts and particularly that of the Apex Court Polliseti Pullamma and others Vs. Kalluri Kameswaramma and others, On this ground also, we consider that no interference is called for with the order of remand made by the Tribunal and the appeal therefore fails and shall stand dismissed. The Assistant Settlement Officer shall consider the matter afresh uninfluenced by any of the observations made by the Tribunal, objectively giving due opportunity to both parties.

20. Reading of the above said decision of the Hon''ble Bench makes it abundantly clear that what has been mainly assailed in S.T.A. No. 51 of 1984 was paragraph 6 of the order of the appellate authority in R.A.I.A.T. 5 of 1980 dated 31.1.1984. The Bench has taken note of the fact that they were 591 claimants agitating for grant of patta in respect of their individual holdings on the ground that there were ryots in cultivating lands for a long time. The Hon''ble Bench has also categorically found that though legal issues concerning the character of the land, was dealt with by the then Assistant Settlement Officer, Madurai he had not considered the entitlement of the parties individually while taking up for consideration of all the various claims, particularly when in a matter of like this individual consideration was absolutely necessary. The Bench has also observed that individual claims or claims more than one forming under distinct and separate class together requires to be adverted and considered objectively on merits. It has also been held that the character of the land, the entitlement of the parties, the landholder and the tenants/claimants have to be considered in the light of the decision of the Supreme Court stated supra. While setting aside the order of the Assistant Settlement Officer, Madurai, the Division Bench has also observed that the matter shall be considered afresh, uninfluenced by any of the observations made by the Tribunal objectively giving due opportunity to both parties. As stated supra, the learned Subordinate Judge, Tirunelveli vide order dated 31.1.1984 has already held that the enquiry conducted by the Assistant Settlement Officer as contrary to law and paragraph 6 of his order, has been sustained by the Division Bench.

21. Though the learned counsel for the petitioner Adheenam, has contended that the order made in S.T.A. No. 51 of 1984 dated 5.9.1996 can be given effect to only to 111 persons who had filed an appeal in R.A.I.A.T. 5 of 1980 before the learned Principal Sub Judge, Tirunelveli, considering the object and the difference in the nature of claims, the decision of the Supreme Court and having regard to the fact that 592 claimants were agitating for grant of patta, the Bench has categorically held that each claim has to be adverted and considered objectively, on merits.

22. The order of the Assistant Settlement Officer had already been set aside holding that the enquiry conducted by him without following the procedure as improper, and that the matter has been remanded to him to consider the individual claims or the claims more than one forming under distinct and separate class together on merits afresh, uninfluenced by any of the observations made by the Tribunal, objectively giving due opportunity to both parties.

23. When the order of the Assistant Settlement Officer, dated 2.4.1980 has been set aside and the matter has been remanded back to the initial stage, the consequences would be to conduct, a fresh enquiry in accordance with the provisions of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, the Tamil Nadu Act 26 of 1963, taking into consideration the claims of all the persons. The scope of fresh enquiry to be conducted has been extended to each one of the 592 claimants who were agitating for grant of patta in respect of their individual holdings. Perusal of the order dated 5.10.2000, passed by the Assistant Settlement Officer, shows that when 481 persons, have sought for a direction that they should also be heard along with others, an objection seemed to have been made by the petitioner Adheenam that the High Court has granted the relief only in respect of 111 persons, as they were appellants before the learned Principal Sub Judge, Tirunelveli in R.A.I.A.T. 5 of 2000.

24. Considering the objection, the Assistant Settlement Officer, Madurai has ordered that only 111 persons can be treated as petitioners after remand. The order in N.R. No. 1/Amb/97, dated 5.10.2000 rejecting the request to provide an opportunity to the remaining 481 persons has been challenged, in W.P. No. 4057 of 2001 in the Principal Bench of this Court and though the said writ petition has been entertained earlier, lateron, as none appeared before the Court on behalf of the Sivanthipuram Association, vide order dated 22.1.2003, the writ petition has been dismissed.

25. Perusal of the above said order shows that the petitioner Adheenam, has not been made as a party respondent in the above writ petition. According to the learned counsel for the petitioner Adheenam that dismissal of the writ petition made in W.P. No. 4057 of 2001, dated 22.1.2003 challenging the order made in N.R. No. 1/Amb/97, dated 5.10.2000 has reached finality and that therefore, the rights of 481 persons claiming ryotwari patta has been foreclosed. Such contention cannot be countenanced in view of the categorical decision of the Hon'ble Division Bench of this Court in S.T.A. No. 51 of 1984, dated 5.9.1996.

26. Perusal of the order made in W.P. No. 42572 of 2002, dated 28.11.2002, shows that Sivandhipuram Vivasya Sangam represented by the Secretary has filed the above writ petition for a Mandamus, directing the Assistant Settlement Officer, Madurai 2 to hear all the members of the petitioner association. The said order is extracted hereunder:

The order issuing patta by the third respondent in favour of a number of

individuals had been set aside by the Tribunal. The Tribunal in the course of that order found that the Settlement Officer/third respondent had come to pass an order without hearing all the claimants. That order of the Tribunal was in challenge before a Division Bench of this Court in S.T.A. No. 51 of 1984. The Division Bench by judgment dated 5.9.1996 sustained the order of the Tribunal remanding the case. Therefore as on date, the Tribunal's order as affirmed by this Court contemplates hearing of all the persons claiming patta by the third respondent.

2. When such is the position, in my opinion, there is no need to issue a further mandamus directing the third respondent to hear all the members of the petitioner Association, who according to the petitioner are 93 in number and they form part of the large number of 592 people. Therefore, the writ petition is disposed of on redundant. Consequently, the connected W.P.M.P. is also dismissed. No costs.

27. Reading of the order makes it clear that the Hon'ble single Judge has also taken note of the fact that the Assistant Settlement Officer has passed the orders without hearing all the claimants. Taking note of the order by the Division Bench of this Court in S.T.A. No. 51 of 1984, dated 5.9.1996, the learned single Judge has observed that "therefore, as on date the Tribunal's order as affirmed by this Court contemplates hearing of all the persons claiming patta by the third respondent". In the above said circumstances, the Hon'ble single Judge has further observed that there is no need to issue a further Mandamus directing the Assistant Settlement Officer, Madurai to hear all the members of the Association. Thus, it could be seen that the writ petition came to be dismissed only on the ground that already a similar direction has been given by the Division Bench of this Court in S.T.A. No. 51 of 1984 dated 5.9.1996 and therefore, another direction was not necessary.

28. The contention that the Sangam has no locus standi to represent the entire 592 claimants and to maintain a writ petition and had the petitioner Adheenam been implemented as a party respondent to W.P. No. 42572 of 2002, the petitioner Adheenam could have raised an objection to that effect and that therefore, the order made in W.P. No. 42572 of 2002, dated 5.9.1996, cannot be extended to all the 592 claimants, cannot be accepted by this Court, for the reason that the order made in W.P. No. 42572 of 2002, dated 5.9.1996 only reiterates the decision made in S.T.A. No. 51 of 1984 in which the petitioner Adheenam. is a party. When the appellate Tribunal itself in its order dated 31.1.1984, has held that the enquiry conducted by the Assistant Settlement Officer as improper and that the said finding has been sustained by the Hon'ble Division Bench, granting further directions to redo the enquiry, afresh, it is not open to the petitioner Adheenam, to confine the enquiry only to 111 persons.

29. Material on record shows that the petitioner Adheenam has not made any objections to the directions granted in S.T.A. No. 51 of 1984 to the Assistant Settlement Officer to consider the claims of each one of the 592 claimants. The

aforesaid order has reached finality and it is binding on all parties.

30. The order made in S.T.A. No. 51 of 1984, by the Hon"ble Division Bench and extracted in W.P. No. 42572 of 2002, has to be implemented. The petitioner Adheenam being a party to the Division Bench judgment, cannot raise any objection to the action of the Assistant Settlement Officer, Madurai, in issuing notices to all the 592 persons including the petitioner Adheenam after a lapse of 16 years from the date of judgment in S.T.A. No. 51 of 1984. If the contention of the petitioner has to be accepted restricting the notice only to 111 persons who have filed an appeal, then it would be amounting to reviewing the decision of the Hon"ble Division Bench of this Court which cannot be done by a single Judge and that too after 16 years. As stated supra, when the enquiry done by the Settlement Officer, in the year 1980 has been held as improper and when the consequential order has been set aside, the said authority cannot be restricted to conduct the enquiry only for 111 persons, leaving the other claimants.

31. The Act has been enacted to provide for the acquisition of the rights of landholders in Inam Estates in the State of Tamil Nadu and the introduction of the Ryotwari Settlement in such Estates. Indisputably, the Act has been upheld.

32. Landholder is defined in Section 2(8) of the Act. Ryot as defined in Section 2(16) of the Act is as follows:

(i) in relation to an existing inam estate shall have the same meaning as in clause (15) of Section 3 of the Estates Land Act; and

(ii) in relation to an existing inam estate shall means a person who hold for the purpose of agriculture ryoti land in such estate on condition of paying to the landholder the rent which his legally due upon it.

33. Section 3 of the Act deals with consequence of notification of Inam Estate, which reads as follows:

3. With effect on and from the notified date and save as otherwise expressly provided in this Act-

(a) the Tamil Nadu Estates Land (Reduction of Rent) Act, 1947, (Tamil Nadu Act 30 of 1947), 1 (except insofar as it relates to reduction of rents and the collection of arrears of rent in existing inam estates in respect of which the rate of rent has been determined before the notified date under that Act) the Tamil Nadu Estates Land Act, 1908, the Pudukkottai (Settlement of Inams) Act, 1955 (Tamil Nadu Act 23 of 1955) and all other enactments applicable to the inam estate as such shall be deemed to have been repealed in their application to the inam estate;

(b) the entire inam estate (including all communal lands and poramboke, other non-ryoti lands, waste lands, pasture lands, forests, mines and minerals, quarries, rivers and streams, 2(tanks and ooranies (including private tanks and ooranies) and irrigation works,) fisheries and ferries), shall stand transferred to

the Government and vest in them, free of all encumbrances, and the Tamil Nadu Revenue Recovery Act, 1864, (Tamil Nadu Act, 2 of 1864), the Tamil Nadu Irrigation Cess Act, 1865 (Tamil Nadu Act 7 of 1865) and, all the reenactments applicable to ryotwari areas shall apply to the inam estate;

(c) the Government may, after removing any obstruction that may be offered, forthwith take possession of the inam estate and all accounts, registers, pattas, muchilikas, maps, plans and other document relating to the inam estate which the Government may require for the administration thereof;

Provided that the Government shall not dispossess any person who is personally cultivating any land in the inam estate, until the Settlement Officer and the Tribunal and the Special Appellate Tribunal, on appeal, if any, decide that such person is not actually entitled to a ryotwari patta in respect of that land under the provisions of this Act.

34. As per Section 9 of the Act, lands in which landholder is entitled to ryotwari pattas and the said provision is extracted hereunder:

9. I In the case of an existing inam estate, the landholder shall, with effect on and from the notified date, be entitled to a ryotwari patta in respect of-

(a) all lands which immediately before the notified date-

(i) belonged to him as private land within the meaning of sub-clause (b) of Clause (10) of Section 3 of the Estates Land Act, or

(ii) Stood recorded as private land in a record prepared under the provisions of Chapter XI or Chapter XII of the said Act:

provided that the private land referred to in sub-clauses (i) and (ii) -

(i) has not been subsequently converted into ryoti land or has not been finally held to be ryoti land u/s 3-A of the Tamil Nadu Estates Land (Reduction of Rent), Act, 1947 (Tamil Nadu Act 30 of 1947); and

(2) is in the case of a landholder other than a religious institution proved to have been cultivated by the landholder himself, by his own servants or by hired labour with his own or hired stock, in the ordinary course of husbandry, for a continuous period of three years within a period of twelve years immediately before the 1.4.1960; and

(b)(i) all lands which were properly included or which ought to have been properly included in the holding of a ryot and which have been acquired by the landholder by inheritance or succession under a will, provided that the landholder has cultivated such lands himself, by his own servants or by hired labour with his own or hired stock, in the ordinary course of husbandry, from the date of such acquisition or 1.7.1950, whichever is later and has been indirect and continuous possession of such lands from such later date;

(ii) all lands which were properly included or which ought to have been properly

included in the holding of a ryot and which have been acquired by the landholder by purchase, exchange or gift, including purchase at a sale for arrears of rent, provided that the landholder has cultivated such lands himself, by his own servants or by hired labour, with his own or hired stock, in the ordinary course of husbandry, from the 1.7.1950 and has been in direct and continuous possession of such lands from that date;

(iii) all lands not being (i) lands of the description specified in sub-clauses (a), (b) and (c) of Clause (16) of Section 3 of the Estates Land Act, or (ii) forest lands which have been voluntarily abandoned or relinquished by a ryot, or which have never been in the occupation of a ryot, provided that the landholder has cultivated such lands himself, by his own servants or by hired labour, with his own or hired stock, in the ordinary course of husbandry, from the 1.7.1950 and has been in direct and continuous possession of such lands from that date.

(2) In the case of a new inam estate the landholder shall, with effect on and from the notified date, be entitled to a ryotwari patta in respect of-

(a) all lands which immediately before the notified date belonged to him as private land:

Provided that in the case of a landholder other than a religious institution the private land specified in Clause 13(ii)(a) of Section 2 is proved to have been cultivated by the landholder himself by his own servants or by hired labour, with his own or hired stock, in the ordinary course of husbandry, for a continuous period of three years within a period of twelve years immediately before the 1.4.1969; and

(b)(i) all lands in the holding of a ryot and which have been acquired by the landholder by inheritance or succession under a Will, provided that the landholder has cultivated such lands himself, by his own servants or by hired labour with his own or hired stock, in the ordinary course of husbandry, from the date of such acquisition or the 1st day of April 1960, whichever is later and has been in direct and continuous possession of such lands from such later date;

(ii) all lands in the holding of ryot and which have been acquired by the landholder by purchase, exchange or gift, including purchase at a sale for arrears of rent, provided that the landholder has cultivated such lands himself, by his own servants, or by hired labour, with his own or hired stock, in the ordinary course of husbandry, from the 27.9.1955, or from the date of such acquisition whichever is later and has been in direct and continuous possession of such lands from such later date:

Provided that nothing in this sub-clause shall apply to any acquisition by purchase, exchange or gift including purchase at a sale for arrears of rent by the landholder on or after the 1.4.1960.

(iii) all lands not being (i) lands of the description specified in items (a), (b) and (c) of sub-clause (ii) of Clause (17) of Section 2, or (ii) forest lands which have

been voluntarily abandoned or relinquished by a ryot, or which have never been in the occupation of a ryot, provided that the landholder has cultivated, such lands himself, by his own servants or by hired labour, with his own or hired stock, in the ordinary course of husbandry, from the 27.9.1955, and has been in direct and continuous possession of such lands from that date.

(3) In the case of an inam estate or part thereof held immediately before the notified date by an individual on condition of rendering service to a religious institution, the grant of ryotwari patta under sub-section (1) or (2) shall be subject to the provisions of Section 33.

35. Section 10 of the Act states that the land in respect of which a ryot is entitled to ryotwari patta. Section 11 of the Act deals with grant of ryotwari patta on the basis of personal cultivation in certain cases. Section 12 of the Act speaks about the determination of land in which any person is entitled to ryotwari patta. The above provisions are extracted hereunder:

10(1) In the case of an existing inam estate every ryot shall, with effect on and from the notified date, be entitled to ryotwari patta in respect of-

(i) all his lands which were finally held to be ryoti lands u/s 3-A of the Tamil Nadu Estates Land (Reduction of Rent) Act, 1947 (Tamil Nadu Act 30 of 1947); and

(ii) all ryoti lands which immediately before the notified date, were properly included or ought to have been properly included in his holding and which are not lands in respect of which a landholder or some other person is entitled to a ryotwari patta under any other provision of this Act:

provided that no person who has been admitted into possession of any land by a landholder on or after the 1.7.1950, shall, except where the Government, after an examination of all the circumstances otherwise direct, be entitled to a ryotwari patta in respect of such land.

2(a) In the case of a new inam estate every ryot shall, with effect on and from the notified date, be entitled to a ryotwari patta in respect of all ryoti land in his holding except lands in respect of which a landholder or some other person is entitled to a ryotwari patta under any other provision of this Act:

Provided that no person who has been admitted into possession of any land by a landholder or on after the 1.4.1960, shall, except where the Government after an examination of all the circumstances otherwise direct, be entitled to a ryotwari patta in respect of such land.

(b) A ryot as defined in Clause (16)(ii) of Section 2 shall be entitled to a ryotwari patta to the exclusion of the ryots, if any, specified in paragraph (i) of the said Explanation shall be entitled to ryotwari patta to the exclusion of the ryot, if any, specified in paragraph (ii) of the said Explanation.

(3) Notwithstanding anything contained in sub-sections (1) and 2), or ryot shall be entitled to a ryotwari patta in respect of any land under sub-section (1) or

sub-section (2) if such ryot has voluntarily abandoned or relinquished his rights in respect of such land on or before the date of the decision of the Settlement Officer under sub-section (1) of Section 12.

11.(1). where no person is entitled to a ryotwari in respect of a land in an inam estate, u/s 9 or 10 and the lands vests in the Government, the persons specified, below shall be entitled to a ryotwari patta in respect of that land in the following order of preference:

(i) firstly, a person, who had been personally cultivating such land for a continuous period of twelve years immediately before the 1.4.1960;

(ii) secondly, if there is no such person as is referred to in Clause (i), then, a person who had been lawfully admitted into possession of such land on or after the 27.9.1955 and who had been personally cultivating such land every since; and

(iii) thirdly, if there is no such person as is referred to in Clauses (i) and (ii) then, a person who had been personally cultivating that land on the 26.9.1955 and for a period of twelve years immediately before that date:

Provided that no person shall be entitled to a ryotwari patta in respect of any land under Clause (i) or (iii) of this sub-section if such person has voluntarily abandoned or relinquished his rights in respect of such land or before the date of the decision of the Settlement Officer under sub-section (1) of Section 12:

Provided further that no ryotwari patta shall be granted in respect of any land falling under any of the categories specified below:

(a) forests;

(b) beds and bunds of tanks and of supply, drainage, surplus or irrigation channels;

(c) threshing floor, cattle-stands, village-sites, cart tracks, roads, temple sites and such other lands as are set apart for the common use of the villagers;

(d) rivers, streams and other poramboke.

12.1 The Settlement Officer shall examine the claim of any person for a ryotwari patta u/s 9 or Section 10 or Section 11, as the case may be, and decide in respect of which lands the claim should be allowed.

(2) Against a decision of the Settlement Officer under sub-section (i), the Government may, within one year from the date of the decision, and any person aggrieved by such decision may, within three months from the said date, appeal to the Tribunal.

Provided that the Tribunal may, in its discretion, allow further time not exceeding six months for the filing of any such appeal:

Provided further that the Tribunal may, in its discretion, entertain an appeal by the Government at any time, if it appears to the Tribunal that the decision of the Settlement Officer was vitiated by fraud or by mistake of fact.

36. Section 16 of the Act deals with rights of persons admitted into possession of ryoti land for non-agricultural purpose. Section 17 of the Act deals with persons admitted into possession of non-ryoti land, how to be dealt with. Section 18 of the Act speaks about rights of certain lessees and others.

37. In the light of the provisions, the Hon'ble Bench has clearly observed that the rights of the claimants may vary i.e., they may form a separate or distinct class or it could be an individual case. In the case on hand, there are 592 claimants. The Division Bench of this Court in S.T.A. No. 51 of 1984, dated 5.9.1996, has directed the Assistant Settlement Officer to consider the claim of all 592 claimants on merits, without being uninfluenced by any of the observations made by the Tribunal. By virtue of the Judgment made in S.T.A. No. 51 of 1984, dated 5.9.1996, the enquiry to be made by the Assistant Settlement Officer is restored to its initial position i.e., starting a fresh enquiry.

38. The Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Rules, 1965, have been framed in exercise of the powers conferred u/s 62(2) of the Act, (for short, "the Rules"). Rule 9 of the Rules contemplates enquiry into claims under Sections 9, 10, 11 or 14 of the Act. The said Rules are extracted hereunder:

9. (1) Every application for grant of ryotwari patta in respect of any land under Sections 9, 10, 11, or 14 shall be in Form No. 4 and shall be either presented in person or sent by registered post to the Settlement Officer within six months from the notified date, or from the 23.11.1966, whichever is later.

(2) Every such application shall be signed and verified by the applicant and restricted to lands in a single village.

(3) If, in respect of any land, no person has applied under sub-rule (1) or where an urgent enquiry within the period specified in sub-rule is necessary in the public interest, the Settlement Officer shall proceed to enquire into the nature and history of the land suo motu and determine if any person is prima facie entitled to a ryotwari patta in respect of that land.

(4) The Settlement Officer shall then fix a date for enquiry and shall cause notice in Form No. 5 to be served on each landholder, ryot, cultivator or service holder, who has applied for ryotwari patta or who, in the opinion of the Settlement Officer, is prima facie entitled to a ryotwari patta, to produce any record or make any representation, which he may wish to make at the enquiry. A copy of the notice shall also be sent to the Manager of the inam estate.

(5) The Settlement Officer shall also publish a notice in Form No. 6 requiring any person, who has any objection to any of the proposals to grant ryotwari patta, to file before him a statement of his objections, within a week from the date of the

notice and also requesting all interested persons to be present at the enquiry either in person or through unauthorized representative and make their representations. Copies of the notice shall be affixed on the notice boards of the offices of the Settlement Officer and of the Assistant Settlement Officer concerned.

(6) The date of the enquiry shall not be earlier than fifteen days from the date of the publication of the notice referred to in sub-rule (5).

(7) The enquiry shall be summary. The Settlement Officer shall hear the parties and afford them a reasonable opportunity for adducing any oral and documentary evidence.

(8) The decision of the Settlement Officer shall be published in Form No. 7.A copy of the decision shall be given to the party concerned in person or sent to him by registered post. A copy of the decision shall also be sent to the Manager of the inam estate and to the Director of Settlements.

10.(1) On receipt of an appeal preferred under sub-section (2) of Section 12, the Tribunal shall cause a notice in Form No. 8 to be published requiring all persons who have applied to the Settlement Officer under Sections 9, 10 or 11 or filed a statement before the Settlement Officer in the course of the enquiry under such Section, to appear before it.

(2) A copy of the notice shall be served on the applicant, the Manager of the inam estate and every other person affected by the appeal, by sending the notice to the individual concerned by registered post.

(3) A copy of the final order of the Tribunal shall be communicated to the appellant, the respondents and the Manager of the inam estate.

14. The provisions of rule 11 shall apply mutatis mutandis to cases, in which the occupant of any land is not entitled, under Sections 15, 16, 17 or 18, as the case may be, to remain in occupation of the land.

39. A combined reading of the above said statutory provisions makes it manifestly clear that whenever an application for grant of ryotwari patta in respect of any land under Sections 9, 10, 11 or 14 of the Act is made, the Settlement Officer shall then fix a date for enquiry and shall cause notice in Form No. 5 to be served on each landholder, ryot, cultivator or service holder, who has applied for ryotwari patta or who, in the opinion of the Settlement Officer is prima facie entitled to a ryotwari patta, to produce any record or make any representation, which he may wish to make at the enquiry. A copy of the decision shall also be sent to the Manager of the Inam Estate and to the Director of Settlements. The enquiry shall be summary. The Settlement Officer shall hear the parties and afford them a reasonable opportunity for adducing any oral and documentary evidence. The decision made by the Settlement Officer can be challenged by way of an appeal to the Tribunal. The above said Rule mandates that an opportunity of hearing should be given to each landholder, ryot, cultivator

or service holder, who has applied for ryotwari patta or who, in the opinion of the Settlement Officer is prima facie entitled to a ryotwari patta, to produce any record or make any representation, which he may wish to make at the time of enquiry. The Rule does not restrict the powers of the Settlement Officer to consider only the applications submitted for grant of ryotwari patta in respect of any land under Sections 9, 10, 11 or 14 of the Act, presented in person or sent through Registered Post to the Settlement Officer within a period of six months from the notified date, the rule also enables the Settlement Officer to arrive at a prima facie conclusion regarding entitlement of ryotwari patta to any person other than the applicants, who can produce records or make representation at the time of expiry. Therefore, the scope of enquiry to be made regarding grant of ryotwari patta by the Assistant Settlement Officer is wide enough to consider any record or representation, which the enquiry Officer may wish to make at the time of enquiry.

40. Indisputably, in the case on hand, there are 592 claimants, who have agitated for grant of patta in respect of their individual holdings on the ground that they are ryots, cultivating land for a long time. Opportunity of hearing has to be provided to all under the statute. Under the statutory provisions, powers of the Assistant Settlement Officer to enquire into the matter is not restricted only to the applicants. As stated supra, he can consider any representation, even at the time of enquiry.

41. In the light of the above statutory provisions, the contention of the learned Additional Advocate General that the petitioner Adheenam has no statutory or legal right to object to the issuance of notices to all the 592 claimants is tenable and that the same is in conformity with the statute. In the light of the Judgment rendered by the Hon'ble Division Bench made in S.T.A. No. 51 of 1984, dated 5.9.1996, and incorporated in brief in the order made in W.P. No. 42572 of 2002, dated 28.11.2002, no manifest illegality is committed by the Assistant Settlement Officer, in issuing notices to all the 592 claimants and the petitioner Adheenam for effectuating the provisions of the statute. The objections of the petitioner Adheenam to the notices issued in terms of Rule 9 of the Rules is not tenable.

42. As rightly contended by the learned Additional Advocate General, a Writ against a show cause notice is not maintainable in law, unless and otherwise, it is proved that such notice has been issued by an incompetent authority or it is contrary to the statutory provisions.

43. The Assistant Settlement Officer is the Competent Authority under the Rules to entertain the applications for grant of ryotwari patta, conduct an enquiry and take appropriate decision and that the aggrieved party can prefer an appeal before the Tribunal u/s 12 of the Act read with Rule 10 of the Rules framed thereunder. The petitioner Adheenam has no statutory or legal right to object to the discharge of duties and functions by the Assistant Settlement Officer, as provided for in the Statute with reference to the manner, in which he is

statutorily obligated to conduct the enquiry, when an application is received for grant of ryotwari patta.

44. Yet another aspect to be considered is that the notices issued to all the claimants is nothing but implementation of the directions issued by the Hon'ble Division Bench in S.T.A. No. 51 of 1984, dated 31.1.1984 and subsequently, incorporated in W.P. No. 42572 of 2002. The respondents therein who have been directed to conduct the enquiry taking into consideration the claims of all the 592 persons, cannot be prevented from acting or implementing the directions by issuance of a Writ. That is impermissible in law. As rightly contended by the learned Additional Advocate General, Government of Tamil Nadu, once the land is vested with the Government and possession is taken over, the Government have the prerogative right to consider the rights of all the persons under the statutory provisions for grant of ryotwari patta, and the petitioner has no legal or statutory right to question the authority of the Government or the competent authority under the Act to issue notices or consider the applications or the representations to be made at the time of enquiry by the Settlement Officer. It is the prerogative of the competent authority to decide to whom the notices should be sent to decide the grant of ryotwari patta and that cannot be questioned by the petitioner Adheenam. Admittedly, the notices are not issued to third parties, but only to the claimants who have sought for ryotwari patta. As rightly contended by the learned Additional Advocate General, if the petitioner Adheenam is aggrieved over the decision of the Settlement Officer, passed on the claim made on merits, the petitioner can always prefer an appeal to the competent authority under the Act and therefore, the petitioner Adheenam, cannot restrict the Government or the competent authority to issue notices only to few individuals.

45. For the reasons stated above, this Court is not inclined to accept the contentions of the learned counsel for the petitioner Adheenam and on the other hand, find force in the arguments of the learned Additional Advocate General.

46. In the result, the writ petition stands dismissed. Interim order already granted on 11.2.2006 in W.P.M.P. Nos. 1433 of 2006 is vacated. It is open to the Assistant Settlement Officer, the second respondent herein, to proceed with the enquiry, as provided for in the Statute. The petitioner Adheenam and the parties to whom the notices have been issued, can produce oral and documentary evidence during enquiry to be conducted by the Assistant Settlement Officer. As the Writ Petition is pending since 2006 with an interim order, restricting the authority from proceeding further, in view of the dismissal of the Writ Petition, he shall issue fresh notices to all 592 claimants fixing the date of enquiry and also to the petitioner Adheenam in Form No. 5, appended to the Act and proceed further in accordance with law. Record of proceedings shows that as early as on 13.2.2007 in W.P.M.P. (MD). No. 2870 of 2006, the President, Sivanthipuram Vivasaya Sangam, Sivanthipuram Village, Vickramasingapuram Post, Ambasamudram Taluk, Tirunelveli District, has been impleaded as one of the party respondents in this writ petition. For the very same relief, the President of

the same Sangam has filed W.P.M.P. (MD). No. 1278 of 2006, and by order dated 10.8.2012, the said Miscellaneous Petition has also been allowed and that he has been impleaded as a party respondent. In the said circumstances, the present Miscellaneous Petition in M.P. No. 1 of 2012, filed by the President of the Village is unnecessary and on the facts and circumstances of the case, this Court is of the view that he is neither a necessary nor a property party for effective adjudication of the lis between the petitioner Adheenam and the claimants for grant of ryotwari patta. Hence, the present Miscellaneous Petition in M.P. No. 1 of 2012 is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.