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WP Nos.836, 8200, 28169 and 25170 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON 30-08-2023

ORDERS PRONOUNCED ON 04-09-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP Nos.836, 8200, 28169 and 25170 of 2012

And

MP Nos.1, 1, 1, 1 and 2 of 2012

T.M.Veeramuthu

... Petitioner in WPs 836 and
28169 of 2012

X.Durairaj

... Petitioner in WPs 8200 and
25170 of 2012

Vs.

1.The Tahsildar,
Ambattur Taluk,
Thiruvallur (DT).

2.The Commissioner,
Thiruverkadu Municipality,
Thiruvallur District.

3.The Secretary to Government,
Municipal Administration,
Secretariat,



Chennai.

WP Nos.836, 8200, 28169 and 25170 of 2



4.The District Collector,
Thiruvallur District,
Thiruvallur.

5.The Assistant Commissioner,
Thiruverkadu Police Station,
Ambattur (TK),
Thiruvallur (DT).

6.The Chief Educational Officer,
Thiruvallur District.

[R-3 to R-6 impleaded as per order of Court
dated 27.02.2012 made in MP No.3 of 2012 in
WP No.836 of 2012] ... Respondents in WP 836 of 2012

1.The Chief Educational Officer,
Thiruvallur.

2.The District Collector,
Thiruvallur.

3.The Executive Officer cum Commissioner,
Thiruverkadu Municipality,
Thiruvallur. ... Respondents in WP 8200 of 2012

1.The Principal Secretary and Commissioner of
Land Administration,
Chepauk,
Chennai-600 005.

2.The Commissioner Survey and Settlement,
Chepauk,
Chennai-600 005.



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3.The Assistant Settlement Officer,
Thiruvannamalai,
Now Survey House,
Chepauk,
Chennai-600 005.

4.Mr.V.Kumarasamy

5.Mr.X.Durairaj ... Respondents in WP 28169/2012

1.The Principal Secretary and Commissioner
of Land Administration,
Chepauk,
Chennai-600 005.

2.The District Collector,
Thiruvallur District. ... Respondents in WP 25170/2012

WP No.836 of 2012 is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to incorporate the petitioner's name as owner of the land measuring 1 Acre and 57 Cents in Survey no.13/6B of Noombal Puliampedu Village, Ambattur Taluk, Thiruvallur District and issue revenue patta to the petitioner.

WP No.8200 of 2012 is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the first respondent from interfering with the possession of the petitioner with respect to the property situate at S.No.13/6(B) (old Survey No.13/6 (part), Puliambedu Village, Numbal Village and further direct the removal of the



structure illegally raised by it.

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WP No.28169 of 2012 is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the first respondent in reference D.Dis K17074/2012 dated 17.08.2012 and quash the same.

WP No.25170 of 2012 is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the first respondent in proceedings in Ref.D.Dis K1/7074/2012 dated 17.08.2012 and to quash the same as illegal, arbitrary and without jurisdiction.

For Petitioner in WPs 836/2012: Mr.V.Ramesh for
and 28169/2012 Mr.M.S.Govindarajan

For Petitioner in WPs 8200/2012: Mr.V.Raghavachari,
and 25170/2012, R-5 in Senior Counsel for
WP 28169/2012 Ms.V.Srimathi

For Respondents-1, 3 to 6
in WP 836/2012, for : Mr.R.Ramanlaal,
R-1 and R-2 in WP8200/2012, Additional Advocate General
for R-1 to R-3 in WP Assisted by Mr.U.Barani-
28169/2012,R-1 and R-2 in dharan, Additional
WP 25170/2012 Government Pleader.

For Respondent-2 in
WP 836/2012 : Mr.P.Chinnadurai



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For R-3 in WP 8200/2012 : Mr.R.Mohandoss

For R-4 in WP 28169/2012 : Mr.L.Chandrakumar

COMMON ORDER

The relief sought for in WP No.836 of 2012 is for a Mandamus to direct the first respondent to incorporate the petitioner's name as owner of the land measuring 1 Acre and 57 Cents in Survey no.13/6B of Noombal Puliampedu Village, Ambattur Taluk, Thiruvallur District and issue revenue patta to the petitioner.

2. The relief sought for in WP No.8200 of 2012 is for a Mandamus forbearing the first respondent from interfering with the possession of the petitioner with respect to the property situated at S.No.13/6(B) (old Survey No.13/6 (part), Puliampedu Village, Numbal Village and further direct to remove the structure illegally raised.

3. The relief sought for in WP No.28169 of 2012 is to call for



the records of the first respondent in reference D.Dis K.17074/2012 dated 17.08.2012 and to quash the same.

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4. The relief sought for in WP No.25170 of 2012 is to call for the records of the first respondent in reference D.Dis K.17074/2012 dated 17.08.2012 and to quash the same as illegal, arbitrary and without jurisdiction.

5. The petitioner states that the subject property situate in Survey No.13/6B (part), Puliyanbedu Village, Noombal Village. Ambattur Taluk, Thiruvallur District. On 03.12.1920, a registered Sale Deed was executed by Mr.Gregory Sam for 1103 caunies of land in the Jagir of Numbal Puliampedu Village to one T.S.Ramasamy Iyer. Court Auction Sale of 1103 caunies of land was purchased by V.T.Veerappa Chettiar and V.P.L.V.Palaniappa Chettiar on 26.04.1941. The Release Deed was executed on 30.11.1945 by Mr.V.T.Veerappa Chettiar and V.P.L.V.Palaniappa Chettiar in favour of Mr.T.S.Ramasami Iyer. The said T.S.Ramasamy Iyer and his sons sold the lands on 25.06.1953 to Singaravelu Mudaliar, who in turn sold the lands to Varadarajulu Mudaliar



on 14.07.1960.

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6. The Government of Tamil Nadu suffered a decree before this Court in STA No.21 of 1958 which vested with the property in the hands of the villagers rather than classifying as Inam Estate on 22.12.1960. Mr.Varadarajulu Mudaliar sold the lands to Meccanno Flooring Private Limited through a registered Sale Deed No.844 of 1966. On 21.12.1983, Meccanno Flooring Private Limited sold an extent of 1.75 Acres in new Survey No.13/6(part) and Survey No.78/1 in favour of one Perumal Naicker through a registered Sale Deed No.7169 of 1983. Petitioner's vendor had applied for revenue patta request on 06.04.1984. The Government issued G.O.Ms.No.714, dated 29.06.1987 imposing total ban to entertain applications and subsequently, the lands were classified as 'Anadheenam'.

7. A registered Sale Deed No.816 of 1989 was executed by Perumal Niacker on 06.02.1989 in favour of the petitioner to sell an extent of 0.95 Acres bearing Survey No.13/6B (part) in the office of the Sub Registrar, Poonamallee, Madras. On 18.08.1993, an application was made by M/s.Alamelu Industries for issuance of patta in Survey No.13/6A in



Puliampedu Village and the Settlement Officer in proceedings

R.P.No.3/1992 granted ryotwari patta under Sections 13 and 15. A civil suit was decreed in OS No.1049 of 1991 on the file of the District Munsif, Poonamallee. The said suit was for declaration and permanent injunction, since the villagers had attempted to interfere with the possession of the petitioner.

8. The Thiruverkadu Municipality had attempted to interfere with the possession of the petitioner in May 2010, based on the classification of the subject land as 'Anadheenam' and notice was issued to the petitioner on 15.07.2011. A writ petition in WP No.17197 of 2011 was preferred by the petitioner to forbear the respondents from interfering with the peaceful possession and the said writ petition was ordered on 03.01.2012.

9. As regards WP No.8200 of 2012 was filed to forbear the respondents from interfering with the peaceful possession in Survey No.13/6B (Old Survey No.13/6 (part) and for a direction to remove the illegal structure and an order of injunction was granted on 30.03.2012.



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10. The learned Senior Counsel appearing on behalf of the petitioner mainly contended that based on the erroneous classification of the subject land, the petitioner is facing interference by the villagers and the Authorities and therefore, the impugned order is to be set aside.

11. The respondents failed to consider the proceedings in RP No.3 of 1992 dated 18.08.1993 and erroneously classified the subject land as 'Anadheenam'. Once the Settlement Officer has decided the nature of the properties and granted patta under the Special Enactment, the said ground may be modified and interfered only to the manner and the extent provided in the Statute itself. Thus the respondents have misconstrued the Government Order issued in G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987. The petitioner made an application for grant of patta as early as in 1984. However, the respondents have failed to consider the facts in totality. The rights of the petitioner has been subsequently protected by the orders passed in WP No.17197 of 2011 and the interim order granted in WP No.8200 of 2012. Thus the order of the Commissioner of Land Administration is perverse and



the classification made as 'Anadheenam' is an error apparent committed by the Authorities against the private land. Thus the writ petitions are to be allowed.

12. The learned Senior Counsel for the petitioner relied on the judgment of the Kerala High Court in the case of **State of Kerala vs. Mundoli Hydrus [1983 KLJ 402]**, wherein in paragraphs 16 and 19, it has been observed as under:-

“16. What was urged before this court by the learned Government Pleader appearing on behalf of the State, related to the case about the abandonment of the property by Mr. Miller and his legal heirs. He based those contentions on Exts. A11, A14, A15 (a), A15 (b), A18, A20, A21, A32, B44, B28 and B34, and the testimony of P.W1. the Tahsildar and the admission contained in page 19 of the deposition of D.W. 1. We shall, therefore, examine the case of the appellant on the basis of the contentions so urged. The argument of the State based on the above evidence may be summarised as follows:- The settlement register Ext. All (of 1837) describes the property as



"unoccupied". Ext. A14 settlement register of the subsequent period describes the property as anadheenam signifying thereby that the land is abandoned. The dement evident under Ext. A 20 which took place between 1914 and 1923 indicates that the old survey No. 835 corresponded to resurvey No. 684. The description of the property is 'UD', the expansion of which is 'undeveloped dry' and that the patta 219 was shown as issued to S. A. Miller. This description of the property also, according to the Government Pleader, points to the abandonment of the property by Mr.Milder and his legal heirs. The information contained in the letter of the Special Settlement Revenue Inspector to the Adhikari and his reply Ext. A 15(b) dated 6-12- 1920 are relied on to show that the whereabouts of Mr. Miller were unknown, which, according to the Government Pleader, justifies an inference of the abandonment of the property by Miller and his legal heirs.

.. ..

19. The word 'Anadheenam' contained in the settlement registers does not justify the inference that the property is an abandoned one. It



must be borne in mind that these words have to be understood under the relevant Madras Standing Orders and other provisions relating to the maintenance of the books and records issued by the then Madras Government. The word 'anadheenam' so understood means 'not occupied'. It does not mean that the property is an abandoned one. This is the clear affect of the Madras Board's Standing Order No- 28. The word only indicates that it is unoccupied or not cultivated or left waste or fallow. Clause (1) of Standing Order No. 28 provides that lands which a ryot has left waste will not be struck out of his patta on that account. Similarly, mere prolonged absence or non-occupation does not invalidate the right of the registered owner and the obligation to pay the fixed assessment continues, whether the land is cultivated or left waste. The Village Officer in Ext. A15(b) which is a reply to the query made under Ext. A15 (a) in the 'year 1920 had not stated that Miller had abandoned the property. The worst that can be assumed against Mr. Miller and others, in the above circumstances, would be that the property remained uncultivated at their hands for some time. That, however, does not lead to the



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inference of abandonment.”

13. The learned Senior Counsel for the petitioner relied on the judgment of this Court in the case of **Gopalaswami Ayyangar vs. Athmanathaswami [1957 (1) MLJ 104]**, wherein it has been observed as under:-

“That was a suit filed by Sri Athmanathaswami Devasthanam at Avidayarkoil, by its hereditary trustee, Sri Subramania Pandarasannadhi, Adheenakartha of the Tiruvaduthurai Adheenam for recovering Rs. 11,415-8-6 being the principal and interest due from the appellant, as damages for use and occupation of the temple lands for faslis 1357-1360, at Rs. Rs. 3-9-0 per acre per annum. It was alleged that the suit lands measuring 729 acres 17 cents and lying in three villages, Kalagam, Pazhayaganagaram, and Arasulan karanbai, belonged absolutely to the temple in iruwaram eka bhogam right and did not constitute ryoti lands but were pamai or home-farm lands which lay as waste from time immemorial and constituted old waste, and that in Fasli 1354, the



then Pandarasannadhi, the previous trustee of the temple, was trying to reclaim some portions of those lands and to bring them under cultivation, in pursuance of the vigorous grow-more food campaign initiated by the revenue authorities and encouraged, by the H.R.E. Board but that, as the temple had not the necessary resources, the progress of reclamation, if undertaken by it, would be inappreciable and very slow. The Government were urging for speedy reclamation of these lands and for bringing them to cultivation, as they were irrigable under the Cauveri-Mettur project.

.. .. .

After discussing the entire evidence, he held, on issues 1 and 2, that there could be no doubt that the suit lands were situated in an estate, as defined in Act 1 of 1908, as amended by Act XVIII of 1936, and that as they were cultivable lands, and had indeed been brought under cultivation by the appellant, they must be deemed to be ryoti in character until the contrary was proved by the plaintiff, but that as the suit lands, though cultivable, had remained uncultivated for a number of years and were for



the first time being let to the appellant, and there was no proof of necessity for the temple by granting such a lease, or benefit derived by it, it would amount to an alienation of temple property and the previous trustee should have taken the sanction of the Board before granting a lease, and that, in the absence of that, the lease was invalid and the appellant must be held to be only a person in permissive occupation of the suit property with out acquiring any occupancy rights therein and that, under the terms of the permissive occupation or tenancy, he must pay at the rate of Rs, 3-9-0 per acre on an average for the lands in his possession for each year and would also be liable to eviction, since he was only a tenant at will.

.. ..

(1) Are the suit lands ryoti lands situated in an estate, or private lands or tank bed lands, bunds, channels, threshing floors, service tenures etc., not capable of being ryoti lands?

.. ..

Point No. 1: There is absolutely no doubt in the light of the evidence in the case, that the suit lands are ryoti lands situated in an estate, and



are not private lands either ab initio or by conversion from ryoti, or tank-beds, bunds, threshing floors, cattle stands, village sites or service tenures, exempted from the definition of ryoti lands under S. 3(16) of the Estates Land Act.

.. ..

It went on to say that the law recognised only two categories of land in an estate viz., private land and ryoti land, and that the contention of the plaintiff that the suit land must be deemed to be part of old waste land, and therefore, private pannai land of the temple, could not be accepted. The learned Counsel for the respondent-temple was unable to attack that finding, which is, in our opinion, the only proper finding in the light of the law and the rulings as they stand.

“Private land” as defined in S. 3(10) means the domain or home-farm land of the land holder, by whatever designation known, such as kambattam, khas, sir or pannai, and includes all land which is proved to have been cultivated as private land by the landholder, with his own or hired stock, for a continuous period of twelve years immediately before the commencement of



the Act. The essence of private and is that it was once cultivated by the land holder himself, except as regards kudivaram lands acquired by the land-holder before 1st November 1933 for valuable consideration (which is not the case here) regarding which lands he is given some privileges. The suit lands were admittedly wholly uncultivated before they were granted to the appellant on lease and delivered into his possession. So they can never be called home farm lands or private lands at their inception by any stretch of imagination.”

14. The learned Senior Counsel for the petitioner relied on the judgment of the Andhra Pradesh High Court in the case of **Dhulipalla Ramayya and Another vs. Kota Brahmayya and Others [AIR 1958 AP 100]**, wherein in paragraph-4, it has been observed as under:-

“4. The expression 'anadhlnam' does not imply that it is domain or home-farm land of the landholder and therefore private land- Gopalaswamy Ayyangar vs. Athamanathaswami Dev. 1957-1 Mad LJ 104 (A). It merely means unoccupied land and the plaint allegations are in



effect that the suit lands were cultivated lands which were brought under cultivation by the landholders between 1940 and 1949. The plaint allegations do not bring them within any of the categories of private land set out in S. 3 (10) (b). It follows that they would be ryoti lands within the meaning of s. 3 (16). On the plaint allegations, the joint shrotriumdars would be entitled to a ryot wari patta in respect of the lands under S. 18 (b) (III) of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948.”

15. The learned Senior Counsel for the petitioner relied on the judgment of this Court in the case of **K.Lakshmanan vs. District Collector, Erode District and Others [2020 SCC OnLine Mad 8240]**, wherein in paragraph-9, it has been observed as under:-

“9. Having considered the submissions raised at length, we find that the claim of the appellant is that the land is, as a matter of fact, not Government Poramboke land, but is Anadhinam land. Anadhinam is a category of land under the Madras Estate Land Act [1 of 1908], Section 3(16) whereof has been dealt with by the



Andhra Pradesh High Court in the case of Dhullpalla Ramayya v. Kota Brahmayya, AIR 1958 AP 100, to hold that Anadhinam land is not private land, and it merely means unoccupied land.”

16. The learned Senior Counsel for the petitioner relied on the judgment of this Court in the case of **Kulanthaivel vs. District Revenue Officer and Others [LNIND 2009 Mad 4623]**, wherein in paragraphs-32 to 34, it has been observed as under:-

“32. Learned Counsel for the Petitioner made particular reference to the decision reported in 1998 Law Weekly 89 (Mangathayi Animal v. E.M. Sami), wherein, on a question as to the rejection of the application from a land holder claiming Ryotwari patta, this Court pointed out referring to the judgment of this Court in an unreported decision in W.P. No. 1058 of dated 10th December 1960 and W.P. No. 900 of 1960 dated 10th April 1962 that the land owner's right to a Ryotwari patta was, by no means lost, merely because his application under Section 13 was rejected as time barred. This Court pointed out



that in the event of Ryotwari Patta not being granted, the land owner will not have a right of appeal against such an order. Nevertheless, given the nature of land as a cultivable land in respect of which the land owner was entitled to Ryotwari patta, then, independent of any enquiry conducted by the Settlement Officer in the course of any proceedings before him contemplated under Section 15 of the Act, the Government owes a duty to the land owner to grant him the Ryotwari patta.

33. The effect of the decision, as referred to above, is irrespective of whether a claim was made for a grant of patta by a land owner, the character of the land as a Ryotwari land remains as it is either before or after the Act unless the holding pattern undergoes a radical change either by forces of nature, Act of God or of man. Secondly, the fact that the Petitioner like land owners have not approached the authorities concerned on time does not mean, the Government could, as such, take over the land as a poramboke without conducting an enquiry and survey. The duty cast on the Government is an inevitable one, that the Government has to go in the character of the land, which has to be surveyed and settled. If



the survey conducted by the Government discloses that the item in question was one in respect of which the land owner was entitled to Ryotwari Patta, then, independent of any enquiry conducted by the Settlement Officer, in the course of any proceedings, the Government has to grant the owner, the Ryotwari patta.

34. The law declared by this Court, in the circumstances, certainly go a long way in supporting the case of the Petitioner, that the second Respondent herein, reversing the order of the first Respondent, hence, merits to be set aside by this Court. The schedule describing the location of the land clearly proved the fact that the land in S. No. 11 is not a Kuttai or a tank and is only a Ryotwari land. There is hardly anything to show that a kuttai was converted into a cultivable land. The support drawn by the Petitioner from the decisions of this Court, as to the nomenclature in the Survey Land Register, hence, is not of any consequence, given the fact that the document of the year 1955 had not been, in any manner, challenged or a finding arrived at by the first Respondent to change the character of the land from a cultivable land. The mere fact that



the Survey Land Register carries the classification of the land in S. No. 11 as "Kuttai Poramboke", per se, does not defeat the claim of the Petitioner, who is claiming Ryotwari Patta on the basis of the document of the year 1955."

17. The learned Senior Counsel for the petitioner relied on the judgment of this Court in the case of **Kuppuswami Odayar and Another vs. The Panchayat Narthangudi represented by its President Murugayyan and Others [1971 (1) MLJ 190]**, wherein it has been observed as under:-

"It has been repeatedly held that the mere fact that in the Re-settlement Register, a particular piece of land has been described as poramboke will not by itself establish title of the Government to the land in question. Under these circumstances, I do not have the slightest hesitation in holding that both the Courts below have failed to appreciate the question of title put forward by the appellants to the tank in question and approach the claim from that point of view."



18. The learned Senior Counsel for the petitioner relied on the judgment of this Court in the case of **Saraswathi Bai vs. Chairman, E.A.Tribunal, Madura [1956 (1) MLJ 200]**, wherein it has been observed as under:-

“Proprietary interest in what has been described as poramboke lands in an estate, of course, does not conclude the question, whether the petitioner is entitled to a ryotwari patta for any of the lands so described. Since the right to a ryotwari patta in the quondam estates which were abolished by Act XXVI of 1948 is itself a creature of that statute, the right to ryotwari patta has to be determined in accordance with the provisions of that Act, principally Section 12(a). The alternative claim in this case was based upon the provisions of Section 12(b)(iii) of the Abolition Act. Obviously the lands that fell within the scope of Section 3(16)(a) or (b) of the Estates Land Act cannot come within the ambit of the provisions of Section 12(a) or Section 12(b)(iii) of the Abolition Act.

I have said enough to indicate that the description of a given piece of land as poramboke



may not conclude the question at issue. The Tribunal adverted to the names of some of the topes. That again may have little evidentiary value, though, of course, it was wholly for the Tribunal to decide what was the evidentiary value of such a description. Whether such a description showed that it was a ryoti land or that it was land reserved for communal purposes either under Section 3(16)(a) or Section 3(16)(b) of the Act was What the Tribunal had to consider. It was the use to which the land was put, not its name that should matter. That I am afraid they did not consider.

The tests laid down in Periannan's case MANU/TN/0188/1952 : (1952) 1 M.L.J. 71, were:

(1) if the land is known to be ryoti land at its inception, the only mode by which it could be converted into private land is by proof of continuous cultivation for a period of 12 years prior to the commencement of the Estates Land Act. In the present case it was no one's claim that the lands were ryoti lands. They have all along been shown as poramboke lands, which by itself should normally exclude the possibility of their ever having been ryoti lands as defined by the



Estates Land Act.

(2) Even if the nature of the land is not known, continuous cultivation for the required period of 12 years before the commencement of the Act would conclusively establish that the land is private land. Cultivation, it is now well settled, also includes horticulture.

(3) If there is no proof of cultivation for a continuous period of 12 years before the commencement of the Act, the land may be proved to be private land by other methods, provided the land was not shown to be once ryoti. As I said, it should be difficult to sustain any claim, even had one been put forward and it was not-that any of these lands was at any time ryoti land. So what the Tribunal had to consider was that, even if there was no proof of cultivation for a continuous period of 12 years, the land could be proved to be private land by other methods. Some of the other methods were indicated in the further propositions laid down by the Full Bench.

(4) Cultivation of the lands or leasing of the lands under short terms may be one mode of proof.

(5) An intention to cultivate or resume for



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cultivation, is also a test to decide that the land is private land, and such intention may be established by any other means not necessarily by cultivation and by cultivation alone.

(6) The essence of private land is continuous course of conduct on the part of the landholder asserting and acting on the footing that he is the absolute owner thereof and recognition and acceptance by the tenants that the landholder has absolute right in the land. It is principally tests 4, 5 and 6 that may arise for consideration in this case.

(7) Mere proof that the landholder is the owner of both the warams is not sufficient to prove that the land is private land. No question of waram as such could arise in the case of lands registered as poramboke, but the fact, that the full proprietary interest even in poramboke lands, leaving out of consideration, those that fell within the scope of Section 3(16) of the Estates Land Act, vests in the landholder, may be a relevant factor.”

19. The above judgments relied on by the petitioners are of no avail to them in view of the fact that the petitioners have failed to initiate



any steps under the provisions of the Abolition Act 26 of 1948 and within the cut off date as fixed by the Government in G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987. That apart, in the present case, the Government has already utilised the land by allotting funds and commenced the construction of school building and 70% of the building has already been constructed.

20. That being the factum, the above judgments relied on by the petitioners, cannot be applied for the purpose of considering the relief as such sought for in these writ petitions.

21. The learned Additional Advocate General, appearing on behalf of the respondents 1 to 3, disputed the contentions raised by the petitioner. Regarding the brief history, the counter filed by the first respondent reveals the following facts:-

(1) The Noombal Puliambedu Village, Ambattur Taluk in Thiruvallur District was taken over by the Government under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, XXVI of 1948. The land in Survey No.13/6 to an extent of 0.97.5 Hectares



of Noombal Puliambedu Village was settled as 'Government Assessed Waste Dry' during the settlement.

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(2) The Settlement Officer, Thanjavur in his proceedings RP No.3 of 1992 dated 18.08.1993 has issued patta to Thiru Subbiah for an extent of 0.33.5 Hectares and given Survey Number as 13/6A and entered in the village accounts. While-so, the Assistant Settlement Officer, Thiruvannamalai in his order K.Dis (A2) 876/2000 dated 27.06.2000 has granted patta to one Thiru M.Veeramuthu for an extent of 1.57 Acre in Survey No.13/6B under Section 11(a) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, XXVI of 1948 [hereinafter referred to as the 'Act'].

(3) The Commissioner of Survey and Settlement, Chennai-5 has initiated suo-motu proceedings under Section 5(2) of the Act, XXVI of 1948 to cancel the orders of the Assistant Settlement Officer for the reason that as per G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987, the Assistant Settlement Officer has no powers to grant patta on time barred applications. Hence, the Commissioner of Survey and Settlement had cancelled the orders of the Assistant Settlement Officer, Thiruvannamalai, passed in K.Dis (A2) 876/2000 dated



27.06.2000 and granted patta to the same individual viz., Thiru Veeramuthu, S/o.Thiru Marimuthu, by cancelling the entries made as 'Anadheenam' and granted patta in his order 11/6327/04 dated 29.07.2011. The fifth respondent Thiru X.Durairaj, Managing Director, Rajarajan Electricals Equipments Private Limited in his representation dated 09.03.2012 has stated that they are the owners of the land situated in Survey No.13/6 (part) i.e., 13/6B, Puliambedu Noombal village and they are having records viz., Sale Deeds continuously from 1940 to 1989. From the year of purchase, the said property is in their possession and enjoyment and also requested to cancel the orders passed by the Commissioner of Survey and Settlement and grant patta in favour of Thiru Veeramuthu.

(4) In the meanwhile, one Thiru P.Kumarasamy, S/o.Thiru P.Venkatesan, Treasurer, Parent-Teachers Association, the fourth respondent herein, in his appeal petition dated 09.04.2012 addressed to the Principal Secretary and Commissioner of Land Administration, has stated that construction work has been started for running a High school in Survey No.13/6B for an extent of 1.57 Acre in Noombal Puliambedu Village for the lands classified as 'Government Anadheenam'. Meanwhile, Thiru P.Kumarasamy, has filed WP No.12940 of 2012 before this Court. This



Court in its order dated 04.05.2012, has issued direction to the Principal Secretary and Commissioner of Land Administration to consider the appeal of the petitioner dated 09.04.2012 and pass orders on merits and in accordance with law.

(5) In obedience of the orders passed by this Court, the case was heard by the Principal Secretary and Commissioner of Land Administration by duly giving opportunities to all the parties. The order passed by the Commissioner of Survey and Settlement, in his proceedings No.11/6327/04 dated 29.07.2011 and the order of Assistant Settlement Officer, Thiruvannamalai in K.Dis B2/876/2000 dated 27.08.2000 were set aside by the Principal Secretary and Commissioner of Land Administration in proceeding D.Dis.K1/7074/12, dated 17.08.2012. Further, the claims made by the petitioner and one Thiru Kumarasamy have been rejected and the land was ordered to be restored to its original petition as per settlement records i.e., 'Government Assessed Waste Dry' in the village records. This order is under challenge.

22. During the course of enquiry by the Authorities, it was noticed that the Settlement proceedings in Noombal Puliambedu Village



under the Act XXVI of 1948, were set aside by the State Appellate Tribunal (High Court) in STA No.21 of 1958 and STP No.34 of 1960. Thus the orders passed under the Act XXVI of 1948 would not be considered as validly statutory orders and that too passed after the rules framed under Act XXVI of 1948 were amended in Notification issued in G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987. The order of the Settlement Officer, Thanjavur referred by the petitioner was passed by the Settlement Officer, Thanjavur on the case remanded by Estate Abolition Tribunal, Chengalpattu in EATA 1 of 1991 dated 10.02.1992. Even considering the case under the Act XXVI of 1948, the Settlement Officer had passed order under Section 15 of the said Act. Under this Section, except the Tribunal, no other Authority has jurisdiction to pass orders on settlement issues.

23. The Assistant Settlement Officer, Thiruvannamalai in his order dated 27.06.2000 in K.Dis.B2/876/2000, granted patta to the petitioner Thiru M.Veeramuthu. Under Section 11(a) of the Act XXVI of 1948, the Assistant Settlement Officer has no authority to entertain applications under the Act, after the issuance of Notification in



G.O.Ms.No.714, Commercial Taxes and Religious Endowments

Department, dated 29.06.1987. Therefore, the said order has been taken up by the Commissioner of Survey and Settlement for suo motu review under Section 5(2) of the Act. While considering the review of the order of Assistant Settlement Officer, the Commissioner of Survey and Settlement has allowed patta in contravention of the rules stated above, which prohibits entertaining of such application after 20.08.1987.

24. As per UDR 'A' Register, the land in Survey No.13/6 has been classified as Government Dry 'Anadheenam'. Prior to UDR, the village Noombal Puliambedu was taken up under the provisions of Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act XXVI of 1948 and settlement operation was introduced. However, the Settlement Appellate Tribunal (High Court of Madras) in their order dated 22.12.1960 in STA No.21 of 1958 had quashed the settlement proceedings as the village did not bear the character of inam village and declared it as one held on free hold tenure. This is confirmed by the copy of judgment dated 22.12.1960 in S.T.Appeal No.21 of 1958 and S.T.P. No.34 of 1960 of this Court. The copy of the judgment was submitted by Thiru Durairaj, viz., the fifth respondent



herein. Further, the Fair Land Register of Noombal Puliambedu village also shows that subsequent to the cancellation of settlement proceedings undertaken under the Act XXVI of 1948, the settlement was completed under the Tamil Nadu Levy of Ryotwari Assessment on Free Hold Lands Act, 1972 (Tamil Nadu Act 32 of 1973). This settlement was completed in the year 1981. At the same period, the UDR Survey was undertaken. The settlement accounts prepared under the Act 31 of 1973 was adopted in the UDR Survey. Therefore, the Commissioner of Survey and Settlement has no powers to pass orders under the Act XXVI of 1948 in respect of lands in Noombal Puliambedu Village and thus the orders passed by the second respondent was rightly set aside by the first respondent.

25. The Full Bench of this Court in a judgment dated 24.07.2007 in WA No.326 of 2007 held that the provisions of Sections 5 and 7 of the Act XXVI of 1948 confer extremely broad powers on the Director and the Board of Revenue (Commissioner of Land Administration) respectively for correcting the mistakes committed by the Lower Authorities, for the purpose of effectuating the Scheme of the Act and implementing the purpose behind the Act. After the completion of Ryotwari



Settlement, the village accounts, namely village 'A' Register, 10(1) Chitta etc., had been handed over to the Revenue Department for maintenance and the Settlement Authorities cannot entertain original applications.

26. The persons aggrieved by the decisions made in Final Settlement Enquiry can seek remedy by filing appeals only under the Sections provided in the Act. The powers of Assistant Settlement Officer/ Settlement Officer to entertain appeal against the decision in the Final Settlement Enquiry was confined only to orders under Section 11 of the Act, which deals with the grant of patta to ryots. The Government under the powers conferred in Section 67(2)(d) of the Act, had issued Notification amending the rules to the Act in G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987. In the said Notification, the Government had fixed 20.08.1987 as the last date to apply for ryotwari patta and withdrawn the powers of the Settlement Authorities to condone the delay and entertain fresh appeals. The Government had also retained the suo motu powers of the Commissioner of Land Administration under Section 7 of the Act. Further, the suo motu powers of the Commissioner of Land Administration has not only been provided under the



Act XXVI of 1948, but also under Section 11(1)(i) of the Tamil Nadu Levy of Ryotwari Assessment on Free-hold Lands Act 31 of 1973.

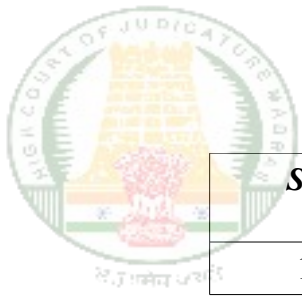
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27. Thiru X.Durairaj, the fifth respondent, in his petition dated 09.03.2012 before the first respondent has requested to cancel the order passed by the Commissioner of Survey and Settlement and also requested to grant patta for the suit land. Similarly, the fourth respondent Thiru Kumarasamy, Treasurer Parent-Teachers Association, in his petition dated 09.04.2012 claimed that the Commissioner of Survey and Settlement has wrongly granted patta for the land classified as 'Anadheenam' vested with the Government and requested the Principal Secretary and Commissioner of Land Administration to cancel the order of Commissioner of Survey and Settlement. While these two petitions were under process, Thiru Kumarasamy has approached this Court in WP No.12940 of 2012 seeking direction to dispose of his petition. This Court in its order dated 04.05.2012 in the abovesaid writ petition has issued direction to the Principal Secretary and Commissioner of Land Administration to dispose of the petition within 30 days.



28. According to the rules framed under the Act XXVI of 1948, appeal against the orders of an Assistant Settlement Officer shall be presented to the Settlement Officer and further revision shall lie to the Director of Survey and Settlement and Board of Revenue (now Commissioner of Land Administration). Further Section 7(c) of the Act, confers powers to the Board of Revenue (now Commissioner of Land Administration) to cancel or revise any of the orders, acts or proceedings of any Settlement Officer other than those in respect of which an appeal lies before the Tribunal. Thus the order passed by the Director of Survey and Settlement shall fall under the review before the Commissioner of Land Administration, who is the Superior Authority in the Settlement Hierarchy. Thus the order passed by the first respondent setting aside the orders of the second respondent, is sustainable and well within the ambit of law.

29. With reference to the present status, the respondents filed a Status Report, which reveals that the land situated in Survey No.13/6, Puliambedu Village, Poondamallee Taluk, Thiruvallur District, has been registered as follows as per the records outlined in the 'A' Register:-



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<i>S.No.</i>	<i>Category</i>	<i>Extend</i>	<i>Patta No. and Pattadar Name</i>	<i>Remarks</i>
13/6	Sarkar Poonjai	97.5	-	Anadheenam

30. In Accordance with the Assistant Settlement Officer's proceedings No.Mu.Mu.(A2)./929/2000 dated 27.06.2000, the land in Survey No.13/6 was subdivided as follows:-

<i>S.No.</i>	<i>Category</i>	<i>Extend</i>	<i>Patta No. and Pattadar Name</i>	<i>Remarks</i>
13/6A	Sarkar Poonjai	0.33.50	.68. Alamelu Industries	-
13/6B	Sarkar Poonjai	0.64.00	-	Anadheenam

31. Under these circumstances, as documented in Settlement Deed 13662/2014, the land was conveyed to Alamelu Industries, represented by Mr.M.Senthilkumar, son of Mr.M.Subbaiah. The alterations recorded are as follows:-

<i>S.No.</i>	<i>Category</i>	<i>Extend</i>	<i>Patta No. and Pattadar Name</i>	<i>Remarks</i>
13/6A	Poonjai	0.33.50	1915 M.Subbaiah Son S.Senthilkumar	-



As a result, the current status of the land in Survey No.13/6A is registered on the Tamil Nilam Website as follows:-

S.No.	Category	Extend	Patta No. and Pattadar Name	Remarks
13/6A	Ryot. Poonjai	0.33.50	1915 M.Subbaiah Son S.Senthilkumar	Anadheenam

The land in Survey No.13/6B is categorised as 'Sarkar Poonjai' in Puliambedu Village, Poondamallee Taluk, Thiruvallur District, has been allocated for the construction of Vellapansavadi High School. The construction endeavours have been initiated on the aforementioned site, which spans approximately 0.15.08 Hectares of land. Presently, 9 classrooms have been erected, and the progress of the Project stands at 70% completion.

32. Mr.Durairaj, who is the petitioner herein, filed a writ petition before this Court in WP No.8200 of 2012, wherein this Court issued an order on 20.08.2013, which extended the previously granted interim status quo order stating as under:-

“Therefore, the interim order of Status Quo



already granted by this Court is extended until further order.”

Concerning the same Survey Number, Mr.Veeramuthu also filed a writ petition before this Court in WP No.836 of 2012 in which this Court issued an order on 12.01.2012, which reads as under:-

“There will be an order of Interim Injunction for a period of six weeks.”

33. The respondents have stated that during the recent inspection, it came to light that the School structure has been raised upto the roofing level. It is imperative to emphasise that the construction of 9 classrooms remains unfinished and this state of incompleteness has endured for the past decade due to the interim stay granted in all these writ petitions.

34. The subject property was allotted for the construction of Vellappansavadi High School. Funds were allotted and the construction was also commenced. Nine Classrooms have been erected and the Project stands at 70% completion and at that point, these writ petitions are filed and on account of the interim order passed by this Court, the School building is unable to be completed, which caused prejudice to the interest of the people



of that locality.

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35. In the impugned order, Commissioner of Land Administration has categorically considered the case of Mr.Durairaj, Mr.Kumarasamy and Mr.Veeramuthu. The Commissioner of Land Administration found that no effort were taken before the concerned Settlement Authorities during the Currency of Settlement or before the issuance of G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987. Contrarily, attempts are being made to secure the patta for the land vested with the Government only from the year 2000. Thus the claim to grant patta cannot be considered.

36. At the time of settlement, the subject land has been classified as 'Anadheenam' land, which means 'unoccupied or unclaimed' land. During the settlement, as there was none to claim for Ryotwari patta under the Act. The Government have provided ample opportunities to both under the Abolition Acts and outside the scope of such Acts, including extension of statutory time limit to enable the land holders, ryots and tenants etc., to apply for ryotwari patta and to get the same. Thousands of people



have been benefited by such concessions granted by the Government from time to time. However, at one point it was felt that further extension of time has given room to unnecessary litigations and fraudulent claims. Consequently, the Government issued G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987, wherein they have barred all the Authorities in the Settlement Hierarchy from entertaining applications for condonation of delay and from passing orders under the provisions of Act XXVI of 1948. After issue of such Notifications, all 'Anadheenam' lands have got automatically and absolutely vested with the Government.

37. As per the rules, the Commissioner of Survey and Settlement cannot enlarge the powers conferred on him beyond the scope of the Act, which empowered him only to revise the orders of Assistant Settlement Officer/Settlement Officer on suo motu. However, the Commissioner of Survey and Settlement has chosen to pass orders under Section 5(2) of the Act XXVI of 1948, without considering these facts. Accordingly, Principal Secretary and Commissioner of Land Administration has set aside the proceedings of the Commissioner of Survey and Settlement



and the orders passed by the Assistant Settlement Officer. Consequently, the subject land is ordered to be restored to its original position as per the settlement record i.e., 'Government Anadheenam'.

38. The petitioners have not initiated any steps to secure patta pursuant to the Abolition Acts and within the cut off date fixed by the Government in G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987. The Authorities have no power to condone the delay and they are barred from entertaining such applications. Thus all the 'Anadheenam' lands have got automatically and absolutely vested with the Government.

39. That apart, the Government has already initiated steps to construct the School, for which necessary funds were allotted and the buildings are partly completed. 70% of the school building has been completed and on account of the interim stay, the respondents are unable to complete the remaining portion for the smooth functioning of the school. When the Government has already initiated steps to utilise the subject land for the welfare of the people of that locality by constructing school building,



this Court is of an opinion, that the petitioner is not entitled for the relief as such sought for in all these writ petitions.

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40. Accordingly, all the writ petitions are dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

04-09-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

1.The Tahsildar,
Ambattur Taluk,



- Thiruvallur (DT).
2. The Commissioner,
Thiruverkadu Municipality,
Thiruvallur District.
 3. The Secretary to Government,
Municipal Administration,
Secretariat,
Chennai.
 4. The District Collector,
Thiruvallur District,
Thiruvallur.
 5. The Assistant Commissioner,
Thiruverkadu Police Station,
Ambattur (TK),
Thiruvallur (DT).
 6. The Chief Educational Officer,
Thiruvallur District.
 7. The Executive Officer cum Commissioner,
Thiruverkadu Municipality,
Thiruvallur.
 8. The Principal Secretary and Commissioner of
Land Administration,
Chepauk,
Chennai-600 005.
 9. The Commissioner Survey and Settlement,
Chepauk,
Chennai-600 005.



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WP Nos.836, 8200, 28169 and 25170 of 2



10. The Assistant Settlement Officer,
Thiruvannamalai,
Now Survey House,
Chepauk,
Chennai-600 005.



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WP Nos.836, 8200, 28169 and 25170 of 2

S.M.SUBRAMANIAM, J.

Svn

Pre-Delivery Order in
WPs 836, 8200, 28169
and 25170 of 2012

04-09-2023