



W.P.No.25608 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on : 06.11.2023

Orders pronounced on : 22.11.2023

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA,
CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

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R.A.V.Kovil Annayya Charities,
Represented by its Managing Trustee,
C.Narasimha Swamy

.. Petitioner

Versus

1. The District Collector,
Collectorate Office,
Tiruvallur - 602 001.
2. The Revenue Inspector,
Taluk Office, Poonamallee,
Tiruvallur - 600 056.
3. The Tahsildar,
Taluk Office, Poonamallee,
Tiruvallur - 600 056.



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4. M/s.Chennai Metro Rail Limited,
Rep. by the Chief General Manager (Legal),
At Metros, No.327, Anna Salai,
Nandanam, Chennai - 600 035.

.. Respondents

(R4 impleaded vide order, dated 07.09.2023 made
in W.M.P.No.25975 of 2023 in W.P.No.25608 of 2023)

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus to call for the records on the file of the 2nd respondent in R.C.No.1673/2023/B1, dated 24.08.2023 and Na.Ka.1673/2023/AA1, dated 25.08.2023 and quash the same as illegal, incompetent and without jurisdiction and further forbearing the respondents from interfering with the possession of the petitioners with respect the property in S.No.1382/2, Pasali 1432, Poonamallee village, Tiruvallur district.

For Petitioner : Mr.V.Raghavachari, Senior Counsel
for Mr.Avinash Wadhwani

For Respondents : Mr.R.Shunmugasundaram,
Advocate General,
Assisted by Mr.K.Karthik Jagannath,
Government Advocate,
and Mrs.A.G.Shakeenaa, for RR-1 to 3

: Mr.P.Wilson, Senior Counsel
Assisted by Mrs.Rita Chandrasekar, for R4



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ORDER

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(Order made by the Hon'ble Mr.Justice D.Bharatha Chakravarthy)

This Writ Petition is filed challenging the order passed by the Tahsildar, Poonamallee, dated 24.08.2023 in R.C.No.1673/2023/B1, thereby, rejecting the objections raised by the petitioner and holding that the petitioner is an encroacher liable to be evicted from the subject premises as per Section 6 of the *Tamil Nadu Land Encroachment Act, 1905* (hereinafter referred to as 'the Act') and the consequential notice issued as per Section 6 of the Act, dated 25.08.2023, bearing R.C.No.1673/2023/B1.

2. It is the case of the writ petitioner that the property comprised in S.No.1382/2 ad-measuring to an extent of 3310 Sq.mts in Poonamallee Village and Taluk, Tiruvallur District was originally the absolute property of the forefathers of one *C.Narasimha Swamy*, the Managing Trustee of the petitioner trust, namely, *R.A.V.Kovil Annayya Charities*. It is their absolute 'Gramanatham' property. They created a trust and dedicated the income



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from the trust property to be used for the expenses of '*Arulmigu Thirukachi*

Nambi Thiru Avatar Dhivya Mahotsava'. There are superstructures in the property in the nature of commercial shops which is rented out and the income is defrayed for the said purposes of the trust.

3. While so, now the new Chennai Metro Rail project line is planned in the said area. In view of the *CMRL* line, the road has to be realigned/extended. For the said purpose, the above property is now required for the respondents. However, without issuing any notice for acquisition of the above property belonging to the petitioner, the respondent simply issued a notice under Section 7 of the *Act*. The petitioner approached this Court against the said action and by order dated 14.03.2023 in W.P.No.31688 of 2022, this Court directed that the petitioner's objections shall be duly considered by the respondents. The respondents rejected the contention holding that the land is classified as '*Sarkar Poramboke*' land and that '*Gramanatham*' land can be occupied only by poor for the residential purposes only. Once the property is used for commercial purposes, no right



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can be claimed that the property is *Gramanatham*. Even the poor people are entitled to only 3 cents of land as grant from the Government and nothing beyond that. The respondents are attempting to immediately evict the petitioner and hence the petitioner is before this court.

4. Though normally an appeal would lie before the District Collector under Section 10 of the *Act*, in the instant case, in respect of the same *CMRL* line in the very same Poonamallee Village in respect of an identical claim of title on the basis of *Gramanatham* land, this Court recently had decided the issue in favour of the petitioners and against the respondents in WP No.31688 of 2022 in *A.Sacractice and Ors. Vs. The District Collector and Ors.*¹. The respondents still felt that the matter needs consideration and considering the urgency involved in the issue, both sides argued the matter on merits and accordingly, we had entertained and heard the Writ Petition on merits without relegating the parties to the alternative remedy available under the *Act*.



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5. With respect to the emergent need of the land for *CMRL* purpose, we had observed that the petitioner can part with the possession subject to its right to claim compensation in respect of the land, as the respondents are ready to pay compensation presently for the superstructure. *Mr.V.Raghavachari*, the learned Senior Counsel appearing on behalf of the petitioner, in response submits that the petitioner will not resist the taking over of possession once notice is issued for acquisition of land in accordance with law and not in the proceedings under the *Act*.

6. We heard *Mr.V.Raghavachari*, the learned Senior Counsel and thereafter *Mr.Avinash Wadhwani*, the learned Counsel appearing on behalf of the petitioner and *Mr.R.Shunmugasundaram*, the learned Advocate General appearing on behalf of the respondents 1 to 3 and *Mr.P.Wilson*, the learned Senior Counsel appearing on behalf the fourth respondent.

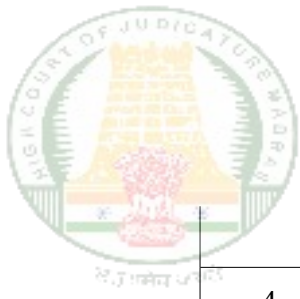


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7. The learned Senior Counsel appearing on behalf of the petitioner, submitted that *Gramanatham* lands are not Government interest lands. They are the private and absolute property of the individuals and the petitioner has all the right, title and interest over the said lands. Merely because the land is also mentioned as '*Poramboke*' in the Natham Land Settlement Register, it will not in any manner confer title in the State. He would submit that in any event, the provisions of the *Act* cannot be invoked once the property is a *Gramanatham* land. The learned Senior Counsel would primarily rely upon the judgment of this Court in *A.R.Meenakshi Vs. State of Tamil Nadu and Ors.*².

8. *Mr.Avinash Wadhwani*, learned Counsel, continuing the arguments, also submitted the following judgments on behalf of the petitioner :-

S.No.	Name of the Parties	Citation
1.	S.Rengaraja Iyengar and Ors. Vs. Achikannu Ammal and Ors.	<i>1959-72-LE767</i>
2.	L.V.Veeru Chettiar and Ors. Vs. Sales Tax Officer, Bombay	<i>AIR 1971 Mad 155</i>
3.	Chigurupati Venkata Subbayya and Ors. Vs.	<i>AIR 1972 SC 1421</i>



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	Paladuga Anjayya and Ors.	
4.	The Executive Officer, Kadathur Town Panchayat Vs. V.Swaminathan and Ors.	(2004) 2 MLJ 708
5.	Muthammal Vs. The State of Tamil Nadu and Ors.	(2006) 3 MLJ 216
6.	A.Srinivasan and Ors. Vs. The Tahsildar Egmore Nungambakkam Taluk	2010-1-LW123
7.	Dharmapura Adhinam Mutt Vs. Raghavan and Ors.	2012 (1) CTC 280
8.	A.R.Meenakshi Vs. State of Tamil Nadu and Ors.	2013-4-LW76
9.	Nalliaya Gounder Vs. The State of Tamil Nadu, The Revenue Divisional Officer and Ors.	2013-4-LW85
10.	K.Ilangovan Vs. The District Collector, Coimbatore and Ors.	2014-1-LW430
11.	D.Shankar and Ors. Vs. Special Commissioner and Commissioner for Land Administration and Ors.	(2014) 1 MLJ 818
12.	C.Lakshmanan Vs. The District Collector, Sivagangai and Ors.	MANU/TN/0615/2022
13.	T.S.Ravi and Anr. Vs. The District Collector, Thiruvallur District, Thiruvallur and Ors.	W.P.Nos.26234 & 26237 of 2018, dated 11.10.2018
14.	A.Sacractice and Ors. Vs. The District Collector, Thiruvallur District, Thiruvallur and Ors.	2023:MHC:1047

9. Per *contra*, Mr.R.Shunmugasundaram, learned Advocate General appearing on behalf of the respondents 1 to 3 would submit that the land in

question is needed on an emergent basis for the CMRL project. The



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petitioner has not produced any document of title in his favour. When the

land in question is claimed to be a *Gramanatham* land, the same would, at best, confer title if only it is used and occupied for residential purpose and not otherwise. The land is classified as *Poramboke* land and insofar as improvements made by way of superstructure are concerned, already compensation is agreed to be paid to the petitioner. He would further rely upon the judgment of this Court in ***Zonal Officer - V, Corporation of Chennai, Chennai - 600 010 and Anr. Vs. K.Narasa Reddy, Kances Constructions Pvt. Ltd., Chennai - 17 and Ors.***³, whereunder, the need to curtail rampant misuse of *Gramanatham* lands has been declined and it has been categorically held that *Gramanatham* is a common village land and greedy persons cannot indulge in purely commercial activity in the sand land and the Government of Tamil Nadu was directed to strictly protect the *Gramanatham* lands being misused for commercial purposes.



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10. Thereafter, by way of further hearing, we directed the learned

Government Pleader to produce the proof that the land is Government interest land. The translated copy of the A-Register of No.40, Poonamallee Village which is an updated register as per G.O.Ms.No.869, Commercial Taxes and Charitable Endowments Department, dated 30.09.1985 was produced before us. In the said register, the corresponding old S.No.115/74 is mentioned in Column No.3 (*Ryotwari (R) or Government (G)*) as Government and mentioned as *Poramboke* in Column No.4 (*Nanjai (N), Punjai (P), Manavari (M), Unassessed Waste (UAW), Puramboke (P)*). The Column No.11, relating to patta number and name of the registered holder remains blank. In the remarks column i.e., in Column No.12, it is mentioned as *Gramanatham*.

11. Another record, being the true extract of the *Natham Settlement Scheme Fair Adangal Register*, was also produced which again contains the same entries as mentioned above and the S.No.115/74 is divided into three parts as 1382/1, 1382/2 and 1382/3. The S.Nos.1381/1 and 1381/3 stand in



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the name of private individuals namely, *K.Gnanambal* and *N.Mookanadar*,

while the name of the petitioner trust is not entered to as the holder of the land. The land is described as *Gramanatham*.

12. *Mr.P.Wilson*, learned Senior Counsel appearing on behalf of the fourth respondent, would submit that once the revenue records mention the land as *Government Poramboke* land, then the same is a Government interest land and the Government has every right to invoke the provisions of the *Act*. He would submit that even in the earlier Division Bench judgments of *T.S.Ravi and Anr. Vs. The District Collector, Thriuvallur District and Ors.* in W.P.Nos.26234 and 26237 of 2018 and *A.Sacractice's* case (cited *supra*), the land was mainly used for residential purpose and only part was commercial. But this case stands on a different footing. He would rely upon the judgment of this Court in *M.Sekar Vs. The District Collector, Namakkal and Ors.*⁴. In the said judgment this Court held that *Gramanatham* lands cannot be utilised for commercial purposes and in such



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cases, even the patta granted is liable to be cancelled. He would therefore

pray that the Writ Petition be dismissed. He would also submit that already,

a Special Leave Petition is also filed and pending against the earlier

judgment in *A.Sacractice*'s case (cited *supra*).

13. We have considered the rival submissions made on either side and perused the material records of the case. The question that arises for consideration in the instant case is whether or not the land in question can be deemed to be Government interest land so as to invoke the provisions of the *Act* ?

14. The fact that, the *Gramanatham* lands are private interest lands and do not vest with the Government, has been held consistently by this Court and the earliest of the judgments is *Palani Ammal Vs. L.Sethurama Aiyangar*⁵. As a matter of fact, this Court in *A.R.Meenakshi* cited *supra* the learned Single Judge (Hon'ble Mr.Justice V.Ramasubramanian as His



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Lordship then was) has clearly encapsulated the legal position in detail and it

is relevant to extract paragraph Nos.10 to 22 which read as hereunder :-

" **10. In N.S. Kuppuswamy Odayar Vs. Narthangudi Panchayat** [MANU/TN/0303/1970MANU/TN/0303/1970 : 1971 (1) MLJ 190], it was held by M.M. Ismail, J. 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.

11. In Rengaraja Iyengar Vs. Achikannu Ammal [MANU/TN/0492/1959MANU/TN/0492/1959 : 1959 (2) MLJ 513], *this Court pointed out that a house site owned by a person in what is generally known as gramamatham is not the property of the Government under Tamilnadu Act III of 1905. The Court also went on to point out that in order that a land may properly be described as house site, within the meaning of that expression in Section 2 of the Act, it is not necessary that there should be a residential building. A person may, in a village habitation, own a house in a street and a site on the outskirts of the habitation, but within the limits of the gramamatham, using it for the purpose of storing his hay and manure, if he is an agriculturist, or as a smithy, if he is a smith, or as a brick-kiln, if he is a brick maker or as a place for weaving, if he is a weaver. It was contended in*



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the said case that by virtue of Section 3(b) of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948, house sites should also be held to be property as to which title gets transferred to the Government. But, the Court repelled the contention by pointing out that a building in a gramamatham is protected from transfer of title to the Government both under Section 18(1) of the 1948 Act and also under the Land Encroachment Act, 1905. In other words, the title to a house site in a gramamatham is protected from transfer to Government by the operation of Tamilnadu Act III of 1905.

12. In Thillaivanam, A.K. and another Vs. District Collector, Chengai Anna District and three others
[MANU/TN/1720/1997MANU/TN/1720/1997 : 1998 (3) LW 603], this Court pointed out that village natham is a land, which never vest with the Government. Therefore, the Court pointed out that persons, who are admittedly in exclusive possession of such property and who were never assessed to penal charges, or issued with B-Memos should be taken to have acquired a valid right to the land.

13. Mr. S. Gomathinayagam, learned Additional Advocate General raised one contention, namely that even if the land in question is a gramamatham, it is a communal property, which cannot be appropriated by individuals. But, the said argument was already



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repelled by Satyanarayana Rao, J in **Palani Ammal Vs. L. Sethurama Aiyangar** [MANU/TN/0191/1949MANU/TN/0191/1949 : 1949 (1) MLJ 290], by holding that gramamatham is not a communal property in the sense in which thrashing floor or burning grounds or other property is communal. It is a land in the occupation of individuals, whose possession cannot be interfered. The individual in possession could very well resist ejectment and even institute a suit for ejectment against a trespasser.

14. In Krishnamurthy Gounder Vs. Government of Tamilnadu [MANU/TN/1054/2002MANU/TN/1054/2002 : 2002 (3) CTC 221], K. Raviraja Pandian, J relied upon the decisions in Palani Ammal and A.K. Thillaivanam and held that gramamatham is a land, which never vested with the Government and that therefore, the eviction of persons in occupation of gramamatham land is impermissible under the Land Encroachment Act, 1905.

15. In The Executive Officer, Kadathur Town Panchayat Vs. Swaminathan [MANU/TN/0517/2004MANU/TN/0517/2004 : 2004 (2) MLJ 708], a Division Bench of this Court referred to the definition of the word 'gramamatham' appearing in Law Lexicon as 'ground set apart on which the house of village may be built'. After citing several earlier



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decisions including those in Palani Ammal, S. Rengaraja Iyengar and A.K. Thillaivanam, the Division Bench came to the conclusion that natham land does not vest with the Government to enable them to throw out persons in occupation.

*16. A situation identical to the one on hand arose before a Division Bench of this Court in **The State of Madras vs. Kasturi Ammal** [MANU/TN/0531/1973MANU/TN/0531/1973 : 1974 (87) L.W. 531]. In that case, a land was taken possession of by a panchayat by offering to purchase it from the person in possession on the ground that the land was required for erecting water works. After taking possession, the panchayat (which later became a municipality) and the State Government refused to pay compensation for the land on the ground that the land was partly a road poramboke and partly a natham poramboke according to a survey held in 1919. Therefore, the State and the municipality contended that the land had already vested with the Government in terms of Section 2(1) of the Tamilnadu Land Encroachment Act 1905 and also in terms of Tamilnadu Act XXX of 1963. Hence, the person, claiming to be the owner, filed a suit for declaration of title and also for compensation. The suit was decreed on the ground that the State was estopped from denying the title of the plaintiff. The appeals filed by the State and the cross objections filed by the plaintiff for enhancement of the compensation, came up before a Division Bench of Ramaprasad Rao and*



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Natarajan, JJ. After referring to the decision of Subrahmanyam, J in S. Rengaraja Iyengar, the Division Bench referred to a few other decisions in paragraph 14 and elicited the principle of law in paragraph 15. Paragraphs 14 and 15 of the decision are extracted as follows:

*14. We may also usefully refer to some other decisions which hold that the statutory machinery provided under Act XXVI of 1948 or Act XXX of 1963 as the case may be can have jurisdiction only in respect of those matters, such as the grant of ryotwari patta, provided under the Act and that such machinery, being the creatures of the statute, cannot deal with a civil right, the determination of which can be done only by a civil Court. In **State of Madras Vs. Umayal Achi and Ors.** L.P.A. No. 106 of 1959., it was held that the civil Court had jurisdiction to entertain the suit for a mere injunction restraining the Government from arbitrarily and oppressively applying the provisions of the Land Encroachments Act to persons like the plaintiff who have been in occupation of lands in a notified estate even prior to the date of the notification. In **The State of Madras Vs. Parisutha Nadar MANU/TN/0504/1960MANU/TN/0504/1960 : (1961) 2 M.L.J.285.**, it has been held that it is not open to the*



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*Government in the course of the proceedings to put forward its own title to the property sought to be acquired so as to defeat the rights of the persons entitled to the compensation. In **State of Madras Vs. Ramalingasami Madani**, a Bench of this Court held as follows: "It is clear from the provisions of the Act (XXVI of 1948) that what really vests in the Government in respect of a ryoti or private land is merely title and there is no vesting of possession, which is protected under the proviso to Section 3(d) of the Act. So long as the possession of the land continues to vest in the ryot, he would be entitled to protect his rights in respect of the same by resorting to civil Courts." Though there is a long catena of decisions in this behalf, we have adverted to a few only as it is unnecessary to make reference to all of them in view of the fact that the law is now well settled that the statutory machinery created by either Act XXVI of 1948 or Act XXX of 1963 can exercise jurisdiction only in respect of those matters which are specified in the enactments and cannot pervade the field of civil litigation which is exclusively that of the civil Court. The learned Additional Government Pleader invited our attention to a Bench decision of this*



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Court in Raja of Vizianagaram, In re Raja of Vizianagaram (MANU/TN/0208/1953MANU/TN/0208/1953 : AIR 1953 Mad 416), which, according to him, has a bearing on the case. A scrutiny of the judgment, however reveals that the ratio decidendi in that case has no application whatever to the controversy raised for decision in the appeal. In the above said case, the Raja of Vizianagaram contended that certain house-sites, though forming part of the estate of Vizianagaram, must be held to be sites given free to the zamindar without any additional assessment and that therefore, the vacant sites must be held to fall outside the scope of the permanent settlement. Rajamannar, C.J., and Venkatarama Aiyar, J. (as he then was), if we may say so with great respect, rightly held that the contention was fallacious because what happened to the zamindar under the Sannad was not confined to the lands on which peishkush was calculated and that the fact that in 1802, no income accrued to the zamindar in the house-sites did not really affect the question. It is also significant to note that the Bench, notwithstanding such a pronouncement held, that "the right of the Government to take over the house-sites also along



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with the estate was however, subject to the claim of the zamindar, if any, under Section 12 and similar provisions of Act XXVI of 1948 to be granted ryotwari patta."

15. The facts of this case which have already been expatiated by us have reference to a house-site owned by a person who is not an estate-holder and the owner of the site, apart from being entitled to the grant of a patta, is equally conferred by law a right to defend his possession and enjoyment. If, instead of her action for compensation, the plaintiff were to sue for an injunction based on her right of possession, her right to maintain the civil action can never be questioned. In like manner, when the plaintiff sues for compensation for the deprivation of the possession of her land, she is no way, worse off than when maintaining her action for retention of possession. Therefore, the second contention of the defendants to non-suit the plaintiff is a futile one and has therefore been rightly rejected by the trial Court. Consequently, the first defendant, now succeeded by the third defendant, cannot escape its liability to pay compensation to the plaintiff for the suit site, and the appeals by the second and



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the third defendants have, therefore, to fail.

17. In *A. Srinivasan Vs. Tahsildar* [MANU/TN/3256/2009MANU/TN/3256/2009 : 2010 (3) MLJ 72], *M. Jaichandran, J followed the earlier decisions of this Court to hold that gramamatham cannot be considered ipso facto as Government property. Therefore, the Tahsildar was held to be not entitled to invoke the provisions of the Tamilnadu Land Encroachment Act, 1905.*

18. In *State of Tamilnadu Vs. Madasami* [MANU/TN/5348/2011MANU/TN/5348/2011 : 2012 (2) CTC 315], *V. Periya Karuppiah, J followed the decisions in A.K. Thillaivanam and S. Rengaraja Iyengar.*

19. In *Dharmapura Adhinam Mutt Vs. Raghavan* [MANU/TN/4308/2011MANU/TN/4308/2011 : 2012 (1) CTC 280], *a Division Bench of this Court pointed out that gramamatham is the village habitation where the land owners may build houses and reside. They are also known as house sites. They are classified as gramamatham to differentiate them from inam lands, ryotwari lands, pannai lands and waste lands, which vest in the Government. Therefore, after quoting with approval, the decisions in S. Rengaraja Iyengar, A.K. Thillaivanam and A. Srinivasan, the Division*



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Bench reiterated the position that gramamatham is not vested in the Government.

20. In Muthammal Vs. State of Tamilnadu [MANU/TN/8321/2006MANU/TN/8321/2006 : 2006 (3) LW 361], the exposition of what a poramboke land is and what a gramamatham is, as presented by Mr. T.R. Mani, learned counsel was extracted by S. Ashok Kumar, J in paragraph 8 as follows:

*Learned Senior Counsel also clarified that in Natham, first occupier will be treated as the owner and no patta will be given to them. Patta is issued only for assessed lands and it is the settled law. That is why, Natham is called as Poramboke i.e., "natham poramboke" which means "poram (g[*g*wk;)" is outside; "poke (nghf; F)" is revenue record. Thus the word "poramboke lands" means the lands which is not assessed to revenue records and it is outside the revenue accounts. Likewise, "gramanatham" is defined in the Law Lexicon as "ground set apart on which the house of village may be built". Similarly, Natham land is described in Tamil Lexicon published under the authority of University of Madras to the effect that it is a residential portion of a village; or portion of a village inhabited by the non brahmins; or land reserved as house sites; etc., Learned senior*



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counsel also relied on very many decisions of this High Court as well as the Apex Court to the effect that Poramboke does not include natham and grama natham never vest with the Government, which will be referred to in the latter part of this judgment.

21. In *Karana Maravar Service Society Vs. The State of Tamilnadu & Another (Madurai Bench)* [MANU/TN/1496/2012MANU/TN/1496/2012 : 2012 (4) L.W. 92], the position was reiterated by K.B.K. Vasuki, J. Therefore, it is clear that the above position of law has held the field for over a century. Keeping this fundamental settled position of law in mind, let us now get back to the facts of the case."

(emphasis supplied)

Thus, it can be seen that it has been held that the legal position has held the field for over a century and that the mere fact that in the re-settlement register, merely because the *Gramanatham* land is described as *Poramboke*, will not, by itself, establish title of the Government to the land in question.



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15. Apart from the above judgments quoted, a learned Single Judge of

this Court in ***K.Ilangovan Vs. The District Collector, Coimbatore and Ors.***⁶,

where similar eviction action was initiated in respect of *Gramanatham* land

on the ground that it has been described as *Poramboke*, after considering the

earlier decisions, in paragraph Nos.6, 7, and 8 ultimately held as follows :-

" ...Thus, from the above decision, it could be seen that the lands whether are classified as *natham poramboke* or *grama natham*, they are only meant to be classified as *grama natham* alone.

Considering all these decisions of this Court and by considering the admitted factual position with regard to the classification of the land as *grama natham*, I am of the view that the respondents have got no right to interfere with the peaceful possession and enjoyment of the land which is in occupation of the petitioner."

16. In ***D.Shankar and Ors. Vs. Special Commissioner and Commissioner for Land Administration and Ors.***⁷, a Division Bench of this

Court was again concerned with the batch of petitions, in which, the petitioners were sought to be evicted from *Gramanatham* lands. The

⁶ 2014-1-LW430
<https://www.mhc.tn.gov.in/judis>
(2014) 1 MLJ 818



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Division Bench noted that the legal position is that the *Gramanatham* will

never vest in the Government. Again, in paragraph No.4, the Division

Bench gave a finding that the classification of the land as if it is Government

Poramboke in the Adangal and other Settlement Registers and at the same

time, describing it as *Gramanatham*, by itself is erroneous. It is essential to

quote paragraph No.4((iv) which reads as follows :-

" **4(iv)** *It is the further submission of the learned Counsel appearing for the petitioner, that the official respondent themselves were not clear about the classification of the land for the reason that as per the Permanent Land Record, it has been shown as Government Poramboke and as per the Adangal, it has been shown as Grama Natham and in all the prior title deeds, the Old Survey No. 178/1 has been shown as Grama Natham and consequently, the petitioner is entitled to receive the compensation amount. "*

After holding so, the Division Bench directed in respect of the land to be acquired in respect of the very same Chennai Metro Rail Project and possession to be taken after disbursement of compensation amount.



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17. Again in respect of the very same *CMRL* requirement, when petitioners in *Gramanatham* lands were sought to be evicted under the *Act*, in ***T.S.Ravi***'s case (stated *supra*), the Division Bench considered the issue in detail and once again reiterated legal position. Apart from the legal position relating to the *Gramanatham* lands that the Government is not the paramount owner, the Division Bench also considered the commercial use of the land and held that merely because a portion of the land in that case was used for commercial exploitation, that by itself will not confer title on the Government. The Division Bench took notice of the fact that those villages, in which the settlements were made, now become big cities, as such, the residential portions, without any due course of time, have become areas of carrying commercial activities and that will not vest title in the Government.

18. Further, yet another Division Bench considered the very same issue in ***C.Lakshmanan Vs. The District Collector, Sivagangai and Ors.***³, by relying upon the judgment in ***T.S.Ravi***'s case (stated *supra*) and held that



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the Gramanatham land does not vest in the Government. As a matter of

fact, in the last of the judgment in *A.Sacractice's* case (cited *supra*) (in which one of us was the party), once again the line of judgments were traced out. It is useful to extract paragraph Nos.11 to 13 of the said judgment which read as follows :-

" 11. As a matter of fact, this Court, right from the Judgment in *Palaniammal Vs. Sethuraman Iyyengar [AIR 1949 Mad 814]*, has categorically held that the 'Grama Natham' land is the land set apart for the villagers to build houses and such land does not vest with the Government. As a matter of fact, an earlier Division Bench of this Court in *T.S.Ravi and Anr. Vs. The District Collector, Tiruvallur and Ors.* (cited *supra*) has traced out the legal position in all the earlier pronouncements and has categorically held that as opposed to Ryotwari lands for cultivation purposes, Grama Natham lands is habitation for the land owners to built houses and reside there and as a matter of fact, under UDR scheme, these lands were surveyed and the Government attempted to levy tax by a scheme known as Natham Nilavari Patta and only a Thoraya Patta, for tax purposes were issued in respect of Grama Natham. After considering the issue in detail, this Court has categorically held that the Grama Natham land does not vest with the Government and the Government has no



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paramount title to the land classified as Grama Natham and thirdly, upon considering the provisions of Section 2 of The Tamil Nadu Land Encroachment Act, 1905, the Act cannot be invoked for the purpose of eviction of people who are in occupation of the lands classified as Grama Natham or to transfer the title in favour of the Government by using such act.

12. As a matter of fact, in yet another recent Judgment in W.P.No.6992 of 202, a Division Bench of this Court (in which one of us, the Hon-ble Acting Chief Justice is a member) has again reiterated the said legal position. In view thereof, we hold that when the land in question in Adi~Dravidar Natham i.e., the Grama Natham land which is meant for occupation by Adi~Dravidars by putting up their houses, it cannot be set to be Government interest lands so as to made over to the CMRL without acquisition of title.

*13. Further, the question of grant of Patta has been clearly dealt with earlier Division Bench of this Court in **T.S.Ravi & Another Vs. The District Collector, Thiruvallur & Others** (cited *supra*) in paragraph No.32 whereby it is held that the Patta does not confer title in respect of Grama Natham, but is issued only under the 'Natham Nilavari Thittam' that is the Natham Land Tax Scheme only for the purpose of levying tax and therefore, non~issue of Patta by itself will not vest the Government with the title. The very same*



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Division Bench had also considered in paragraph No.27 that merely because the persons residing have also built up shops and are using the property partly by letting out the same as shops, the same again will not make the land loose its character and will not confer the title of the Government."

19. In this matter, repeatedly, arguments are advanced before this Court only on the premise that the land in question is shown as Government *Poramboke* in the Natham Adangal or the Natham Settlement Scheme A-Register and therefore, it vests with the Government. This is because of lack of clarity regarding the different perspectives of the term "*Poramboke*". As a matter of fact, the land tenure position in Tamil Nadu is a well documented one. Useful reference can be made to "Land Law in Madras Presidency" by *Mr.B.R.Chakravarthi* (High Court Vakil) Madras; *P.R.Rama Iyar & Co* Printers (1927 Edition), Madras, as also the book "Land Tenures in the Madras Presidency" by *Mr.S.Sundararaja Iyengar*, Advocate, High Court, Madras; the Royal Printing Works, Mount Road, Madras (1933 Edition). In both the above works, after dealing with the types of lands such as



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Zamindari or over-lord tenure, *Inam* tenure, *Ryotwari* tenure and Under

tenures - *Mirasi* etc., the village system prevalent is explained in detail. To

advert to Mr. *S. Sundararaja Iyengar*'s work cited supra, a village,

geographically considered is a tract of country comprising some hundreds or

thousands of acres of arable and waste lands; politically viewed it is a little

republic or rather a corporation having within itself its municipal officers

and corporate officer. Every Tamil village is divided into (i) *Warapat*; (ii)

Tirwapat; (iii) *Tarisu*; and (iv) *Poramboke* Mr.S.Sundararaja Iyengar

explains the term "*Poramboke*" as being meant from three perspectives, that

is, cultivation, communal purpose and revenue. They are of various kinds

classified according to the purpose for which they have been set apart. In

common parlance, any land that does not yield revenue is known as

Poramboke. Thus, it can be seen that the word "*Poramboke*" as twin

connotations. Firstly, it would mean the lands which are used for public or

communal purposes, but, at the same time, it would include the land which

does not yield any revenue to the Government. It is in this context, the

Natham or *Gramanatham* lands are to be understood.



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20. The excerpts from Chapter - II relating to *Gramanatham* which

are relevant to the issue on hand reads as follows :-

*"Nattam or gramanatham is a site on which village habitations are situated, and is held free of assessment. It is **included in proamboke** and is known as nattam poramboke. It is on this site that the villagers must **build their houses**. This does not mean that they are absolutely prevented from building their houses elsewhere, but only they will have to pass the assessment fixed on the land on which they build houses and cannot claim to hold it **free of assessment**. In nattam are included pilakadai or backyard of houses, a small portion of ground immediately adjoining the dwellings of villagers, and kollai or homestead. Both are held free of assessment..... The freehold in the soil of grammanattam in a ryotwari village is in government. **Its right therein consists in regulating the distribution of unoccupied nattam** among the intending applicants for house sites and to ensure its utilization for such purpose. **The owners of houses** and house sites in nattam as well as grantees of unoccupied nattam who have satisfied the condition of the grant by building houses are **at liberty to dispose of them in any manner they choose..... The classification of land as nattam poramboke or government poramboke by the revenue authorities is not conclusive as to the***



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character of the land as poramboke; nor does the omission to describe it as such prevent the government from showing that it is really poramboke; nor does the mere description in the settlement register as temple poramboke vest any title in the temple."

(emphasis supplied)

Thus, it can be seen that those who are already in inhabitation of the village Natham or *Gramanatham* are the absolute owners having title to dispose of the same. Therefore, the contentions that it cannot be more than 3 cents or the commercial use entitles the Government to resort to the *Act* are without any merit.

21. It would be clear that the *Gramanatham* or Natham *Poramboke* can be classified into three types. Firstly, the Natham which are inhabited by the villagers by putting up their house or being their *pilakadai* or *kollai* etc., which is their absolute property and the Government does not have any right, title or interest in the same. The second portion of the *Gramanatham* or those portions which may be used for communal purposes, such as street, thrashing floors etc. Once they are used for communal purposes, by virtue



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of Section 2 of the *Act*, they become the Government interest lands and as

such, have to be termed as the other types of *Poramboke*, in which, no individuals can claim any title and any encroachment can be removed by invoking the provisions of the *Act*. The third type is the unoccupied portion of the *Gramanatham* land, in which the right is vested with the Government to regulate its occupation. The Government has the right to assign the unoccupied portion by ensuring the condition of residence eligibility etc., and it is only in this context, the Revenue Standing Orders, enabling the Government to impose conditions, assign only 3 cents lies.

22. In the above back ground, the Government of Tamil Nadu made an endeavour to bring clarity in respect of all the three types of *Gramanatham* by framing a scheme for assessment and collection of land revenue from the owners of *Gramanatham* property which is known as *Natham Settlement Scheme* in G.O. Ms. No.869, Commercial Taxes and Charitable Endowments Department, dated 30.09.2023, under which the persons who are already in occupation were sought to be recognised by grant



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of 'Thoraya Patta' or 'Tentative Patta'. Though a majority of the occupants of natham have approached the respondents or participated in the Natham Survey and obtained the *Natham Thoraya Patta* and are paying tax, it is common knowledge that it is not a complete or exhaustive exercise as many of the owners did not participate to avoid assessment and payment of tax. Thus, merely because, the concerned occupant's name is not reflected in the Natham Adangal, prepared in this regard, the same is not a conclusive proof that it is an unoccupied Natham or a public purpose *Poramboke*.

23. A learned Single Judge of this Court had an occasion to consider the effect of such entries in A-Register in *S.Sridhar and Ors. Vs. The State of Tamil Nadu and Ors.*⁹. It is useful to extract paragraph Nos.13.3, 13.4, 13.7, 13.8 and 13.9 which read as follows :-

" **13.3.** *India has three types of properties such as (1) Agricultural; (2) Non-Agricultural; and (3) Common properties. By social practice, one can see a set of new unrecorded conventions and power structure with reference to private properties. However, private property was never*



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documented in ancient Indian literatures. It is relevant to point out at this juncture that the Indian Land Administration derives its genesis from "Land Revenue Administration" where every land record created aimed at tapping the Revenue to the Government.

13.4. The whole area of a Tamil village dating to ancient Chola period and thereafter, was divided into various classifications, one among which, as Poramboke lands. The poramboke lands are incapable of cultivation or set apart for public or communal purposes. Though there are various types of poramboke lands, in common parlance, any land that does not yield revenue, is known as poramboke land, but it is liable to tax, however the right to levy assessment on it, is given up by the Government for certain reasons. The four main classifications of waste lands under Ryotwari System that exist today, are (a) assessed (b) unassessed (c) poramboke and (d) reserved. The poramboke denotes lands set apart for public or communal purposes. They are also unassessed. The freehold in these four classes of lands is in Government. Nattam or Grama nattam is the site on which village habitations are situated and is held free of assessment. Except the nattam poramboke, which is permitted for inhabitation, all other poramboke such as lake, river, hill, grazing ground, cattle pond, forest and similar classification of poramboke of public use or



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common use are completely protected from any kind of people's enjoyment.

13.7. To answer this issue, it is necessary to set out briefly the Columns found in the 'A' Register Extract. There cannot be any dispute that the entries in 'A' Register do not confer title to anybody as it is not a title document and it is only a record of those particulars which are relevant to determine the land revenue due from those lands. Each one of the 12 columns of the 'A' Register signifies the extent and quantum of land revenue payable by the owners of those lands to the State.

13.8. Column Nos. 1 and 2 denote the old and new survey numbers of the property; Column No. 3 indicates whether the title of the property is with the Government or with Ryotwari Patta Holder; Column No. 4 denotes whether it is a nanja (wet) or punja (dry) land on which land tax shall be payable or poramboke land on which no land tax is payable; Column No. 5 indicates whether two-time crops are taken or not; Column Nos. 6 and 7 indicate the quality and grade of the earth of the land; Column Nos. 8, 9 and 10 indicate the area, rate of land tax and total land tax payable with reference to the entries in Column Nos. 4 to 7; Column No. 11 indicates the name of the Ryotwari Patta Holder with reference to the entry in Column No. 3; Column No. 12 indicates the purpose for which the land has been set apart, for the purpose of waiving land revenue



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with reference to the entry in Column Nos. 3 and 4, as Government lands and those lands that come under the category of poramboke in Column No. 4, are exempted from the payment of land revenue and consequently give the reason for exemption from Land Revenue.

13.9. *As no land revenue is payable on poramboke lands, there will be no entries in respect of those lands in Column Nos. 5 to 8, 10 and 11 of 'A' Register, whereas in the case of Ryotwari patta lands, all the columns except Column No. 12, shall have entries for the purpose of computation of appropriate land tax. "*

Thus, viewed from any angle, it can be seen that the petitioner's predecessors in title who are the original occupants of the *Gramanatham* land and absolute owners and merely because they chose to deduct the property towards the charitable trust and the charitable trust has put up commercial structures for augmenting income for its purpose, it will not in any manner divest the title in the petitioners.

24. In the result, this Writ Petition is disposed of in the following

terms :-

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(i) The impugned order of the second respondent, dated 24.08.2023

and 25.08.2023 shall stand quashed;

(ii) However, if the land is required for public purposes, it would be open for the respondents 1 to 3 or the Government of Tamil Nadu to initiate acquisition proceedings in accordance with law;

(iii) The submission of the learned Senior Counsel that in that event, the petitioner will surrender possession subject to its rights of proper compensation, is recorded;

(iv) However, there shall be no order as to costs;

(v) Consequently, W.M.P.Nos.25001 and 25002 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

22.11.2023

Index : yes

Speaking order

Neutral Citation : yes

grs

To

<https://www.mhc.tn.gov.in/judis>



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1. The District Collector,
Collectorate Office,
Tiruvallur - 602 001.
2. The Revenue Inspector,
Taluk Office, Poonamallee,
Tiruvallur - 600 056.
3. The Tahsildar,
Taluk Office, Poonamallee,
Tiruvallur - 600 056.



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**THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.**

grs

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22.11.2023