



W.P.(MD) No.7868 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD) No.7868 of 2023

and

W.M.P(MD)No.7288 of 2023

G.Karuppasamy

... Petitioner

-VS-

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice in Na.Ka.Aa3/4705/2021 dated 07.06.2022 on the file of the second respondent and quash the same as illegal and consequently, direct the second respondent not to interfere with the petitioner's peaceful possession of the Village Natham land in S.No.357/33 situated at Uthupatti Village, Kovilpatti Taluk, Thoothukudi District.

For Petitioner : Mr.M.Prabu

For Respondents : Mr.S.P.Maharajan,
Special Government Pleader



W.P.(MD) No.7868 of 2023

ORDER

WEB COPY [Order of the Court was made by R.SUBRAMANIAN, J.]

Mr.S.P.Maharajan, learned Special Government Pleader, takes notice for the respondents.

2. Challenge in this writ petition is to the notice, 07.06.2022, issued by the second respondent, under Section 7 of Act 3 of 1905.

3. A perusal of the said notice itself shows that the action taken by the respondents under Act 3 of 1905 cannot be sustained inasmuch as the land in question does not vest in the Government in terms of Section 2 of the Tamil Nadu Land Encroachment Act, 1905. The very description of the property in the impugned notice would show that the land in Survey No.357/33 of Uthupatti Village is classified as “Natham(காலிமனை)” and it is owned as a house site.

4. Section 2 of the Tamil Nadu Land Encroachment Act, 1905, excludes land which is classified as 'temple site' or land which is owned as 'house site' or 'backyard'. The impugned notice itself states that the petitioner has put up a foundation for constructing a house (வீடு கட்டுவதற்கு வானக்கால்).



W.P.(MD) No.7868 of 2023

5. In W.P(MD)No.7853 of 2023, we have considered a similar notice issued to another occupant of a portion of the very same survey number, namely S.No.357/33 of Uthakudi Village and held that the land being classified as “Natham(காவிமனை)” and it being occupied as a backyard, the same does not vest in the Government in terms of Section 2 of Act 3 of 1905.

6. In view of the same, the impugned notice, dated 07.06.2022, issued by the second respondent, is quashed and there will be a Mandamus forbearing the second respondent from interfering with the possession of the petitioner.

7. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

19.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

PM



W.P.(MD) No.7868 of 2023

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To:

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- 2.The Tahsildar,
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W.P.(MD) No.7868 of 2023

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pm

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