



W.P.(MD) No.7853 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2023

CORAM:

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

W.P.(MD) No.7853 of 2023
and
W.M.P.(MD) No.7273 of 2023

A.Saravanamurugan

... 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



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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.V.Nirmal Kumar
Government Advocate

ORDER

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

Mr.V.Nirmal Kumar, learned Government Advocate, takes notice for the respondents.

2. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

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

4. A perusal of the said notice itself shows that the action taken by the respondents under the said Act cannot be sustained. The said notice



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shows that the land in Survey No.357/33 of Uthupatti Village is classified as “Natham (காலி மனை)”. It is also seen that it is being occupied as backyard by storing hay and parking a tractor.

5. Section 2 of the Tamil Nadu Land Encroachment Act, 1905, which provides vesting of communal lands in the Government, excludes a house site, which is occupied as backyard or a dwelling house and such land does not vest in the Government. Therefore, the Government, not being the title-holder, cannot take proceedings for eviction of the land classified as “Natham” and occupied as house site or backyard.

6. In view of the above, the writ petition is allowed and the notice, dated 07.06.2022, issued by the second respondent, is quashed. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

06.04.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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