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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.07.2016

CORAM :

THE HONOURABLE MR.JUSTICE **NOOTY.RAMAMOHANA RAO**

and

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

Writ Appeal (MD) No.997 of 2016
& C.M.P(MD)No.6003 of 2016

1.The District Revenue Officer,
Virudhunagar,
Virudhunagar District.

2.The Assistant Collector,
Sivakasi,
Virudhunagar District.

3.The Tahsildar,
Rajapalayam,
Virudhunagar District.

... Appellants/Respondents

-Vs-.

1.Solaichery Hindu Nadar Uravinmurai,
Solaichery Village,
Rajapalayam Taluk,
Virudhunagar District,
Represented by its President.

... Respondent/Petitioner

2.I.Sornam

... Respondent / Respondent

Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 01.04.2014 made in W.P.(MD)No.16161 of 2012 on the file of this Hon'ble Court and hereby allow this Writ Appeal.

Prayer in WP(MD). 16161/ 2012 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records from the first respondent relating to the impugned order dated 28/10/2012 in reference number G4/18575/2011 and the second respondent relating to the impugned order dated 24/11/2005 in reference number A1/13022/05 cancelling the Natham patta issued to the petitioner for survey number 431/10 and to quash the same .

For Appellants : Mr.M.Alagathevan

<https://hcservices.ecourts.gov.in/hcservices/>

Special Government Pleader

For Respondent 1 : Mr.J.Barathan

**JUDGMENT**

(Judgment of the Court was delivered
by **NOOTY.RAMAMOohana RAO,J**)

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This Writ Appeal is preferred by the respondents 1 to 3 to the Writ Petition instituted by the first respondent herein.

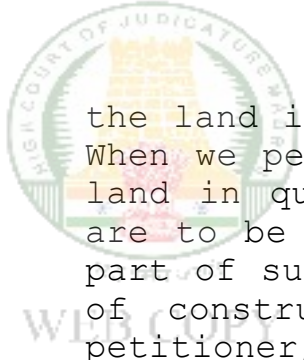
2. When the District Revenue Officer passed an order on 28th October, 2012, upholding the order passed on 24.11.2005 by the Assistant Collector, Sivakasi, Virudhunagar District, cancelling the natham patta issued to the petitioner society, the Writ Petition came to be instituted.

3. The case of the writ petitioner society was that it has been in occupation and possession of certain extent of immovable property for the past several decades and in recognition thereof, a patta was also granted in accordance with Natham Settlement Scheme. However, when one of the residents, the fourth respondent in the writ petition, filed a representation before the Assistant Collector, Sivakasi, objecting to grant of such a patta, the Assistant Collector, Sivakasi, passed an order on 24.11.2005, cancelling the patta granted in favour of the writ petitioner society. Challenging the said order, the matter was carried in appeal. That appeal was dismissed by the District Revenue Officer on 17.07.2010 and that was challenged in a writ petition bearing No.10156 of 2010 and this Court allowed the writ petition and remitted the matter back for consideration afresh. Once again, the appeal was rejected by order dated 28.10.2012. Hence, the writ petition came to be instituted.

4. The learned Single Judge following an earlier judgment of this Court in W.P.(MD) No.1247 of 1999, rendered in **Nachimuthu Gounder and another vs. The District Collector, Erode District and others**, has come to the conclusion that the natham land is a private land and if any one is aggrieved by grant of a patta in favour an occupier / enjoyer of land forming part of natham, such a person has to independently establish his title before a competent civil court and the same cannot be cancelled by the revenue authorities, once a patta under the natham settlement scheme is granted.

5. Heard Mr.M.Alagathevan, learned Special Government Pleader and the learned counsel for the writ petitioner / respondent. None appeared on behalf of other respondent, who is the fourth respondent in the Writ Petition/second respondent herein. The fourth respondent has also not contested the writ petition. <https://hcservices.courts.gov.in/hcservices/> is the mode of service of notice on him.

6. The whole question has centred around the fact whether



the land in question was forming part of the Grama Natham or not. When we perused the revenue records, it clearly disclose that the land in question is forming part of Grama Natham and such lands are to be used for construction of residential houses. When one part of such land has been utilised for over a long period by way of construction of a house by the fore-fathers of the writ petitioner, it presupposes that the forefathers have been granted the necessary permission to occupy and enjoy that part of that land for the purpose of residing therein. This apart, the long possession of the writ petitioner society has been recognised where a patta was granted under the Natham Settlement Scheme. There is no provision under the scheme for cancellation of a patta by the authority who has granted it. But, however, an aggrieved person could establish a parallel claim. In the instant case, the patta was granted in favour of the writ petitioner society on 29.03.1993 by the Tahsildar of Rajapalayam. Therefore, that could not have been made the subject matter of challenge after a lapse of long period of time. We, therefore, do not find any ground made out for interference with the view taken by the learned Single Judge. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

7. A photo copy of the revenue records placed before us by the learned Special Government Pleader shall be kept on record and the original records be returned.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

1.The District Revenue Officer,
Virudhunagar, Virudhunagar District.

2.The Assistant Collector,
Sivakasi, Virudhunagar District.

3.The Tahsildar, Rajapalayam, Virudhunagar District.

+1 cc to M/s.R.Jeyapalam, Advocate in SR.No.37195

+1 cc to The Special Government Pleader in SR.No. 37245

srm

CSL/NGM-MP/SAR-III/25.07.2016 : 3P/6C

Writ Appeal (MD)No.997 of 2016

15.07.2016