

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.8688 of 2018

and

W.M.P.No.10611 of 2018

K.Shanmugavel Mudaliar
S/o.Kumarasamy Mudaliar

... Petitioner

Vs

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Tahsildar,
Pallavaram Taluk,
Chromepet,
Chennai - 44.

3.The Special Tahsildhar,
Natham Land Survey,
Pallavaram, Chennai - 43.

4.The Revenue Inspector,
Pammal Circle,
Pallavaram Taluk,
Anakaputhur,
Chennai - 70.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records relating to the impugned notice dated Nil bearing Ref. Nil, issued by the fourth respondent signed on 06.04.2018 u/s.7 of the Tamil Nadu Land Encroachment Act, 1905 and quash the same and consequently, forbear the respondents and their subordinates from any way interfering, restricting or controlling with the possession and enjoyment of the petitioner in respect of the land admeasuring 6.0 acres out of 27.65 acres land comprised in Survey No.210/2 situated at Pozhichalur village, Alandur Taluk, Kanchipuram District, as it does not

fall within the meaning of the Tamil Nadu Land Encroachment Act, 1905 and never vested to Government or panchayat property.

For Petitioner : Mr.Ilanthirayan
for Mr.T.Saikrishnan
For Respondents: Mr.T.M.Pappiah
Special Government Pleader

O R D E R

[Order of the Court was made by M.SATHYANARAYANAN, J]

By consent, the writ petition is taken up for final disposal. Mr.T.M.Pappiah, the learned Special Government Pleader, accepts notice for respondents.

2. According to the petitioner, the land admeasuring an extent of 27.65 acres comprised in Survey No.210/2, Pozhichalur Village, Alandur Taluk, Kanchipuram District, is classified as 'Grama Natham' and the entire extent is owned, possessed and enjoyed continuously by several families of Vellalar community for centuries exercising all rights of ownership including rights of transfer. The petitioner claims that his ancestors have constructed four private temples in their private land admeasuring an extent of 6 acres and given the details in paragraph No.3, which is extracted hereunder:

- (i) Sri Agatheeswarar Temple - Ac.0.65
- (ii) Sri Pererei Amman Temple - Ac.0.16
- (iii) Sri Thirumaneeswarar Temple - Ac.0.05
- (iv) Sri Siddi Vinayagar Temple - Ac.0.09
- (v)

The petitioner would further claim that the said lands are private lands and the same has also been decreed in civil proceedings.

3. The learned counsel appearing for the petitioner would submit that to the shock and surprise of the petitioner, he has been issued with notice u/s.7 of the Tamil Nadu Land Encroachment Act, 1905, stating that the land in Survey No.210/2, Pozhichalur Village, Alandur Taluk, Kanchipuram District, is classified as 'Grama Natham' and the total extent is 27.65 acres and the petitioner is in possession of 6 acres, wherein house and shops are located, capable of yielding income. It is the submission of learned counsel appearing for the petitioner that once a land is classified as 'Grama Natham', the Tamil Nadu Land Encroachment Act, 1905, is not applicable at all and hence, prays for interference.

4. Per contra, Mr.T.M.Pappaiah, the learned Government Pleader appearing for the respondents, would submit that the petitioner, without any planning permission whatsoever, has started putting up superstructure for the purpose of housing shops and he cannot do so.

5. In response to such submission, the learned counsel appearing for the petitioner would submit that the local body viz., Pozhichalur First Grade Panchayat vide proceedings dated 06.03.2012 in Mu.Mu.No.3545/25.02.2011 has granted permission to put up superstructure and the superstructure is being put up strictly in accordance with the sanction plan.

6. This Court has considered the rival submissions and perused the materials placed before it.

7. In the considered opinion of this Court, once a land is classified as 'Grama Natham', the provisions of the Tamil Nadu Land Encroachment Act, 1905, has no application in the case on hand. At this juncture, Mr.T.M.Pappiah, the learned Special Government Pleader, would submit that the impugned notice will be withdrawn and the respondents, after going through the relevant records, may be permitted to proceed afresh in accordance with law and the said submission, on instructions, is placed on record.

8. In the light of the submission made by the learned Special Government Pleader, the fourth respondent shall withdraw the impugned notice dated 06.04.2018 and the respondents are also at liberty to proceed afresh in accordance with law in respect of the land, said to be under encroachment.

The writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

gm

To

1.The District Collector,
Kanchipuram District,
Kanchipuram.

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Natham Land Survey,
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4.The Revenue Inspector,
Pammal Circle,
Pallavaram Taluk,
Anakaputhur, Chennai - 70.

+1cc to the Government Pleader, S.R.No. 27217
+1cc to Mr.T.SAIKRISHNAN, Advocate, S.R.No. 26725
+5cc to Mr.T.SAIKRISHNAN, Advocate, S.R.No. 26725
(09/05/2018)

W.P.No.8688 of 2018

PVS (CO)
TR(02/05/2018)



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