



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 23.08.2018

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THE HONOURABLE DR.JUSTICE S.VIMALA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

S.T.A. (MD) NO. 1 OF 2017
AND
C.M.P. (MD) NOS.1744, 1938 & 1939 OF 2018

1. The Settlement Officer,
Office of the Commissioner and
Director of Survey and Settlement,
Chepauk, Chennai.
 2. The Assistant Settlement Office (North),
Office of the Survey & Settlement,
Chepauk, Chennai.
 3. The State of Tamil Nadu, Rep. by its
District Collector, Trichy.
 4. The Tahsildar, Manachanallur Taluk,
Tiruchirappalli District.
- ... Appellants

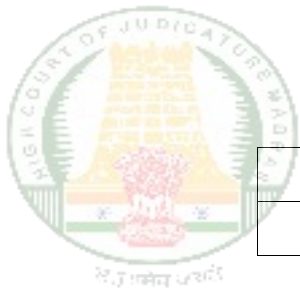
- Vs -

M/s. Rahmathula Sha Mosque Durga,
Inam Samayapuram, Manachanallur Taluk,
Rep. by its Trustee / Muthuvalli, Syed Jeelani
Represented through P.A. Holder,
Mr. Syed Asmath Batcha

... Respondent

Special Tribunal Appeal filed under Section 46 of the Tamil Nadu Inams (Abolition and Conversion into Ryotwari) Act, 1963, against the judgment and decree, dated 25.06.2013 in Inam CMA No.3 of 2011 on the file of the learned Principal Subordinate Judge, Tiruchirappalli, in reversing the order, dated 20.07.2011 in S.R.No.E1/9/2010 on the file of the learned Settlement Officer, Chennai.

For Appellants	: Mr. B.Pugazhendhi, AAG, assisted by Mr. V.R.Shanmuganathan, Spl. G.P.
For Respondent	: Mr.R.Singaravelan, SC, for M/s. Vinoth Singh Misra



<i>Reserved on</i>	<i>Pronounced on</i>
12.03.2018	23.08.2018

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JUDGMENT**DR. S.VIMALA, J.**

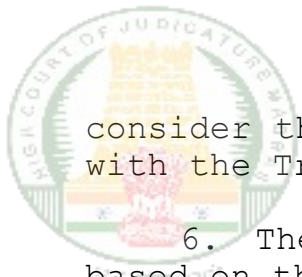
This appeal has been filed by the State challenging the Judgment and Decree dated 25.06.2013 passed in Inam CMA No.3 of 2011 on the file of the learned Principal Subordinate Judge, Thiruchirappalli reversing the order dated 20.07.2011 passed in S.R.No.E1/9/2010 on the file of Settlement Officer, Chennai.

2. The lands comprised in new S.F.No.208 was originally Inam land situated in Samayapuram Inam Village, Lalgudi Taluk presently in Manachanallur Taluk in Thiruchirappalli District. This land, along with other lands in Samayapuram Village, was gifted to Rahamathulla by Queen Meenakshi Ammal during the Fasli year 1158 corresponding to 1733 A.D., which is engraved in copper plate.

3. After the Mughal Empire coming to power, this area fell within the domain of Nawab of Arcot, who had also confirmed the above gift. The translated copy of the order which was passed in the year Hijri 1162 corresponding to 1741 A.D. is available as a document. During the British Rule also the property was included in the Inam Register of the year 1865 and included in T.D.No.877 and the entire properties of the Dargha was entered in the Wakf Register.

4. M/s. Rahmathula Sha Mosque Dargha came to know that the land was wrongly classified in the revenue records as Samayapuram Eri by the Settlement Tahsildar in his Suo-moto proceedings. No notice was issued to the registered land holder. Therefore, the said Dargha approached the Settlement Officer to grant Ryotwari Patta in their favour as per the provisions of Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, (for short, 'the Act'). But the Settlement Officer, without going into the merits of the case, passed an order directing the Dargha to approach the Inam Tribunal. The Inam Tribunal, in CMA No.3 of 2011 allowed the appeal and set aside the order of the settlement officer dated 20.07.2011 and directed issuance of Ryotwari Patta in respect of S.F.No.208 of Samayapuram Village. Challenging this, the State has preferred this appeal.

5. After the matter was heard substantially, three miscellaneous petitions have been filed by the appellant/State. In order to appreciate the grounds raised in the appeal as also the prayer made in the miscellaneous petitions, it is necessary to



consider the grounds raised in CMA No.3 of 2011m which found favour with the Tribunal culminating in an order in favour of the Dargha.

6. The impugned order passed by the settlement officer was based on the application of the Dargha dated 18.07.2011.

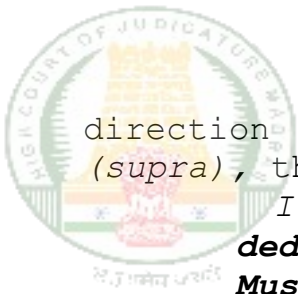
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7. It is the contention of the Dargha/respondent herein that an extent of 42.51.5 hectares in New S.F.No.208 (Old S.F.No.1 part) located in Samayapuram Village, Manachanallur Taluk, Thiruchirappalli District is wrongly classified as Samayapuram Eri.

8. It is the case of the Dargha/respondent that the land has been gifted to the Mosque on permanent basis and therefore the pre-existing right cannot be taken away by invoking the provisions of Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 and in support of the proposition, the decision decided on 14.08.2003 in **Dr.Natesan (Died) vs. Pandari Narayanan (Died)** in A.S.No.706 of 1985, is relied upon, wherein the relevant observation reads as under:

"Their Lordships, while referring to the decisions on the subject, found that the ultimate object of one or the other of these legislations is the introduction of ryotwari settlement after abolishing the existing land tenure and acquiring the rights of the land holders or inamdars concerned who were considered to be intermediaries between the actual tiller of the soil and the State. The adjudication under these Acts do not mean and even intended to be a substitute or alternative mode of resolution of the ordinary civil right of a citizen or for that matter, persons asserting their rights in their attempt to a claim for patta. It was held that the jurisdiction of a civil court cannot be held to have been completely ousted or barred at any rate in respect of adjudication of claims of title and questions or issues which are not obliged or required to be adjudicated for the purpose of enforcement of these laws which is as their objection and aim to implement ryotwari settlements in the areas governed by them. Their lordships relied on the judgment of the Supreme Court in State of Tamil Nadu vs. Ramalinga Swamigal Madam [A.I.R. 1986 S.C. 794], wherein it was held that the jurisdiction of the civil courts to adjudicate on the real nature of the land is not ousted."

9. It is also contended that the property belongs to a Wakf and as laid down by the Hon'ble Supreme Court in **1998 (2) SCC 642 (Syed Ali & others vs. Andhra Pradesh Wakfboard Hyderabad & others)** once a Wakf, always a Wakf, is applicable in this case also and the title to the property in favour of the Dargha cannot be disputed and the



direction for grant of patta is justified. In Syed Ali's case (*supra*), the relevant observation reads as under:

It may be stated that a wakf is a permanent dedication of property for purposes recognized by Muslim law as pious religious or charitable and the property having been found as Wakf would always retain its character as a Wakf. In other words, once a Wakf always a Wakf and the grant of patta in favour of Mokhasadar under the Inams Act does not, in any manner, nullify the earlier dedication made of the property constituting the same as Wakf. After a Wakf had been created, it continues to be so for all time to come and further continues to be governed by the provisions of the Wakf Act and a grant of patta in favour of Mokhasadar does not affect the original character of the Wakf property. We accordingly find no substance in last argument of learned counsel for the appellant.

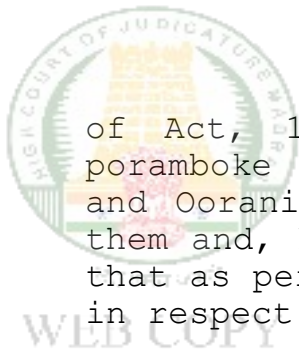
10. Learned counsel for the Wakf also emphasized the following points:

The land in question had been gifted to the mosque even in the year 1655 A.D. and the said gift is permanent in nature and that the Settlement Officer is not justified in reclassifying the land from Punja/Dry block into Samayapuram Eri by his suo-moto proceedings. Main objection taken is that this change has been effected without notice to the Dargha, the real title holder. It is pointed out that there are no documents to show that the property has remained as Eri and the contention that it is an Eri cannot be accepted in the light of the certificate given by the Village Administrative Officer even in the year 1998 (March), that Ayakkattu lands of Samayapuram Eri has been converted into house plots and there is no irrigation from Samayapuram Eri.

11. Per contra, the grievance of the State is that the document, relevant to the issue has not been considered by the Tribunal and in fact no document has been allowed to be marked. Whether the above contention is justified is an issue to be considered.

12. When it is claimed that the property is an Eri, then necessarily, the documents are expected to be only in the custody of the State. The State is not only the generator of the document, but also the custodian of the document. The State should have volunteered in producing the document before the Tribunal. But no document has been produced by the appellant herein before the Tribunal. However, the Tribunal has taken the responsibility of calling for the entire documents and all the documents have been created as part and parcel of the appeal.

13. The contention of the appellant is that as per Section 3(b)



of Act, 1963 entire Inam Estate including all communal lands, poramboke lands, streams, tanks and Oorani including private tanks and Ooranis shall stand transferred to the Government and vest in them and, hence, the said Samayapuram Eri should be kept as Eri and that as per Section 11A of the Act, Ryotwari Patta cannot be granted in respect of private land and Oorani.

14. Whether an Eri is physically available and whether at any point of time the property has been used as Eri are matters which the appellant/State has to prove by adducing relevant documentary evidence.

15. The next contention of the State is that a person aggrieved by the decision of settlement officer should prefer an appeal to the Tribunal three months from the date of the said order and the belated appeal should not have been entertained (the date of order is 18.07.2011).

16. Though such a contention is advanced, it is seen that the appeal has been filed on 12.10.2011. Such being the case, the appeal is filed well within the limitation period of three months and, therefore, the above contention is not sustainable.

17. It is the further contention of the appellant that u/s 9 of the Act if a person had been cultivating the land by contributing his own physical labour for a continuous period of three years within a period of 12 years immediately before 01.04.1960, he is entitled to Ryotwari Patta and as the Dargha has not produced any document to prove the same, the Dargha is not entitled to any patta.

18. Though the above contention is advanced, however, the said contention lacks merit, as the Dargha is not claiming that it is a cultivator, but the Dargha claims title to the property in the capacity as the real title holder, having obtained the same by way of gift way back in 1733 A.D. (Fasli Year 1158).

19. Before deciding on the contentions advanced on either side, the main issue that falls for consideration before this Court is "Whether the property is a land or it is an Eri". According to the Dargha, the suit property is a punja land, but according to the State it is an **Eri**.

20. The learned counsel for the State relied upon the following decisions in order to support the contention that the property is an Eri property and, therefore, the Dargha is not entitled to patta and no patta can be granted.

i) Hinch Lal Tiwari - Vs - Kamala Devi (AIR 2001 SC 3215)

"On this finding, in our view, the High Court to have confirmed the order of the Commissioner. However, it proceeded to hold that considering the said report the area of 10 biswas could only be



allotted and the remaining five biswas of land which has still the character of pond, could not be allotted. In our view, it is difficult to sustain the impugned order of the High Court. There is concurrent finding that a pond exists and the area covered by it varies in rainy season. In such a case no part of it could have been allotted to anybody for construction of house building or any allied purposes."

(Emphasis supplied)

ii) L.Krishnan - Vs - State of T.N. (MANU/TN/0660/2005)

It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13 having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites."

(Emphasis supplied)

iii) T.S. Senthil Kumar - Vs - Govt. of T.N. (W.P. No.2001 of 2008 - 10.02.2010)

6. Eviction of Encroachment.

(1) If any person has encroached upon any land of the tank, the officer referred to in sub-rule (3) of Rule 4 shall prepare a notice in Form III and call upon the person concerned to remove the encroachment.

(Emphasis supplied)

iv) M.Gopalakrishnan - Vs - District Collector (W.P. (MD) No.8286 of 2012)

"A careful look at the Tamil Nadu Act II of 1976 would show that it amended three enactments, namely (i) Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, (ii) Tamil Nadu Leaseholds (Abolition and Conversion into Ryotwari) Act, 1963, and (iii) Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. In all the three enactments, new provisions were inserted so as to include private tanks and ooranies within the purview of the lands which vested with the Government and



also to cancel the ryotwari pattas already granted in respect of private tanks. The provisions of the Amendment Act are not under challenge before us. Therefore, the cancellation of patta under the Amendment Act is a natural consequence from which the seventh respondent or his predecessors in title cannot escape."

v) T.K.Shanmugam - Vs - State (2015 (2) CWC 849 (FB) & W.P. No.1295/2009)

"The State being a trustee of these natural resources such as tanks, lakes etc., has to necessarily act consistent with the nature of such trust. The vesting of these lands and water bodies with the Government is to benefit the public and any attempt made by the Government to act in a manner derogatory to the object for which the land was vested, has to be held to be illegal. The underlying fundamental principle being that such rights are public rights are in a higher pedestal than private rights. We may take a look of the matter from a different perspective. The Government has considered that water bodies, which have fallen into dis-use and have been encroached upon could be declared as not required for any public purpose and the encroachments could be regularised. What the Government has failed to see is the cause as to why these water bodies, lakes, tanks have fallen into dis-use. If this aspect is analysed, it would come to light that in several cases the disuse was man-made and there appears to be a cartel, which systematically works with a view to grab Government property. In such scenario while taking a "conscious decision", the Government cannot ignore the fiduciary duty of care and responsibility cast upon it and simultaneously analyse as to why such dis-use has occurred. The plethora of decisions on the point elucidate the basic principle of the public trust doctrine when the water bodies vest with the Government, placing the Government in the capacity of a trustee, there is little option except to strictly adhere to the trust and faith reposed and if the Government has failed to protect these water bodies, it amounts to breach of the public trust and in such cases, the duty of the Government is more onerous to restore the land back to its original position and thereby restore the trust reposed on it. Therefore, we are not inclined to accept the proposition that merely because a water body has put to dis-use that by itself would be a good ground to regularise the encroachments."



vi) State of T.N. - Vs - EMGS Indirani & Ors. (S.A. (MD) No.922/09 - 04.03.2010)

26. In 2005(4) CTC 1 the First Bench of this Court had dealt with the public interest litigation against encroachment of Oodai, Lake and Water courses. The First Court has held as

"Since time immemorial ponds, tanks and lakes have been used by the people of our country, particularly in rural areas, for collecting rain water for use for various purposes. Such ponds, tanks and lakes have thus been an essential part of the people's natural resources. However, in recent years these have been legally encroached upon in many places by unscrupulous persons who have made their constructions thereon, or diverted them to other use. This has had an adverse effect on the lives of the people".

21. A careful perusal of the above decisions reveal that in all the above decisions, there is a factual finding with regard to existence of the water body and, therefore, in the said decisions it has been held that encroachments on water bodies cannot be permitted in public interest. Only if the existence of water body (Eri) is proved, then the question of vesting of the property with the Government (as Eri) could arise. In this case, no document has been filed by the State to show that the original character of the property was Eri and that it was maintained by the State as Eri or it was used by the public at any point of time as Eri. Therefore, these decisions would not apply to the facts of this case.

22. Yet another contention of the State is with regard to the jurisdiction of the Inam Tribunal. It is claimed that after the notification of the Act in 1963, any claim for patta must have been made within 6 months from the notification or within a reasonable time. The final time limit was over on 29.7.1987. In the instant case, only a representation has been given to the settlement officer and no appropriate application u/s 9 or 10 or 11 of the Act has been filed and, therefore, the proceedings dated 29.7.2011 should not have been decided by the Tribunal.

23. Though such a contention is advanced, the same is belated and does not merit acceptance. The appellant should have been taken the above stand as a preliminary objection before the Tribunal itself. Apart from that, the cause of action for the proceeding itself is based upon the suo motu proceedings initiated by the Settlement Tahsildar, which is dated 20.07.2011. Admittedly, the respondent herein has not been served with any notice. Therefore, the respondent could challenge it only on coming to know about the order dated 20.7.2011. Therefore, the contention that the respondent should have filed the application u/s 9 or 10 or 11 of the Act cannot be countenanced.

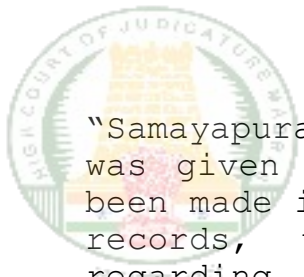


24. Moreover, it is only the Settlement Officer, who has directed the respondent herein to approach the Tribunal. It is also relevant to point out that in the earlier writ petition filed in W.P.No.18641 of 2009, this Court has condoned the delay and has directed the Settlement Officer to dispose of the petition filed by the Dargha within a given period of time.

25. Further, it is to be pointed out that records have been filed to show that the entire Samayapuram village has been given to inamdar and land in dispute has been described as "dry land and wet one crop" and given to, for the support of R.Rahmathula Sah Mosque and Dargha. The Dargha is at Killai and Mosque is at Samayapuram. ***This is the information available in the extract of Registrar of Inam for the village of Samayapuram i.e., Register No.46.***

26. In the register it has been mentioned that Rajampalaiyam and Kalpalayam were originally the hamlets of this village but were treated as separate village because they have been classified so in Mr.Wallace and Frawer's Registers and in the Revenue accounts. Upon the death in 1847 of the grantee, Grantee's grandson Mohadin Sha Sahib alias Sha Gulam Mohadin and the Inam was renewed in the name of his son Mohamed Ghouse Sahib under the order of Government on the grounds that the religious establishments i.e., the Mosque and Dargah were effectively maintained vide the board's letter to Government dated 24.02.1848. This would show that a land has been granted as Inam to Rahmathula Sah (for the purpose of performing charitable activity) and it is maintained by its successor Mohamed Ghouse sahib from the year 1848. Thus it is clear that the land has been gifted to the Mosque. The records have been perused by the Inam Tribunal and on the basis of the *spot inspection* carried on, on the orders of the Tribunal, on 31.08.2010. The perusal of the spot inspection report reveals that out of 42.51.5 hectares majority land is covered with Velikathan plant. In the southern part of it a portion of the earth has been taken away. The Village Administrative officer has informed that permission has been granted by Mines and Minerals Department for the purpose of mining activity based on the same earth has also been removed. *There had been a Madhagu (found closed) and below that in R.S.No.64 there had been Nanja lands and during 1992 they had been converted as Punja lands.* There had been Kalvai branching from Oppanar. The Tribunal has also mentioned that there is no material to show that the Government had dug a huge Eri by converting the dry land as mentioned in 1847. Even the Ayakkattu land has been converted into house plots and there is no irrigation from the so called Eri.

27. In the suo-moto proceedings, the then settlement officer has reclassified the land from "Punja with one Nanja crop" into



"Samayapuram Eri". It is not the case of the Government that notice was given to the Mosque before conversion. Therefore, orders have been made in the suo-moto proceedings without notice and without any records, the conversion had been effected. Therefore, entry regarding the conversion done behind the back of the respondent would not have the effect of divesting the title from the Dargha/respondent.

28. Further, it is to be pointed out that it is the admitted case of the appellant herein that licence has been granted under the Mines and Minerals Act for quarrying. It is the contention of the appellant that the land in dispute is an Eri, then this Court is at a loss to understand as to how a licence could be granted under the Mines and Minerals Act to take up mining activity on a water body. The above admitted fact of grant of licence to carry on mining activity stares at the face of the appellant for which there is no answer and there could be no answer on the side of the appellant.

29. Three miscellaneous petitions have been filed by the appellant claiming the following reliefs :-

C.M.P.(MD) No.1938 of 2018 has been filed by the petitioner/appellant seeking to implead the 2nd Respondent/Proposed 2nd Respondent herein contending stating that land in dispute vests with the Public Works Department since its inception the department would be necessary and proper party and their presence is stated to be essential for effective adjudication, while C.M.P.(MD) No.1939 of 2018 has been filed by the petitioner/appellant seeking to receive additional documents in the Special Tribunal Appeal as stated in the petition.

30. C.M.P. (MD) No.1744 of 2018 has been filed by the petitioner/appellant seeking to amend Ground No.2, the main averment being as under :-

"The land in dispute is classified as Samayapuram Eri which is vested with public works department. There was no application for grant of patta before the competent authority at any point of time either under section 9 or 10 or 11 or 14 or otherwise. The request made by the respondent has been rejected."

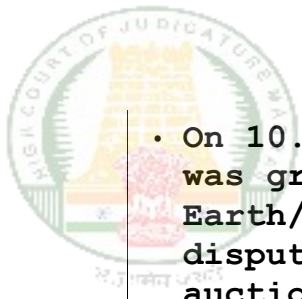
31. The amendment to Ground No.2, with the original ground raised, is tabulated hereinbelow for better clarity :-



<i>To be amended</i>	<i>Instead of</i>
"02. The facts leading to filing of the above revision are as follows:	"02. The facts leading to filing of the above revision are as follows:
Samayapuram Village, Lalgudi Taluk, now in Manachanallur Taluk, Trichy District is an Inam Village, covered under Act 26 of 1963 and got vested with the state u/s.3(b) of the said Act viz. The Tamilnadu Inam Estates (Abolition and Conversion into Ryotwari) Act 1963.	Samayapuram Village, Lalgudi Taluk, now in Manachanallur Taluk, Trichy District is an Inam Village, covered under Act 26 of 1963 and got vested with the state u/s.3 (b) of the said Act viz. The Tamilnadu Inam Estates (Abolition and Conversion into Ryotwari) Act 1963.
The Act was notified with effect from 15.02.1965.	The Act was notified with effect from 15.02.1965.
The settlement authorities are entitled to grant Ryotwari patta to land holders ryots, persons cultivating and service holders u/s. 9,10,11 and 14 of the said Act respectively. The Assistant settlement officer/Settlement Tahsildar was the competent authority to grant such pattas.	The settlement authorities are entitled to grant Ryotwari patta to land holders ryots, persons cultivating and service holders u/s. 9,10,11 and 14 of the said Act respectively. The Assistant settlement officer was the competent authority to grant such pattas.
The time limit for applying patta under the Act was over on 29.07.1987 as per G.O.Ms.No.714 CT & RE Department dated 29.06.1987. The time limit under OSA Act was also over on 30.06.1975 as per G.O.Ms.No.589 CT & RE Department dated 14.05.1975.	



• The lands measuring 42.51.5 Hectares, (106 acres) in S.No.208 in said village, was a lake vested with state, as per Title Deed No.877 and as per Inam Fair Register. The said lands are classified as "Samayapuram Eri". It is in the control of the Public Works Department and about 81.53.0 Hectares (201.38) acres of land are getting irrigated. In the village Register and in the memoirs of irrigation sources in Trichy District and all revenue records, the said lands are shown as "Samayapuram Eri".	• The lands measuring 42.51.5 Hectares, (106 acres) in said village, was a lake vested with state, as per Title Deed No.877 and as per Inam Fair Register. The said lands are classified as "Samayapuram Eri". It is in the control of the Public Works Department and about 81.53.0 Hectares (201.38) acres of land are getting irrigated. In the village Register and in the memoirs of irrigation sources in Trichy District and all revenue records, the said lands are shown as "Samayapuram Eri".
• There was no application for grant of patta, in respect of the aforesaid lands, before the competent authority at any point of time, either u/s. 9 or 10 or 11 or 14 or otherwise.	• There was no application for grant of patta, in respect of the aforesaid lands, before the competent authority at any point of time, either u/s. 9 or 10 or 11 or 14 or otherwise.
• By proceedings dated 26.02.1970, settlement Tahsildar, Trichy closed the enquiry and held that no one is entitled to ryotwari patta for those lands under Section 9, 10 or 11 of the Act.	
• The village settlement accounts were closed on 06.09.1972.	
• In 2000, a request for patta was made by the respondent and was rejected by Commissioner of Land Administration by proceedings dated 31.08.2000. Again he made another request and was again rejected by proceedings dated 08.03.2002.	



On 10.08.2009 one Neelakandan was granted license to quarry Earth/sand from the Tank in dispute, pursuant to a public auction.	
The same was objected by the respondent herein.	
He, on the other hand gave an application for reclassifying the lands as Ryot Punja instead of "Samayapuram Eri".	
He filed W.P.No.18641 of 2009 seeking Mandamus to dispose of his application for reclassification. In that he sought for interim injunction to not to remove Earth/Sand.	
By order dated 12.02.2010, directions to dispose of the applications were issued.	
Petitioner did not cooperate for enquiry and sought several adjournments under the premise that he will produce title deeds.	
On 18.09.2011, he gave a letter that settlement officer could either grant patta or refer the case to Tribunal.	
It seems by proceedings dated 20.07.2011, the then 1st appellant settlement officer, informed the respondent that his representation requesting grant of patta, cannot be considered at that stage as the enquiry under the Act had been completed long back and therefore at that stage no enquiry could be held.	It seems by proceedings dated 20.07.2011, the 1st appellant settlement officer, informed the respondent that his representation requesting grant of patta, cannot be considered at that stage as the enquiry under the Act had been completed long back and therefore at that stage no enquiry could be held.



• Challenging the said proceedings dated 29.07.2011, respondent filed Inam CMA.3 of 2011 before the Inam Tribunal/Principal Subordinate Judge, Trichy.	• Challenging the said proceedings dated 29.07.2011, respondent filed Inam CMA.3 of 2011 before the Inam Tribunal/Principal Subordinate Judge, Trichy.
• By order dated 25.06.2013, said CMA was allowed with direction to issue Ryotwari patta to respondent herein.	• By order dated 25.06.2013, said CMA was allowed with direction to issue Ryotwari patta to respondent herein.
• Hence the above Special Tribunal Appeal."	• Hence this Appeal."

32. In the supporting affidavits it is stated that the land in dispute is a lake vested with the State as per Title Deed No.877 and as per Inam Fair Register. It is under the control of Public Works department. There was no application for grant of patta before the competent authority at any point of time either under section 9 or 10 or 11 or 14 or otherwise. The Head Tahsildar closed the enquiry by the proceedings dated 26.02.1970 and the settlement accounts were closed on 06.09.1972. It has been further averred that **on 10.08.2009, one Neelakandan was granted license to quarry Earth.**

33. The appellant/petitioner sought permission of the Court for receiving the following documents, as the same are essential for effective adjudication:

- i. 20-09-1935 - Village Map for Samayapuram Village - Special Revenue Officer - Certified Copy.
- ii. 31-12-1968 - Settlement Land Register of Samayapuram Village during Inam Settlement - Sub Assistant Director of Survey and Land Records - Certified Copy.
- iii. 26-02-1970 - Proceedings of the Settlement Tahsildar, Thiruchirappalli vide Act 26/63/Lal TK/518 to 528, 530 to 542, 544/1950 - Certified Copy.
- iv. 05-09-1970 - 3A Register for Samayapuram Village - Special Officer - Certified Copy.
- v. 06-09-1972 - Statistical Data (Village Accounts) for Samayapuram Village - Certified Copy.
- vi. 29-05-1985 - Public Works Department Descriptive Memoir - Superintending Engineer, Public Works Department - Certified Copy.
- vii. 1989 - Settlement Register for Samayapuram Village during UDR Scheme - Certified Copy.
- viii. 27-02-2007 - Application submitted by Mr. Syed Jeelani Trustee/Muthavali of M/s. Rahmathula Sha Mosque Durga seeking patta - Certified Copy.
- ix. 12-02-2010 - Order passed in W.P.No.18641 of 2009 Madras High Court - Certified Copy.



- x. Enquiry notices dated 03-05-2010, 16-06-2010, 16-07-2010, 29-07-2010, 19-11-2010, 07-12-2010, 29-12-2010, 28-01-2011, 21-04-2011, 24-05-2011 issued by the Settlement Officer - Certified Copy.
- xi. Reply letters dated 03-05-2010, 11-06-2010, 26-07-2010, 26-08-2010, 07-12-2010, 24-01-2011, 19-01-2011, 21-03-2011, 18-04-2011 written by Syed Jeelani Trustee/Muthavali of M/s.Rahmathula Sha Mosque Durga - Certified Copy.
- xii. 18-07-2011 - Letter written by Syed Jeelani Trustee/Muthavali of M/s.Rahmathula Sha Mosque Durga to the Settlement Officer - Certified Copy.
- xiii. 08-08-2009 - Proceedings in RC.B.927/2009 of the District Collector, Thiruchirappalli granting license in Samayapuram Eri - Certified Copy.

34. In a nutshell, it is the submission of the appellant that the Chief Engineer of Public Works Department should be added as party 2nd respondent and that those documents must be received in evidence, in addition to allow the appellant to raise the grounds as tabulated above.

35. It is the stand of the appellant that the reason stated for not filing those documents before the Tribunal is that the Inam Tribunal did not conduct any trial or allowed letting in evidence and no documents were marked.

36. This Court has carefully considered the above miscellaneous petitions and the prayer made in those petitions coupled with the documents available on record as also the findings recorded by the Tribunal.

37. Insofar as impleading the proposed 2nd respondent, viz., Public Works Department is concerned, it is needless to point out that the Public Works Dept., is an organ of the State and so is the appellant herein. That being the case, the appellant could very well produce the documents under the control of the Public Works Department for the purpose of defending the case. It is not the case of the appellant that it had sought for the documents from the proposed 2nd respondent, but their request was rejected. In such view of the matter, it can only be said that the present application to implead the proposed 2nd respondent is nothing but a tool to protract the proceedings.

38. Insofar as receiving of additional documents is concerned, though the list of very many documents have been given, however, no copy of any of the document has been produced. It is to be pointed out that the appellant has not filed any documents before the Tribunal, but the Tribunal, of its own volition has called for the records and considered all the relevant documents. To find out the ground scenario, the Tribunal has also appointed an Advocate Commissioner to conduct spot inspection and the Commissioner has



also filed the spot inspection report. Based on the above records and the documents, the Tribunal has rendered its finding.

39. Further, before the Tribunal, the State was adequately represented and more so, the State was represented by the District Collector. Further, it is needless to point out that the copy of the records/documents, which is sought to be introduced as additional evidence, would very well be available with the office of Survey and Settlement. However, nothing has been produced before the Tribunal. Moreover, documents have been called for from the Tahsildar, who was also a party before the Tribunal.

40. It is pertinent to point out that at the time of spot inspection by the Commissioner on 31.10.2010, both the sides have been present and they have adequately represented their case, which is evident from the order of the Tribunal. The Tahsildar has been specifically called upon to produce the following three documents, viz.,

- i) 1950 Settlement 'A' Register
- ii) 1992 reclassification file
- iii) Licence granted for the purpose of Mining

41. If really the appellant herein was aggrieved, at that point, the appellant had the opportunity to produce the remaining documents or the documents on which it thought was important to furthering its case. But, the appellant herein chose to remain silent and did not place any material before the Tribunal and, therefore, the Tribunal called for the records and on perusal and consideration of the same, passed the impugned order. In such a scenario, it is not open to the appellant, at the fag end of the proceedings, to file a miscellaneous petition for reception of additional evidence, when those evidence were very much available with the appellant. Therefore, mere pleading at this belated point of time that the Tribunal did not allow the appellant to mark any document, is not correct to the knowledge of the appellant and is also contrary to the materials available on record.

42. Further, it is to be pointed out that unless copies of documents are produced, it is difficult to find out whether those documents, even if received, would have the effect of revisiting the judgment already given. The State, which is belatedly filing the documents, should know that they should not cause further delay by not filing the copies of documents. Mere pleading that certain documents are necessary for the case would not suffice to order receipt of the same as additional evidence, as it is within the realm of the appellant to justify as to what it proposes to prove by bringing on record those documents, which the appellant has pathetically failed to do. Therefore, the prayer sought for receiving additional documents also does not merit acceptance.

43. Insofar as the miscellaneous petition relating to amendment of Ground No.2 is concerned, it is the specific stand in the



affidavit that no new facts are pleaded and everything is borne out by records. Under such circumstances, what is the necessity for seeking this amendment and how this amendment would advance the case of the appellant is not mentioned by the appellant. Moreover, it is to be pointed out that the grounds could be taken only based on the impugned judgment and no fresh facts can be taken for the purpose of raising additional grounds. The facts that are sought to be included by way of amendment are already discussed by the Tribunal and the Tribunal has also answered those issues, which this Court has also taken into consideration. On an overall consideration of the entire issue, this Court is of the considered view that there is no basis for seeking an amendment and the details of amendment that is extracted above would disclose that this application is devoid of merits.

44. Under the circumstances, all the miscellaneous petitions, being devoid of merits, are liable to be rejected and, accordingly, the same are rejected.

45. On an overall consideration of the entire issue, this Court is of the considered view that the Tribunal has appreciated the materials in proper perspective and has given well considered findings in support of its conclusions, which does not call for any interference by this Court. This appeal, being devoid of merits, fails and the same is dismissed. Connected miscellaneous petitions, as noted above, are also dismissed. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Principal Subordinate Judge,
Tiruchirappalli.
2. The Settlement Officer,
Office of the Commissioner and
Director of Survey and Settlement,
Chepauk, Chennai.
3. The Assistant Settlement Office (North),
Office of the Survey & Settlement,
Chepauk, Chennai.



4. The District Collector,
Trichy.

5. The Tahsildar,
Manachanallur Taluk,
Tiruchirappalli District.

+ 2 CC TO Mr.M.VINOTH SINGH MISRA, ADVOCATE IN SR No. 79800 & 79886
+ 1 CC TO Mr.V.R.SHANMUGANATHAN, ADVOCATE IN SR No. 80045
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 80017

RSI/GLN

TE/PM/SAR-4 : 26/11/2018 : 18P/10C

JUDGMENT IN
S.T.A. (MD) NO. 1 OF 2017
Pronounced on
23.08.2018