



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.04.2019

Pronounced on : 04.06.2019

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P.(MD)Nos.4202, 6674 and 7865 of 2019

WEB COPY

**In W.P. (MD)No.4202 of 2019**

N.Prema

... Petitioner

Vs.

1.The District Collector,  
Thanjavur District,  
Collectorate,  
Thanjavur-613010.

2.The Sub Collector,  
Kumbakonam,  
Taluk Office Campus,  
Kumbakonam-612001,  
Thanjavur District.

3.The Thasildar,  
Kumbakonam Taluk,  
Taluk Office,  
Kumbakonam-612001,  
Thanjavur District.

4.The Executive Officer cum Assistant  
Commissioner of HR & CE,  
Arulmigu Naganantha Swamy Koil,  
Thirunageswaram-612204,  
Kumbakonam Taluk,  
Kumbakonam,  
Thanjavur District.

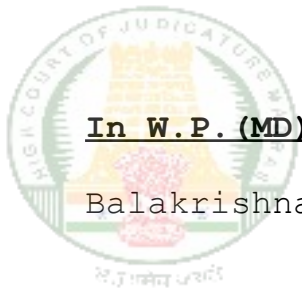
... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first and second respondents to conduct detailed enquiry and issue patta to the petitioner in respect of her residential area in No.26/1, Sivan Thirumanjana Veethi, S.No.195/1 at No.116, Sannapuram Village, Thirunageswaram.

For Petitioner : Mr.R.Narayanan

For R1 to R3 : Mr.M.Rajarajan  
Government Advocate

For R4 :Mr.V.Chandrasekar

**In W.P. (MD) No. 6674 of 2019:**

Balakrishnan

... Petitioner

Vs.

1.The District Collector,  
Thanjavur District,  
Thanjavur.

2.The District Revenue Officer,  
Thanjavur District,  
Thanjavur.

3.The Revenue Divisional Officer,  
Kumbakonam,  
Thanjavur District.

5.The Head Surveyor,  
Kumbakonam Taluk Office,  
Kumbakonam,  
Thanjavur District.

6.The Assistant Commissioner/Executive Officer,  
Arulmigu Naganathaswamy Temple,  
Thirunageshwaram,  
Kumbakonam Taluk,  
Thanjavur District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 4<sup>th</sup> and 5<sup>th</sup> respondent to sub divide and issue the separate house site patta in the petitioner's favour with regard to land in Old Survey Number 295/5D, and New Survey Number 195/1 to an extent of 450 sq.ft. (East West 15 Feet and South North 30 feet) situated Thirunageshwaram Village, Kumbakonam Taluk, Thanjavur District based on the petitioner's representation dated 20.08.2018.

For Petitioner : Mr.G.Gomahti Sankar

For R1 to R5 : Mr.K.Mu.Muthu  
Additional Government Pleader

For R6 : Mr.V.Chandrasekar

**In W.P. (MD) No. 7865 of 2019**

S.Anantharaman

... Petitioner

Vs.

1.The District Collector,  
<https://hcservices.ecourts.gov.in/hcservices/>  
Thanjavur District,  
Thanjavur.



2.The District Revenue Officer,  
Thanjavur District,  
Thanjavur.

3.The Revenue Divisional Officer,  
Kumbakonam,  
Thanjavur District.

4.The Tahsildar,  
Kumbakonam Taluk Office,  
Kumbakonam, Thanjavur District.

5.The Head Surveyor,  
Kumbakonam Taluk Office,  
Kumbakonam,  
Thanjavur District.

6.The Assistant Commissioner/Executive Officer,  
Arulmigu Naganathaswamy Temple,  
Thirunageshwaram,  
Kumbakonam Taluk,  
Thanjavur District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 4<sup>th</sup> and 5<sup>th</sup> respondent to sub divide and issue the separate house site patta in the petitioner's favour with regard to land in Old Survey Number 295/5D, and New Survey Number 195/1 to an extent of 4636 sq.ft. situated Thirunageshwaram Village, 116, Sannapuram Vattam, Kumbakonam Taluk, Thanjavur District based on the petitioner's representation dated 23.07.2018.

For Petitioner : Mr.G.Gomahti Sankar

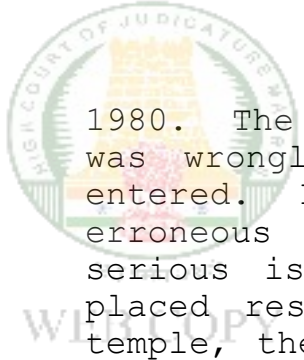
For R1 to R5 : Mr.K.Mu.Muthu  
Additional Government Pleader

For R6 :Mr.V.Chandrasekar

#### **COMMON ORDER**

The residence of Thiru.S.Anantharaman/petitioner in W.P.(MD) No.7865 of 2019 is comprised in Thirunageshwaram Village Survey No.195/1 and old Survey No.295/5D.

2.According to the petitioner, it is a village natham. It is the stand of the petitioner that Arulmigu Naganathaswamy Temple is having title only over a portion of the said survey number and not over the site on where the petitioner is residing. According to the petitioner, his family has been residing there for several decades. The petitioner would claim that his grand father purchased an extent of 4636 square feet in the said survey number vide registered sale deed dated 01.04.1975 and that his grand father bequeathed the same in favour of his mother Anusiya in the year



1980. The petitioner would claim that during UDR, the survey number was wrongly classified and the name of the Temple was wrongly entered. It is his further allegation that taking advantage of the erroneous entry made during the UDR, the temple had created a serious issue for the writ petitioner. Since several similarly placed residents faced a similar situation at the hands of the temple, they resorted to picketing. A peace committee meeting was convened in July 2017. The petitioner had given an application to the Revenue Authorities for survey of the land and for issuance of separate patta. The petitioner would place reliance on the Judgment and decree dated 20.01.1947 made in A.S.No.95 of 1946 on the file of the Sub Court, Kumbakonam. One Muhammed Sulthan Rowther filed a suit against the Temple and one Sankara Nambiar @ A.S.Nambiar claiming recovery of possession. In the said suit, the Temple in question was shown as the second defendant. The suit was decreed. An appeal jointly filed by the Temple and the said Sankara Nambiar was dismissed. According to the petitioner, the rights of the Temple thus got adjudicated as early as in the year 1947 and that therefore, the Temple is not justified in taking advantage of an erroneous UDR entry.

3. Similar contentions have been raised by the other petitioners in W.P.(MD)Nos.4202 and 6674 of 2019. Of-course, in the typed set of papers filed by the other petitioners, there is no reliance on any antecedent sale deed. But then, the earlier settlement registers have been extracted to reinforce the contention that the sites occupied by them have been classified originally as village Natham and that therefore, neither Temple nor Government will have any right or claim. The said petitioners have also submitted applications before the Revenue Authorities seeking issuance of individual patta after conducting survey and demarcation.

4. The learned counsel appearing for the Temple strongly resisted the prayers made in these writ petitions. Counter has been filed in W.P.(MD)No.4202 of 2019. The learned counsel also indicated that if he is given an opportunity, he would file counter affidavit in the other writ petitions also. The stand of the Temple is that the property in question very much belongs to the Temple and that the writ petitioners are encroachers.

5. The learned Standing Counsel would draw my attention to the averment made in Paragraph No.6 of the affidavit filed in support of W.P.(MD)No.7865 of 2019. It has been fairly admitted that the writ petitioner's mother was paying "Paguthi" to the Temple.

6. The petitioners' request for issuance of patta or for conducting survey and demarcation can very well be considered, if there is no serious dispute about their title. But in this case, even according to the petitioners, the Temple is seriously contesting their title. It is also seen that the UDR entry reflects the name of the temple alone. If there is any UDR error, it can be corrected only by the District Revenue Officer. In this case, the petitioner did not approach the District Revenue Officer.



7. Be that as it may. When there is a serious title issue, the revenue authority may not really be in a position to adjudicate the claims. It is only the competent Civil Court that can pronounce definitely in the matter. The reliance placed by the writ petitioners on the Judgement and Decree made in A.S.No.95 of 1946 on the file of the Sub Court, Kumbakonam, may not be of much avail. This is because, the findings that appears to have been given therein is that the temple has no title to the suit property which is 20 feet by 19 feet. The petitioners will have to necessarily file a Civil Suit for establishing their title against the Temple in question. Only thereafter, they will be entitled to claim patta. I have not gone into the merits of the matter. In the very nature of things, such factual issues cannot be adjudicated in writ proceedings. Therefore, the contesting parties will have to be necessarily relegated to move the competent and jurisdictional Civil Court. Thus, granting liberty to the writ petitioners to move the competent Civil Court, the writ petitions stand dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The District Collector,  
Thanjavur District,  
Collectorate,  
Thanjavur-613010.
- 2.The Sub Collector,  
Kumbakonam,  
Taluk Office Campus,  
Kumbakonam-612001,  
Thanjavur District.
- 3.The Thasildar,  
Kumbakonam Taluk,  
Taluk Office,  
Kumbakonam-612001,  
Thanjavur District.
- 4.The District Revenue Officer,  
Thanjavur District,  
Thanjavur.



5.The Revenue Divisional Officer,  
Kumbakonam,  
Thanjavur District.

6.The Head Surveyor,  
Kumbakonam Taluk Office,  
Kumbakonam,  
Thanjavur District.

+2cc to Mr.G.GOMATHI SANKAR,Advocate, SR.No. 66943,66942  
+1cc to Mr.R.NARAYANAN, Advocate, SR.No. 66874  
+1cc to Mr.V.CHANDRASEKAR, Advocate, SR.No.66890  
+1cc to M/s.Special Government Pleader,SR.No. 66919

W.P. (MD) Nos.4202, 6674 and 7865 of 2019  
04.06.2019

RMI  
KK/SAR/18.06.2019/6P-12C

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