



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P (MD)No.9155 of 2021

and

W.M.P. (MD) No.6909 of 2021

R.Balasubramanian

... Petitioner

Vs.

1.The District Collector,
Tenkasi District,
Tenkasi.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Sankarankovil,
Tenkasi District.

3.The Tahsildar,
Taluk Office,
Thiruvengadam,
Tenkasi District.

4.The Revenue Inspector,
A.Karisal Kulam,
Thiruvengadam Taluk,
Tenkasi District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the eviction notice issued under section 7 of the Tamil Nadu Land Encroachment Act, 1905, by the 4th respondent herein dated 03.11.2020 and quash the same and direct the 2nd and 3rd respondents herein to grant patta to the petitioner's house bearing door No.4/283, for an extent of 5087.25 sq.ft, situated in old Natham Survey No.1317/7A, new survey No.1651/3, Sevalkulam Village, Thiruvengadam Taluk, Tenkasi District.

For Petitioner

: Mr.S.Kadarkarai

For Respondents

: Mr.A.K.Manickam

Standing Counsel for Government



ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Kadarkarai, learned Counsel appearing for the petitioner and Mr.A.K.Manickam, learned Government Counsel appearing for the respondents.

2.This Writ Petition has been filed challenging the notice issued under Section 7 of the Tamil Nadu, Act 3 of 1905. The first ground of challenge is by contending that the provisions of the Tamil Nadu Land Encroachments Act, 1905, cannot be invoked in respect of a land, which is classified as Grama Natham. In support of such contention, learned Counsel placed reliance on the decision of the Division Bench of this Court in the case of **Subburaj Vs. the District Collector, Madurai District and others** in W.P.(MD)No.14471 of 2014 dated 02.09.2014. Further, it is submitted that the petitioner is in possession of the land pursuant to his purchase which was effected on 27.12.2001, by a registered sale deed.

3.Further, it is submitted that the petitioner has been in continuous possession and enjoyment of the property classified as Grama Natham and he applied for building plan approval and it was granted by the Sevalkulam Panchayat and the petitioner has put up construction on the property and the property has been assessed for house tax by the local authority and there is electricity connection which would all go to show the uninterrupted possession of the petitioner. The petitioner also submitted a representation, dated 19.10.2020 and enclosed all the copies referred to above. Learned Counsel further submitted that without even conducting enquiry, the fourth respondent is attempting to dispossess the petitioner. Therefore, the petitioner is before this Court.

4.Learned Government Counsel who accepted notice for the respondents would submit that no proof has been filed except to say that the land is a Grama Natham.

5.However, we note that the impugned notice issued under Section 7 of Act 3 of 1905, describes the land as -Natham-. In any event, these are matters to be enquired into by the third respondent and the petitioner has given elaborate explanation.

6.Considering the above facts, We are inclined to dispose of the Writ Petition with the following direction:

"The Tahsildar, Thiruvengadam/third respondent, is directed to conduct an enquiry after issuing notice to the petitioner and affording an opportunity of personal hearing to the petitioner or to his authorised representative, examine all the documents produced by the petitioner and pass a reasoned order on merits and in accordance with law.



Till such orders are passed, the petitioner's possession and enjoyment of the land / property in question shall not be interfered with. This direction shall be complied with within a period of three [3] months from the date of receipt of a copy of this order."

However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The District Collector,
Tenkasi District, Tenkasi.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Sankarankovil, Tenkasi District.
- 3.The Tahsildar,
Taluk Office,
Thiruvengadam,
Tenkasi District.
- 4.The Revenue Inspector,
A.Karisal Kulam,
Thiruvengadam Taluk,
Tenkasi District.

+1 CC to M/s.SPL GP (SR-18744[F] dated 03/06/2021)

ORDER MADE IN
W.P(MD)No.9155 of 2021
DATED
01.06.2021

AS(11.06.2021)3P 6C