



W.P. No.30306/2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
16.06.2022	24.06.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.30306 OF 2012

Sivaganga Samasthanam
Devasthanam, rep. by its
Manager, Mr. P.Elango
No.22, Raja Chatram Street
Thiruvettriur Village, Thiruvadanai Taluk
Ramanathapuram District.

.. Petitioner

- Vs -

1. The Principal Secretary &
Commissioner of Land Administration
Chepauk, Chennai 600 005.
2. The District Revenue Officer
Ramanathapuram District.
3. The Sub Collector
Devakottai Taluk.
4. The Tahsildar
Thiruvadanai, Ramanathapuram District.
5. Rathinam Chettiar



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6. Gurusamy Velar
 7. R.Murugan
 8. Mrs. Devi
 9. Mrs. Selvi
 10. G.Thiyagarajan
 11. Mrs.Krishnaveni
 12. G.Thirunavukkarasu .. Respondents
- (RR-10-12 impleaded as respondents vide
Order made in WMPNo.14619/22 dt. 24.6.22)

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 of the 1st respondent's proceedings bearing Ref. D.Dis.K4/9310/2002 dated 27.12.2001 and quash the same.

For Petitioners : Mr..Sriram, SC, for Mr. A.Prabhakaran

For Respondents : Mr.P.Sathish, AGP for RR-1 to 4
Mr. V.Ayyadurai, SC for R-6
Mr. V.B.Perumalraj for RR-7 to 9

ORDER

The present petition is filed by the petitioner challenging the rejection of its petition by the 1st respondent in and by which the lands, which were given in assignment by the 4th respondent to respondents 5 and 6 were sought to be declared as the lands belonging to the petitioner Devasthanam, as respondents 5 and 6 were tenants on the said property under the petitioner Devasthanam.



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2. It is the case of the petitioner that the lands in S. No.82/1 of Tiruvetriyur Village, Tiruvadanai Taluk, Ramanathapuram District absolutely belongs to the petitioner and the same is situated within the vicinity of the temple “Bagampiriyal Kovil Vasugi Theertham” which would be evident from the adangal issued by the revenue authorities. It is the case of the petitioner that the said lands were leased out to respondents 5 and 6. However, in the revenue records, maintained by the 4th respondent, the said lands were wrongly classified as “Natham” lands and taking advantage of the same, respondents 5 and 6, without the consent of the petitioner had approached the 4th respondent seeking assignment of the said lands under the provisions of the Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act, 1948 (for short ‘the Inam Act’) and the 4th respondent, without issuing any notice to the petitioner, vide proceedings dated 16.6.1981, granted house site patta to respondents 5 and 6 under RSO 21.

3. It is the further case of the petitioner that against the said assignment granted in favour of respondents 5 and 6, the petitioner preferred appeal before the 3rd respondent, which was dismissed by holding that the subject lands were



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classified as “Natham”. Against the said order, the petitioner preferred revision before the 2nd respondent, who, vide his order dated 16.12.1983, set aside the order of assignment against which revision was preferred by respondents 5 and 6 before the 1st respondent. The 1st respondent, vide his order dated 28.5.1985, held that the lands are Government Poramboke lands and that the petitioner, merely having let the land on lease to respondents 5 and 6 would not in any way grant ownership and, accordingly, cancelled the order passed by the 2nd respondent and restored the assignment order granted in favour of respondents 5 and 6. However, the said order was passed without issuing any notice to the petitioner.

4. Aggrieved by the said order, which was in stark violation of principles of natural justice, the petitioner preferred W.P. No.14617 and 14618/11989 and this Court, vide order dated 11.7.1991 quash the said proceedings conferring assignment in favour of respondents 5 and 6, which was carried on in appeal by the 6th respondent by filing W.A. No.843/1994 and the Division Bench of this Court, set aside the order of the learned single Judge and remitted the matter to the 1st respondent for fresh disposal and in furtherance to the said direction,



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fresh enquiry was conducted by the 1st respondent and after hearing the petitioner and respondents 5 and 6, allowed the revision preferred by respondents 5 and 6 vide order dated 27.12.11 confirming the assignment granted in favour of respondents 5 and 6. Aggrieved by the said order, the present writ petition has been filed.

5. The gravamen of the contention raised by the learned senior counsel for the petitioner is that the Village was declared as Inam Estates by the Tahsildar, Thiruvadanai, vide letter dated 18.5.1993 and a specific mention had been made therein that an extent of 07389 sq.mtrs., is stated to be Temple lands in the revenue records and that patta also stands in the name of the Temple and the said survey No.82/1 is stated to be Bagam Piriya Koil Vasugi Theertham Oorani Pathai and such being the case the assignment of the land being made in between the temple and the tank, which is out of the total extent of 07389 sq.mtrs., it is the submission of the learned senior counsel that there cannot be a Government Poramboke land between the temple and tank, when the whole extent has been declared as temple lands and, therefore, there cannot be any lands available for assignment. Therefore, it is the contention of the learned



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senior counsel for the petitioner that the authorities have totally misconceived the lands to be Government poramboke lands, merely based on an erroneous entry in the revenue records and have held the assignment to be proper, which is wholly unsustainable. Accordingly, he prays for quashment of the impugned order of assignment.

6. Learned senior counsel appearing for the 6th respondent submitted that the Division Bench, in W.A. No.843/94 has categorically held that the lands to which assignment were granted to respondents 5 and 6 are Natham Poramboke lands and that the Samasthanam did not apply for Ryotwari patta during the currency of the settlement period and that the Settlement Acts have attained finality. That being the case, the petitioner having allowed the said order to attain finality, now cannot turn back and claim that the said lands are not Natham Poramboke lands. Therefore, the belated claim of the petitioner, merely based on a lease deed to show some tenancy cannot be countenanced and, accordingly prays for dismissal of the writ petition.



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7. While concurring with aforesaid submission of the learned senior counsel, learned Addl. Government Pleader appearing for respondents 1 to 4 submitted that upon subdivision of S. No.82/1, while an extent of 007353 wq.mtr., was retained as Bagam Piriya Temple – Vasugi Theertham Oorani Pathai, an extent of 00036 sq.mtr., with notation 82/55 was carved out and assigned to one Stella, but no separate subdivision was made in the Natham Survey Adangal Register and that the said Stella and, thereafter, her legal heirs are in possession and occupation of the property for more than four decades. It is the further submission of the learned Addl. Government Pleader that except for the Nathan Adangal – 1996 register, which shows the land as ‘Pagam Piriya Kovil Vasugi Theertham Oorani Pathai, all the other registers, viz., SLR-1959, Natham Fair Adangal-1959, UDR-1987, Natham Adangal-2015 depict the lands as Sarkar Poramboke-Grama Natham right from the year 1959 to till date. Further, the order in W.A. No.843/94 having been allowed to attain finality, the nature of the subject lands have been established as “Natham Poramboke” and, therefore, the claim of the petitioner for reclassification and to leave it in the name of the petitioner does not merit acceptance.



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8. It is the submission of the learned counsel appearing for respondents 7 to 9 that the petitioner has not applied for grant of patta under the settlement proceedings and the petitioner having failed to vindicate his right over the property in the manner known to law, cannot now come before this Court and challenge the assignment made in favour of respondents 5 and 6 under the category of landless poor, more so when no document has been placed before the Court to show that the lands were declared as ryoti lands or that the petitioner was granted any patta on the basis of pre-existing right. Therefore, it is prayed that this Court may dismiss the present petition.

9. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

10. There is no dispute about the fact that the lands which have been assigned in favour of respondents 5 and 6 are in between the temple and the tank. The petitioner bases its claim on the take over of lands under the Inam Act by the Government and, thereafter, an extent of 07389 sq.mtrs., being marked as



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temple lands. However, even since the year 1959, the lands, which have been assigned to respondents 5 and 6, have been shown as “Natham Poramboke” in the revenue records.

11. Further, it is the claim of the petitioner that the lands were taken over under the Inam Act and, thereafter given to the temple. However, no patta has been filed and no other materials evidence the said giving of the land in favour of the temple. Further, it is to be pointed out that even if the lands have been taken over by the Government and if the said lands are temple lands, necessarily the temple ought to have filed appropriate petition before the Settlement Officer for grant of ryotwari patta on the basis of their pre-existing right. However, neither any patta has been granted nor it has been shown that any petition was filed before the Settlement Officer seeking patta on the basis of the pre-existing right of the temple. In the absence of the same and also in the absence of any documentary evidence to show that the lands were taken over under the settlement proceedings, the stand of the petitioner that the land is the absolute property of the temple does not merit acceptance.



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12. Though it is the claim of the petitioner that respondents 5 and 6 are tenants under the petitioner and to evidence the same lease deed has been executed, yet it is to be pointed out that the lease deed regarding tenancy would have the force only when the petitioner establishes its right to enter into such a lease deed with respondents 5 and 6 with regard to their tenancy. However, as stated above, there is no material to show the pre-existing right that the petitioner holds over the said lands and in the absence of the same, the lease deed pressed into service by the petitioner for establishing tenancy does not stand the test of judicial scrutiny. Further, mere production of certain adangal extracts would not confer any right of the petitioner to claim title to the said lands.

13. Further, it is borne out by record that the subject lands have been classified in the revenue records as “Natham”, which, on application, has been given in assignment to respondents 5 and 6. The assignment has been granted to respondents 5 and 6 classifying the lands as house sites. Though the petitioner dispute the classification of lands, however, the said contention pales into insignificance on account of the fact that a categorical finding has been rendered



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by the Division Bench of this Court even in the earlier round of litigation in W.A. No.843/94, wherein, the Division Bench, vide order dated 28.07.1997, had upheld the classification of lands as “Natham”. In the said order, the Division Bench has clearly held that the petitioner having not applied for grant of ryotwari patta, the classification of land as “Natham”, cannot be disturbed. The petitioner, having been a party to the said order, having accepted the same and allowed it to attain finality, without challenging the same in the manner known to law, is estopped from raising the plea of wrong classification once over.

14. Even before the 1st respondent, the main plea raised by the petitioner is with regard to the classification of lands. The 1st respondent, after affording an opportunity of hearing to the petitioner, has clearly held that the land is “Natham”, which has been settled by the order of this Court and, therefore, the claim of the petitioner cannot be reconsidered. That being the admitted position, the stand of the petitioner relating to reclassification of lands on the basis of certain letter of the Tahsildar does not merit acceptance.



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15. Further, as aforestated, the claim of the petitioner is that the lands stood vested under the Settlement Proceedings with the Government under the Inam Act. The lands that would stand vested with the Government under the Inam Act are ryotwari lands, viz., agricultural lands. However, it is not the case of the petitioner that the said lands are ryotwari lands, viz., cultivable lands. Even according to the petitioner, the lands are located between the temple and tank. That being the stand of the petitioner, the claim of the petitioner that the lands were taken over by the Government during the settlement proceedings under the Inam Act is wholly unsustainable.

16. Further, the lands, which are classified as “Natham”, have been assigned in favour of landless poor persons and the extent of the lands assigned show that they are allotted only for the purpose of enabling respondents 5 and 6 to eke out their livelihood. That being the resultant position, as is evident from the materials, in the absence of any substantive material unerringly pointing out to the lands being temple lands, the claim of the petitioner cannot be sustained.



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17. For the reasons aforesaid, the present petition is wholly devoid of merits and, accordingly, deserve to be dismissed. Resultantly, the writ petition fails and the same is dismissed. In the circumstances of the case, there shall be no order as to costs.

24.06.2022

Index : Yes / No

Internet : Yes / No

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To

1. The Principal Secretary &
Commissioner of Land Administration
Chepauk, Chennai 600 005.
2. The District Revenue Officer
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M.DHANDAPANI, J.

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**PRE-DELIVERY ORDER IN
W.P. NO.30306 OF 2012**

**Pronounced on
24.06.2022**