



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
27.04.2022	06.06.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.4339 OF 2015

W.P. NOS. 19401 & 15940 OF 2020

AND

C.R.P. (PD) NOS.1682 TO 1684 OF 2020

1.V.Anantharaman
2.Gowri Anantharaman
3.G.Venkatraman
4.Radhika Venkatraman
5.G.Srinivasan
6.Aruna Srinivasan ... Petitioners W.P.No. 19401 of 2020
... Petitioner in W.P.NO. 4339 of 2015

1.S.Kothandan
2.K.Vasudharadevi
3.V.K.Hariprakash
... Petitioners in W.P.NO. 15940 of 2020

TAMILNADU SLUM CLEARANCE BOARD
REP. BY ITS PRINCIPAL SECRETARY/MANAGING DIRECTOR
NO.5 KAMARAJAR SALAI
CHENNAI- 600005

... Petitioner in
C.R.P.NO. 1682 TO 1684 of 2020

- Vs -

1. The District Collector
Thiruvallur.

2. The Tamil Nadu Slum Clearance Board
Rep, by its Chairman
No.5, Kamarajar Salai
Chepauk, Chennai 600 005.



3.The Revenue Divisional Officer
Ambattur.

4.The Tahsildar
Maduravoyal, Maduravoyal Taluk
Chennai.

5.The Tahsildar
Poonamallee, Chennai.

6.Kandasami

7.Radha Kandasami

8.M/s.Abirami Engineering Construction & Co.
Rep. by Tmt. S.Abinaya
Partner-cum-Authorised Signatory
5/252, Teachers Colony
Mohanur Road, Namakkal.
(R-8 impleaded vide order of Court
Dated 13.7.21 made in WMP 15059/21)

.. Respondents
W.P.No. 19401 of 2020

- 1 The Tamilnadu Slum Clearance Board
Rep. by its Principal Secretary/Managing Director
No.02 Kamarajar Salai
Chennai- 600 005.
- 2 The District Collector
Thiruvallur District Collectorate
Thiruvallur
- 3 The Assistant Settlement Officer(North)
Office of the Principal
Secretary and Commissioner of Land Survey
and Settlement Chepauk Chennai- 600 005
- 4 The Tahsildar
Taluk Office Poonamallee (formerly at
Maduravoyal) Thiruvallur District

... Respondent in W.P.NO. 15940 of 2020

- 1 Revenue Divisional Officer
Ambattur.



2 The Tahsildar
Maduravoyil Taluk Chennai.

3 Kandasami

4 Radha Kandasami
(R2&3 are impld.as per order dt.
12.04.18 this Hon'ble Court IN WMP.7944/18
IN WP.4339/15)

... Respondents in W.P.NO. 4339 of 2015

1 Ms.Chatla Lakshmi Prasanna

2 Ms.CH.Lalitha Kumari

3 Mr.Chatla Dhanumjaya Rao

4 The District Collector
Tiruvallur District Collectorate
First Floor Tiruvallur-602001

5 The Tahsildar
Poonamalee Taluk No.5 Trunk Road
Poonamalee Chennai-600056

... Respondents in
C.R.P.NO. 1682 of 2020

1 K.Ravikumar

2 K. Sridevi

3 The District Collector
Tiruvallur District Collectorate
First Floor Tiruvallur.

4 The Tahsildar
Poonamallee TK No.5 Trunk Road
Poonamallee Chennai 56.

... Respondents in
C.R.P.NO. 1683 of 2020

1 S.KOTHANDAN

2 K.VASUNDHARADEVI

3 V.K.HARIPRAKASH

4 THE DISTRICT COLLECTOR
TIRUVALLUR DISTRICT COLLECTORATE TIRUVALLUR



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5 ASSISTANT SETTLEMENT OFFICER
(NORTH), O/O THE PRINCIPAL SECRETARY AND
COMMISSIONER OF LAND SURVEY AND SETTLEMENT
CHEPUAK CHENNAI 600 005

6 THE TAHSHILDAR
TALUK OFFICE POONAMALLEE (FORMERLY AT
MADURAVOYAL) THIRUVALLUR DISTRICT

... Respondents in
C.R.P.NO. 1684 of 2020

W.P. No.19041 of 2020 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the 1st respondent in No.Na.Ka.28676/2017/1 dated 08.11.2018 and quash the same and direct the 1st and 2nd respondents to redeliver possession of the petitioners' lands measuring 0.33.00 hectares in T.S. No.22/2 and 122/2A2, previously in T.S. No.22/3, Puliambedu Village, Poonamallee Taluk, Thiruvallur Taluk, as per the joint patta No.1875 to the Petitioners.

W.P.NO. 15940 of 2020

forbearing the respondents from entering in to the petitioners land in S.No.22/1 -Part measuring an extent of 40 cents situated at No.92 Numbal Village Poonamalle Taluk Thiruvallur District including to carry out any development/construction activity without final adjudication in Suit No. 33 of 2019 pending on the file of the 1st Additional District and Sessions Judge Thiruvallur and CRP(PD). No. 1682 of 2020 pending on the file of this Honourable Court and also without following the due process of law and thus render justice

W.P.NO. 4339 of 2015

Calling for the records of the 1st Respondent in Na.Ka.2553/2014/A5 dated 02.01.2015 culminating in proceedings Na.Ka.2069/2014/A1 dated 28.01.2015 of the 2nd Respondent and to quash the same as illegal and direct the Respondents to restore the original Joint Patta in favour of the Petitioners.



C.R.P.NO. 1682 of 2020

To strike out the plaint in OS No.126/2019 instituted by the Respondents 1 to 3 herein and pending on the Honble Subordinate Judge Poonamallee

C.R.P.NO. 1683 of 2020

To strike out the plaint in OS No.756 of 2018 instituted by the Respondents 1 to 2 herein and pending on the file of the Honble Subordinate Judge Poonamallee.

C.R.P.NO. 1684 of 2020

To strike out the plaint in OS No.33 of 2019 instituted by the respondents 1 to 3 herein and pending disposal of the Honble Principal District Judge Tiruvallur.

For Petitioners: In W.P. No.19401/2020
Mr. K.Krishnaswamy, for
M/s.S.Vasudevan in WP 19401/2020

In W.P. No.4339/2015
Mr. G.S.Shivakumar

In W.P. No.15940/2020
Mr. Ravikumar Paul, SC,
for M/s.Paul & Paul

In C.R.P. No.1682 to 1684/2020
Mr.S.Silambanan, AAG,
Assisted by Mr.S.Prabhu, GA

For Respondents: In W.P. No.19401/2020
Mr. S.Silambanan, AAG
Assisted by Mr. S.Prabhu, GA for R-2
Mr.A.Anandan, GA for RR-1, 3 to 5
Mr. N.Subramaniyan for RR-6 to 8

In W.P. No.4339/2015
Mr. A.Anandan, GA for RR-1 & 2
Mr. N.Subramaniyan for RR-3 & 4

In W.P. No.15940/2020
Mr. S.Silambanan, AAG,
Assisted by Mr. S.Prabhu, GA for R-1
Mr. A.Anandan, GA for RR-2 to 4



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In CRP Nos.1682 to 1684/2020
Mr. A.Anandan, GA for RR-4 & 5 in
CRP 1682/2020, for RR-3 & 4 in
CRP 1683/2020
& for RR-4 to 6 in CRP 1684/2020
Mr. Ravikumar Paul, SC, for
M/s.Paul & Paul for RR-1 to 3
in CRP 1684/20
Mr. V.Ayyadurai, SC, for
M/s. G.Rm.Palaniappan
for RR-1 and 2 in CRP 1682 & for RR-1
& 2 in CRP No.1683/2020

COMMON ORDER

Since the factual matrix surrounding all the petitions are common one and the petitions are the off-shoot of the act of the Revenue Divisional Officer in directing cancellation of the joint patta and the subsequent act of the District Collector in granting enter upon permission to the Board and also the act of the Board in entering upon the lands and indulging in developmental/construction activity, all the petitions are taken up together compositely and disposed of by this common order.

2. For the sake of convenience, the petitioners in the writ petitions and civil revision petitions will be referred to as petitioners and revision petitioners and the respondents in the said petitions will be referred to by their designation.

3. The lands, which are the subject matter of dispute, which are alleged to belong to the private parties, who are the petitioners in W.P. Nos.4339/15, 19401/20 and 15940/20 having sought to be taken over by the Tamil Nadu Slum Clearance Board (for short 'the Board') without following the due process of law under the pretext of the said lands being 'Anadheenam Lands' for which suits have been filed in O.S. Nos. 33 of 2019, 126 of 2019 and 756 of 2018 by the respective plaintiffs/petitioners herein, has culminated into the filing of the respective writ petitions and civil revision petitions.

4. While W.P. No.4339 of 2015 has been filed assailing the cancellation of the joint patta granted to the petitioners and seeking quashment of the same, W.P. No.19401/20 has been filed by the very same petitioners, putting in issue the consequential order passed by the District Collector, Tiruvallur, in and by which permission to enter upon the lands, including the lands of



the petitioners have been granted to the Board and prayer has been made to forbear the Board from entering into the said lands of the petitioners and also for delivery of possession of lands to the petitioners.

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5. W.P. No.15940 of 2020 has been filed by the petitioner to forbear the Board from entering into the petitioner's lands and doing any construction/developmental activity pending adjudication of the suit in O.S. No.33 of 2018 on the file of the 1st Addl. District & Sessions Judge, Tiruvallur and also without following the due process of law.

6. C.R.P. Nos.1682 to 1684 of 2020 have been filed by the Board to strike out the plaint filed in O.S. Nos.33 of 2019, 126 of 2019 and 756 of 2018 on the file of the Principal District Judge, Thiruvallur and Subordinate Judge, Poonamallee respectively.

7. Vast extent of lands in and around the subject lands were held by different individuals, who had sold the same during the period 1945 and 1948 to certain other persons, which were then alienated by way of sale to one M/s.Noombal Farms Ltd. In turn, the said company alienated the same by way of sale to one E.Shanmuga Nayakar and upon his death, the lands stood vested in his legal heirs, who had, thereafter, sold portion of the land in Survey No.22/1 to an extent of 40 cents in favour of the petitioners in W.P. No.15940/20 and an extent of 38 cents in favour of the petitioners in W.P. No.19401/20 through registered sale deeds, which have been registered at the office of the Sub Registrar, Kundrathur and the said sale had taken place in the year 2007 and 1995 respectively. It is the further case of the petitioners that initially the lands carried the old Survey No.105/16, which was thereafter renumbered as T.S. Survey No.22/2, which were purchased by the petitioners.

8. It is the further case of the petitioners that on coming to know that the classification of the lands have been shown as 'Anaadheenam Lands' in the 'A' Register, the petitioners approached the competent authority for cancelling the existing entry in the said Register and to grant patta in favour of the petitioners. It is also the further case of the petitioners in W.P. No.19401/20 that representation was given to the Department of Land Administration calling upon them to disclose the records, which evidence the manner in which lands belonging to individuals were classified as 'Anaadheenam Lands', vide proceedings dated 13.11.2019 it was communicated that the records of the lands comprised in old survey No.105/16 were not available and the basis on which the classification is shown as



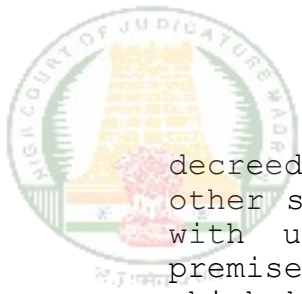
'Punjai Anaadheenam' in the 'A' Register was not available to them.

9. While the petitioners in W.P. No.19401/20 filed O.S. Nos 25, 46 and 47 of 2010 before the District Munsif Court, Ambattur seeking a decree to declare that the subject properties do not come under the classification of Anaadheenam lands and for a mandatory injunction for directing the defendants to issue patta, the petitioners in W.P. No.15940/20 filed W.P. No.23068/15 challenging the order dated 15.7.15 in and by which the request of the petitioners for grant of patta was turned down.

10. In the suit, since the defendants did not file written statement, they were set ex parte and a decree, dated 31.01.2011, as prayed for was granted in favour of the petitioners. In the writ petition, this Court quashed the order and remitted the matter to the 3rd respondent therein for fresh consideration after affording an opportunity of personal hearing. However, the 3rd respondent therein, conducted an enquiry and passed an order on 31.10.2017 rejecting the request of the petitioners on the ground that documents like muchalika, etc., were not provided to substantiate that the names of the predecessors-in-title were included in the Jamin Chitta.

11. When the matters stood thus, the District Collector, Tiruvallur, vide order dated 8.11.2018, had given permission to the Board to enter into the land in Survey Nos.22/1 and 22/2 to an extent of 1.71.0 hectares on the premise that the said lands were Government Poramboke lands, for the purpose of constructing a multi-storied tenement for the benefit of the slum dwellers. Against the same, the petitioners in W.P. No.15940/20 filed O.S. No.33/19 before the Principal District Court, Tiruvallur, for a declaration of title and for consequential injunction injuncting the respondents from interfering with the peaceful possession and enjoyment of the property, which suit stood transferred to the file of the 1st Addl. District & Sessions Judge, Tiruvallur. Since the Board threatened the petitioners with regard to their possession, injunction was sought for from the 1st Addl. District & Sessions Court. However, the Board has filed the present revision petitions praying to strike out the plaint on the ground that there is a statutory bar for the civil suit u/s 64-C (2) of the Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act, 1948 and in the said revision petition, ex parte order of stay has been granted.

12. It is the further case of the petitioners that armed with the stay granted by this Court, inspite of one set of suit being



decreed in favour of the petitioners in W.P. No.19401/20 and the other set of suits in which issues have been framed, the Board, with ulterior motive, with the aid of police entered the premises and have been utilizing the said lands unauthorisedly, which has necessitated the filing of the present writ petitions challenging the impugned enter upon order and also the order in and by which patta already granted was cancelled.

13. Further, it is the further case of the petitioner in W.P. No.19401/20 that pursuant to the decree passed in the suits, while the Tahsildar, Maduravoyal Taluk, decided to grant patta to the petitioners after verifying the title deeds and also the decree and the execution petitions after rendering a finding that the properties were acquired by the petitioners through proper sale deeds and also the entry of the lands as Punjai Anaadheenam lands in the revenue records was without any basis. It is the further case of the petitioners that on inspection of the property, the petitioners came to know that respondents 6 and 7 had encroached upon his lands and had raised a small hut and shed and, therefore, they made a complaint to the law enforcing agency on 5.1.2014 and aggrieved by the act of the petitioners, respondents 6 and 7 had filed W.P. No.26694/2014 before this Court, without impleading the petitioners as party respondents, and claimed that the lands in T.S. No.22/2 are government lands, which are being encroached upon by private parties and this Court, vide its order dated 9.10.2014 directed the respondents therein to dispose of the representation of the 7th respondent, which resulted in the joint patta No.1875, held by the petitioners, being cancelled. It is the further case of the petitioners that before cancelling the patta, no notice was given to the petitioners herein, which is in stark violation of principles of natural justice. On the heels of the aforesaid order cancelling patta, the impugned order was passed by the District Collector, granting permission to the Board to enter upon the lands, which is assailed before this court.

14. Revision Petitions have been filed by the Board praying to strike out the plaint filed in the respective suits by the petitioners. It is the averment of the Board that Puliambedu Inam Estate comprised in Noombal Village was notified to be taken over by the Government with effect from 1.5.1963 u/s 1 (4) of the Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act (for short 'the Act') as per G.O. Ms. No.1127, Revenue dated 16.3.1963 and pursuant to the same, an extent of 178.19 acres have been taken over, which also included S. No.22/1, which is alleged to have been purchased by the petitioners.



15. It is the further stand of the Board that pursuant to the Ryotwari Settlement, the lands comprised in Puliampattu Village had been classified and pattas were issued to all eligible persons as per the provisions of the Act. The land in S. No.22/1 was classified as Government - Punjai Anaadeenam as no one had claimed patta and, therefore, no one was entitled for patta as per the provisions of the Act.

16. It is the further averment of the Board that respondents have alleged to have filed appeal petition before the Assistant Settlement Officer (North Chennai) requesting to grant patta in their favour for the land in S. No.22/1 to an extent of 67 cents and the respondents claim ownership to the lands by virtue of the sale deed dated 12.5.1999, but the Board, which has been vested with the lands by the Government has mooted out a proposal to construct multi-storied tenement for the slum dwellers in the said lands, which belongs to the government, which has been classified as Punjai-Anadeenam, which action has resulted in the filing of the suit. It is the further averment of the Board that the relief sought for in the suit is barred by the provisions of law as no suit can be instituted in respect of the lands, which has vested with the Government pursuant to the enactment of the Act. However, erroneously the said suits have been taken on file by the concerned Court, which is barred by law, which has resulted in the filing of the present civil revision petitions.

Submission on behalf of petitioners in W.P. Nos.19401/20 and 4339/2020

17. Learned counsel appearing for the petitioners submitted that the impugned orders dated 2.1.15 and 8.11.08, which have been put in issue, are passed in violation of the decree of the Civil Court in the suits O.S. Nos.25, 46 and 47/2010. It is the submission of the learned counsel that the trial court having held that the land is not Anadeenam land, the defendants therein, viz., the District Collector and the Tahsildar are duty bound to execute the orders of the trial court. However, in spite of the said decree, which was passed on 31.01.2011, the subsequent order, dated 8.11.2018, which is impugned herein, has been passed by the District Collector. It is the submission of the learned counsel that when the District Collector, Tiruvallur and Tahsildar, Ambattur are the defendants in the suit and they have not filed any written statement of defence and having allowed the suit to be decreed ex parte and no appeal having been filed against the said order, the decree passed by the court below has become final and, therefore, the subsequent order passed by the District Collector dated



8.11.2018, granting enter upon permission to the Board is wholly impermissible and is an arbitrary and capricious exercise of power in utter defiance and disobedience of the orders passed by the trial court.

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18. It is the further submission of the learned counsel that neither while cancelling the patta, which has resulted in the filing of W.P. No.4339/2015, nor while granting enter upon permission to the Board, which has resulted in the filing of W.P. No.19401/20, the petitioners, who are joint patta holders, holding Joint Patta No.1875, neither notice was issued nor an opportunity of hearing was granted before passing the impugned order, which is a blatant violation of principles of natural justice and, therefore, the orders impugned are liable to be quashed.

19. It is the further submission of the learned counsel that in W.P. No.4339 of 2015, this Court had granted stay of all proceedings pursuant to the order of cancellation of patta and that the said stay is in force. However, without regard to the said order of stay, the impugned order dated 8.11.2018 has been passed by the District Collector, which is a violation of the order of this Court and renders the impugned orders liable to quashment.

20. It is the further submission of the learned counsel that the petitioners sale deed also covers certain survey numbers, which are part of an approved layout, approval having been granted by the Madras Metropolitan Development Authority, which has been included in the joint patta. However, without proper appreciation of the same, the said lands have also been allotted to the Board vide the impugned order dated 8.11.2018, which is per se illegal, impermissible and unsustainable.

21. It is the further submission of the learned counsel that the stand of the official respondents that the jurisdiction of the Civil Court is ousted in view of Section 64-C of the Act is a misconception as the Hon'ble Supreme Court in the case of State of Tamil Nadu - Vs - Ramalinga Swamigal Madam (1985 (4) SCC 10) has clearly held that the Civil Court's jurisdiction to adjudicate upon the nature and character of the land is not ousted by Section 64-C. In this regard, it is the submission of the learned counsel that the nature and classification of land as to whether it is Anadeenam land or not is not within the purview of the Settlement Tahsildar and, therefore, the civil court has jurisdiction to decide the issue.

Submission on behalf of petitioners in W.P. No.15940 :-



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22. It is the submission of the respective learned senior counsel that the contention of the Board that the suit is barred u/s 64-C(2) of the Act is no longer res integra in view of the authoritative pronouncement of the Hon'ble Supreme Court in Ramalinga Swamigal Madam case (supra).

23. It is the further submission of the learned senior counsel that the notice as contemplated u/s 80 of the Code of Civil Procedure was not given to the Board, though notice was given to the other three defendants, viz., The District Collector, the Assistant Settlement Officer and the Tahsildar.

24. It is the further submission of the learned senior counsel that though a ground has been raised in the revision petition by the Board that the suit is barred u/s 64-C of the Act, yet the Board, in its counter in the present revision petitions, has taken a stand that the land was taken over by the Government under the Minor Inams Act and that being the case, the contrary stands taken by the Board would show that the due procedure of law has not been followed and it is encroachment by the Board into the lands of the petitioners.

25. It is the further submission of the learned senior counsel that as against the interference caused by some villagers against the possession of the petitioners, suit in O.S. No.504 of 2014 was filed before the 1st Addl. District & Sessions Judge, Tiruvallur, which was decreed in favour of the petitioner and that the petitioner has been in continuous possession and enjoyment of the property and the Board, with an ulterior motive and with the aid of the police, merely on the basis of the order of stay granted by this Court, had demolished the compound wall put up by the petitioner. It is the further submission of the petitioner that the possession of the petitioner stands established by the fact that the petitioner has obtained electricity connection and has paid the bill and has also been paying vacant land tax.

26. It is the further submission of the learned senior counsel that mere vesting of lands in the Government by virtue of Section 3 (b) of the Act is always subject to the pre-existing rights of the occupants and that vesting of the properties do not have the effect of destroying the pre-existing rights. In support of the said contention, learned senior counsel relies on the decision in Srinivasan & Ors. - Vs - Sri Madhyarjuneswaraswami Pattaviathalai, Trichy District, & Ors. (1998 (1) CTC 630).



Submissions on behalf of the respondents in the revision petitions :-

27. Learned senior counsel appearing for the respondents in the revision petitions submit that though it is the stand of the Board that the lands stood vested with the Government on the issuance of G.OP. No.1127, Revenue Department, dated 16.3.1963, yet there is no clarity with regard to the particular statute under which the lands were taken over by the Government. It is the submission of the learned senior counsel that in one portion of the counter affidavit the revision petitioners claim that the lands were taken over under the Inam Act, 1948, however, in the revision petitions as also in the written statement filed in the suit, the revision petitioners have claimed that the lands were taken over by the Government under the Inam Act, 1963. The aforesaid ambiguity in the particular statute under which the lands have been taken over, which is not clear, renders the revision petitions for striking the plaint a vexatious attempt to defeat the lawful rights of the respondent/subsequent purchasers to seek for the appropriate legal remedy by filing the suit in terms with the ratio laid down in Ramalinga Swamigal Madam case (supra).

28. It is the further submission of the learned senior counsel that though the revenue officials had initially granted patta, however, for reasons best known, the said patta was cancelled without affording an opportunity to the respondents/subsequent purchasers and that no notice has been issued to the respondents/subsequent purchasers prior to cancellation of the said patta. This is a gross violation of principles of natural justice, which renders the act of cancellation of patta an unsustainable one.

29. In fine, it is the submission of the learned senior counsel that since the ambiguity in the statute under which the lands have vested with the Government coupled with the fact that there is a glaring violation of principles of natural justice and further the decision in Ramalinga Swamigal Madam case (supra) has approved the maintainability of the suit, there is no statutory bar for the suit to proceed with and, therefore, the civil revision petitions seeking to reject the plaint at the threshold is wholly an act to thwart the recourse open to the respondents to seek a declaration, which is devoid of merits and, therefore, deserves to be dismissed and the Board should be restrained from proceeding with any construction activity pending disposal of the suit filed by the petitioners in the interests of justice and also in the interests of the respondents.



Submissions on behalf of official respondents in writ petitions

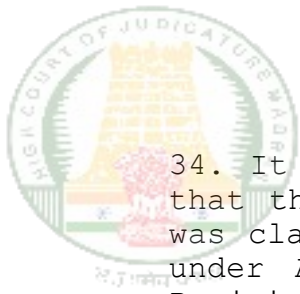
30. Learned Government Advocate appearing for the official respondents in the writ petitions that the village was taken over by the Government with effect from 1.5.1963 by issuance of G.O. Ms. No.1127, Revenue Department under the relevant provisions of the Act and ryotwari settlement has been introduced in the village during the Fasli 1375.

31. It is the further submission of the learned Government Advocate that the petitioners in W.P. No.19401/20 filed suits before the learned District Munsif, Ambattur, and obtained ex parte decree against the Tahsildar, Ambattur and the District Collector, Tiruvallur to the effect that the suit property does not come under the classification of Anadheenam and execution petitions were also filed. It is the submission of the learned Government Advocate that the Tahsildar, Maduravoyal was not competent to change the classification of the land, but had erroneously ordered mutations and effected entries in patta for S. No.22/2, without obtaining appropriate orders, which resulted in the cancellation of patta by the Revenue Divisional Officer, Ambattur.

32. It is the submission of the learned Government Advocate that the orders passed in the suits, viz., O.S. Nos.25, 46 and 47 of 2010 could not be implemented by the respondents on the administrative side, as the correction of the entries sought for has been recorded by the competent Settlement authorities in the Settlement Register and, therefore, the incompetency of the officers resulted in the non-implementation of the decree. In this regard, learned Government Advocate placed reliance on the decision of Full Bench of this Court in Special Commissioner & Director of Survey & Settlement - Vs - N.Arumugam (2007 (4) CTC 538).

33. It is the further submission of the learned Government Advocate that insofar as the grievance of the petitioners relating to cancellation of patta, the proper course open to the petitioners is to file revision petition before the District Revenue Officer and by-passing the said remedy, filing of a writ petition by invoking the extraordinary jurisdiction of this Court is impermissible and the writ petition is therefore not maintainable.

Submissions on behalf of the Board in the revision petitions



34. It is the submission of the learned Addl. Advocate General that the lands in S. Nos.22/1 and 22/2 of Pulliampattu Village was classified as Inam Estate and it vested with the Government under Act 26 of 1948 and the lands have been classified as Punjai Anadeenam. As there was no appeal against the said order even upto the extended period of limitation, i.e., upto 1987 by any persons, any alleged sale at a later point of time after the period of limitation cannot be construed to be a legally valid sale and no person has right to alienate the properties of the Government on and from the date of vesting without following the proper procedure.

35. It is the further submission of the learned Addl. Advocate General that as per Section 64-C of the Act any order passed by the Government or Authority under the Act in respect of matters to be determined for the purposes of this Act shall, subject only to any appeal or revision provided by or under the Act be final and no such order shall be liable to be questioned in any Court of law. Therefore, it is the submission of the learned Addl. Advocate General that the lands, having been classified as Punjai Anadeenam, has become final and the period of limitation also stood expired even before the purchase made by the petitioners and, therefore, the Assistant Settlement Officers are barred from receiving any appeals and, hence, conduct of enquiry by the Assistant Settlement Officers do not arise.

36. It is the further submission of the learned Addl. Advocate General that it is not the case of the petitioners/purchasers that the actions of the Government were outside the scope of the Act as the purchasers do not claim that they have been in continuous possession and carrying on agricultural operations in the subject lands at the relevant point of time. It is the further submission of the learned Addl. Advocate General that the vendors of the writ petitioners have never approached the authority for grant of any patta within the period prescribed, which, in fact stood extended till 1987 and that the alleged vendors of the petitioners also have not approached the authority for any patta and, therefore, the writ petitioners, having purchased lands from their vendor, later in point of time, viz., in the year 1997 and 2005, cannot derive title from their vendors, as their vendors themselves did not have any title on the date of sale, as the lands stood vested with the Government upon the issuance of the Government Order on and from 1.5.1963. The vendors not having obtained any patta, thereby, preserving their hold on the property, the lands on the date of sale having vested with the Government and the Government being the title holder, as per mutation of records, the claim of the petitioners for grant of patta is wholly misconceived.



37. It is the further submission of the learned Addl. Advocate General that once the lands have vested with the Government, it is open to the Government to allot the lands in favour of any entity, much less the Board and the petitioners have no authority to question the act of the allotment of lands to the Board.

Submissions on behalf of the 8th Respondent in W.P.No.19401/2020:

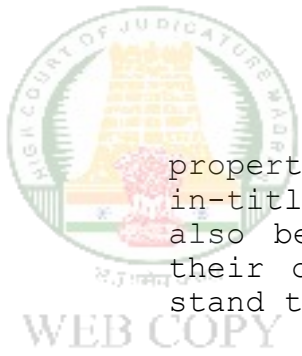
38. Learned counsel appearing for the 8th respondent, who has been impleaded as party respondent in W.P. No.19401/20 submitted that without approval of the Government, on and from 1.7.1945, no person shall be entitled for a ryotwari patta and, that the said person should be cultivating continuously in the said lands from 1939 and, therefore, admittance into possession prior to 1.7.1945 is pre-requisite for claiming patta. It is the further submission of the learned counsel that the right alleged to have been acquired by the writ petitioners based on the alleged sale deeds are not enforceable against the Government.

39. It is the further submission of the learned counsel that the decree and other interim orders have been passed by the civil court without jurisdiction and, therefore, the ex parte decree obtained by the writ petitioners in W.P. No.19401/20 is void ab initio and non est and is of no use to the writ petitioners. It is the further submission of the learned counsel that the ouster of jurisdiction of the civil court u/s 64-C is only in relation to the ryotwari patta and not insofar as patta sought for by the petitioners, which is on the basis of alleged sale deeds.

40. It is the further submission of the learned counsel that the contention of the petitioners that the Board being a statutory authority cannot take over the subject lands without approval of the Government is to be rejected in limine for the reason that the housing scheme to be promoted and constructed by the Board has been approved by the Government. Therefore, it is prayed that the writ petitions are bereft of any materials and are vitiated by fraud and malice and, therefore, liable to be dismissed.

41. 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.

42. It is the pointed case of the writ petitioners that they have purchased the subject lands in the year 1995 and 2007 respectively from their vendors, who had valid title to the



property, having purchased the property from their predecessors-in-title. Documents evidencing the said sale and purchase have also been filed to establish before this Court. It is also their case that the pre-existing title of their vendors would stand transferred to the writ petitioners on their purchase.

43. However, it is the case of the official respondents that vide G.O. Ms. No.1127, Revenue Department dated 16.3.1963, the lands in Puliampattu Village, which are alleged to have been purchased by the writ petitioners, were classified as Inam lands under the Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act, 1948 and taken over by the Government and on and from the said date, the lands stood vested with the Government. It is the further case of the official respondents that the time for filing the appeal against reclassification of land was extended upto 1987 and came to an end in the year 1987.

44. It is the specific case of the official respondents that till the end of the time specified for filing requisite appeal for reclassification of the lands, no person had approached the competent Settlement Officer for such reclassification. In the absence of any appeal within the period prescribed, not only the vesting of the lands with the Government from the date of taking over of the lands under the Act, but also in the absence of any claim for reclassification of lands resulted in the lands being classified as Punjai Anadheenam attaining finality and the same cannot be disturbed at this distant point of time.

45. It is not the case of the writ petitioners that their predecessors-in-title had applied for patta before the competent settlement officer. It was never the case of the writ petitioners that before the cut-off date, the original title holders had ever applied for settlement patta. Further, it is not even the case of the writ petitioners that Noombal Farms, which had purchased the lands from the original title holders, viz., Ramanatha Iyer and Venkatarama Iyer had, at any point of time, applied for patta before the settlement officer. The first of the application for patta had been filed only by the writ petitioners somewhere in the year 2009. However, could the non-obtaining of patta by the predecessors-in-title of the petitioners take away the right of the petitioners to obtain patta is the question that has been put before this Court.

46. Be that as it may. It is the further case of the writ petitioners that they had purchased the lands from their predecessors-in-title, which lands formed part of Survey No.122/A2 and that it is a patta land, which forms part of an approved layout. Though the official respondents claim that



the lands have vested with the Government on the take over under the Inam Act, however, as rightly pointed out by the learned senior counsel, the Act under which the lands have been taken over is not clear, whether it is under the 1948 Act or the 1963 Act. However, the fact remains that the lands have vested with the Government by virtue of the said take over. However, the writ petitioners claim that their predecessors-in-title had pre-existing right over the property, which stands transferred to the writ petitioners on their purchase and, therefore, they are entitled to the grant of patta.

47. Further, the writ petitioners claim their right over the subject lands is on the basis of an exparte decree obtained by one of the writ petitioners, viz., W.P. No.19401/20, in their favour by having the court grant mandatory injunction that the lands are not Anadheenam lands and also for a direction to the authority to make appropriate entries in the revenue records and grant patta, while the writ petitioners in the other writ petition, viz., W.P. No.15940/20, had filed suits for declaration of title and mandatory injunction. In effect, the relief in both the suits, one which has been decreed and the other, which is pending, are for almost similar reliefs.

48. On the other hand, it is contended to by the official respondents that the said decree is a non-executable decree, and it is also submitted that Section 64-C of the Act ousts the jurisdiction of the civil court to entertain any suit and, therefore, the decree granted by the civil court in the suit filed by the petitioners in W.P. No.19401/20 and also the relief sought for by the petitioners in W.P. No.15490/20 in the suits filed by them are non est in law and are not binding on the Government to be acted upon.

49. Countering the aforesaid submission, the petitioners, laying their hands on the decision in Ramalinga Swamigal Madam case (supra) and the decision of the Full Bench of this Court in Srinivasan & Ors. - Vs - Sri Madhyarjuneswaraswami, Pattavithalai & Ors. (1998 (1) CTC 630) submits that the jurisdiction of the civil court is not ousted and the petitioners could very well maintain a suit.

50. Before adverting to the appreciation and the applicability of the aforesaid decisions to the case on hand, for better appreciation, Section 64-C of the Act, which talks about the ouster of jurisdiction and which is pressed into service by the official respondents, is quoted hereunder :-



"64-C. Finality of orders passed under this Act.- (1) Any order passed by the Government or other authority under this Act in respect of matters to be determined for the purpose of this Act shall, subject only to any appeal or revision provided by or under this Act, be final.

(2) No such order shall be liable to be questioned in any Court of law."

51. The aforesaid Section 64-C was pressed into service in the decision in Ramalinga Swamigal Madam case (supra) on the following contention :-

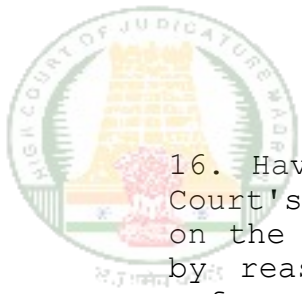
"6. Relying upon the aforesaid provisions Counsel for the appellants urged before us that every refusal of a ryotwari patta by a Settlement Officer in an inquiry under s. 11 involves a decision on his part that either the applicant is not a ryot or the land is not ryoti land; in the instant cases it was the latter and such decision on the nature or character of the land has been given a finality under S.64-C which cannot be questioned in a Court of law and therefore the Civil Court's jurisdiction to adjudicate upon the nature or character of the suit lands must be held to have been excluded or ousted. Counsel therefore urged that the High Court's view deserves to be quashed."

52. Analysing the above provision of law, the Hon'ble Apex Court, held as under :-

"15. Counsel for the appellants invited our attention to two decisions of this Court one in M. Chayana v. K. Narayana, MANU/SC/0417/1979 : [1979]3SCR201 under the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act 26 of 1948 and the other in O. Chenchulakshamma v. D. Subramanya MANU/SC/0421/1979 : [1980]1SCR1006 under the Madras Estates (Abolition and Conversion into Ryotwari) Act 26 of 1948. It may be stated that both the enactments. (the A.P. Act as well as the Madras Act) contain substantially identical provisions and in particular Section 56 with which the Court was concerned in the two cases is in identical language. Sub-section (1) of Section 56 provides that "whereafter an estate is notified, a dispute arises as to (a) whether any rent due from a ryot for any Fasli year is in arrear or (b) what amount of rent is in arrear or (c) who the lawful ryot in respect of any holding is, the dispute shall be decided by the Settlement Officer". Sub-section (2) provides for an appeal to the tribunal against the decision of the Settlement Officer and the tribunal's decision in appeal has been rendered final and not liable to be questioned in a Court of law. In both the cases this Court has taken the view that a dispute between two rival claimants as to who is the lawful ryot entitled to the patta of the holding in



question had been exclusively left to the determination of the Settlement Officer under that provision and since finality has been accorded to such determination which is not liable to be called in question in any Court of law the Civil Court's jurisdiction to adjudicate upon such dispute has been excluded. Relying upon these decisions, counsel for the appellant urged before us that the civil court's jurisdiction to adjudicate upon the issue of real nature or character of the land should be held to have been excluded under Section 64-C of the Act which also accords finality to the Settlement Officer's order refusing to grant the ryotwari patta to a ryot under Section 11 of the Act on the ground that the land in question is not ryoti land. It is not possible to accept this contention for the two decisions are clearly distinguishable. In the first place Section 56 with which the Court was concerned in those cases does not contain the words "for the purposes of the Act" which occur in Section 64-C; and presumably in view of the absence of those words in the section this Court in M. Chayana's case observed that there was no warrant for taking the view that the Settlement Officer's decision under Section 56(1)(c) on the question as to who was the lawful ryot of holding was only for the purpose of identifying the person liable to pay the arrear of rent. Secondly under Section 56(1)(c) the Settlement Officer is expressly required to make an inquiry into and decide the question as to who is a lawful ryot of the holding between two rival claimants whereas as stated earlier there is no express provision directing an inquiry into the question of the real nature or character of the land while considering a ryot's application for a patta under Section 11 read with the proviso to Section 3(d). In other words, the two provisions are dissimilar. Moreover, it may be pointed out that so far as the Madras Act is concerned by Madras Act 34 of 1958 Section 56 itself has been repealed with effect from 27 December 1958 and Section 9(2) of the repealing Act (No. 34 of 1958) has gone on to provide that all proceeding pending before the Settlement Officer or Tribunal under that section shall abate. As a result of such repeal the Madras High Court in two decisions, Krishna Swami Thevar's case [1961] 1 M.L.J. 168 and A.R. Sanjeevi Naicker's [1965] 2 M.L.J. 204 case has held that now there is no machinery available under the Madras Act to have a determination of the dispute between two rival claimants regarding their title as to who would be entitled to the patta and Section 11 does not contain machinery for deciding disputed questions of title. Whatever be the position in regard to dispute concerning rival claims or titles, the ratio of the two decisions of this Court on which counsel placed reliance is inapplicable to the issue raised in these appeals for our determination.



16. Having regard to the above discussion we confirm the High Court's view that the Civil Court's jurisdiction to adjudicate on the real nature of the land is not ousted under Section 64-C by reason of the Settlement Officer's decision to grant or refuse to grant a patta under Section 11 read with the proviso to Section 3(d) of the Act. The appeals are, therefore, dismissed but with no costs."

(Emphasis Supplied)

53. Reiterating the aforesaid ratio, a Full Bench of this Court in Sri Madhyarjuneswaraswami case (supra), held as hereunder :-

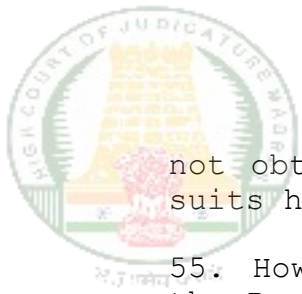
"14. We have carefully considered the submissions of learned counsel appearing on either side in the light of the catena of cases noticed supra by us and the principles laid down therein. A comparison of the provisions contained in the Abolition Act, the Inam Abolition Act as also the Minor Inams Act would go to show that the ultimate object of one or the other of these legislations is the introduction of ryotwari settlement in the areas covered and notified under the respective enactments, after abolishing existing land tenure and acquiring the rights of the landholders or inamdars concerned, who, under the system of land tenure which was in vogue in these areas, were considered to be intermediaries in between the actual tiller of the soil and the State and that the other provisions pertaining to the constitution of authorities, their powers, jurisdiction and the finality given to the orders passed, or incorporation of a provision in the nature of res judicata providing for the binding nature of the orders on the parties to the same and persons claiming under them in any suit or proceeding in a civil Court insofar as such matters are in issue between the parties or persons in such suit or proceeding, are almost identical and similar, except certain differences which, in our view, may not be that much relevant for the issue before us. Even while dealing with this aspect of the matter, the Supreme Court in the decision reported in State of Tamil Nadu v. Ramalinga Swamigal Madam, AIR 1986 SC 794 observed that the powers of the statutory authority constituted under the Act are exercised in a summary manner and the claims of occupants comes to be determined only incidentally and they cannot be equated with the civil Courts in respect of what they could do or the nature of relief that they could grant. A careful analysis of the scheme underlying these Abolition laws would go to show that the vesting on abolition under everyone of these legislations are subject to the pre-existing rights of the occupants, except in respect of what are known as public or communal properties, meant for common use and the grant of patta has been always considered and held to be in recognition of their pre-existing rights. The provisions relating to abolition and vesting of the properties do not have



the effect of obliterating or destroying such pre-existing rights, if any, except in respect of public or communal properties and the rights which inhere are the basis and fundamental rights which entitle a person to preferentially get patta under these legislations and the same could not be equated to the grant of patta by way of assignment under the Revenue Standing Orders or under rules of assignment outside the scope of the statutory enactments. Similarly, a meticulous analysis of the scheme underlying the provisions of the Act dealing with the nature of rights dealt with by the various authorities, the manner in which such authorities adjudicate such rights and the consequences of such adjudication, disclose that they do not mean and even intended to be a substitute or alternate mode of resolution of the ordinary civil right of a citizen or for that matter persons asserting competing claim, in their attempt to project a claim for patta. Consequently, in our view, the ratio of the decisions of the Apex Court reported in *State of Tamil Nadu v. Ramalinga Swamigal Madam*, AIR 1986 SC 794, *R. Manicka Naicker v. E. Elumalai Naicker*, [1995] 3 SCR 217 and *Sayyed Ali v. A.P. Wakf Board, Hyderabad*, [1998] 1 SCR 398 and that of a Division Bench of this Court in *Ramanujam Kavirayar, T.K. v. Sri-La-Sri Sivaprakasa Pandara Sannathi Avargal* 1988 (2) L.W. 513 and of a learned single Judge of this Court in *Samsuddin Rowther and another v. Avvammal and 2 others* 1992 (1) L.W. 207 would squarely apply and govern the case and consequently, it has to be necessarily held that the jurisdiction of the civil Courts 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 purposes of enforcement of these laws which has, as their objection and aim, to implement ryotwari settlement in the areas governed by them."

(Emphasis Supplied)

54. From the aforesaid decisions, which have been glimpsed above, it is abundantly clear that the jurisdiction of the civil court to entertain a suit is not ousted in view of the bar under Section 64-C of the Inam Act and the civil court is very well within its right to adjudicate the rival claim of the parties relating to the real nature of land. This Court is in respectful agreement with the proposition supra as to the power and jurisdiction of the civil court to entertain a suit notwithstanding Section 64-C of the Act. However, what is material to be considered is whether pre-existing right gets carried forward to the purchaser from his vendor, who is alleged to have title to the property, based on which the subsequent purchaser can claim patta even if the predecessors-in-title have



not obtained any patta. Only relating to such a relief, the suits have been filed by the petitioners in W.P. No.15490/20.

55. However, the civil revisions petitions have been filed by the Board praying to reject the plaint, which has been filed by the petitioners in W.P. No.15940/20. The main plank on which such a contention is placed is that Section 64-C of the Inam Act, 1948, bars the jurisdiction of the civil court to entertain any suit.

56. However, it is to be pointed out that the said contention is no longer res integra, in view of the pronouncement of the Hon'ble Apex Court in Ramalingam Swamigal Madam case (supra), which has stood the test of time and has been followed by the Full Bench of this Court in Sri Madhyarjuneswaraswami case (supra). Therefore, there is no embargo on the civil court to entertain a suit and, therefore, the said contention pales into insignificance.

57. Further, it is to be pointed out that the present civil revisions petitions have been filed under Article 227 of the Constitution of India and the power of this Court under Article 227 of the Constitution is not akin to Article 226, which spreads wide and far, but the power under Article 227 is only a supervisory jurisdiction and this Court has to act within the bounds of the specific provision to find out as to the legality of the entertainment of the plaint.

58. In Virudhunagar Hindu Nadargal Dharma Paribalana Sabai & Ors. - Vs - Tuticorin Educational Society & Ors. (2019 (9) SCC 538), the Hon'ble Supreme Court, with regard to the availability of remedy under the Code of Civil Procedure, especially the exercise of the supervisory jurisdiction under Article 227 of the Constitution, held as under :-

"12. Secondly, the High Court ought to have seen that when a remedy of appeal under Section 104 (1)(i) read with Order XLIII, Rule 1 (r) of the Code of Civil Procedure, 1908, was directly available, the respondents 1 and 2 ought to have taken recourse to the same. It is true that the availability of a remedy of appeal may not always be a bar for the exercise of supervisory jurisdiction of the High Court. In A. Venkatasubbiah Naidu Vs. S. Chellappan & Ors. 1, this Court held that "though no hurdle can be put against the exercise of the Constitutional powers of the High Court, it is a well recognized principle which gained judicial recognition that the High Court should direct the party to avail himself of such remedies before he resorts to a Constitutional remedy".



13. But courts should always bear in mind a distinction between (i) cases where such alternative remedy is available before Civil Courts in terms of the provisions of Code of Civil procedure and (ii) cases where such alternative remedy is available under special enactments and/or statutory rules and the fora provided therein happen to be quasi-judicial authorities and tribunals. In respect of cases falling 1 (2000) 7 SCC 695 under the first category, which may involve suits and other proceedings before civil courts, the availability of an appellate remedy in terms of the provisions of CPC, may have to be construed as a near total bar. Otherwise, there is a danger that someone may challenge in a revision under Article 227, even a decree passed in a suit, on the same grounds on which the respondents 1 and 2 invoked the jurisdiction of the High court. This is why, a 3 member Bench of this court, while overruling the decision in Surya Dev Rai vs. Ram Chander Rai, pointed out in Radhey Shyam Vs. Chhabi Nath that "orders of civil court stand on different footing from the orders of authorities or Tribunals or courts other than judicial/civil courts.

14. Therefore wherever the proceedings are under the code of Civil Procedure and the forum is the Civil Court, the availability of a remedy under the CPC, will deter the High Court, not merely as a measure of self imposed restriction, but as a matter of discipline and 2 (2003) 6 SCC 675 3 (2015) 5 SCC 423 prudence, from exercising its power of superintendence under the Constitution. Hence, the High Court ought not to have entertained the revision under Article 227 especially in a case where a specific remedy of appeal is provided under the Code of Civil Procedure itself."

59. From the above, it is clear that in exercise of supervisory jurisdiction under Article 227 of the Constitution, the Court should not go beyond the intent and purport of the provision and the scope of the said provision. In the case on hand, it is the claim of the petitioners that the pre-existing right possessed by their predecessors-in-title had flown down to the petitioners and, therefore, to assert their title, it is just and necessary for them to approach the civil court by filing the said suit and the jurisdiction of the civil court having not been ousted, the claim of the Board for rejection of the plaint is wholly misconceived.

60. In State of Tamil Nadu - Vs - Vaidyanatha Sastri @ Vaidyanatha Iyer & Ors. (2018 (4) CTC 785), a Division Bench of this Court had occasion to deal with the enurement of pre-existing right on the subsequent purchaser and in that context, held as under :-



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"15. The purpose of enacting the Act 30 of 1963 was considered and discussed by the Division Bench of this Court in case reported in 1987-100- L.W.721 (Alagappa gounder vs. Sivamalai Gounder) wherein at paragraphs 8 and 9, it has been observed as follows:-

"8. But the Minor Inams Abolition and Conversion into Ryotwari Act (Act 30 of 1963) stands on a different footing. Inams were granted by Sovereigns for religious and charitable purposes. In some cases, the Inam Comprised of right to collect the assessment in a particular village, and the same is termed as an Inam estate. In some cases it comprised of land free of assessment which is called Iruvaram Inam lands. Inam which comprised of Iruvaram lands, which do not fall in the category of Inam estates, are called Minor Inams. Such minor Inams were alienated indiscriminately by the Inamdars and the purpose of the grant was not achieved. There were difficulties in resuming the inam by the Government on account of long possession by the alienees and the rights flowing from such long possession. Hence, the Legislature thought fit to recognize the possessory right acquired and to impose a ryotwari assessment on such lands, Act 30 of 1963 was enacted not with a view to take over the entire interest but only for the purpose of abolishing the Inam tenure and convert the same into Ryotwari tenure. The result is the assessment is levied on the lands and the right vested in the person in possession is recognised. The rights of a ryot who is in enjoyment of a minor inam land, who is lawfully entitled to the Kudiwaram right and who satisfies the conditions laid down under the Act, are recognised and a ryotwari patta is given to him under the provisions of Act 30 of 1963. Thus the rights are not extinguished as in the case of estates, but on the other hand the right in the minor Inam lands is confirmed and recognised by the issue of ryotwari patta. The vesting contemplates under Act 30 of 1963 is a notional vesting to enable the Government to effect a settlement and levy assessment. The rights of the persons in possession conforming to the conditions laid down in the said Act are not affected by the provisions of Act 30 of 1963. The proviso to S.3 of Act 30 of 1963 lays down that the Government shall not dispossess any person of any land in a minor inam in respect of which the person in possession is entitled to ryotwari patta pending decision of the appropriate authority under the Act, whether the person is entitled to ryotwari patta.

9. It is will be inequitable to apply the principles mentioned by the Supreme Court in a case relating to an estate, to a minor inam. In so far as minor inams are concerned, the vesting is



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notional and does not affect the Kudiwaram right lawfully enjoyed or acquired as laid down in Act 30 of 1963. The vesting contemplated under Act 30 of 1963 is only to enable the Government to effect a ryotwari settlement and not extinguish the existing rights in an inam land."

16. A Full Bench of this Court in its decision reported in 1998-2 L.W. 189 (Srinivasan and 6 Ors. Vs. Sri.Madhyarjuneswaraswami, Pattavaithalai) has observed at paragraph 14 as follows:-

"14.....A comparison of the provisions contained in the Abolition Act, the Inam Abolition Act as also the Minor Inams Act, would go to show that the ultimate object of one or the other of these legislations is the introduction of ryotwari settlement in the areas covered and notified under the respective enactments, after abolishing existing land tenure and acquiring the rights of the landholders or inamdars concerned, who, under the system of land tenure which was in vogue in those areas, were considered to be intermediaries in between the actual tiller of the soil and the State and that the other provisions pertaining to the constitution of authorities, their power, jurisdiction and the finality given to the orders passed, or incorporation of a provision in the nature of res judicate providing for the binding nature of the orders on the parties to the same and persons claiming under them in any suit or proceedings in a civil court in so far as such matters are in issue between the parties or persons in such suit or proceedings, are almost identical and similar, except certain differences which, in our view, may not be that much relevant for the issue before us. Even while dealing with this aspect of the matter, the Supreme Court in the decision reported in AIR 1986 SC 794 = 98 L.W. 849 (supra) observed that the powers of the statutory constituted under the Act are exercised in a summary manner and the claims of occupants comes to be determined only incidentally and they cannot be equated with the civil courts in respect of what they could do or the nature of relief that they could grant. A careful analysis of the scheme underlying these Abolition laws would go to show that the vesting on abolition under everyone of these legislation is subject to the pre-existing rights of the occupants, except in respect of what are known as public or communal properties, meant for common use and the grant of patta has been always considered and held to be in recognition of their pre-existing rights. The provisions relating to abolition and vesting, of the properties do not have the effect of obliterating or destroying such pre-existing rights, if any, except in respect of public or communal properties and the rights which inhere are the basic and fundamental rights which entitle a person to preferentially



get patta under these legislations, and the same could not be equated to the grant of patta by way of assignment under the Revenue Standing Orders or under rules of assignment outside the scope of the statutory enactments. Similarly, a meticulous analysis of the scheme underlying the provisions of the Act, dealing with the nature of rights dealt with by the various authorities, the manner in which such authorities adjudicate such rights and the consequences of such adjudication, disclose that they do not mean and even intend to be a substitute or alternate mode of resolution of the ordinary civil right of a citizen or for that matter persons asserting competing claims, in their attempt to project a claim for patta....."

17. Thus, the above rulings will make it clear that enactment of the Act will not take away the pre-existing right if any, except in respect of public or communal property and such previous existing right entitles a person to get patta preferentially under such enactment. Therefore, it is evident that grant of such patta under the said special enactment cannot be equated with the grant of patta by way of an assignment by the Revenue Department under the revenue standing orders. Therefore, the pre-existing right play a major role for considering and granting the patta under this special enactment."

61. From the above decision, it is amply evident that no enactment can take away the pre-existing right and that pre-existing right play a major role for considering and grant of patta under the Special enactment.

62. Further, a careful perusal of the Inam Act reveals that there is no provision, which contemplates that any alienation subsequent to the vesting of the lands would render such alienation void. In the absence of any embargo having been provided under the Act prohibiting the title holders to alienate the property, the right that existed on the said title-holders as on the said date of vesting would get enured in favour of the subsequent purchasers as well and the mere fact that patta has not been applied for by the predecessors-in-title of the subsequent purchasers cannot be a ground to reject the claim of the subsequent purchasers for patta, so long as the subsequent purchasers are able to prove the title and the pre-existing right of the erstwhile title holders.

63. In the case on hand, just because the predecessors-in-title of the writ petitioners have not applied and obtained patta for the lands, which had vested with the Government on the take-over of the said lands under the Inam Act would in no way extinguish



the right of the writ petitioners to obtain patta. However, what is just and necessary is that the writ petitioners should not only establish their title to the property, but also the pre-existing right of their predecessors-in-title, which alone would confer a right on the writ petitioners to claim patta before the competent authority.

64. To preclude the petitioners by holding that their right stood extinguished as their predecessors-in-title had not taken proper steps to obtain patta on the lands vesting with the Government would be nothing but saying that where a property of a person's grandfather has not been properly administered by his son/legal heir by obtaining the requisite patta transferred in his name, the legal heirs in succession, viz., the grandchildren would lose their right over the property. Giving such an interpretation would defeat the rights of the legitimate purchasers, which would be in stark violation of the rights guaranteed under the various statutes.

65. Further, as stated above, what is of foremost necessity is that the writ petitioners, who are subsequent purchasers have to prove their title and also the pre-existing right of their predecessors-in-title, which could be done by them only by resorting to the suit before the appropriate forum, which they have rightly resorted to and in such a backdrop, acceding to the contention of the Board that the lands have been handed over to them by the Government on their vesting and, therefore, only to frustrate their right the present suits have been filed is nothing but putting the cart before the horse. The right of the writ petitioners to establish their case cannot be denied, that too in exercise of the supervisory jurisdiction of this Court. It is also not to be lost sight of that the ex parte order still survives and the official respondents have not taken any steps to challenge the said order. That being the case, adopting a different yardstick in respect of the petitioners in W.P. No.15490/20 would be nothing by an infraction of equality guaranteed under Article 14 and 21 of the Constitution.

66. What is material to be established is the title of the writ petitioners in W.P. No.15490/20, to the said property and the plaintiffs therein have to prove their title to the said property and also the pre-existing right of their predecessors-in-title, which issue is a question of fact, which cannot be gone into by this Court under Article 227 to reject the plaint and only it can be adjudicated by the civil court by appreciating all the materials. Therefore, this Court cannot, by invoking its supervisory powers, denude the power of the



civil court and answer the disputed questions of fact and striking the plaint at the threshold.

67. It is the claim of the writ petitioners that they have filed the suit claiming declaratory relief and also an adjudication as to the nature of land. The lands, according to the official respondents is classified as 'Punjai Anadheenam, meaning thereby that the title to the lands have not been claimed by any person. Merely because the lands have vested in the Government, such lands would not partake the character of Government lands as vesting and ownership are two different aspects and vesting would not grant title to the lands on the Government. Further, no claim having been made by any person to the said lands for obtaining patta, the same would not render the subsequent purchasers of the said land from seeking issuance of patta. Therefore, it would be improper for this Court to accede to the prayer of the Board and reject the plaint at the threshold, which would be nothing but overshooting the supervisory jurisdiction of this Court and closing the doors on the writ petitioners by denying them their right to establish their title to the property by lawful means.

68. Further, on the date when the lands stood vested in the Government, the same having not been claimed by any person, the classification of the lands have been shown as 'Punjai Anadheenam' in the revenue records. It is borne out by record, as also stated supra that the writ petitioners have laid the suit for declaration of title and mandatory injunction against the respondents and in the suit filed by the petitioners in W.P. No.19401/20, a decree has also been granted by the court below regarding reclassification, though the said decree has not been executed till date for reasons stated by the official respondents and execution petitions are also pending. However, this Court is not inclined to enter into the realm of the said order, as the same is not in issue before this Court. It is to be pointed out that the said decree, though granted ex parte, has not been challenged till date in a manner known to law. Merely because the decree has not been executed would not render the decree a farce or unsustainable.

69. On the date when the lands vested with the Government the writ petitioners were not the owners of the said lands and they are subsequent purchasers. The writ petitioners' predecessors-in-title have not obtained any patta till its alienation to the writ petitioners. However, the writ petitioners, being subsequent purchasers, the pre-existing right, which is sine qua non for establishing their right to obtain patta, and as has been held in Madhyarjuneswaraswami case (supra) vesting of the



lands do not have the effect of obliterating or destroying such pre-existing rights, if any, except in respect of public or communal properties and the rights which enure are based on the fundamental rights which entitle a person to preferentially get patta under the special enactments and could not be equated to the grant of patta by way of assignment under the Revenue Standing Orders or under rules of assignment outside the scope of the statutory enactments. Therefore, the rejection of plaint canvassed in the civil revision petitions does not merit acceptance.

70. The next question before this Court is as to the validity of the cancellation of patta ordered by the 3rd respondent and the subsequent hand over of the land to the Board by the Government.

71. It is to be pointed out that the lands are ryoti lands and have vested with the Government upon issuance of G.O. Ms. No.1127, Revenue Department dated 16.3.1963. Though as rightly pointed out by the learned senior counsel that there is ambiguity with regard to the Act under which the lands have vested with the Government, yet it is an admitted fact that on the date of vesting of the lands with the Government pursuant to the issuance of G.O. No.1127, no claim was made or such vesting was not put in issue before the Court of law by any party, who had title to the lands. Till the date the lands were purchased by the writ petitioners, no claim has been made by any party seeking issuance of patta. The lands have been purchased by the writ petitioners in the year 1997 and 2005 and patta has been sought for from the 5th respondent in the year 2009 or thereabouts. The lands, being classified as 'Punjai Anadheenam' and are ryoti lands, stood vested with the Government and patta for the said lands could be granted only by the authority competent under the Inam Act and the 5th respondent cannot grant any patta for the said land. Therefore, rightly so, the 3rd respondent, invoking his powers has cancelled the patta granted by the 5th respondent to the writ petitioners. Equally the lands having been classified as 'Punjai Anadheenam' and that the nature of lands are ryoti lands, upon the issuance of the Government Order, the ryoti lands stood vested with the Government. Such being the case, the lands having vested with the Government, the Government is within its powers to allot the land for any purpose, beneficial to the public and such allotment and transfer of the land cannot be said to be illegal. But in the case on hand, the suit having been filed by the writ petitioners in W.P. No.15490/20 claiming right over the said land, utilising the land for any purpose without the suit being concluded would not be in the interest of any of the parties



and, therefore, the transfer of the land will always be subject to the result of the suit.

72. True it is that while passing the said order cancelling the patta, no opportunity has been granted to the writ petitioners. Yet it is to be pointed out that the said violation would not in any manner strike at the substratum of the case of the official respondents, insofar as cancellation of the said patta, for the simple reason that the patta granted is in itself an invalid document, having been issued by an authority not competent to issue and the said patta has no legal sanctity and, therefore, cancellation of the said patta would not necessitate a hearing by the appellate authority, invoking suo motu powers.

73. Ryoti lands are lands in which agricultural operations take place. To obtain patta from the authority competent under the Act, it is incumbent upon the writ petitioners to plead and place before the Court below, in the suit, that the lands are agricultural lands and that agricultural operations were carried on by their predecessors-in-title. Such materials can only be placed before the court below in the suit and it would not be proper for this Court to entertain any material on the aforesaid aspect in a case under Article 226. Further, it is to be pointed out that even according to the official respondents, the lands are classified as 'Punjai Anadheenam'.

74. Further, merely because no appeal has been filed for reclassification of lands within the cut off date, i.e., 1987, the claim of the writ petitioners cannot be thrown overboard. The petitioners are subsequent purchasers and the pre-existing right enured on them upon the purchase of the lands. Further, as pointed out above, the classification of land itself show that it is a land, which has not been claimed, but that does not make the Government the owner of the land. That being the case, the writ petitioners, being subsequent purchasers, in the absence of any provision under the Act, which provides for limitation, barring Section 42, which prescribes limitation only insofar as compensation is concerned, the claim of the writ petitioners for reclassification of lands cannot be said to be unsustainable.

75. In the case on hand, a careful perusal of the decision in Ramalinga Swamigal Madam case (supra) reveals that for the civil court to entertain a suit with regard to the real nature of land, there should be an order from the settlement officer which alone can be put in issue before the civil court by filing a suit. In the case on hand, the classification has been made by the Assistant Settlement Officer against which an appeal lies



u/s 11 to the Settlement Officer. Merely because of non-filing of the appeal, the right of the subsequent purchaser cannot be taken away and the order of the Assistant Settlement Officer in classifying the lands can very well be put in issue before the Court below. The writ petitioners have purchased the lands well beyond the cut-off date, viz., 1987 and citing the cut-off date, the pre-existing right of the petitioners cannot be denied merely because their predecessors-in-title have not exercised the said right.

76. In the backdrop of the aforesaid discussion, the act of the Tahsildar in cancelling the patta granted to the petitioners which has been put in issue in W.P. No.4339/15, is sustainable, as the said patta granted, is without jurisdiction and the said patta is non est in the eye of law. However, the cancellation of patta would not take away the rights of the writ petitioners to claim the pre-existing rights of their vendors by filing appropriate suit before the civil court for determination of the nature of lands and title to the lands. Therefore, the suit instituted by the writ petitioners cannot be dismissed in limine, by rejecting the plaint, more so when the official respondents have allowed the ex parte decree to subsist even as on date.

77. However, it should also to be borne in mind that when this Court permits the continuance of the suits at the behest of the writ petitioners, the writ petitioners as also the official respondents should be put to strict adherence as to the points on which adjudication should be made before the court below, as the parties should not be allowed to canvass any issues which are not germane to the issue before the court below. When the writ petitioners are allowed to continue the suits, it is incumbent on the writ petitioners to prove not only their title to the subject property, but also the title of their vendors before and after vesting and as also the pre-existing right, which the writ petitioners' predecessors-in-title had to the property. Therefore, in the fitness of things, this Court feels it appropriate that determination as to the issues to be adjudicated by the trial court should be spelt out clearly so as to enable the parties to have the dispute adjudicated within a prescribed time frame.

78. Equally, it should also be not lost sight of that the lands, which are the subject matter in the case on hand are ryoti lands for which the appropriate authority to speak about the take-over of the lands by the Government is the Commissioner of Land Administration. This Court is of the view that the Commissioner of Land Administration, Chennai, should be impleaded as proper



party to contest the suit. Therefore, in exercise of the inherent powers of this Court, the Commissioner of Land Administration is suo motu impleaded as party defendant in the suits in O.S. Nos. 756/18, 126/19 and 33/2019 pending on the file of the Principal District Court, Tiruvallur and Sub Court, Poonamallee, respectively.

78. In the aforesaid backdrop, the writ petitions as also the civil revision petitions fail for the reasons aforesaid and, accordingly, the same are dismissed with the following directions :-

- i) The suits in O.S. Nos.756/18 and 126/19 pending on the file of Sub Court, Poonamallee, shall stand transferred to the file of the Principal District Court, Tiruvallur for being tried along with the suit in O.S. No.33/2019 pending on the file of the said court.
- ii) It is made clear that the plaintiffs in the said suits are duty bound to prove not only their title to the subject property, but also the pre-existing rights of their predecessors-in-title to the subject property, which alone would enure to the benefit of the plaintiffs to claim the relief sought for in the suit.
- iii) Subject to the result of the suits, the parties are at liberty to work out their remedies in a manner known to law.
- iv) The interim order granted in the civil revision petitions stand vacated and till the disposal of the suits, the Board shall not proceed any further with regard to utilisation of the subject property.
- v) The allotment of lands in favour of the Board by the Government would be subject to the result of the suits.
- vi) The Principal District Court, Tiruvallur, is directed to hear and dispose of the suits within a period of six months from the date of receipt of a copy of this order.
- vii) The Commissioner of Land Administration, Chennai, who has been suo motu impleaded as party defendant in the suits in O.S. Nos. 756/18, 126/19 and 33/2019 pending on the file of the Principal District Court,



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Tiruvallur and Sub Court, Poonamallee, shall file necessary written statement of defence and the Principal District Court, Tiruvallur, which is directed to try all the suits together is directed to afford sufficient opportunity to the newly impleaded defendant for filing written statement.

viii) There shall be no order as to costs.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The District Collector
Thiruvallur.
2. The Chairman
The Tamil Nadu Slum Clearance Board
No.5, Kamarajar Salai
Chepauk, Chennai 600 005.
3. The Revenue Divisional Officer
Ambattur.
4. The Tahsildar
Maduravoyal, Maduravoyal Taluk
Chennai.
5. The Tahsildar
Poonamallee, Chennai.
6. The Assistant Settlement Officer (North)
Office of the Principal
Secretary and Commissioner of Land Survey
and Settlement Chepauk Chennai- 600 005
7. The Principal Secretary,
Tamilnadu Slum Clearance Board,
Managing Director, no.2 Kamarajar Salai
Chennai- 600005



8. The Tahsildar
Taluk Office Poonamallee (formerly at
Maduravoyal) Thiruvallur District

WEB COPY

9. The Tahsildar
Poonamallee Taluk No.5 Trunk Road
Poonamallee Chennai-600056

+4cc to M/s.S.Vasudevan, Advocate, S.R.No.32202
+1cc to M/s.Paul & Paul, Advocate, S.R.No.32303
+2cc to M/s. G.Rm.Palaniappan, Advocate, S.R.No.32170,32171
+1cc to Mr.S.Prabhu, Advocate, S.R.No.32242
+1cc to Mr.V.Ajoy khose, Advocate, S.R.No.32145
+1cc to Mr. N.Subramaniam, Advocate, S.R.No.32948

W.P. NO.4339 OF 2015
W.P. NOS. 19401 & 15940 OF 2020
AND
C.R.P. (PD) NOS.1682 TO 1684/2020

SR-II (CO)
CT/05/07/2022