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W.P.(MD)NO.15042 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15042 of 2022

G.K.Ramakrishnan S/o.Krishnan,
Secretary, Tamil Nadu Brahmanar Sangam,
Gangaikondan Branch, Residing at 12/40,
Perumal Sannadhi East Street,
Gangaikondan – 627 352,
Tirunelveli District.

Now residing at:
Flat No.3, 1st Floor,
Aparna Paradise – Phase III,
No.31, Parthasarathy Street,
S.S.Colony, Madurai – 625 016.

... Petitioner

v.

1. The District Collector,
Tirunelveli District, Tirunelveli.

2. The District Revenue Officer,
Tirunelveli.

3. The Revenue Divisional Officer,
Tirunelveli.

4. The Tahsildar,
Tirunelveli Taluk,
Tirunelveli District.

5. N.Somasundaram

... Respondents



Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to grant patta in respect of S.No.2029/1 (5.6 cents) and 2029/18A (Part 10 cents) measuring totally 15.6 cents in Natham of Gangaikondan Village, Tirunelveli Taluk, Tirunelveli District.

For Petitioner : Mr.H.Lakshmi Shankar

For R-1 to R-4 : Mr.M.Sarangan,
Additional Government Pleader.

For R-5 : No appearance.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for respondents 1 to 4.

2.Though the fifth respondent has been served and his name is also printed in the cause list, there is no appearance on his behalf. On the previous occasion also, there was no appearance.



3.The learned counsel appearing for the writ petitioner at the very outset clarified that patta for the petition mentioned property is sought in favour of “The Secretary, Tamil Nadu Brahmanar Sangam, Gangaikondan Branch, Tirunelveli District” and not for any individual as such. Though the petitioner moved the respondents as early as on 24.06.2020, till date, no final order has been passed. The jurisdictional Tahsildar is taking the stand that since the Sangam is unable to produce any parent deed in support of its claim, patta cannot be issued. That led to the filing of this writ petition.

4.From a mere perusal of the materials enclosed in the typed set of papers and the documents furnished by the learned Additional Government Pleader appearing for the official respondents, one can note that the petition mentioned property was originally enjoyed by one Thiru.Subramaniya Iyer. There is again no dispute that the land was originally a natham land. Document No.1396 of 1956 registered on the file of the Sub Registrar, Gangaikondan mentions the petition mentioned property as one of the four boundaries. Yet



another document bearing No.469 of 1994 executed by another person also mentions the petition mentioned property as one of the four boundaries. In both the documents, the petition mentioned property is described as the property of Thiru.Subramaniya Iyer. The said Subramaniya Iyer left the village some time in 1970s. The specific case of the Sangam is that Thiru.Subramaniya Iyer had dedicated the property in favour of the Brahmin community. When Thiru.Subramaniya Iyer left the village, a building was standing on the land and it was used for performing rituals and obsequies. The said building became dilapidated and had to be demolished.

5.The Sangam applied to the local body for putting up a new construction. The local body had insisted that the Sangam must obtain no objection from the legal heirs of Thiru.Subramaniya Iyer. The consent deed as sought for was produced before the local body and building approval was granted in favour of the Sangam in the year 2003. Based on the same, a new building was put up. The said building is in existence even as on date. Electricity connection had been obtained in the name of the Sangam. It is also being assessed to property tax.



6.At this stage, the fifth respondent appears to have developed an eye on the property. The petition mentioned property comprised in survey No.2029/1 and 2029/18A measures total extent of 15.6 cents. For the entire extent, the fifth respondent obtained a sale deed dated 08.07.2015. One Venkateshwaran claiming to be the power agent of one Kannan executed the said sale deed in favour of the fifth respondent. When the petitioner became aware of the same, they lodged a complaint before the Assistant Inspector General of Registration. An enquiry was ordered. A categorical finding had been rendered by the Assistant Inspector of Registration, Tirunelveli in her proceedings bearing Na.Ka. No.5131/E2/2021 dated 09.09.2021 that the document standing in the name of the fifth respondent is fraudulent. Prosecution was ordered against him. Challenging the same, the fifth respondent filed an appeal before the Deputy Inspector General of Registration, Tirunelveli. The appellate authority also confirmed the finding rendered by the Assistant Inspector General of Registration and dismissed the fifth respondent's appeal on 21.06.2022.



7. Now the question that arises for consideration is whether the authorities are justified in declining to issue patta in favour of the Sangam. When the property in question is admittedly a natham land, the person occupying the property has to be necessarily issued natham patta. The learned counsel appearing for the petitioner has produced before me a copy of G.O.Ms.No.1971 Revenue (SS.II) Department dated 14.10.1988. A careful reading of the scheme set out therein would indicate that only if the natham land in question is unoccupied, then and then alone it can be assigned in favour of eligible applicants. When natham land is occupied, patta has to be necessarily issued only in favour of the occupant. In this case, the property was originally occupied by Thiru.Subramaniya Iyer. Before leaving the village, he had handed over the same to his community. An association representing the local Brahmin community has been in occupation of the petition mentioned property for almost 50 years. A new building has been put up in the place of the earlier building after obtaining planning approval in the year 2003. The legal heirs of Thiru.Subramaniya Iyer have also endorsed the entitlement and claim of the writ petitioner.



They have done so not once but twice (2003 and 2020). The building put up by the association is being assessed to property tax also. When the application for grant of patta was submitted in the year 2020, the Village Administrative Officer had submitted a report stating that the property in question is under the occupation of the petitioner association. Therefore, in the light of these overwhelming circumstances, the fourth respondent ought not to have sat on the application. The very purpose of issuing patta is to collect revenue for the government. Patta is all about acknowledging who is in possession. In the case of natham land, possession alone matters. I therefore direct the third and fourth respondents to process the petition mentioned application and forward the same to the District Revenue Officer, Tirunelveli forthwith and without any delay. On receipt of the same, the second respondent shall issue patta in favour of “The Secretary, Tamil Nadu Brahmanar Sangam, Gangaikondan Branch, Tirunelveli District” immediately thereafter for the petition mentioned property.



8.It is however brought to my notice that a portion of the property measuring 3 cents has been recently occupied by the fifth respondent. He has also put up a building. In view of the foregoing discussion, particularly, the orders passed by the registration authorities, this will not come in the way of the second respondent from granting natham patta for the entire property in favour of the petitioner Sangam. But the petitioner has to necessarily adopt due process of law for recovering the said 3 cents of land from the fifth respondent.

9.With this observation and clarification, this writ petition stands allowed. No costs.

08.08.2022

Index : Yes / No

Internet : Yes/ No

PMU/skm

To:

1. The District Collector,
Tirunelveli District, Tirunelveli.
2. The District Revenue Officer, Tirunelveli.
3. The Revenue Divisional Officer,
Tirunelveli.



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4. The Tahsildar,
Tirunelveli Taluk,
Tirunelveli District.



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