IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.2620, 2627, 2633, 2636, 2638, 2645, 2650 and 2492 of 2023
and
W.M.P.Nos.2593, 2689, 2696, 2700, 2702, 2708, 2714, 2731 of 2023

W.P.No.2620 of 2023

M.Ganesh ... Petitioner

Vs.

1. Government of Tamil Nadu,
Represented by Principal Secretary to Government,
Tourism, Culture & Religious Endowments Department,
Secretariat, Chennai – 9.

2. The Commissioner,
Hindu Religious & Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 34.

3. The Joint Commissioner, Chennai – I,
Hindu Religious & Charitable Endowments Department,
No.127, Yadhava Street, Gopal Nagar,
Padi, Chennai – 34.

4. The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
No.127, Yadhava Street, Gopal Nagar,
Padi, Chennai – 34.

5. The Revenue Divisional Officer,
   Thirumangalam, Chennai.

6. The Tahsildar,
   Ayanavaram Taluk Office,
   Chennai District. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the respondents 5 and 6 to pass orders on the petitioner representation dated 26.12.2022 and issue Natham Thoraya Patta in petitioner name to his house site an extent of 3358.2 sq.feet in S.No.69 of Kolathur Village New Town T.S.No.17, Block No.43, Door No.19A, Red hills Main Road, Kolathur, within a stipulated period as fixed by this Hon'ble Court.

For Petitioners : Mr.V.Jayaprakash Narayanan
(in all W.Ps)

For Respondents : Mr. K.Karthikeyan,
Government Advocate (HR & CE)
(for R1 to R4) (in all W.Ps)

Mr.D.Ravichander,
Special Government Pleader
(for R5 & R6) (in all W.Ps)

COMMON ORDER

The writ petitions are filed to direct the respondents to pass orders on the representations made by the writ petitioners on 24.12.2022 and 26.12.2022 and issue “Natham Thoraya Patta” in the name of the writ petitioners.

2. The petitioner in W.P.No.2620 of 2023 acquired the land from the successors in title. Some writ petitioners are the subsequent purchasers, their respective assignees or their legal heirs.

3. The learned counsel for the petitioners mainly contended that all the petitioners are in possession of the subject property and that they have acquired land by paying valid sale consideration. Thus, they became the owner of the property and all along in possession of the property. The petitioners have already constructed residential houses and residing there. They submitted application for grant of patta and the said application was not considered by the authorities competent and thus, the petitioners are constrained to move the present writ petitions.

4. The learned counsel for the petitioners relied on the assignment order issued in the year 1974 and contended that the subject properties were assigned by the Government and the assignees / the legal heirs sold the property to the petitioners. Based on the assignment, the original assignee was in possession and enjoyment of the property. Thus, there is no dispute regarding the title and consequently, the petitioners are entitled for patta.

The petitioners are paying property tax, metro water tax, and other taxes and having electricity connections in their premises. Therefore, non-consideration of the applications submitted by the writ petitioners for grant of patta is improper.

5. The learned counsel for the writ petitioners relied on the original assignment order issued in the year 1974 and subsequently, the documents were executed between the parties. As far as those documents are concerned, High Court while exercising powers of judicial review under Article 226 of the Constitution of India cannot conduct a roving enquiry. The xerox copies of the documents submitted along with the writ petitions cannot be considered for the purpose of determining the title, ownership or otherwise and such an exercise must be dealt with by the competent Civil Court of law by conducting trial natured proceedings.

6. The powers of judicial review of the High Court conferred under Article 226 of the Constitution of India cannot be expanded for the purpose of deciding the title dispute or to ascertain the ownership or otherwise.

7. The contention of the writ petitioners are that they are the owners of the property and they have purchased the land from the assignees or their legal heirs, as the case may be, and in continuous possession and enjoyment of the property and paying taxes and other charges. While so, the applications submitted by them for grant of patta is to be considered on merits.

8. The learned Special Government Pleader appearing on behalf of the respondents 5 and 6 strenuously objected the contentions raised by the petitioners based on the Counter-Affidavit filed by the Tahsildar, Ayanavaram Taluk. The very assignment document itself has been questioned by the respondents and that the classification has been erroneously stated by the writ petitioners.

9. Counter-Affidavit dated 20.04.2023 filed by the 6th respondent / Tahsildar in W.P.No. 2620 of 2023 states that the said piece of land is not classified as "Gramanatham" as claimed by the petitioner. It is further submitted that the said Kolathur village was falling under the jurisdiction of the erstwhile Chengalpattu District and was under the control of the office of the Tahsildar, Saidapet Taluk till 1979. Only in the year 1979, the said

Kolathur village was attached with Chennai District along with 21 other added villages. There are no entries in the relevant registers regarding the alleged assignment order reported to have been issued to one Thiru. Chellappa Naidu, son of Ponnusamy Naidu. Moreover, the petitioner claims that his grandfather was allotted an extent of 3 cents (approximately equivalent to 1307 Sq.feet.) whereas, the petitioner claims that his grandfather was in possession of a total extent of 6829 sq. feet. The said Chellappa Naidu is reported to have passed away on 15.08.1997 leaving behind him the following as his legal heirs. 1.E.Rajeswari, 2.E.Gowri, 3.E.Shanthi, 4.E.Meena, 5.E.Murthy, 6.E.Murali, 7.E.Ravi, 8.E.Mohan and 9.E.Kumar to succeed the property. The following are the subsequent transactions reported to have taken place in respect of the said land.

Document Number	***Survey Number***	***Extent***	***Executant***	***Claimant***
1611/1992 dated 18.03.2000 sale deed	S.No.69	1151 S.ft	Ellappa Naidu (Agent) Muthu (Prl)	R.Krishnasa my Nadar
3701/1992 dated 13.07.1992 Sale deed	S.No.69	570 S.ft	Ellappa Naidu Murthy Murali Ravi	E.Jayalakshmi
5949/1992 dated	S.No.69	454 S.ft	Chellappa Naidu @ Ellappa Naidu (Prl)	R.Krishnasamy Nadar

Document Number	Survey Number	Extent	Executant	Claimant
30.11.1992 Sale deed			Murthy (Agent)	
15.07.1997	ChellappaNaidu@Ellappa Naidu expired on 15.07.1997. The said Chellappa Naidu is reported to have passed away on 15.08.1997 leaving behind him the following as his legal heirs. 1.E. Rajeswari, 2.E.Gowri, 3.E.Shanthi, 4.E.Meena, 5.E.Muthy, 6.E.Murali, 7.E.Ravi, 8.E.Mohan and 9.E.Kumar			
10244/2007 dated 12.12.2007 Released deed	S.No.69	6826 S.ft	Rajeswari, Ravi, Mohan, Kumar, Gowri, Santhi, Meera, Vanaja	E.Murthy
5573/2009 dated 28.08.2009 Settlement	S.No.69	6829 S.ft	E.Murthy	M.Pandmavathy
10244/2007 dated 12.12.2007 Release deed can. Ofdoct. No.5573.09	S.No.69	6829 S.ft	E.Murthy	M.Pandmavathy
4242/2043 dated 18.12.2013 Settlement	S.No.69	6829 S.ft	E.Murthy	M.Pandmavathy
486/2020 dated	S.No.69	3358.2.S.ft	M.Pandmavathy	M.Ganesh

Document Number	*Survey Number*	*Extent*	*Executant*	*Claimant*
18.02.2020 settlement				

10. Perusal of some of the documents submitted by the petitioner in W.P.No.2620 of 2023 shows that though his grandfather is reported to have been issued with an order of assignment (the genuineness of the said order of assignment is questionable) of an extent of 1307 Sq.feet, the total extent transacted works out to 6829+1151+570+454=9004. All the aforesaid documents are sham and nominal documents. As regards the claim of the petitioner in W.P.No.2620 of 2023 that his grandfather was issued with an order of assignment by the Special Tahsildar (Assignment), Saidapet Taluk, it is submitted that the said order does not have any proceedings of either the Tahsildar or the then Chengalpattu Collector. Besides this, these orders of assignment would be issued only after issuance of proceedings by the Tahsildar or by the Collector concerned. No such proceedings seem to have been issued in this regard. It is pertinent to point out that the people encroaching the Government lands are getting fake Assignment orders purported to have been issued by the Special Tahsildar (Assignment) Saidapet Taluk. In a similar case, Tvl. R.Elangovan and R.Baskaran claimed that an order of assignment was issued in favour of their father

C.Rangasamy for an extent of land measuring 1536 Sq.ft. comprised in Survey No.779/23 of Perambur Village involved in W.P.No.12694 of 2015. The said order of assignment was determined as fake and when the writ Petition came up for hearing on 14.02.2022, this Court passed the following:- Verified the original records produced by the Government. Deputy Tahsildar, Mr. M.Manavalan submitted that there is total ban for assigning the land in respect of Perambur Talk. The land in dispute in the present Writ Petition lies within the jurisdiction of Perambur Taluk, no assignment could have been issued during the relevant period. Further, the learned Additional Advocate General would submit that the land which fall under the jurisdiction of Perambur Taluk, it is only the Special Tahsildar assigned to Perambur Taluk can issue assignment and not the Special Tahsildar of Saidapet Taluk. He would also submit that G.O. (Ms). No. 1135, Revenue Department dated 17.03.1962, Perambur Taluk does not find a place and it is only Saidapet Taluk, Sriperumpudur and Ponneri Taluk are mentioned. Therefore, even assuming that it was issued by Saidapet Taluk, it is without jurisdiction and it cannot be called as a Government document at all.

11. Even presuming that the order of assignment was a genuine one, by virtue of the said order of assignment, the total extent claimed by the said family works out to about 9004 Sq.feet.

12. The subject land is not classified as "Gramanatham" as claimed by the petitioner in W.P.No.2620 of 2023. The said property for which Thorayapatta was claimed by him was inspected by the Surveyor of this office. The surveyor has reported that the property for which "Thorayapatta" is claimed stands classified only as "Sarkarporomboke". It is not classified as "Gramanatham" as alleged by the petitioner. The Town Survey Land Record extract of the said land is as follows :

Village	Kolathur
Block No	43
T.S.No.	17
Old S.No.	69
Classification	Circar Poromboke
Extent	Hec.Ares.Sq.Metres 00 01 50.0
Adangal	Koil, Well

13. The petitioner in W.P.No.2620 of 2023 and his family members who are well aware that the aforesaid land belongs to Government have sold the Government land to various persons and kept the remaining portion in their possession and enjoyment without paying any Full Competitive rent

or lease to the Government. The sale of Government land to various individuals tantamount to criminal action.

14. In the remarks column of the aforesaid Town Survey land records, it is furnished as, the said is in occupation of a temple. Hence, the authorities from the office of the Respondents 2 to 4 would have inspected the said land. Hence, the counter affidavit if any filed by the Respondents 2 to 4 shall also be read as part and parcel of this affidavit. It is respectfully submitted that in this connection, a perusal of the TSLR reveals that the said land stands classified as "Sarkar Poromboke" and stands registered as "Temple" in the Adangal Column. There is an ban for assignment of Government Poromboke lands in Chennai, Kancheepuram, and Thiruvallur Districts. Moreover, there are no entries available in the Revenue records for having assigned the said land to and in favour of Chellappa Naidu @ Ellaaiah Naidu as alleged by the petitioner.

15. The Temple authorities have inspected the said land on 21.12.2022. It is pertinent to point out that in the D.O.letter No.8941/2018/M3 dated 14.05.2018, the Commissioner, Hindu Religious and Charitable Endowments Board states that as per the directions of the

Hon'ble Madurai Bench of Madras High Court orders dated 12.02.2018 in W.P. (M.D) No. 14428/2017 and 16833/2017, committees have been formed to identify the lands belonging to the temples with the help of Tahsildars of the concerned Revenue Districts. Besides this, the 6th Respondent in the said Writ Petitions i.e. State of Tamil Nadu, represented by Secretary to Government Revenue Department, was directed to issue instructions to all Tahsildars and District Revenue Officers to take steps to alter the patta granted to the beneficiaries of illegal transfer of land or possession and to restore the name of the getting written communication from the Hindu Religious and Charitable Endowments Departments, related to temple lands and such process shall be commenced within four weeks from the date of receipt of a copy of the order.

16. In pursuance to the said order, as per the instructions issued the Secretary / Commissioner of Land Administration, the District collector has issued instructions to Revenue Divisional officers and Tahsildars "not to effect the transfer of temple land without getting written permission from the Hindu Religious & Charitable Endowments Department in respect of Hindu Religious and Charitable Endowment Departments' lands".

17. The petitioner cannot claim right over the Government land by virtue of long possession, as the said land belongs to Government, the grant of patta to the individual cannot be considered by the office of the District Collector favourably.

18. The said land is not classified as "Gramanatham" as alleged by the petitioner. Be that as it may, the one time order issued to regularise the encroachments on the lands classified as "Gramanatham" under "Natham settlement scheme" expired on 30.09.2013. The further consideration of Natham settlement shall be considered only after issuance of an order by the Government.

19. The subject land stands classified as "Sarkar Promboke" only and not "Gramanatham" as alleged by the petitioner in W.P.No.2620 of 2023. Moreover, there are no entries for having issued any assignment orders in this fields. Further, the Government have issued instructions not to issue any patta to any individual for the lands belonging to the Temple. Besides the petitioner herein certain applications have been received in this office

from the other occupants of the said land. A speaking order will be issued in a week's time after analyzing the other petitions also.

20. In view of the fact that the respondents have filed an elaborate Counter-Affidavit setting out the facts and details and more so it is stated that the land belongs to the Temple and necessary entries have also been made in the revenue records. Merely directing the respondents to pass orders on the representation would do no service to the cause of justice and the petitioners will be back again to the High Court by filing another petition. Since the respondents have filed Counter-Affidavit setting out the facts and circumstances on merits, they cannot take a different stand to that of the Counter-Affidavit filed before the High Court in the present writ petitions.

21. It is needless to state that the petitioners may approach the competent Civil Court of law for the purpose of establishing their case. However, the same would not prevent the authorities from initiating appropriate actions in the manner known to law. In such circumstances, the

relief as such sought for in these writ petitions cannot be granted.

22. Accordingly, these writ petitions are dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

19.06.2023

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Index : Yes
Speaking order
Neutral Citation : Yes

To

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   Tourism, Culture & Religious Endowments Department,
   Secretariat, Chennai – 9.

2. The Commissioner,
   Hindu Religious & Charitable Endowments Department,
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   Ayanavaram Taluk Office,
   Chennai District.

S.M.SUBRAMANIAM, J.

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W.P.Nos.2620 of 2023 and etc., batch

19.06.2023