



W.P.No.4393 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2023

CORAM

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.4393 of 2021

P.Arumugam

..

Petitioner

Vs.

1. The Government of Revenue & Disaster
Management Department Land Disposal Wing
represented by its Secretary
Government of Tamil Nadu
Revenue Department, Fort St. George
Chennai 600 009.
2. The District Collector
Fort Main Road
Salem District
Tamil Nadu 636 001.
3. The Executive Engineer
Ayyan Thirumaligai Road
Opposite Collector's Bungalow
Subramaniyapuram Extension
Peramanur, Salem
Tamil Nadu 636 008.



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4. The Tahsildar
Main Road, Subramania Nagar
Suramangalam
Salem, Tamil Nadu 636 302.

.. Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records of the first respondent dated 07.12.2020 in ref.G.O.Ms.No.711 confirming the orders of the second respondent dated 09.11.2018 in ref.K2/30277/2017 and quash the same and further direct the respondents to grant appropriate patta; either assignment or revenue patta for land in T.S.No.7/1 part, Mettur Town and Sampalli Village, Mettur Taluk, Salem District measuring an extent of 1.65 acres.

For the Petitioner : Mr.P.S.Raman
Senior Counsel
For Mr.P.S.Prabhu

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for Respondents 1, 2 & 4

ORDER

(Made by the Hon'ble Acting Chief Justice)

This writ petition has been challenging G.O.Ms.No.711 dated 07.12.2020 rejecting the revision petition filed by the petitioner.



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2. The petitioner and his family members are in possession and enjoyment of the land in T.S.No.7/1, Ward B, Block 9, Mettur Town and Sampalli Village, Mettur Taluk, Salem District, of an extent of 1.65 acres for more than 90 years. Their possession of the said land is also supported with the revenue records and government documents. When the Government of Tamil Nadu acquired vast extent of land for the construction of Mettur Reservoir to store and augment excess water of the River Cauvery from Karnataka, the land belonging to the petitioner's family was also acquired. In the land in question, which is adjacent to the land acquired by the Government of Tamil Nadu, the petitioner's family has been carrying on agricultural activities to eke out their livelihood.

3. The Tamil Nadu Housing Board filed a civil suit in O.S.No.84 of 2000 on the file of the District Munsif Court, Mettur for injunction restraining the petitioner from interfering with their possession. The suit was dismissed on 07.07.2005. The said judgment and decree was also confirmed in the appeal in A.S.No.6 of 2007 by the Sub Court, Sankagiri on 20.02.2007. Aggrieved by the judgment and decree



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passed by the Sub Court, Sankagiri, the Housing Board, Salem filed second appeal and the same was also dismissed on the ground of delay.

4. At that juncture, the petitioner was issued with notice under Section 7 of the Land Encroachment Act, to which, the petitioner submitted his objection. However, order was passed under Section 6 of the Act by the fourth respondent. Hence, the petitioner filed an appeal before the second respondent and the second respondent confirmed the order of the fourth respondent. Therefore, the petitioner filed a revision before the first respondent, under Section 10(A) of the Act and the same was rejected. Hence, the above writ petition.

5. Mr.P.S.Raman, learned Senior Counsel appearing for the petitioner submitted that the second and first respondents have erroneously rejected the appeal and the revision respectively preferred by the petitioner, without considering the fact that the land covered in T.S.No.7/1, Block No.9, Mettur Taluk measuring 1.65 acres has been in absolute possession and enjoyment of the petitioner and his ancestors



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for nearly 90 long years and also the revenue records supporting the claim of the petitioner.

6. Learned Senior Counsel further submitted that the claim of the petitioner that the petitioner and his ancestors are in possession of the land classified as Natham is fortified by the notice issued under Section 7 of the Land Encroachment Act, 1905 and by the impugned G.O. stating that the alleged land is a government property.

7. Learned Senior Counsel, relying upon the order of this Court in ***A.Sacractice v. The District Collector, Thiruvallur District [W.P.No.31688 of 2022 dated 14.03.2023]***, also submitted that once the land is classified as a natham, the Government has no authority or power to direct the person in possession to vacate the said land and therefore, the impugned G.O. is liable to be set aside.

8. Mr.P.Muthukumar, learned State Government Pleader appearing for the respondents submitted that though the land in question has been classified as Government Poramboke Natham in the



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revenue records, the petitioner is an encroacher of the Prohibitory Order Book land and therefore, notice under Section 7 was issued.

9. Learned State Government Pleader submitted that only after considering the documents submitted by the petitioner and taking note of the fact that the the petitioner is an encroacher of the Prohibitory Order Book land, orders were passed by the second and first respondents and therefore, the impugned order does not require interference.

10. Admittedly, the notice under Section 7 of the Act issued to the petitioner clearly states that the land in question has been classified as Natham. Further, the petitioner has given a reply stating that the land in question is Government Poramboke Natham, which is meant for the villagers to build houses and therefore, the land does not vests with the Government. Without considering the objections and the documents in support of the claim of the petitioner, the respondents have passed the order, particularly, without taking note of the fact that the petitioner and his ancestors are in possession and



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enjoyment of the land for the past 90 years.

11. In ***A.Sacractice v. The District Collector, Thiruvallur District [W.P.No.31688 of 2022 dated 14.03.2023]***, this Court has held that Grama Natham land does not vest with the Government and that the Government has no paramount title to the said land and that the provisions of the Land Encroachment Act, 1905 cannot be invoked to evict the people who are in occupation of the said lands.

12. In the light of the above, we are of the considered view that the second and first respondents have committed material irregularity in rejecting the appeal and revision filed by the petitioner. Therefore, G.O.Ms.No.711 dated 07.12.2020 is quashed and the writ petition is allowed. There will be no order as to costs. Consequently, WMP No.4985 of 2021 is closed.

(T.R., ACJ.) (D.B.C., J.)
11.04.2023

Index : Yes/No
Neutral Citation : Yes/No

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T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY,J

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