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W.P.No.11587 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11587 of 2019

and

W.M.P.Nos.11828 and 30729 of 2019

Sengodan

... Petitioner

Vs.

1.The District Revenue Officer,
Namakkal.

2.The Tahsildar,
Rasipuram Taluk, Namakkal District.

3.E.K.Ponnusamy

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent herein in his proceedings Pa.Mu.34601/2018(01) dated 10.02.2019 and to quash the same and issue a direction directing the respondents 1 and 2 from interfering with the petitioner's possession of 1308 sq.ft in S.No.212/91 (Old S.No.212/1) Mangalapuram Village, Rasipuram Taluk, Namakkal District.

For Petitioner	: Mr.A.K.Kumarasamy, Senior Counsel for M/s.S.Kaithamalai Kumaran
For R1 & R2	: Mr.T.Arunkumar, Additional Government Pleader
For R3	: Mr.S.Senthil



ORDER

The proceedings of the District Revenue Officer dated 10.02.2019 cancelling the Natham Patta granted in favour of the writ petitioner in respect of the lands to an extent of 3 cents is under challenge in the present Writ Petition.

2. The land remained as a vacant land and the District Registrar mainly cancelled the Natham Patta granted in favour of the writ petitioner by stating that the Village people has to reach the Fair Price Shops through such portion of land and in the event of construction of building in that land, the Village people may not be in a position to reach the Fair Price Shops in a peaceful manner.

3. The learned Senior Counsel appearing on behalf of the writ petitioner mainly contended that there are other pathways to reach the Fair Price Shops in the Village and this area is not the only way through which the people may reach the Fair Price Shops. In order to develop a lay out in that particular locality, the 3rd respondent in connivance with the officials, cancelled the Patta granted in favour of the writ petitioner. Therefore, the impugned order is liable to be set aside.



4. The learned Senior Counsel reiterated that the Village Natham land do not vest with the Government and therefore, the Patta granted cannot be cancelled. Patta was granted to an extent of 3 Cents for construction of house building and therefore, the cancellation of patta is improper and not in consonance with the principles laid down by the Hon'ble Division Bench of this Court in respect of the Village Natham lands.

5. In this regard, the learned Senior Counsel relied on the judgment of the Hon'ble Division Bench in the case of **Executive Officer, Kadathur -vs- Swaminathan** in [(2004) 3 CTC 270]. It is contended that the writ petitioner is a landless poor person and has been granted with a patta for the purpose of construction of house to lead his livelihood. Three cents was allotted and therefore, the cancellation of patta would cause prejudice to the interest of the writ petitioner.

6. The learned Additional Government Pleader raised an objection by stating that the portion of Natham land is required for public usage. Natham Settlement Scheme was undertaken in Mangalapuram Village, Rasipuram Taluk, Namakkal District as per G.O.Ms.No.1971, Revenue Department dated



14.10.1988. Natham Settlement Fair Adangal prepared for Mangalapuram Village was approved by the Special Tahsidlar, Natham Settlement Scheme on 23.08.1993.

7. The 2nd respondent has filed counter-affidavit stating as follows:-

“ 6. The 3rd respondent, E.K.Ponnusamy, who was Ex.Chairman of Panchayat Union Namagiripet preferred a petition on 22.05.2018 to the District Revenue Officer, Namakkal stating that the Lane in Natham Survey No.212/85 is very narrow to reach the nearby 'Nutritional Meal Center” in Natham Survey No.212/84 and also to nearby “Fair Price Shop” in Survey No.211/3A2, that the public are using the land in Natham Survey No.212/91 as pathway and therefore, Natham Patta issued for the land in Natham Survey No.212/91 may be cancelled.

7. The Tahsildar, Rasipuram inspected the Natham lands in Natham Survey Field No.212/84, Natham Survey Filed No. 212/85 and Survey Field No.211/3A2 of Mangalapuram Village they stand registered

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10. Prior to the cancellation of Natham Patta issued in Natham Survey No.212/91, the District Revenue Officer issued a notice to the writ petitioner in Roc.No.34601/2018



(O1) dated 13.11.2018 calling upon him to appear before the District Revenue Officer, Namakkal at District Collector's Office at 11.30 a.m. on 30.11.2018 and file a written statement showing the reasons as to why the patta issued to him should not be cancelled and adduce evidences in this report. The notice was served to him on 19.11.2018. In reference to the show-cause notice, the writ petitioner appeared before the District Revenue Officer, Namakkal on 30.11.2018 and filed a written statement denying Patta issued for Natham Survey No.212/91 is a hindrance to the pathway. Finding that the land is used by public to reach Fair Price Shop easily and that any construction of house in the land would hinder the access to the public, the District Revenue Officer, Namakkal has passed a speaking order of the proceedings Pa.Mu.34601/2018 (O1) dated 10.02.2019 cancelling the Natham Patta issued to the writ petitioner.

11. M.Krishnasamy, father of the writ petitioner did not possess any document for title to Natham Survey No.212/91. Moreover, the Natham Patta issued to M.Krishnasamy is not a document for title. During Natham Settlement scheme, Natham Patta No.925 was issued to him only in order to levy ground rent for his occupation in Natham Survey No.212/91. It is therefore submitted that the writ petitioner has no locus standi to claim ownership over Natham Land in Natham Survey Number 212/91 in the absence of any document prior



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to introduction of Natham settlement scheme by the Government in the year 1988.

12. The Writ petitioner filed a Suit in O.S.No.77/2015 on the file of the District Munsif, Rasipuram impleading some villagers as Defendatns seeking permanent injunction restraining the defendants in any manner from committing any kind of acts or detrimental deeds against the plaintiffs peaceful possession and extent of 0.03 Acres in S.F.No.212/1. The writ petitioner did no specify in the plaint the particular Natham Survey Number comprised in S.F.No.212/1 and the area of such particular Natham Survey Number in the “schedule of property” in the plaint in O.S.No.77/2015. Besides that the writ petitioner in the suit filed want only did not implead the State of Tamil Nadu, District Revenue officer, Namakkal the Revenue Divisional Officer, Namakkal and the Tahsildar, Rasipuram to avoid “confront” on the claim of ownership over the Natham Survey No.212/91. Therefore, the decree of permanent injunction granted by the District Munsif Rasipuram on 03.10.2017 in O.S.No.77/2015 shall not find the Government of Tamil Nadu, District Revenue Officer, Namakkal, Revenue Divisonal Officer, Namakkal and the Tahsildar, Rasipuram.”



8. Based on the counter filed by the respondents, their patta cannot be cancelled. Revenue Standing Order 21 deals with the assignment of house sites in the Villages and Towns. The procedures for dealing with applications are also enumerated under Revenue Standing Order 21.

9. It is specifically stated that while assigning lands for house sites, care should be taken to see that land is not granted to persons, who all are already possessing enough land for their reasonable requirements and preference is to be given to those who own no house site and whose family income does not exceed Rs.12,000/- per annum.

10. Thus, the Revenue Standing Order 21 contemplates procedures by fixing eligibility criteria for the purpose of assigning Grama Natham lands in favour of landless poor people and for constructing houses. Therefore, it is not as if that the Grama Natham lands are unregulated nor occupied by the individuals at their whims and fancies. It cannot be construed as ownerless property and the Government being the custodian of the Grama Natham lands is empowered to regulate the same for the benefit and welfare of the people of that Village. Any unregulated procedures will lead to an anomalous situation



and therefore, Revenue Standing Order 21 unambiguously stipulates the procedure which is to be followed by the authorities, while dealing with the Grama Natham lands.

11. In the present case, the respondents in their counter has categorically stated that the subject lands are used by public to reach Fair Price Shops easily and that any construction or house in the land would hinder the access to the property.

12. That being the decision taken by the competent authorities, this Court do not find any other reason to interfere with the order impugned. However, the petitioner was already granted with 3 cents of Grama Natham for construction of house and taking note of the fact that the case of the petitioner was considered and patta was granted to an extent of 3 cents of Grama Natham lands, the respondents 1 and 2 are directed to identify any other suitable gramanatham land to an extent of 3 cents, which is to be assigned in favour of the petitioner for the purpose of constructing house for his livelihood. The said exercise is directed to be completed by the respondents 1 and 2 within a period of 12 weeks from the date of receipt of a copy of this order.



13. With the above directions, the Writ Petition stands disposed of.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

29.09.2023

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Index : Yes

Speaking order

Neutral Citation : Yes

To

1.The District Revenue Officer,
Namakkal.

2.The Tahsildar,
Rasipuram Taluk,
Namakkal District.



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S.M.SUBRAMANIAM, J.

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