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WP Nos.7051 and 7052 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON 07-09-2023

ORDERS PRONOUNCED ON 15-09-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP Nos.7051 and 7052 of 2017

Dr.V.Kalanidhi

... Petitioner in both WPs

Vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Planning, Development and Special Initiatives
Department,
Fort St. George,
Secretariat,
Chennai-600 009.
- 2.The Commissioner of Land Administration,
Chepauk, Chennai,
Ezhilagam, Chepauk,
Chennai-600 005.
- 3.The Chennai Metro Rail Limited,
Represented by its Managing Director,
Administrative Office Building,
CMRL Depot,



Poonamallee High Road,
Koyambedu,
Chennai-600 107.

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4.The District Collector,
Chennai District,
Chennai.

5.The Tahsildar,
Egmore-Nungambakkam Taluk,
No.88, Spur Tank Road,
Mayor Ramanathan Street,
Chetpet,
Chennai-600 031.

6.The Corporation of Chennai,
Represented by its Commissioner,
Ripon Building,
Park Town,
Chennai-600 003.

7.The Ministry of Urban Development,
Represented by its Secretary to Government,
Union of India, Room No.308-C,
Nirman Bhavan,
New Delhi-110 108.

... Respondents

WP No.7051 of 2017 is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent pertaining to G.O.Ms.No.139, Planning Development and Special Initiatives Department, dated 27.08.2010 and quash the same and consequently forbear the respondents, their men, agents, staff or any other person claiming through or on behalf of



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them from in any way interfering with the petitioner's peaceful possession and enjoyment of the petitioner's property comprised in S.Nos.10, 11 and 147 Part Block No.28, Koyambedu Village, Egmore – Nungambakkam Taluk, Chennai District and further direct the third respondent to forthwith de-seal the car park of the petitioner's hospital comprised in T.S.No.147 Part Block No.28, Koyambedu Village, Egmore – Nungambakkam Taluk, Chennai District.

WP No.7052 of 2017 is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent pertaining to proceedings No.T1/21463/2013 dated 08.11.2016 and the proceedings of the seventh respondent pertaining to Letter No.K-14011/17/2012-MRTS-III dated 09.04.2013 and quash the same and consequently direct the third respondent to pay compensation in accordance with law for the property of the petitioner taken over by the third respondent in T.S.Nos.10 and 11, Block No.28, Koyambedu Village, Egmore – Nungambakkam Taluk, Chennai District along with interest at the rate of 12% per annum from the date of taking possession of the lands.

For Petitioner in both WPs: Mr.P.Wilson,
Senior Counsel for
M/s.P.Wilson Associates.

For Respondents-1, 2, 4
and 5 in both WPs : Mr.P.Kumaresan,
Additional Advocate General
Assisted by Mr.G.Krishna Raja,
Additional Government Pleader.



For Respondent-3 in both
WPs

: Mr.P.S.Raman,
Senior Counsel for Ms.Rita
Chandrasekar for CMRL.

For Respondents-6 and 7
in both WPs

: Not Ready in Notice

COMMON ORDER

WP No.7051 of 2017 has been filed to quash the Government Order issued in G.O.Ms.No.139, Planning Development and Special Initiatives Department, dated 27.08.2010 and to forbear the respondents, their men, agents, staff or any other person claiming through or on behalf of them from in any way interfering with the petitioner's peaceful possession and enjoyment of the petitioner's property comprised in Survey Nos.10, 11 and 147 Part Block No.28, Koyambedu Village, Egmore – Nungambakkam Taluk, Chennai District and further direct the third respondent-Chennai Metro Rail Limited (CMRL) to forthwith de-seal the car park of the petitioner's hospital comprised in T.S.No.147 Part Block No.28, Koyambedu Village, Egmore – Nungambakkam Taluk, Chennai District.



2. WP No.7052 of 2017 has been instituted to quash the proceedings dated 08.11.2016 issued by the second respondent and the letter dated 09.04.2013 issued by the seventh respondent and consequently direct the third respondent to pay compensation to the petitioner in accordance with law for the property of the petitioner taken over by the CMRL for developing the Metro Rail Project.

FACTUAL BACKGROUND AS STATED BY THE PETITIONER:

3. The petitioner is a Doctor by profession and the Chief Executive Officer of M/s.Vee Care Group, which runs about three hospitals in Chennai, including one Multi-Speciality Hospital, one Multi-Speciality Clinic and one Nursing and Para Medical College. The petitioner wanted to construct a hospital in Koyambedu area to cater to the needs of the public and acquired title over the properties comprised in T.S.Nos.10, 11, 12 and 147 Part in Block No.28, Koyambedu Village, Egmore – Nungambakkam Taluk, Chennai District through Sale Deeds initially registered in the name of the father of the petitioner, mother of the petitioner, brother of the petitioner and the petitioner himself. Subsequently, the family members of the petitioner executed the Settlement Deed in favour of the petitioner



settling the entire subject property in the name of the petitioner. The petitioner converted the existing building that was standing over T.S.No.10 into hospital in the name and style of 'Vee Care Hospital' in the year 2007. The petitioner's vendors had obtained Planning Permission from Corporation of Chennai on 01.03.1995. Thus the petitioner obtained Certificate of Registration for his hospital from the Corporation of Chennai.

4. The petitioner has been awarded patta over the subject property by the Tahsildar, Egmore-Nungambakkam Taluk. The third respondent proposed to acquire an extent of about 62.93 sq.meters in the front portion of the subject property comprised in T.S.Nos.10 and 11 abutting the road for the purpose of construction of Metro Rail Project. Instead of initiating land acquisition proceedings under the Land Acquisition Act, the third respondent caused the fourth respondent to issue two notices dated 24.08.2011 under Section 7 of the Tamil Nadu Land Encroachments Act, 1905 on the ground that the subject land belongs to the Government. The petitioner filed objections. The fifth respondent-Tahsildar issued notice under Section 6 of the Land Encroachments Act, 1905 on 10.09.2011.



5. The petitioner states that his vendors were the owners of the subject property as per the Town Survey Register. However, the petitioner agreed to part with the land to an extent of 62.93 sq.meters to the third respondent for construction of Metro Rail Project and consequently entered into private negotiations with the third respondent with a request to pay compensation. The third respondent took possession of the property and completed the Metro Rail Project. However, the third respondent vide proceedings dated 17.11.2011 rejected the claim of the petitioner to pay compensation for the acquisition of about 62.93 sq.meters of land.

6. The petitioner states that in the revenue records, the subject lands are classified as “Grama Natham”. Thus the petitioner approached the third respondent to settle compensation, since 'Grama Natham' lands did not belong to the Government. The claim of the petitioner was rejected by CMRL in proceedings dated 17.11.2011. The petitioner filed WP No.11205 of 2011 to quash the said proceedings and to direct the third respondent to pay compensation. The said writ petition was dismissed by this Court on 23.04.2012 on the ground that Statutory Forum is available for determining



the issue relating to compensation.

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7. The petitioner accordingly filed an appeal to the Government of India, Ministry of Urban Development, who in turn rejected the application in proceedings dated 09.04.2013 with liberty to approach the fourth respondent-District Collector, Chennai District under the Act. The petitioner filed Statutory Appeal before the fourth respondent against the notice dated 24.08.2011 issued by the fifth respondent as well as the notice issued by the third respondent under Section 6 of the Land Encroachments Act, 1905 dated 10.09.2011. However, the fourth respondent-District Collector vide order dated 05.07.2013 dismissed the appeal. The ground stated by the fourth respondent-District Collector is that the subject lands are classified as 'Government Poramboke'.

8. The petitioner filed revision petition before the second respondent-Commissioner of Land Administration, which was rejected in order dated 08.11.2016. The second respondent dismissed the appeal on the ground that the second respondent is not an Appellate Authority under the Land Encroachments Act, 1905. Thereafter the petitioner was served with



the Government Order issued in G.O.Ms.No.139, Planning Development and Special Initiatives Department, dated 27.08.2010. Based on the Government Order, the second respondent has concluded that the subject land belongs to the Government and the Government transferred the land to the CMRL for Metro Rail Project. Thus no acquisition proceedings are initiated against the subject land.

9. The petitioner states that he is paying property tax, water tax, electricity charges regularly and running the hospital till date. The third respondent on 20.02.2017 visited the hospital and has stated that they intend to take possession of the entire subject property in T.S.Nos.10, 11 and 147 Part over which the hospital stands. The third respondent has relied upon the Government Order issued in G.O.Ms.No.139, Planning Development and Special Initiatives Department, dated 27.08.2010. The petitioner states that 'Grama Natham' lands does not vest with the Government and therefore, G.O.Ms.No.139, Planning Development and Special Initiatives Department, dated 27.08.2010 is wholly erroneous and cannot be sustained in law.

**ARGUMENTS ON BEHALF OF THE PETITIONER:**

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10. The learned Senior Counsel Mr.P.Wilson, appearing on behalf of the petitioner, mainly contended that the Government cannot claim right over 'Grama Natham' lands. 'Grama Natham' lands are not vest with the Government, but belong to persons, who all are in possession of the same. The owner of 'Grama Natham' is entitled to convey the lands to other persons. The use of the 'Grama Natham' land for commercial purposes did not divest the title. The contention of the Tahsildar in his counter affidavit that 'Grama Natham' lands cannot be used for commercial purposes, since the lands belonged to Government, is contrary to law.

11. In respect of the contentions of CMRL, the learned Senior Counsel for the petitioner reiterated that the judgment relied on by CMRL is not applicable to the facts of the present case. It is consistently held by the Courts that the Government cannot claim any right or title over 'Grama Natham' lands. The title over 'Grama Natham' lands belong to the first occupier of the lands. When the title is absolute, change in use of lands cannot affect the title over the property. Thus conversion of residence as



commercial, would not affect the title of the petitioner in respect of the subject property. The judgment relied on by CMRL that conversion of resident as commercial, would dis-entitle the occupant from holding 'Grama Natham' lands, is incorrect. The Division Bench of this Court in the case **Zonal Officer-V, Corporation of Chennai, Chennai-10 and Another vs. K.Narasa Reddy, Kances Constructions Pvt. Ltd., and Others [2012 (4) MLJ 646]** had not laid down any law that the 'Grama Natham' lands if used for commercial purposes revert back to the Government. It was a posing observation made by the Hon'ble Division Bench of this Court in paragraph-17, which is in the nature of *obiter dictum*. The earlier judgments of the Court has not been considered by the Division Bench of this Court.

12. The learned Senior Counsel relied on the following judgments to emphasis the grounds raised by the petitioner:-

In the case of **S.Rangaraja Iyengar and Another vs. Achi Kannu Ammal and Another [1959 SCC OnLine Mad 30]**, this Court held that “a house site owned by a person in what is generally known as 'Grama Natham', is not under the property of the Government”. In the very same judgment, delivered in the Second Appeal, the learned Single Judge of this



Court, made an observation that “it is not necessary that, in order that the policy underlying Madras Act XXVI of 1948 be completely given effect to, house sites belonging to private individuals (that is, persons other than the landholder) in a 'Grama Natham', should be transferred to the Government”.

13. In the case of **State of Madras vs. Kasthuri Ammal [1974 (84) LW 531]**, the Hon'ble Division Bench of this Court held that “in as much as Survey No.74 is a 'Natham Poramboke', such portion of the suit site which is comprised therein must be held to be a house site and the possession of which the plaintiff is entitled to cling to and resist all invasion. Such a right of the plaintiff can never be held to have been extinguished or curtailed by reason of Act 30 of 1963. It must also be stated with equal force that any interference or invasion with the said right of the plaintiff is always challengeable in appropriate proceedings before the Civil Court”.

14. In the case of **A.K.Thillaivanam and Others vs. District Collector, Chengai Anna District and Others [1998 (3) LW 603]**, it is held that “the admitted classification is 'Village Natham' and merely because



the petitioners have converted the same into agricultural lands, no right could accrue to the respondents even after conversion”.

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15. In the case of **Krishnamurthy Gounder vs. Government of Tamil Nadu Represented by the District Collector, Cuddalore South Arcot District [2002 SCC OnLine Mad 398]**, this Court held that “the 'Village Natham' is a land which never vested with the respondents and they have no right over it. Admittedly when the land has been classified as 'Village Natham', no portion of the land vests with the Government”.

16. In the case of **Executive Officer and Others vs. V.Swaminathan and Others [2004 SCC OnLine Mad 412]**, the Hon'ble Division Bench of this Court held that “Panchayat cannot treat persons occupation to 'Grama Natham' land as encroachers and seek to evict them. The title to a house site in a 'Grama Natham' is protected from transfer to Government”.

17. In the case of **Goan Real Estate and Construction Ltd vs. Union of India [(2010) 5 SCC 388]**, the Hon'ble Supreme Court of India



held that “it is well settled that an order of Court must be constructed having regard to the extent and context in which the same was passed. A judgment, it is well settled, cannot be read as Statute. Construction of a judgment should be made in the light of the factual matrix involved as therein. What is more important is to see the issues involved therein and the context wherein the observations were made. Observation made in judgment, it is trite, should be read in isolation and out of context”.

18. In the case of **State of Tamil Nadu vs. Madasami [2012 (2) CTC 315]**, this Court observed that “once a property has been classified as 'Grama Natham', Government cannot claim any right over the said property”.

19. In the case of **Dharmapuram Adhinam Mutt vs. Raghavan and R.Subbiah [2012 (1) CTC 280]**, the Hon'ble Division Bench of this Court observed that “'Grama Natham' is the village habitation where the landholders may build the houses and reside. They are also known as 'House Sites' (Manai). They were classified as 'Grama Natham' to differentiate for Inam lands, Ryotwari lands, Pannai lands and Waste lands,



while later vested with the Government, the 'Grama Natham' never vested with the State”.

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20. In the case of **Karana Maravar Service Society vs. State of Tamil Nadu [2012 (4) LW 92]**, this Court made an observation that “the 'Grama Natham' land never vests with the State. The individual occupier may very well resist ejectment or any other act”.

21. In the case of **A.R.Meenakshi vs. State of Tamil Nadu [2013 (4) LW 76]**, this Court observed that “the expression 'Government Poramboke' and 'Grama Natham' are not synonyms. The classification of 'Sarkar Village Natham' was rejected by the Courts. Subsequently the classification of 'Government Poramboke Patina Natham' is also rejected by the Court”.

22. In the case of **D.Shankar vs. Special Commissioner and Commissioner of Land Administration [MANU/TN/2889/2013]**, the Hon'ble Division Bench of this Court observed that “once the land is classified as 'Village Natham', no portion of the land vests with the



Government, even if the portion of the land is converted into an agricultural land”.

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23. In the case of **P.Solomon Francis vs. District Collector, Kancheepuram [2014 SCC OnLine Mad 8156]**, this Court observed that “land classified as 'Grama Natham' cannot be claimed by the Government. The occupier of 'Grama Natham' accrues a right to transfer such property to anybody he likes”. In yet another case of **N.Lakshmanan vs. The Commissioner, Kanchipuram Municipality [MANU/TN/0211/2018]**, the very same Judge who was part of this Bench upholding this rights on 'Grama Natham', had passed the remarks in another judgment in the adverse *per incuriam*.

24. In the case of **A.Sacratice and four others vs. The District Collector and two others [pronounced on 14.03.2023 in WP No.31688 of 2022]**, the Hon'ble Division Bench of this Court observed that “in view thereof, we hold that when the land in question is Adi Dravidar Natham i.e., the 'Grama Natham' land which is meant for occupation by Adi Dravidars by putting up their houses, it cannot be set to be Government



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interest lands so as to made over to the CMRL without acquisition of title”.

25. In the case of **T.S.Ravi vs. The District Collector** [pronounced on 11.10.2018 in WP Nos.26234 and 26237 of 2018], the said principles are reiterated by the Hon'ble Division Bench of this Court by holding that the Government has no paramount title to the lands classified as 'Grama Natham' and such lands do not vest in the Government. Thus the Government has no right to evict persons who all are in occupation of lands classified as 'Grama Natham' in the revenue records by invoking the provisions of the Tamil Nadu Land Encroachments Act, 1905 or any other enactment. It is always open to the Government to acquire the lands by paying compensation, if they are needed for any public purpose.

26. It is brought to the notice of this Court that the above two judgments, namely, **A.Sacratice and four others vs. The District Collector and two others** [pronounced on 14.03.2023 in WP No.31688 of 2022] and **T.S.Ravi vs. The District Collector** [pronounced on 11.10.2018 in WP Nos.26234 and 26237 of 2018], the State preferred SLP before the Hon'ble Supreme Court of India, which have been admitted and



pending.

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27. The learned Senior Counsel for the petitioner relied on the above propositions laid down in various judgments emphasised that 'Grama Natham' lands cannot be subjected to eviction under the Tamil Nadu Land Encroachments Act, 1905. The petitioner purchased the lands from his vendors, who were the title holders. Conversion of residential house for commercial purpose would entitle the Government to resume the land classified as 'Grama Natham'. Thus the Government Order of the year 2010 and the orders passed by the second respondent in proceedings dated 08.11.2016 and the letter of the seventh respondent dated 09.04.2013 are not in consonance with the established principles and are in violation of the principles to be applied for 'Grama Natham' lands. Thus all the impugned orders are liable to be set aside.

REPLY BY THE RESPONDENTS:

28. Counter-affidavit filed on behalf of the respondents 1, 2,4 and 5 by the Tahsildar states that the subject property involved in these writ petitions is situated in T.S.Nos.10, 11 and 147 of Block No.28 of



Koyambedu Village. The TSLR Extract in respect of the said property is as detailed below:-

Name of the village	<i>Koyambedu</i>	<i>Koyambedu</i>	<i>Koyambedu</i>
Block No.	28	28	28
T.S.No.	10	11	147
Old S.No.	233 part	233 part	233 part
Classification	Circar – Natham Poramboke	Circar – Natham Poramboke	Circar – Natham Poramboke
Extent	Hec.Ares.Sq.meters 0.11.13.5	Hec.Ares.Sq.meters 0.02.12.5	Hec.Ares.Sq.meters 0.04.08.0
Adangal	'Grama Natham'	'Grama Natham'	'Grama Natham'
Remarks	Gopal Pillai wife Megavathyammal sons and Daughter 1) G.Chandran 2) Saroja 3) Shanthi 4) Sulochana 5) Vasantha 6) Lakshmi	Kesavalu Naidu son K.Mani	Changes made as per DRO Chennai Ir.No.APA/6460/2003 dated 30.12.2003 and the No.A3/patta transfer 2039/02-03 dated 02.01.2004 – Amudhan Anthony

29. In G.O.Ms.No.139, Planning Development and Special Initiative Department, dated 27.08.2010, the 'Government Poramboke' land in T.S.Nos.10 and 11 of Block No.28 of Koyambedu Village of erstwhile Egmore-Nungambakkam Taluk, presently Aminjikarai Taluk was transferred to Chennai Metro Rail Limited Scheme for public utility, which was occupied by Vee Care Hospital. Thus the Tahsildar, Egmore-



Nungambakkam Taluk had issued eviction notice under Section 7 followed by notice under Section 6 of the Tamil Nadu Land Encroachments Act, 1905.

30. The petitioner filed WP No.11205 of 2012 to quash the above proceedings and the said writ petition was dismissed on 23.04.2012. The petitioner filed an appeal before the District Collector, Chennai under Tamil Nadu Land Encroachments Act, 1905, which was rejected. The subject lands are treated as 'Sarkar Poramboke – Grama Natham and therefore, the Government transferred the land in favour of CMRL. The appeal filed by the petitioner before the Authorities were rejected on the ground that the subject land is Sarkar Poramboke – Grama Natham as per the TSLR Extract. Therefore, the petitioner is to be construed as an encroacher.

31. In respect of the patta granted in favour of the petitioner, the respondents state that it was granted in the year 2010. Such pattas alleged to have been obtained by the petitioner for a vast extent of a Single Unit is an erroneous one and is in violation of law and liable to be



cancelled. In fact, one time order was issued by the Government only in the year 2013 wherein the Taluk Tahsildars were appointed as Settlement Officers for granting 'Thoraya Pattas' to the occupants of lands classified as 'Grama Natham'. The petitioner claims that he was granted patta in the year 2011, which is erroneous. The subject land involved in these writ petitions are found inevitable for implementation of the Scheme 'Chennai Metro Rail Project', which is for public purpose. A huge sum of money is spent by the Government for the implementation of 'Chennai Metro Rail Project'. The subject property will not confer any right over the land, which stands classified as 'Sarkar Poramboke – Grama Natham' especially when the said portion is used for commercial purposes. The petitioner's vendor did not have any alienable right to alienate the subject property to any third parties. The Tahsildar issued notices to the predecessors also on 05.07.2013 under Section 7 followed by notice under Section 6 of the Tamil Nadu Land Encroachments Act, 1905.

32. The petitioner himself admits that the subject lands purchased by him are used for commercial purposes. In 'Grama Natham' lands, commercial activities are prohibited as 'Grama Natham' lands cannot



be utilised for commercial purposes.

33. The Special Tahsildar (Land Acquisition) after consulting the Assistant Director of Survey and Land Records had come to a conclusion that the petitioner cannot claim any right over the said piece of land classified as 'Grama Natham', which is meant only for residential purposes.

**ARGUMENTS ON BEHALF OF THE THIRD RESPONDENT-
CMRL:**

34. The learned Senior Counsel Mr.P.S.Raman, appearing on behalf of the third respondent-CMRL mainly contended that the subject lands are classified as 'Sarkar Natham Poramboke' in the classification column and 'Grama Natham' in the Adangal column. The administrative approval for transfer of subject lands were granted by the Government in G.O.Ms.No.139, dated 27.08.2010. Admittedly, statutory show cause notice under Section 7 followed by Section 6 notice under the Tamil Nadu Land Encroachments Act, 1905, was issued to the petitioner. The petitioner filed writ petition, which was dismissed. Thus the petitioner approached the



Authorities by preferring appeals and all those appeals were rejected.

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35. The classification originally made in the revenue records that 'Grama Natham' lost its relevance in view of the fact that the subject property has been brought under the City limits of Chennai and more-so, there was ban imposed for granting patta in respect of the Government lands in Chennai City Built Area. The very classification of 'Grama Natham' lost its relevance and since the Government reclassified 'Grama Natham' lands in Chennai City as 'Sarkar Poramboke – Grama Natham' lands and such lands cannot be assigned in favour of any person, since the Government imposed ban long before the purchase of the subject land by the petitioner. The purchase of property by the petitioner and conversion of such Government land for commercial purposes, would not confer any right on the petitioner and the petitioner cannot claim title over the subject property nor claim compensation from the third respondent-CMRL. The petitioner is an encroacher of the Government land and using the property for commercial purposes and running hospital for his personal gains. Therefore, the Government order issued in G.O.Ms.No.139, Planning Development and Special Initiative Department, dated 27.08.2010, transferring the subject



land in favour of the third respondent-CMRL is in consonance with the established principles of law and there is no infirmity.

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36. The learned Senior Counsel appearing on behalf of the third respondent-CMRL contended that the Hon'ble Division Bench of this Court dismissed batch of writ petitions in the case of **P.India Prasad represented by its Power of Attorney P.Srinath vs. State of Tamil Nadu [2014 SCC OnLine Madras 2267]**. In the said case, the eviction proceedings under the Land Encroachments Act, 1905 over 'Grama Natham' lands used for commercial purposes and not residential purposes. The Division Bench observed as follows:-

“A perusal of the impugned order would show that as per the records, the lands have been classified as circar poramboke. It is seen that the Town Survey Register shows the classification of the land as a circar poramboke. Even assuming that the lands are Grama Natham lands, they can only be used for residential purpose. Admittedly, in all these cases, the petitioners have put up commercial buildings, Therefore, the authorities have rightly held that the petitioners do not have



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any right over the properties, which are subject matter of the proceedings”.

37. In yet another judgment of this Court in the case of **Zonal Officer-V, Corporation of Chennai, Chennai-10 and Another vs. K.Narasa Reddy, Kances Constructions Pvt. Ltd., and Others [2012 (4) MLJ 646]**, the Hon'ble Division Bench observed as follows:-

“The pathetic situation prevailing in this part of the Globe, as we observed is that, ignoring the fact that Gramanatham land is common village land, the greedy persons like the writ petitioner in this case are indulging in activities which are purely commercial in nature”.

The Hon'ble Division Bench directed the Revenue Officials to strictly protect 'Grama Natham' lands from being misused, particularly for commercial purposes.

38. In the case of **M.Sekar vs. District Collector [2016 SCC OnLine Madras 27115]**, the Hon'ble Division Bench of this Court



reiterated that the judgment reported in **2012 (4) MLJ 646** and held that the Authorities shall be duty bound to ensure 'Grama Natham' lands are not commercially exploited.

39. In yet another reportable judgment of this Court in WP No.6827 of 2018, the Hon'ble Division Bench of this Court made an observation that payment of electricity charges etc., will not confer any vested right of ownership on the writ petitioner.

40. The learned Senior Counsel appearing on behalf of the third respondent reiterated that under RSO 21 exploitation of the 'Grama Natham' lands for commercial purposes are impermissible and more-so, classification of the urban lands are reclassified. The subject land has been already reclassified as 'Sarkar Poramboke – Grama Natham' and therefore, the petitioner cannot claim any title over the subject property and the petitioner is to be construed as an encroacher.

41. Regarding the claim of the petitioner for compensation, the land was not acquired, since it was classified as 'Sarkar Poramboke - Grama



Natham' and vests with the Government. The Government transferred the land in favour of the third respondent-CMRL for developing Chennai Metro Rail Project, which has already been developed, in the particular locality. Thus the claim for compensation made by the petitioner is untenable and the petitioner, being an encroacher, is liable to be evicted under the provisions of the Tamil Nadu Land Encroachment Act, 1905.

42. The petitioner has instituted a civil suit in C.S.No.525 of 2013, seeking compensation and the said civil suit is pending. Regarding the classification of 'Grama Natham' the traditional concept lost its relevance and in this context, the learned Senior Counsel drew the attention of this Court with reference to the orders passed in WP No.33546 of 2017 dated 13.07.2013, wherein this Court observed that the 'Natham Poramboke' lands cannot be granted indiscriminately without following the procedures or Schemes. Such lands are meant for eligible landless poor people for construction of houses and it is to be distributed equally to all eligible persons without causing discrimination.

**ARGUMENTS OF THE LEARNED ADDITIONAL ADVOCATE****GENERAL:**

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43. The learned Additional Advocate General, appearing on behalf of the respondents 1, 2, 4 and 5 made a submission that the subject lands were reclassified as 'Sarkar Poramboke – Grama Natham'. The Government issued in G.O.Ms.No.1135, Revenue Department, dated 17.03.1962, wherein it was reiterated that there was a ban imposed by the Collector of Chingelpet in proceedings dated 15.07.1958 and was extended to the lands within the radius of 20 miles. The list of villages lying within 32 kms (20 miles), the Madras City limit, Saidapet Taluk were also notified in the said Government Order. Koyambedu area is falling within the Madras City limit. Therefore, there was ban for assignment of lands in City Built Area. The limits were notified in the year 1962 itself and the District Collectors or the Revenue Officials are not empowered to grant assignments in respect of the lands classified as 'Government Poramboke – Grama Natham' or the lands belonging to the Government. When there was an absolute ban for assignment of land, the very alleged occupation of the petitioner's vendor itself cannot be trusted upon and doubtful, therefore, the consequential sale made in favour of the petitioner's family are untenable



and thus the Authorities have rightly issued notice under Section 7 followed by Section 6 of the Tamil Nadu Land Encroachments Act, 1905. The lands vest with the Government and the petitioner being an encroacher is not entitled for the compensation nor entitled to continue in the Government land and is liable to be evicted from the Government land.

DISCREPANCY IDENTIFIABLE IN RESPECT OF THE TITLE

DOCUMENTS PRODUCED BY THE PETITIONER:

44. The details of the documents are as under:-

Date	Events
31-05-1995	Registered Sale Deed for the land bearing T.S.No.10, Block 22 measuring 13402.42 sq. feet T.S.No.10, Block 22 measuring 2680.484 sq. feet Document No. Executed in favour of 1526 of 1995 V.Kasturi (mother of petitioner) 1527 of 1995 V.Gajarajan (brother of petitioner) 1529 of 1995 V.Kalanidhi 1530 of 1995 N.Veerassamy (father of petitioner)
05-06-1995	Registered Sale Deed for the land bearing T.S.No.10, Block 22 measuring 13402.42 sq. feet T.S.No.10, Block 22 measuring 2680.484 sq. feet Document No. Executed in favour of 1528 of 1995 V.Indumathi (sister of petitioner)



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Date	Events												
22-07-2010	T.S.No.11 The following Sale Deed has been executed in favour of petitioner <table><tr><th>Document No.</th><th>Sale Deed Executed by</th><th>Admeasuring about (in sq.ft.)</th></tr><tr><td>2593 of 2010</td><td>Mrs.K.Sharadha</td><td>1028</td></tr><tr><td>2592 of 2010</td><td>Mr.Ravi Kottarakara</td><td>1200</td></tr><tr><td>2591 of 2010</td><td>K.P.Ganesh</td><td>1027</td></tr></table>	Document No.	Sale Deed Executed by	Admeasuring about (in sq.ft.)	2593 of 2010	Mrs.K.Sharadha	1028	2592 of 2010	Mr.Ravi Kottarakara	1200	2591 of 2010	K.P.Ganesh	1027
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2593 of 2010	Mrs.K.Sharadha	1028											
2592 of 2010	Mr.Ravi Kottarakara	1200											
2591 of 2010	K.P.Ganesh	1027											
15-12-2014	T.S.No.10 The following Settlement Deed has been executed in favour of petitioner <table><tr><th>Document No.</th><th>Settlement Deed Executed by</th><th>Admeasuring about (in sq.ft.)</th></tr><tr><td>5411 of 2014</td><td>MrV.Ganarajan (brother of petitioner)</td><td>2680</td></tr><tr><td>697 of 2015</td><td>Mrs.V.Indumathi (sister of petitioner)</td><td>2400</td></tr><tr><td>5409 of 2010</td><td>Thiru Arcot N.Veerasamy (father of petitioner)</td><td>2400</td></tr></table>	Document No.	Settlement Deed Executed by	Admeasuring about (in sq.ft.)	5411 of 2014	MrV.Ganarajan (brother of petitioner)	2680	697 of 2015	Mrs.V.Indumathi (sister of petitioner)	2400	5409 of 2010	Thiru Arcot N.Veerasamy (father of petitioner)	2400
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45. In respect of the Sale Deed dated 31.05.1995, executed in favour of the family members of the petitioner, the documents state that the **vendors numbering 7 together were in absolute possession and enjoyment for more than the statutory period and they had been in absolute, undisturbed and uninterrupted possession and enjoyment of the land** whereas the Revenue Department also declared and confirmed that the vendors have acquired the absolute title and have been in possession and



enjoyment of the subject property, in their letter No.67 of 1992 dated 31.12.1992.

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46. The 7 vendors are (1) Tmt.Megavathi Ammal, W/o.Gopal Pillai, (2) Mr.G.Chandran, S/o.R.Gopal Pillai, (3) Tmt.C.Saroja, W/o.Chandrasekaran, (4) Tmt.G.Shanthi, D/o.R.Gopal Pillai, (5) Tmt.B.Sulochana, W/o.Boopalan, (6) Tmt.B.Vasanthi, W/o.Baskar and (7) Tmt.G.Lakshmi, D/o.R.Gopal Pillai. All vendors were residing at No.6, West Mada Street, Koyambedu, Madras-600 107. The schedule of the property mentioned in the document states that the piece and parcel of the land situate at No.106, Koyambedu Village, now comes under Thirumangalam Village, Egmore-Nungambakkam Taluk, within the Registration District of Central Madras. It seems that all the petitioner's vendors are either from the same family or relatives. All the vendors were residing at No.6, West Mada Street, Koyambedu, Madras-600 107 and the subject land classified as 'Grama Natham' is coming under Thirumangalam Village, Egmore-Nungambakkam Taluk. Whether the members of the same family were in occupation of the entire extent of 'Grama Natham' land and the said lands were assigned in their favour by the Government has not been



clearly mentioned. However, the very same vendors belonging to the same family executed multiple Sale Deeds in favour of the family members of the writ petitioner, i.e., his father, his mother, his brother, his sister and himself.

There was no document to establish title prior to Sale Deed executed in the year 1995. There is no express mentioning about the predecessor in title to the petitioner's vendor and therefore, this Court can form an opinion that the land was classified as 'Grama Natham' and subsequently reclassified as 'Sarkar Poramboke – Grama Natham'. Whether the petitioner's vendors were assigned with the lands by the Government or not, is also not made clear except the letter No.67 of 1992 dated 31.12.1992 and the said letter was not produced before this Court by the petitioner.

47. The Government imposed ban for assigning the Government lands falling within the City limits. Thus the Government transferred the subject land to CMRL through G.O.Ms.No.139, Planning Development and Special Initiatives Department, dated 27.08.2010 for developing Chennai Metro Rail Project.



LEGAL POSITION:

Definition and Origin of 'Grama Natham' lands

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48. 'Grama Natham' has been defined in the Law Lexicon as follows:-

“Ground set apart, on which the house of a villager may be built”.

49. 'Grama Natham' is the village habitation, where the land holders may build houses and reside. They are also known as 'House Sites' (Manai). They were classified as 'Grama Natham' to differentiate from Inam lands, Ryotwari lands, Pannai lands and Waste lands, while later vested with the Government, the 'Grama Natham' did not vest with the State.

50. As far as the Corporation limits and Municipal limits are concerned, the Government imposed ban for assignment of 'Grama Natham' lands and in many cases, the Government has reclassified the 'Grama Natham' lands as 'Government Poramboke' and in such circumstances, the occupants are not entitled to claim patta or right over the property.



51. If the Natham is unoccupied, it will be classified as a 'Poramboke Natham'. Where such 'Poramboke Nathams' are concerned, the Government acts as a custodian, and may allocate the piece of land to an individual, only for the construction of houses.

52. The Government Order has provisions for “encroachments” on poramboke land. A penalty is levied on encroachments on poramboke land, which also acts as a record of occupancy (because it makes them visible on an official register). It’s called a B-memo and is issued by the village panchayat or the government agencies under whose control the poramboke land lies. Although Tahsildars are supposed to act to remove encroachments within three months of the B-memo being issued (pending appeals), it has been observed that the memo is often used as a proof of occupancy.

53. According to Government Order issued, no poramboke land “shall be used for any purpose other than that for which it was originally intended except with the prior approval of the Collector” (G.O. [Ms] No.317, Rural Development [C4], dated December 6, 2000). In case it is not



required for the purpose originally intended, it may be used for any other “specified public purpose”, in which case the panchayat must publish the notice in the village and invite objections to its proposed use of the poramboke land. The proposal, along with any objections, must then be submitted to the district collector, who will take the final call.

54. Poramboke land is often compared with 'Grama Natham'. “Poram” means outside, and “boke” means revenue record. Hence the word, 'poramboke', can be defined as land, which lies outside revenue records. By such a definition, any piece of land can be classified either as a privately-owned Patta land, 'Government Poramboke' land or 'Grama Natham land'. Although 'Grama Natham' can be used for building a house, there is always a risk of litigation when the Government needs the land for its projects.

55. 'Grama Natham' lands are house sites, and must be actively used by the land owner. If the 'Natham' is unoccupied, it will be classified as a 'Poramboke Natham'. Where such 'Poramboke Nathams' are concerned, the Government acts as a custodian, and may allocate the piece of land to an individual. Hence, 'Grama Natham' may



not be an ideal investment if the buyer does not have intention to build a house and reside in it.

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56. Grama Natham lands cannot be used for commercial activities. A joint venture to construct an apartment complex on such a land is treated as a commercial activity. Any activity that does not clearly show the intent of the owner of a 'Grama Natham' to reside on the land can be classified as a commercial activity. In June 2011, a judgement was passed in the Madras High Court on a joint venture project built on a 'Grama Natham' land where one owner had entered into a joint venture to construct stilt + 4 floors of an apartment complex. Since the apartment was built on a 'Grama Natham' land, the Madras High court ruled that this activity could be classified as a commercial activity.

NEED FOR UNIFORMITY IN NOMENCLATURE WITH RESPECT TO 'NATHAM' LANDS

57. The Government has announced that the nomenclature with respect to lands will be changed to reflect the difference between private and Government ownership. As 'Natham' land records have adopted



different nomenclature for different areas, the Government has found an urgent need to bring in uniformity in these records. This change will have to be brought to all 'Natham' land records of different places excluding Chennai.

58. 'Natham' lands belongs to no one. There is no legal proof of the ownership of such a land. 'Grama Natham' land can only be used for residential purposes and not commercial. There is no surrounding social infrastructure and almost negligible scope of development in future. The extract of Natham chitta from Tamil Nilam will be treated as a valid and legal document. Hence the necessary changes have to be made. When the land is titled as Government-manai, it leads to a perception that the public may be encroaching on private property. But that is not the case, as many land holdings are private holdings within the 'Natham' land settlement. This particular change will lead to all 'Natham' lands falling under two categories of "Ryotwari Manai" and 'Sarkar Poromboke'. This will ensure uniformity and ease confusion between different names for 'Natham' lands.



59. Pertinently, in **Chinnathami Goundan vs.**

Venkatasubramania Iyer [1939 MWN 207], Wadsworth J., dealt with

unoccupied village site and it is held as follows:-

“I am of opinion that by the recognised practice of this Presidency - excluding areas with a Special Revenue law such as Malabar - the control of unoccupied village site land vests in the proprietor whoever he may be. In Ryotwari areas that control is exercised by the Government in the Revenue Department by means of the grant of house site Pattas without which occupation by an individual villager would be unauthorised. In Zamindari areas that control is exercised by the Zamindar. In a Shrotriem village not falling under the Estates Land Act, I am of opinion that according to the common practice of this Presidency the control of such unoccupied village site vests in the Shrotriemdar. My attention has been drawn to the decision of a Bench of this Court in Venkataramana Sivan v. Secretary of State for India (1), which is a case arising out of a whole Inam village wherein the Government claimed the right to penalise an unauthorised occupation of a cremation ground poramboke. It



was held in that case that the Government was vested with the right of protecting such communal ground for the benefit of the community and there is an observation in the judgment of Spencer, J. To the effect the Government is the custodian of the rights of the public in lands such as sites for Pagodas, burning grounds, threshing floors, cattle stands, unassigned house sites and backyards. The suggestion is that the legal title vests in the Government in trust for communal purposes”.”

60. In the present case, the title has not been established by the petitioner's vendor except by stating that they were having uninterrupted possession and enjoyment of the land. It is not stated, whether the petitioner's vendors were granted assignment of the subject land by the Government. The statement in the Sale Deed would be insufficient to prove the title. The said statement itself is doubtful in view of the fact that the executants of the Sale Deeds of the year 1995 belonged to the same family or the relatives and they made statements that they were in uninterrupted possession of the land without any assignment from the Competent Authorities. More-so, there was an absolute ban during the relevant point of



time and the lands earlier classified as 'Grama Natham' were reclassified as 'Sarkar Poramboke – Grama Natham' on account of urbanisation. The urban belt areas urbanised no more remain as villages. On urbanisation, the land values were sky-rocketing and the Government thought fit to protect such 'Grama Natham' lands and accordingly imposed ban and reclassified the lands as 'Sarkar Poramboke'.

61. That being the factum, any patta or assignment made by the Revenue Authorities are invalid and no person can claim title over such 'Government Poramboke' lands. Thus the manner in which the Sale Deeds were executed in the year 1995 by the petitioner's vendors create serious doubt regarding their occupation of 'Grama Natham' lands during the relevant point of time. The Koyambedu area and nearby areas were classified as 'Grama Natham' before being declared as Chennai Built Area and the ban imposed was extended by the Government in G.O.Ms.No.1135, dated 17.03.1962. The Koyambedu area is lying within 32 kms of Chennai City limits and therefore, the lands falling within the Chennai City limits, cannot be assigned nor patta can be issued by the Revenue Authorities on the basis of the statement that the persons are in occupation of the subject



land. Presuming that persons are in occupation of 'Government Poramboke' lands, they are liable to be evicted by invoking the provisions of the Tamil Nadu Land Encroachments Act, 1905, since the said lands were reclassified as 'Government Poramboke'. Once it is reclassified as 'Government Poramboke' lands, then the provisions of the Land Encroachments Act, 1905 can be applied and the encroachers are liable to be evicted.

62. The impugned Government Order issued in G.O.Ms.No.139, Planning Development and Special Initiatives Department, dated 27.08.2010 states that the subject land is in Koyambedu in Chennai District, Egmore-Nungambakkam Taluk, Koyambedu Village is a 'Grama Natham' land and accordingly it was transferred for developing Chennai Metro Rail Project. Though the Government Order transferring the subject lands were passed in the year 2010, the said order is challenged by the writ petitioner in the year 2017 in the present writ petitions. In the earlier writ petition, the petitioner has not challenged the said Government Order.

63. The notice issued under Section 7 of the Land



Encroachments Act, 1905 reveals that the subject land has been classified as 'Government Poramboke'. Presuming that the lands are not reclassified as 'Government Poramboke', the 'Grama Natham' lands are meant for housing to homeless poor people in a village. The occupants of 'Grama Natham' lands in villages are assigned for their benefit only with an idea to provide shelter to homeless poor people. The Government is duty bound to regulate 'Grama Natham' lands for the benefit of all homeless poor people without causing any discrimination.

64. Occupation of 'Grama Natham' lands to a larger extent and usage of such 'Grama Natham' lands for commercial purposes are not only impermissible but also unconstitutional. The very purpose of classification of 'Grama Natham' lands are to provide shelter to homeless poor people and therefore, any abuse of such 'Grama Natham' lands are causing infringement of basic rights of the citizen, who all are homeless poor people.

65. It is not as if 'Grama Natham' lands can be occupied to a larger extent by greedy men and utilise the said lands for commercial purposes for personal gains. Such occupation of 'Grama Natham' lands are



to be resumed by the Government and the assignments are to be granted only to the homeless poor people on establishing their eligibility.

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66. In the event of permitting such greedy men to encroach upon the 'Grama Natham' lands to a larger extent, and usage of 'Grama Natham' lands for commercial purposes, it would lead to lawlessness in the Society. Persons with money power, muscle power or political power alone would be in a position to occupy such vast extent of 'Grama Natham' lands for exploitation and for unjust gains, which would cause infringement of the rights of homeless poor people and the same will result in an unconstitutionality with reference to the Constitutional mandate of 'Social Justice'.

67. In the present cases, the petitioner cannot said to be a landless poor person. The father of the writ petitioner Mr.N.Veerassamy was the former Minister in the State of Tamil Nadu and the petitioner himself is the sitting Member of Parliament. The petitioner belongs to an affluent family and therefore the possibility of political abuse cannot be overruled in the present cases.



68. The petitioner has relied upon 'Thoraya Patta' granted by the Tahsildar. However, 'Thoraya Patta' granted in respect of 'Grama Natham' lands falling within the City limits of Chennai. More-so, the lands were reclassified as 'Government Poramboke' lands. 'Thoraya Patta' in the present cases was granted in favour of the family members of the petitioner by the Special Tahsildar, Egmore-Nungambakkam Taluk on 28.09.2013, by erroneously stating that the subject land is 'Grama Natham'. However, the Tahsildar, in his counter-affidavit, has stated that the 'Thoraya Pattas' are to be granted to the occupants of the lands classified as 'Grama Natham'. More-so, patta has been issued for a vast extent of land for Single Unit, which is impermissible as far as the 'Grama Natham' lands are concerned. In any event, the patta issued by the Tahsildar explicitly portrays that there is a possibility of political abuse. The family members of the petitioner belong to the prominent political party (DMK) and the father of the writ petitioner was the Hon'ble Minister in the Government of Tamil Nadu for more than one tenure.

69. The judgments relied upon by the petitioner are of no avail



to the petitioner, since the facts are distinguishable and more-so in all judgments, the Courts have consistently held that 'Grama Natham' lands are to be assigned in favour of homeless poor people and for construction of houses. Such 'Grama Natham' lands cannot be assigned to larger extent, which would result in unjust gains. Natham lands cannot be used for commercial purposes. Revenue Standing Orders are not considered in any of the judgments relied on.

70. “Social Justice” and “Equality Clause” are hallmark principles under the Indian Constitution. Since because Grama Natham lands do not vest with the Government, it does not mean that the Government loses its power to regulate the Grama Natham lands in accordance with the Constitutional principles as the Government is mandated to protect the basic rights of the citizen under the Constitution.

71. “We people of India” resolved the Indian Constitution and ensured “social justice and equality” and elimination of inequality is the inherent philosophy in the Constitution. While speaking about equality elimination of inequality is a deemed principle under the Indian



Constitution. Thus, the Government creating inequality at no circumstance be tolerated by the Constitutional Courts.

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72. Political parties across the country specifically in the State of Tamil Nadu are claiming themselves as champions of social justice and equality. Thus, any ruling political party is expected to honour the 'Will' of the People, which is the Constitution. “Social justice and equality” clause enunciated under the Constitution do not permit any greedy men to occupy larger extent of Grama Natham lands for commercial purposes and for personal gains. The very classification “Grama Natham” cannot be suited to the lands falling under the territorial jurisdiction of Corporations, Municipalities and Towns. Thus, under the guise of the classification as “Grama Natham” no person can be allowed to grab the lands for unjust gains and by depriving the homeless poor people, who all are longing to secure free house sites to lead their livelihood. Greedy men are liable to be evicted under the provisions of the Tamil Nadu Land Encroachment Act, 1905. Whether the Government notified reclassification of Grama Natham lands in urban areas or not. It is deemed to be reclassified on account of urbanisation and the Grama Natham lands lost its character and relevance



after urbanisation of towns, municipal areas or cities.

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73. Classification of lands are not static. It is changing due to continuous developments and the villages are becoming Towns and the Towns are becoming Cities. So also the Panchayats are upgraded based on the developments and Municipalities are upgraded as Corporations based on the population and the developments in various localities. Therefore, classification of land is a changing phenomena, which can never be static. Even if the Government failed to reclassify the lands in a particular area, no citizen can abuse the non-classification or incorrect classification of Government lands for illegal and unjust gains. In such circumstances, reclassification is a deemed concept, which is to be applied taking note of the urbanisation in the particular locality. Even in case, where there is no reclassification of Government lands notified and such lands are high value lands falling within the urban areas, then the occupants cannot claim that they are the title holders of Grama Natham lands, unless such persons hold title approved in the manner known to law.

74. Exploitation of 'Grama Natham' lands for commercial



purposes at no circumstances are permissible. 'Grama Natham' lands are not meant for commercial usage. The persons in occupation of 'Grama Natham' lands if allowed to convert the same for commercial purposes, then the concept of 'Grama Natham' lands for the usage of construction of houses for landless poor people is defeated. Thus the Government is empowered to step in and evict the encroachers abusing the 'Grama Natham' lands for commercial purposes.

75. The spirit of the Revenue Standing Order 21 (RSO 21) is to be looked into by this Court. RSO 21 (1) Note stipulates that “in assigning lands for house sites care should be taken to see that land is not granted to persons already possessing enough land for their reasonable requirements and that preference is given to those who own no house site and whose family's income does not exceed Rs.12,000/- per annum”.

76. Clause (1)(ii) to RSO 21 speaks about the assignment of house site is banned in the following cases:

(a) District Headquarters and Towns with a population of with over 2 lakhs – 8 kilometers.



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(b) Other Towns with a population exceeding one lakh and upto two lakhs – 5 kilometers.

(c) Town with a population exceeding 50,000 and not exceeding one lakh – 3 kilometers.

(d) Other Towns with a population of less than 50,000 – 1.5 kilometers.

77. RSO 21 commences in general by stating that portions of 'Grama Natham' lands or village site at the disposal of the Government not being the land required for the common use of the villagers may be granted for building purposes to the bonafide applicants. Therefore, the procedures for assignment of 'Grama Natham' lands in villages are enumerated in RSO 21 and the Revenue Authorities are incompetent to assign the lands classified as 'Grama Natham' beyond the scope of RSO 21. Sub clause (2) to RSO 21 provides procedure in dealing with the applications. The contents state that the applications for house site shall be made in the form in Appendix IV-A and shall clearly specify the land required, the purpose for which it is wanted (i.e.,) whether for constructing a Thatched or Tiled or Terraced building or for erecting a Cow



Shed and so on". The publication is to be made while dealing with the applications filed by the persons seeking assignment of 'Grama Natham' lands in villages. A report is to be prepared and sent to the Tahsildar signed by the Village Administrative Officer counter signed by the Revenue Inspector. Thus the procedures to deal with the applications are elaborately stipulated in RSO 21.

78. Pertinently, sub Clause (3) to RSO 21 denotes **Treatment of Unauthorised Occupation. (i) Village site not to be appropriated without previous permission.**-Collectors will assert the prerogative of Government by making it known in all Government villages that village site cannot be appropriated without permission previously obtained. (ii) **Consequence of such appropriation.**-If any portion of the village site is appropriated without permission and if the occupation is considered to be objectionable, the provisions of Act III 1905 should be applied in accordance with the instructions contained in Standing Order No.26. If the occupant is found to be entitled to an allotment and the occupation is unobjectionable the site may be formally granted in accordance with the rule, contained in paragraph 2 above and no penalty or at most a mere



nominal penalty, should be imposed unless special circumstances render the imposition of penalty desirable.

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79. RSO 21 (3)(ii) unambiguously stipulates that if any portion of the village site is appropriated without permission and if the occupation is considered to be objectionable, the provisions of Act III 1905 should be applied in accordance with the instructions contained in Standing Order No.26.

80. In-discriminate assignment of Government land without running through the required background checks and without consulting the stake holders involved will defeat the object sought to be achieved. The object here is to ensure that the bonafide applicants are granted “Grama Natham” lands or Village site for construction of housing purposes, when the Government is of the view that it is not required for common public use. In such a scenario, such lands are being assigned by identifying potential bonafide applicants, who are well fitted within the parameters as stipulated under the Revenue Standing Orders (RSO) and the Government Orders.



81. Apart from ensuring that the conditions as stipulated in the Revenue Standing Orders (RSO), complied with, it is also vital to ensure that the object envisioned is achieved.

82. But this Court is witnessing that in Multitude cases, the assignment of Government lands or majorly done to the powerful and influential members of the society, who may not be bonafide applicants and in turn these Government lands are used for commercial purposes. With the efflux of time, the de facto purpose or essence is washed away and or is made to seem right to the visible eyes.

83. This defeats the crux of such assignments of Government lands done by the Government. An independent and meticulous examination and discussion is a cardinal requirement before such assignments of Government lands or Grama Natham lands are made.

84. The Government is not empowered to grant lands based on their own whims and fancies. A guideline needs to be put in place to ensure that power in assignment of Grama Natham lands is bridled and



used for the rightful purposes to the rightful people. The Government is not just for politicians and party men. It is the representative of the common man. It does not only include the top echelons of the society, but travels the bottom rung of the ladder and it is the inherent duty of the Government to work for their upliftment both socially and economically. This can be achieved through schemes, such as assignment of Government lands, Natham lands, which is a welfare measure.

85. Therefore, any unauthorised occupation of 'Grama Natham' lands is impermissible and occupants are to be construed as encroachers and are liable to be evicted by following the procedures as contemplated under the Tamil Nadu Land Encroachments Act, 1905. Thus the contention of the petitioner that Land Encroachments Act, 1905 is not applicable in respect of 'Government Poramboke - Grama Natham' land is untenable.

86. As far as the subject land is concerned, it is falling within Chennai City limit area. The original classification of 'Grama Natham' was reclassified as 'Government Poramboke' and entries were made in the Revenue Registers. City of Chennai cannot be construed as village so as to



continue the classification of land as 'Grama Natham'. The Government imposed ban to assign the Government land in City Areas irrespective of the fact whether it is classified as 'Grama Natham – Government Poramboke' or otherwise. Therefore no occupant is entitled to claim title or right over the Government lands, even in the absence of reclassification of erstwhile 'Grama Natham' lands as 'Government Poramboke' lands. 'Grama' means 'Village' Chennai City is not a village and it is a Metro City. Therefore, the erstwhile 'Grama Natham' lands prior to extension of City limits cannot be allowed to continue as 'Grama Natham' and in the present cases, reclassification of 'Grama Natham' lands as 'Government Poramboke' lands were made long before and thus the very contention of the petitioner that the land did not vest with the Government is unacceptable and not in consonance with the established principles of law. As per the TSLR Extract, classification was made as 'Sarkar Poramboke – Grama Natham'.

87. The petitioner admits that he has constructed hospital and converted the subject lands for commercial purposes. Therefore, the petitioner is not entitled for the relief as such sought for in the present writ petitions. The Government transferred the subject lands in favour of



Chennai Metro Rail Limited (CMRL) in the year 2010 and part of the land has already been utilised for Chennai Metro Rail Project. The Car Park Area also has been taken possession by CMRL and being utilised for the Metro Rail Project. Thus the Government is empowered to evict the petitioner and resume the entire subject lands and utilise the same either for the purpose of Chennai Metro Rail Project or for any other public purposes.

88. In view of the above facts and circumstances, this Court is inclined to pass the following orders:-

(1) The reliefs as such sought for in the present writ petitions are rejected.

(2) The petitioner, being the sitting Member of Parliament, one month's time is granted to him to vacate the entire subject property belonging to the Government and hand over possession to the Competent Authorities of the Government of Tamil Nadu.

(3) In the event of failure on the part of the petitioner in handing over the subject property to the Competent Authorities of the Government of Tamil Nadu, on or before 15.10.2023, the Respondents are directed to evict the petitioner immediately and resume the subject



Government property.

(4) The respondents are directed to initiate all further actions to recover the use and occupation charges or other lawful charges due to the Government as per law by following the procedures as contemplated.

(5) The respondents are directed to utilise the subject property for public purposes in the manner known to law.

89. With the above directions, both the writ petitions are disposed of. However, there shall be no order as to costs.

**Post for Reporting Compliance before this Court on
11.01.2024.**

15-09-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

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1. The Principal Secretary to Government,
Planning, Development and Special Initiatives
Department,
State of Tamil Nadu,
Fort St. George,
Secretariat,
Chennai-600 009.
2. The Commissioner of Land Administration,
Chepauk, Chennai,
Ezhilagam, Chepauk,
Chennai-600 005.
3. The Managing Director,
Chennai Metro Rail Limited,
Administrative Office Building,
CMRL Depot,
Poonamallee High Road,
Koyambedu,
Chennai-600 107.
4. The District Collector,
Chennai District,
Chennai.
5. The Tahsildar,
Egmore-Nungambakkam Taluk,
No.88, Spur Tank Road,
Mayor Ramanathan Street,
Chetpet,
Chennai-600 031.



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WP Nos.7051 and 7052 of 2



6. The Commissioner,
Corporation of Chennai,
Ripon Building,
Park Town,
Chennai-600 003.

7. The Secretary to Government,
Ministry of Urban Development,
Union of India, Room No.308-C,
Nirman Bhavan,
New Delhi-110 108.



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WP Nos.7051 and 7052 of 2



S.M.SUBRAMANIAM, J.

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Common Order in
WPs 7051 and 7052 of 2017

15-09-2023