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W.P.No.31688 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.31688 of 2022

and

W.M.P.No.31132 of 2022

- 1.A.Sacractice
- 2.K.Inbarasi
- 3.Kalaiaarasi
- 4.A.Ezhilmaran
- 5.A.Pandian

... Petitioners

Versus

- 1.The District Collector
Thiruvallur District.
Thiruvallur – 602 001.
- 2.The District Revenue Officer,
(Land Acquisition)
CMRL Administrative Office,
Koyambedu, Chennai – 600 107.
- 3.The Thasildar,
Taluk Office, Poonamalee,
Thiruvallur District.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the proceedings in Na.Ka.No.348/2021/A1, dated Nil/05/2022 on the file of the third respondent in respect of land and building (Adi-Dravida Natham land) situated at Door No.538 Trunk Road, Poonamalee, Chennai – 600 056 measuring an extent of 456 Sq.mts out of 34.44.0 comprised in Survey No.595 and 0045 Sq.mts out of 1759 Sq.ft comprised in S.No.759, Poonamallee Village, Thiruvallur District and quash the same.

For Petitioners :: Mr.M.S.Soundara Rajan
For Respondents :: Mr.R.Shunmugasundaram,
 Advocate General
 Assisted by M/s.Rita Chandrasekar (for R2)
 :: Mr.P.Muthukumar, Spl.Govt. Pldr.
 (for R1 & R3)

ORDER

D.BHARATHA CHAKRAVARTHY, J.,

The lands comprised in S.Nos.595 and 759 of *Poovirunthavalli* Revenue Village and Taluk, Thiruvallur District, were found necessary for the Chennai Metro Rail project to be carried out by the second respondent, namely, the Chennai Metro Rail Limited.

2. On inspection the respondents herein found that the petitioners, namely, *A.Sacratice* and five others were in occupation of S.No.595 by



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building houses and shops admeasuring to an extent of 456 Sq.mts and similarly by building house in respect to an extent of 45 Sq.mts in S.No.759.

Therefore, notices were issued through the third respondent, namely, the Tahsildar, *Poovirunthavalli* Taluk under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, requesting them to show cause as to why they should not be evicted from the above lands. The respondents submitted their objections to the show cause notice. However, by two notices dated 27.05.2022, in respect of each of the Survey Nos.595 & 759 orders were passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, directing the eviction of the petitioners. Aggrieved by the same, the present Writ Petition is filed before this Court.

3. *Mr.M.S.Soundara Rajan*, learned Counsel appearing on behalf of the petitioners would submit that even though there is an appeal provision available under the Tamil Nadu Land Encroachment Act, 1905, since in this case, the very jurisdiction of the authorities to invoke the Tamil Nadu Land Encroachment Act, 1905, is questioned, the petitioners have filed this Writ Petition straight away under Article 226 of the Constitution of India. At the



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outset, the learned Counsel for the petitioners would submit that in respect of S.No.759, even though it is alleged that the petitioners are in occupation of an extent of 45 Sq.mts, he would submit that the petitioners are not in occupation in S.No.759 and that they have no objection whatsoever in taking over the land in S.No.759, *Poovirunthavalli* Revenue Village and Taluk and submitted that they are pressing the Writ Petition only in respect of the impugned order in respect of S.No.595, *Poovirunthavalli* Revenue Village alone.

4. Learned Counsel for the petitioners also relying upon the copy of A-Register which clearly shows that S.No.595 as *Adi Dravidar Natham* and also relying upon from the impugned orders itself, which also clearly mention the classification of lands as *Adi-Dravidar Natham* would contest that in view of the repeated pronouncements of this Court in respect of the *Natham* lands, firstly, the said lands are not vested with the Government and secondly would submit that the provisions of the Tamil Nadu Land Encroachment Act, cannot be invoked for the purpose of removal of the petitioners from their lands. He would submit that because the Chennai



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Metro Rail project is necessary and the public purpose writ large, the petitioners are ready to hand over the lands, provided compensation in respect of the land and building is duly paid to the petitioners. In support of his submissions, the learned Counsel also relied upon the Judgment of this Court in ***T.S.Ravi & Another Vs. The District Collector, Thiruvallur & Others***¹, and the Judgment of this Court in ***M.Sivasakthi Vs. The District Collector, Salem District, Salem and 3 Others***².

5. Per contra, *Mr.R.Shunmugasundaram*, Learned Advocate General appearing on behalf of the respondents would submit that firstly the land is Government interest land and even though it is *Adi-Dravidar Natham*, the petitioners were not granted Patta and so long as they are not granted Patta, they are liable to be evicted from the land in question. He would submit that even the earlier decisions, only recognized the right of the residence of people in *Grama Natham*. But, however, in this case, the petitioners have put up shops and have commercially exploited the land in question and were receiving the rents more than Rs.70,000/- per month. Therefore, they cannot

¹ CDJ 2018 MHC 8248

² W.P.No.6992 of 2020 dated 07.03.2022



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rely upon the earlier decisions of this Court relating to *Grama Natham*.

Once the petitioners have no title in respect of the land in question, the authorities have rightly invoked the provisions of the Tamil Nadu Land Encroachment Act, 1905 and therefore, the Writ Petition is liable to be dismissed.

6. As far as the land in question is concerned, it is needed for the Chennai Metro Rail project and by virtue of the provisions contained in the project, even in respect of the persons who do not have title to the land, appropriate compensation will be paid for the superstructure after making due valuation thereof in accordance with the law. Therefore, he would submit that there is absolutely no merits in the Writ Petition and would pray for the dismissal of the same.

7. *Ms.Rita Chandrasekar*, learned Counsel appearing on behalf of the second respondent placing reliance of the paragraphs 10 to 12 in the counter affidavit would again reiterate the same submissions made by the learned Advocate General and would submit that in any event, the petitioners will



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be granted compensation for the superstructure put up by them. The learned Counsel would submit that on account of pendency of the present Writ Petition, the project itself is stalled and land is imminently necessary for proceeding further with the Chennai Metro Rail project. She would submit that so long as Patta was not granted to the petitioners, the petitioners cannot have any right to claim compensation in respect of land in question. She would also submit that even under the Revenue Standing Orders, even if the petitioners being *Adi-Dravidars* (Schedule Caste Community) still they will be entitled to the Patta only for an extent of 3 Cents, but, however, in this case, they are in possession and enjoyment of an extent about 9 Cents of land. Therefore, she would pray that this Court shall dismiss the Writ Petition.

8. We have considered the rival submissions made on either side and perused the material records of this case.

9. At the outset recording the submissions made by the learned Counsel for the petitioners, we dismiss the Writ Petition in respect of



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S.No.759, *Poovirunthavalli* Village and Taluk and there will be no impediment whatsoever for the respondents to forthwith to take possession of the alleged 45 Sq.mts of land said to be in occupation of the petitioners and no compensation whatsoever need to be paid or no procedure/ formalities or notice need be issued to the petitioners.

10. As far as S.No.595 is concerned, the revenue record, in the form of A-Register produced before us clearly classifies the same as *Adi-Dravidar Natham*. As a matter of fact, the said classification is not disputed and the impugned order itself mentions the classification of the land as *Adi-Dravidar Natham* which means that the *Natham* is meant for occupation of the *Adi-Dravidar* (Scheduled Caste Community people). Admittedly, all the five petitioners belong to Scheduled Caste and the Community Certificate, in respect of one of the petitioners is also produced. The petitioners 1, 4 and 5, three brothers belonging to the same family, the petitioners 2 and 3 who also belong to the same family are in occupation of an extent of 456 Sq.mts of the land comprised in S.No.595. They are residing in the rear portions of the property, while they have put up shops and are collecting



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rental income from the front portion of the suit property.

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11. As a matter of fact, this Court, right from the Judgment in ***Palaniammal Vs. Sethuraman Iyyengar***³, has categorically held that the 'Grama Natham' land is the land set apart for the villagers to build houses and such land does not vest with the Government. As a matter of fact, an earlier Division Bench of this Court in ***T.S.Ravi and Anr. Vs. The District Collector, Tiruvallur and Ors.*** (cited *supra*) has traced out the legal position in all the earlier pronouncements and has categorically held that as opposed to *Ryotwari* lands for cultivation purposes, *Grama Natham* lands is habitation for the land owners to built houses and reside there and as a matter of fact, under UDR scheme, these lands were surveyed and the Government attempted to levy tax by a scheme known as *Natham Nilavari Patta* and only a *Thoraya Patta*, for tax purposes were issued in respect of *Grama Natham*. After considering the issue in detail, this Court has categorically held that the *Grama Natham* land does not vest with the Government and the Government has no paramount title to the land

3AIR 1949 Mad 814



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classified as *Grama Natham* and thirdly, upon considering the provisions of Section 2 of The Tamil Nadu Land Encroachment Act, 1905, the Act cannot be invoked for the purpose of eviction of people who are in occupation of the lands classified as *Grama Natham* or to transfer the title in favour of the Government by using such act.

12. As a matter of fact, in yet another recent Judgment in W.P.No.6992 of 202, a Division Bench of this Court (in which one of us, the Hon'ble Acting Chief Justice is a member) has again reiterated the said legal position. In view thereof, we hold that when the land in question in *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 interest lands so as to made over to the CMRL without acquisition of title.

13. Further, the question of grant of Patta has been clearly dealt with earlier Division Bench of this Court in ***T.S.Ravi & Another Vs. The District Collector, Thiruvallur & Others (cited supra)*** in paragraph No.32



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whereby it is held that the Patta does not confer title in respect of *Grama Natham*, but is issued only under the '*Natham Nilavari Thittam*' that is the Natham Land Tax Scheme only for the purpose of levying tax and therefore, non-issue of Patta by itself will not vest the Government with the title. The very same Division Bench had also considered in paragraph No.27 that merely because the persons residing have also built up shops and are using the property partly by letting out the same as shops, the same again will not make the land loose its character and will not confer the title of the Government.

14. Thus, the questions raised by the Learned Advocate General and the Learned Counsel for CMRL are no longer *res integra* and are already decided by the earlier pronouncements of this Court. Therefore, we find force in the submissions of the learned Counsel for the petitioner that the authority is completely lacking jurisdiction to invoke the provisions of the Land Encroachment Act. However, we also record the submission made by the learned Counsel for the petitioner that the petitioners are ready and willing to hand over possession of the property in question considering the



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imminent necessity for the Chennai Metro Rail project, provided, they are paid the compensation.

15. In view of the above findings, we partly allow the Writ Petition on the following terms:-

(i) The impugned proceedings bearing Na.Ka.No.348/2021/A1, dated Nil/05/2022 on the file of the third respondent are quashed, in respect of S.No.595, Poovirunthavalli Village & Taluk, Thiruvallur District ;

(ii) It would be open for the respondent authorities to negotiate with the petitioners and arrived at the quantum of compensation and upon agreement thereof the petitioners shall forthwith on receipt of the compensation, execute the necessary documents and hand over the possession in respect of the land in their occupation;

(iii) In any event, it would be open for the



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respondent authorities to acquire the land in occupation of the petitioners in question, in S.No.595, Poovirunthavalli Village & Taluk, Thiruvallur District, in accordance with law;

(iv) No Costs. Consequently, the connected miscellaneous petition is closed.

(T.R.,A.C.J.) (D.B.C, J.)
14.03.2023

Index : yes/no

Speaking / Non-Speaking order

Neutral citation : yes/no

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To

1.The District Collector

Thiruvallur District.

Thiruvallur – 602 001.

2.The District Revenue Officer,

(Land Acquisition)

CMRL Administrative Office,

Koyambedu, Chennai – 600 107.

3.The Thasildar,

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AND
D.BHARATHA CHAKRAVARTHY, J.,**

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