



W.P(MD)No.18816 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.18816 of 2022

and

W.M.P(MD)Nos.13712, 13713, 13716, 18888, 19059, 20444 of 2022

Rabiya Basari Begam

... Petitioner

Vs.

- 1.The District Collector
O/o.Collectorate,
Thanjavur District.
- 2.The Commissioner
Pattukottai Municipality,
Thanjavur District.
- 3.The Revenue Divisional Officer,
Pattukottai,
Thanjavur District.
- 4.The Tahsildar
Pattukottai,
Thanjavur District.



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5.The Executive Officer,
Arulmighu Adaikalam Kaatha Ayyanar Temple,
78, Maharajasamuthiram Village,
Pannavayal Road,
Pattukottai Taluk,
Thanjavur District.

(R5 is impleaded as per order of this Court
dated 26.06.2023 in W.M.P.(MD) No.18888 of 2022)

6.P.Saravanakumar

7.Swaminathan

8.Pandiyan

9.Sivachandran ... Respondents

(R6 to R9 are impleaded as per order of this Court
dated 26.06.2023 in W.M.P.(MD) No.19059 of 2022)

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned erroneous entry made in the Town Survey Land Register qua the land of the petitioner situates as T.S. No.12/3, Old Survey No.219, Ward No.C, Block No.15 Maharajasamuthiram Village, Pattukkottai Town, Thanjavur District,



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Dated Nil, and quash the same as illegal and to restore the same in the name of the petitioner and other co-owners viz., one Zulaika Beevi, one K.S.Abdul Kader, one Nazeemunisha and one Haja Mohideen and consequently to forbear the respondents from interfering with the peaceful possession and enjoyment of the property in T.S.Nos.12/1 and 12/3 by the petitioner and the other co-owners stated supra on the basis of the said erroneous entry made in the impugned Town Survey land Register.

For Petitioner : Mr.Ajmal Khan,
Senior Advocate
for M/s.Ajmal Associates

For Respondent : Mr.N.Muthu Vijayan - for R1, R3 & R4
Special Government Pleader
Mr.M.Kannan, - for R2
Standing Counsel
Mr.Ramesh Mahadev - for R5
Mr.B.Jameel Arasu - for R6 to R9



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ORDER

The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an entry relating to the lands of the petitioner at T.S.No.12/3, Old Survey No.219, Ward No.C, Block No.15, Maharajasamuthiram Village, Pattukkottai Town, Thanjavur District and to quash the same and to restore the name and restore the entry in the name of the petitioner, Rabiya Basari Begum and others namely, Zulaika Beevi, K.S.Abdul Kader, Nazeemunisha and Haja Mohideen and to consequently restrain the respondents, District Collector, Thanjavur, The Commissioner, Pattukottai Municipality, The Revenue Divisional Officer, Pattukkottai and The Tahsildar, Pattukottai, all in Thanjavur District, from interfering with the peaceful possession and enjoyment of the property in T.S.Nos.12/1 and 12/3 by the petitioner and other co-owners.

2. In the affidavit filed in support of the Writ Petition, it had been stated that the lands measuring 0.04.0 and 0.24.0 ares, situated in New Survey Nos.12/1 and 12/3 respectively at old Survey No.219,



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Maharajasamuthiram Village, Pattukkottai, belonged to the family of the petitioner. The total area of the land was 2 acres and 65 cents in what was originally Survey No.219. It was claimed that it had been purchased by the forefather of the petitioner, Late.Sheik Teep Subidhar by a registered sale deed, dated 23.06.1875, registered as document No.840/1875 in the Jurisdictional Sub Registrar Office. The petitioner claimed that the land had been in continuous occupation and possession and of the family members of the petitioner. Within that land, there is a pond which is called Pakria Kulam and a temple namely, Ayyanar Kovil. The petitioner claimed that they have been using the water from the pond for cultivating the land.

3. In the year 1963, the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, came to be passed. The Assistant Land Settlement Officer, Thanjavur, had passed an order in Tha.Pa.No.49/EO/Pattu/86 dated 03.11.1987 dividing the total land in Survey No.219 into two parts namely, Survey Nos.219/1 pro and 219/2 pro. The pond and the temple and the lands abutting them were subdivided as 219/2 pro and in the revenue records, those lands were



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classified as Pakria Kulam, Ayyanar Kovil Poramboke. In effect, it was stated to be a water body over which patta could not be granted to any private individual. The other land namely, the other part of the survey number 219 which was assigned Survey No.219/1 pro consisted of shops and agricultural lands. In this, to a part of the land namely, for land measuring 0.04.0 ares ryotwari patta was granted in the name of the Writ Petitioner and also the other individuals on behalf of whom the Writ Petition has been filed, Zulaika Beevi, K.S.Abdul Kader, Nazeemunisha and Haja Mohideen. Since the land was sub-divided and the entire land in Survey No.219 was not recognized to be the lands of the writ petitioner and others, they filed an appeal in C.M.A.No.8 of 1989 before the Inam Estate Abolition Tribunal/Subordinate Court, Thanjavur. A judgment was passed on 19.10.1992. It was directed that except for the land which has been demarcated as pond namely, Pakria Kulam and the land surrounding the temple namely, Ayyanar Kovil, the rest of the lands were directed to be recognized to be in the possession of the appellants therein and patta was directed to be granted. It was ordered that patta should be granted to a further area of 0.24.0 ares in Survey No.219. Consequent to such order which was dated 19.10.1992, the petitioner



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had been giving representations to mutate the revenue records in accordance with the judgment of the Tribunal. Thereafter, the third respondent herein, namely, the Revenue Divisional Officer, Pattukkottai, by proceedings, dated 31.10.2003 in Na.Ka.No.6357/2003/A4 directed the Tahsidlar, Pattukkottai, who is the fourth respondent herein to carry out necessary mutation in the records both in respect to 0.04.0 ares as originally granted and 0.24.0 ares as subsequently recognized by the Tribunal in favour of the petitioner and others.

4. It was stated that this necessitated the total lands in Survey No.219 to be divided into three parts namely, Survey Nos.12/1, 12/2 and 12/3. Out of the three survey numbers, the lands in Survey No. 12/2 were categorized as Government Poromboke Land and the lands in Survey Nos.12/1 and 12/3 were categorized in the names of the petitioner and others as stated above. The petitioner claimed that they continued to possess the said lands and had also put up a shop under the name and style of "Nagoor Andavar Construction Materials Shop". The impugned order came to passed around the year 2018 wherein, the property in Old Survey No.219/1 pro, T.S.No.12/3 though recognized as



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a ryotwari punja land was recorded as "No Name". The petitioner claims that this was done without notice. The petitioner had given a representation to the Tahsildar, Pattukkottai, requesting insertion of the name of the petitioner. The other land namely, the land in TSR No.12/3 was registered in impugned TSLR records in the name of Kovil and Kulam. Questioning this, the petitioner and others made a representation on 29.07.2022 and 30.07.2022.

5. Taking advantage of this classification of the land in Survey No.12/3 as Kovil and Kulam, the immediate cause for filing of the Writ Petition arose since the second respondent, the Commissioner, Pattukkottai Municipality, started deepening and cleaning the pond and constructing a footpath around Pakria Kulam. It is claimed by the petitioner that this was encroachment of the lands of the petitioner herein. When the petitioner then sought a removal of the sand from the agricultural land, the sand which had been dumped during the excavation work from the agricultural land of the petitioner, it was found that the Surveyor had measured the lands on 01.08.2022 and again on 02.08.2022 and found that the boundaries of the tank as mentioned in the



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existing revenue records ends with the corner of the pond and not extended to the lands of the petitioner. However, the excavation work continued. Further representation was given on 06.08.2022. It was stated that since no action had been taken, the Writ Petition came to be filed seeking the above relief with respect to the lands in Survey No.12/3 and incidentally also with respect to Survey No.12/1.

6. When the Writ Petition came up for consideration, in the first instance, a learned Single Judge of this Court, by order, dated 17.08.2022, had granted an order of interim injunction and had justified such order by the following observation :-

"The learned senior counsel for the writ petitioner pointed out that all the antecedent revenue records clearly reflect the name of the writ petitioner herein. He drew my attention to the order dated 19.10.1992 made in C.M.A.No.8 of 1989 on the file Inam Estate Abolition Tribunal/Sub Court, Thanjavur.

2.Only in the year 2009 without notice to the writ petitioner, her name had been deleted in the town survey register. The apprehension of the writ petitioner is that in view of deletion of her name in



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the town survey register, the second respondent is about to interfere with her possession and enjoyment of the petition mentioned property. I find prima facie force in the said contention. Hence, there shall be an order of interim injunction.

3.Notice."

7. The injunction continued to be in force. This effectively meant that the second respondent could not continue with the work of deepening of the tank and excavation of the soil. This necessitated filing an application to vacate the interim injunction by the second respondent/ Commissioner, Pattukkottai Municipality.

8. In the affidavit filed in support of that application, which could be effectively termed as a counter affidavit filed on behalf of the second respondent, it had been stated that the land in Survey No.219 which was to a total extent of 2 acres and 65 cents was classified as "Ayyanar Kovil" and "Pakkirichikulam" and "Paichal Atharam" which could be termed as an irrigation land. The only requirement for irrigation is water. It had been further stated that it was so recorded even



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in the Record of Rights Register prepared in the year 1934. It had been further stated that with respect to the records maintained by the Tamil Nadu Hindu Religious and Charitable Endowments Act, the property in Survey No.219 was also classified as belonging to Arulmighu Adaikalam Katha Ayyanar Thirukovil.

9. The second respondent who had filed the application to vacate the order of injunction, therefore, questioned the very order by which the petitioner claimed right namely, the order of the Tribunal. It was stated that in none of the proceedings, either before the Assistant Land Settlement Officer, Thanjavur, or the Inam Estate Abolition Tribunal, the temple or the Municipality were impleaded as parties. It was therefore, very strongly contended that the said order would not bind either the second respondent / Commissioner, Pattukkottai Municipality, or the temple.

10. Incidentally, the Executive Officer of Arulmighu Adaikalam Katha Ayyanar Thirukovil, had filed W.M.P(MD)No.18888 of 2022 seeking to implead himself as a respondent in the Writ Petition.



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11. Coming back to the affidavit filed in support of the petition to vacate the injunction, it has been asserted that the entire property of 2 acres and 65 cents had been classified either as Ayyanar Kovil or as Pakkirichikulam or as Paichal Atharam. Thus it was contended that under the provisions of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, tanks and Ooranies, including private tanks and Ooranies vested with the Government and patta could not be granted. The second respondent therefore, disputed and denied the claim of the petitioner for grant of patta and also questioned the earlier records affirming such grant by the Assistant Settlement officer or by the Tribunal. It is also stated that this tank was used for religious functions like "Theppam" and for public use, apart from being the source of irrigation.

12. It had been further stated that sale deed, dated 23.06.1875 does not and would not confer any title on the petitioner with respect to said property. It had been further stated that the Government of Tamil Nadu passed G.O.Ms.No.138 dated 27.12.2021, Municipal Administration Water Supply Department, and implemented the



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"Kalaighnar Nagarpura Membattu Thittam - 2021-2022" and under the scheme, rejuvenation of water bodies was being carried out and in Pattukkottai Municipality a sum of Rs.99.77 Lakhs had been sanctioned for rejuvenation of the Ayyanar Kovil Kulam.

13. Further, parallelly, the Commissioner, HR & CE Department, Chennai, by proceedings, dated 26.11.2021, had also granted administrative sanction to the Joint Commissioner, Thanjavur, to perform rejuvenation work of the Ayyanar Kovil Kulam through the Municipal Administration Department. The Joint Commissioner, Thanjavur, HR & CE Department, by proceedings, dated 01.12.2021 had authorized the second respondent to carry out the works. It had been stated that the petitioner and her relatives are encroachers and have put up tin roofed structures and are doing commercial activities without authority on the northern corner of Survey No.219. It had been stated that suppressing all these facts the interim order had been obtained and therefore, it was urged in the affidavit that the interim order should be vacated.



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14. In W.M.P(MD)No.18888 of 2022 the Executive Officer, Arulmighu Adaikalam Kaatha Ayyanar Temple, sought to implead himself as the fifth respondent in the Writ Petition.

15. In his affidavit, he stated that the lands in T.S.Nos.12/1, 12/2 and 12/3 which comprised the lands in Old Survey No.219 at Maharajasamuthiram Village, Pattukkottai Town, Thanjavur District, totally measuring 2 acres and 65 cents, stood in the name of Arulmighu Adaikalam Kaatha Ayyanar Temple. He also pointed out that there was also a pond called Pakria Kulam. He specifically alleged that the Writ Petitioner had used the pond for commercial activities. It had been further stated that the Assistant Land Settlement Officer, Thanjavur, had passed proceedings, dated 03.11.1987, dividing the lands into two parts namely, Survey Nos.219/1 pro and 219/2 pro. The land and the pond were subsequently, registered as Survey Nos.12/1, 12/2 and 12/3.

16. It had been further stated that the lands in Survey No. 12/1 were registered in the name of the Writ Petitioner though it originally stood in the name of the temple and tank. The lands in Survey



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Nos.12/2 and 12/3 however were registered as "Kovilum Kulamum" in the records. A representation was given by the Commissioner, HR & CE Department, to the Joint Commissioner, on 26.11.2021 that funds have been sanctioned for betterment of the pond at Arulmighu Adaikalam Katha Ayyanar Temple, under "Kalaighnar Nagarpuram Mempaattu Thittam". It had been stated that the necessary excavation and deepening work had therefore commenced but had been put on hold consequent to the interim order. It had been very specifically stated that the temple is under the control of HR & CE Department and therefore, the petitioner should be heard before any orders are passed in the Writ Petition.

17. W.M.P.(MD) No.19059 of 2022 had been filed by four petitioners who are strangers to the Writ Petition, but who claimed that they are villagers and residing in the same area. They have also contended in their affidavit that the temple is an illustrious temple and that there was also a pond and the villagers have been worshipping the deity in the temple and thiruvizhas are conducted and the temple was managed by the HR & CE Department. It was specifically stated that the entire extent land including the water tank behind the temple, totally



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measuring 2 acres and 65 cents vests with the temple. It had also been stated that the lands had been classified as Kovil and Kulam and consequently, patta cannot and should not be granted in the name of any individual. It had also been stated that the Writ Petitioner had encroached into the lands and had put up constructions and therefore, it was urged that this Court should not favourably consider the relief sought by the petitioner herein.

18. A counter affidavit had been filed by the first respondent/Writ Petitioner to W.M.P.(MD)No.18888 of 2022 namely, the petition filed to implead the Executive Officer of the aforementioned temple. The Writ Petitioner in the counter affidavit denied all allegations and but also stated that Maharajasamuthiram Village was notified under Section 1(4) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 and was taken over on 16.01.1967. The entire village stood transferred to the Government. It was therefore stated that all the lands, all the interest by any land holder stood ceased. It was further stated that the temple had filed an application before the Settlement Officer, Thanjavur, on the ground that the lands in the village



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are Minor Inams. The Writ Petitioner's father had filed an objection claiming ryotwari rights. It was further stated that the application of the temple was dismissed by proceedings, dated 16.09.1968 and the father of the petitioner was granted liberty to approach the statutory authorities for grant of patta. It had been stated that the temple had filed an appeal before the Inam Abolition Tribunal and the matter was remanded back for fresh disposal.

19. It is stated that the Settlement Officer, SP II, Thanjavur, again negated the contention of the Temple and it had been therefore, stated that the temple cannot claim any exclusive right over the lands. It had also been stated that since patta was not granted for the entire property in Survey No.219, the Writ Petitioner and others had filed an appeal in C.M.A.No.8 of 1989 before the Inam Estate Abolition Tribunal/Subordinate Court, Thanjavur. The appeal was partly allowed. It was again reiterated that the lands were divided into three parts namely, Survey Nos.12/1, 12/2 and 12/3. It had been stated that except the lands in which the Kovil and Kulam are situated, the remainder lands vested with the Writ Petitioner.



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20. In view of this particular fact, it was again reiterated that the Writ Petition should be allowed and other applications should be dismissed.

21. Heard, arguments advanced by Mr.Ajmal Khan, learned Senior Counsel on behalf of the Writ Petitioner, Mr.N.Muthu Vijayan, learned Special Government Pleader on behalf of respondents 1, 3 and 4, Mr.M.Kannan, learned counsel on behalf of second respondent/Pattukkottai Municipality, Mr.Ramesh Mahadev, learned counsel for the petitioner in W.M.P(MD) No.18888 of 2022 and Mr.B.Jameel Arasu, learned counsel for the petitioners in W.M.P. (MD)No.19059 of 2022.

22. The learned Senior Counsel for the Writ Petitioner took the Court through facts as stated above and pointed out the order of the Assistant Land Settlement Officer, Thanjavur, dated 02.11.1987, wherein, it had been very specifically stated that under Section 15(4) of Act 26 of 1963, the lands in Survey No.219 had to be divided into two



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halves and further, ryotwari patta can be given under Section 10(2) of the said Act, with respect to one part of the land. It had also been stated that since the other part of lands in Survey Nos.214 and 219 part were classified as Kulam and Temple, patta could not be granted.

23. The learned Senior Counsel further drew the attention of this Court of the judgment and decree in C.M.A.No.8 of 1989 of the Inam Estate Abolition Tribunal, Thanjavur, wherein, it had been affirmed that in Survey No.219, the temple and tank totally measured 0.70.5 Hectares of land which was recorded in the adangal for the fasli year 1396. It was also pointed out that for the lands in Survey No.219/2 measuring 2.55 cents, patta cannot be granted in favour of any individual. It was also pointed out that in the judgment it had been stated that the patta for the lands excluding the temple and the pond could be granted to the appellants therein. It had also been stated that if there was any land in possession of the appellants in Survey No.219/2, then patta could be granted for the appellants therein/Writ Petitioner herein. In effect, the learned Senior Counsel stated that the possession of the appellants had been recognized by the Tribunal.



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24. The learned Senior Counsel then pointed out that thereafter, the Writ Petitioner had been giving representations to mutate her name in the revenue records. The names were actually incorporated. It is the grievance of the learned Senior Counsel that without notice, the impugned order came to be passed by removing the names of the Writ Petitioner and others and incorporating the names of the temple / kulam.

25. The learned Senior Counsel assailed that order by stating that not only had notice not been given, but also opportunity of hearing was not given. The records were mutated or changed from the name of the writ petitioner to the name of temple and the pond behind the back of the Writ Petitioner herein.

26. It is the contention of the learned Senior Counsel that therefore, the order violated the principles of natural justice and should be set aside.



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27. This contention of the learned Senior Counsel has been very vehemently questioned and disputed by the learned Special Government Pleader and the learned counsels.

28. The learned Special Government Pleader pointed out that as a fact there was a temple, that as a fact there was a kulam and these facts cannot be either denied or disputed. It was therefore, contended that both the temple and the kulam should have exclusive lands allotted to them. This was recognized by the impugned order. It was also stated that the writ petitioner and her relatives were encroachers. It was also contended that the Government had brought in a welfare scheme for deepening of the pond and for desilting of the temple pond and substantial amount had been allotted by the Pattukkottai Municipality, for this particular purpose.

29. It had therefore been contended by the learned Special Government Pleader that the order of interim injunction has directly put on hold that particular scheme and loss had only accumulated. The work of desilting and excavating the temple pond had come to a stop.



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30. The learned counsel for the impleading applicants in W.M.P.(MD)No.19059 of 2022 asserted that the entire lands were always classified only as Kulam and Kovil.

31. The learned Standing Counsel for the second respondent/Pattukkottai Municipality asserted that the names of the petitioner and others were incorporated in the records by way of an order passed by the Tribunal, in which neither the temple nor the Municipality were parties. It was therefore, contended that the said order would not bind the temple or the Municipality. It was stressed that the names of the temple and pond were always given in the ryotwari records. It was contended that the Writ Petitioner and her relatives were encroachers and had put up constructions and it was urged that this Court should not interfere with the order passed but should interfere with the injunction granted and should vacate the order of interim injunction granted and in effect, should dismiss the Writ Petition.



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32. With respect to the issue of notice, it was contended that the petitioner being encroachers, the records were only corrected as they originally stood to the names of the temple and kulam. It was also contended that this order is an appealable order and once there is an alternate effective appellate remedy available, this Court should not enter into any discussion on the facts of the case.

33. I have carefully considered the arguments advanced and perused the materials available on record.

34. This is a case where there is a dispute over lands measuring 2 acres and 65 cents which was originally classified as Survey No.219 in Maharajasamuthiram Village, Pattukkottai Town, Thanjavur District. The Writ Petitioner claims that her forefathers had purchased the lands by a sale deed dated 23.06.1875. The earliest revenue records of the year 1934, however, has classified the land as Kulam and Kovil. Thereafter, the entire village namely, Maharajasamuthiram Village, was notified under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 and the lands in the entire village stood vested



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with the Government. This would effectively mean that there could not be any private holding or claim of land by any private person for grant of patta. The official who were entrusted with grant of patta on examination of the holdings and of title was the Assistant Settlement Officer. Thereafter, a Tribunal was also constituted namely, the Land Abolition Tribunal/Principal Subordinate Court, Thanjavur.

35. It is contended on behalf of the writ petitioner that the Tribunal had recognized the holding of the Writ Petitioner and had directed grant of patta for a portion of the lands after excluding the lands which fell within the purview of the kulam and temple.

36. The lands also underwent major sub-division. They were initially classified as Survey No.219. Thereafter, they were classified as Survey No.219/1 Pro and Survey No.219/2 pro. Thereafter, they were again sub-divided as Survey Nos.12/1, 12/2 and 12/3.

37. The lands in contention are the lands in Survey Nos.12/1 and 12/3. It is contended that the land in Survey No.12/2 has been



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classified as Government Poromboke land. The lands in Survey No.12/3 after the order of the Tribunal was mutated in the names of the writ petitioner. It was then classified by way of the impugned order as the lands of the temple and the Kulam. These facts would throw up the following issues :

1) The reliability and admissibility of the sale deed of the year 1875 and the right and title of the petitioner and her forefathers.

2) The entry in the records of the year 1934, which recognized the land as Kulam and Kovil.

3) The effect of the Inam Abolition Act of the year 1963 whereby, the lands in the entire village stood vested with the Government.

4) The proceedings before the Assistant Land Settlement Officer and whether such proceedings stood vitiated in the absence of non-impleading of the Municipality and the temple.

5) The contentions of the petitioner that the temple and the Municipality actually made an



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application but were rejected and consequent appeals were also rejected.

6) The appeals before the Tribunal/Principal Subordinate Court, Thanjavur, which had proceeded in the absence of the temple and the Municipality as parties and its binding effect on the temple and the Municipality.

38. These are issues which have to be examined in detail, particularly, the genesis document, the sale deed of the year 1875 and its binding effect. If that sale deed is disputed, the petitioner is right to apply before the Settlement Officer would also stand contentious. The effect of the order of the Tribunal passed in the absence of temple and municipality though the lands were classified as Kulam and Kovil, has also to be examined. Further the effect of the Act of 1963 whereby the lands in Maharajasamuthiram Village vested with the Government has also to be explained. It has also to be examined whether the possession of the petitioner is legal, lawful and whether such possession could be recognized by this Court on the basis of the documents which are



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themselves subject of denial and dispute and rival contentions by either side. These documents will have to be examined in their proper prospective. The Officials will have to be summoned to examine the issues relating to possession and on issues relating to title.

39. The learned counsel for the second respondent had placed reliance on a judgment of the Hon'ble Supreme Court reported in *1985(4) SCC 10, State of Tamil Nadu Vs. Ramalinga Samigal Madam*, wherein, the Civil Court's jurisdiction, to adjudicate on the real nature of the land was held to be not ousted under Section 64(c) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, by reason of the Settlement Officer's decision to grant or refusal to grant patta under Section 11 r/w. the proviso to Section 3(d) of the Act.

40. It has been held as follows :

"12. Now turning to the question raised in these appeals for our determination (it is true that s. 64-C of the Act gives finality to the orders passed by the Government or other authorities in respect of the matters to be determined by them under the Act and



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sub-s. (2) thereof provides that no such orders shall be called in question in any court of law.....

..... Approaching the question from this angle it will be seen in the first place that s. 64-C itself in terms provides that the finality to the orders passed by the authorities in respect of the matters to be determined by them under the Act is "for the purposes of this Act" and not generally nor for any other purpose.....

..... The enactment and its several provisions are thus intended to serve the revenue purposes of the Government, by way of securing to the Government its sovereign right to collect all the revenues from all the lands and to facilitate the recovery thereof by the Government and in that process, if necessary, to deal with claims of occupants of lands, nature of the lands, etc. only incidentally in a summary manner and that too for identifying and registering persons in the revenue records from whom such recovery of revenue is to be made. The object of granting a ryotwari patta is also to enable holder thereof to cultivate the land specified therein directly under the Government on payment to it of such assessment or cess that may be lawfully imposed on the land.

13. Secondly, the principle indicated in the second proposition enunciated in Dhulabhai's case



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(supra) requires that the statute, when it creates a special right or liability and provides for its determination, should also lay down that all questions about the said right or liability shall be determined by the Tribunal or authority constituted by it, suggesting thereby that if there is no such provision it will be difficult to infer ouster of the Civil Court's jurisdiction to adjudicate all other questions pertaining to such right or liability.....

.....A summary decision of this type in an inquiry conducted for revenue purposes cannot be regarded as final or conclusive so as to constitute a bar to a Civil Court's jurisdiction adjudicating upon the same issue arising in a suit for injunction filed by a ryot on the basis of title and/or long and uninterrupted possession. Since a full-fledged inquiry on the nature or character of land is provided for under s. 15 in the case of an application by a land-holder the character of the Settlement Officer's decision on such issue may be different but that question is not before us.

14. Thirdly, having regard to the principle stated by this Court while enunciating the first proposition in Dhulabhai's case (supra) it is clear that even where the statute has given finality to the orders of the special tribunal the civil court's jurisdiction can be regarded



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as having been excluded if there is adequate remedy to do what the civil court would normally do in a suit. In other words, even where finality is accorded to the orders passed by the special tribunal one will have to see whether such special tribunal has powers to grant reliefs which Civil Court would normally grant in a suit and if the answer is in the negative it would be difficult to imply or infer exclusion of Civil Court's jurisdiction.....

16. Having regard to the above discussion we confirm the High Court's view that the Civil Court's jurisdiction to adjudicate on the real nature of the land is not ousted under s. 64-C by reason of the Settlement Officer's decision to grant or refuse to grant a patta under s. 11 read with the proviso to s. 3(d) of the Act. The appeals are, therefore, dismissed but with no costs."

41. The learned counsel also placed reliance on the judgment reported in 2006(1) SCC - 257, *Joint Commissioner, HR & CE Department Vs. Jayaraman and others*, in which it has been held as follows :



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"3. What requires to be emphasized once again, is that the Settlement Tahsildar did not see either the original grants in respect of the lands or the extract of the Inam Register, while directing the issue of the patta by changing the pattadar from the temples to the claimants and did not care to insist on the claimants impleading the deities and the H.R & C.E. Department as respondents in the proceedings, in spite of the directions in that behalf contained in the order of remand. It was clearly a case of total non-application of mind by the Settlement Tahsildar amounting to dereliction of duty. The patta thus granted by him cannot either affect the rights of the deities or of the temples and cannot bind them or the H.R & C.E. Department. Nor can it affect the right of the worshipping public in these public temples.

6. At the outset, it must be stated that in the absence of the original grants being produced by the claimants, the grants could not have been construed by the District Court or by the High Court to decide upon the nature of the grant. That apart, it was clearly a case where orders have been obtained by the claimants without impleading the deity or the H.R & C.E. Department and the orders so obtained and the patta thus procured, were not



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binding either on the deities or on the H.R & C.E. Department. Therefore, neither the District Judge nor the Judge of the High Court could have relied on those proceedings as against the deities or as against the H.R & C.E. Department."

42. This judgment had been relied on to contend that where orders had been obtained without impleading the HR & CE Department or the deity as a party then, such proceedings or orders against the deity or the HR & CE Department should not be relied on by the High Court.

43. In the instant case, an examination of the facts as stated above make it imperative that proper adjudication would require the authorities particularly, the Revenue Authorities to examine and go deeply into the issue of title of the land. That may not be possible. The petitioner claims title on the basis of a sale deed of the year 1875. Thereafter, that claim stood interfered by the vesting of the lands with the Government consequent to the introduction of the Abolition Act, 1963. Thereafter, the petitioner had filed an application before the Settlement Officer seeking patta / ryotwari patta. Orders in those



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proceedings were passed without impleading either the Municipality or the HR & CE Department.

44. It is the contention of the learned Senior Counsel for the petitioner that consequent to such orders the revenue records were mutated in the name of the petitioner and others. It had been contended that without notice, the names of the petitioner and others were removed and the names of the Kovil and Kulam were incorporated. If it were to be a reversal of entry then the revenue officials will have to examine the issue of title. The revenue officials or even the respondents herein can never examine the issue of title. The issue of possession and title can be determined only on the basis of documents which are admissible and proved in manner known to law. The possession of the petitioner is questioned. The legality of such possession is questioned. It is termed they are encroachers. The petitioner on the other hand claims that a Survey was conducted and it is contended that the boundary of the pond ended with the outer line of the pond and did not flow over to the lands of the petitioner herein.



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45. I must respect at the limitation of this Court exercising jurisdiction under Article 226 of Constitution to examine documents whose admissibility and veracity have been questioned by both the sides. Not even one document has been admitted by either of the sides. If the order of the Tribunal is produced, it is contended that the Municipality and the temple were not parties to the said order and therefore, it is not binding on them. On the other hand, it is also contended that the temple had independently filed an application and suffered an adverse order. Circumstances surrounding all these aspects will have to be explained. These aspects never be adjudicated in a Writ Petition.

46. The only alternate for the petitioner is to institute a suit seeking title on the basis of actual measurement of the properties. Such measurement of the properties will have to be done under authority and orders of a Court. As stated in the judgment reported in *1985(4) SCC 10* referred supra, there is a window open for the petitioner to institute a suit even though there is a bar under the Act for seeking the jurisdiction of the Civil Court. Here the petitioner claims title. The petitioner claims possession. The petitioner objects the right of the respondents to claim



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title and the right of the respondents to even possess the lands. When the facts are disputed, then it would only be appropriate that a Civil Court examines the issues. Even if this Court were to remand the matter back to the revenue authorities on the ground that notice was not served and even if notice is served, no order can be passed by the revenue authorities, unless they examine the title of the parties. They will have to go into the issue of title and possession by either parties. This would again require survey of the lands. This would again require lawful possession of the lands. To declare possession being lawful, the issue of title will have to be examined. The issue of original entry into the land will have to be examined. To decide that original entry into the land the title will have to be examined. This is a circle of facts to be determined each interlinked with the other. Any issue can be examined only by adducing evidence both oral and documentary. Parties must be given an opportunity to do so. The scope of the writ jurisdiction is extremely narrow in this case.

47. The only aspect which the learned Senior counsel asserts should play on the mind of the Court is that the entries were altered



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without notice to the petitioner herein. But when there is an assertion that even the order of the Tribunal should be re-examined, since the Municipality and temple were not parties to the same, then the original entry in the name of the petitioner itself becomes questionable. Again if that entry is to be re-examined then the issue of possession and the issue of legality of such possession and the issue of extension of that possession over the lands classified as kulam and kovil will have to be examined. These aspects can be examined only by a Civil Court.

48. A Division Bench of this Court in *Viswas Footware Company Ltd., Vs. District Collector*, reported in 2011 (5) CTC 94 and I must state it was on the issue of grant of patta and on mutation of revenue records, had held that revenue officials should never enter into a discussion of title. If this Court were remand the matter back to the authorities, then this Court would be inviting the authorities to enter into a discussion on title which is impermissible in law.

49. The only avenue open to the petitioner herein is to take advantage of use that small window granted in 1985(4) SCC - 10



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referred supra and seek examination of the issues by the Civil Court. The Writ Petitioner has chosen to file this Writ Petition. This Court can never grant them the relief sought. They will have to choose a proper forum to agitate the issues. That could either be the appellate forum if there is an appeal provision available or before the Civil Court. But the scope of the Writ Court, to adjudicate title on the basis of documents which are seriously questioned by either side, is very narrow and should be abjured. The Writ Court should not convert itself as a Court to examine title on the basis of documents produced even without putting those documents to test on the issues of admissibility, proof and relevancy.

50. In view of these observations, this Writ Petition stands dismissed.

51. With respect to the impleading applications, since in both the affidavits, contentions have been raised asserting rights of the temple and the Municipality over the lands, I would allow the impleading applications in W.M.P.(MD) Nos.18888 and 19059 of 2022 and direct the Registry to carry out necessary amendment by impleading



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the petitioner in W.M.P.(MD) No.18888 of 2022 as the fifth respondent and the petitioner in W.M.P.(MD) No.19059 of 2022 as the sixth to ninth respondents.

52. In effect,

1) W.P.(MD) No.18816 of 2022 is dismissed.

2) W.M.P.(MD) Nos.18888, 19059 of 2022 and 20444 of 2022 are allowed.

3) Other connected W.M.P(MD)Nos.13712, 13713 and 13716 of 2022 are closed.

4) No costs.

26.06.2023

Index :Yes/No
Internet :Yes/No
NCC : Yes / No

RM



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To
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- 1.The District Collector
O/o.Collectorate,
Thanjavur District.
- 2.The Commissioner
Pattukottai Municipality,
Thanjavur District.
- 3.The Revenue Divisional Officer,
Pattukottai,
Thanjavur District.
- 4.The Tahsildar
Pattukottai,
Thanjavur District.



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C.V.KARTHIKEYAN, J.

RM

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26.06.2023