BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.06.2023

PRONOUNCED ON : 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)Nos.3090, 5593 of 2014
and
MP(MD)Nos.1, 1 of 2014

N.Rani : Petitioner in WP(MD)3090/2014

K.Ramasamy : Petitioner in WP(MD)5593/2014

Vs.

1.The District Collector,
Madurai District.

2.The Revenue Divisional Officer,
Madurai District.

3.The Tahsildar,
Thirumangalam,
Madurai District. : Respondents 1 to 3 in both WPs

4.The Block Development Officer,
Thirumangalam Panchayat Union,
Thirumangalam,
Madurai District.

5.The President,
Kappalur Panchayat,
Madurai District. : Respondents 4 & 5 in WP(MD)3090/2014

PRAYER in WP(MD)3090/2014: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus forbearing the respondents from evicting the petitioner from the land in Old S.No. 11/1A, Natham S.No.136/36, Kappalur Village, Thirumangalam Taluk, Madurai District, by demolishing the house of the petitioner bearing Door No.3/141-1, Kappalur Panchayat.

PRAYER in WP(MD)5593/2014: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus forbearing the respondents from evicting the petitioner from the land in Old S.No. 11/1A, Natham S.No.135/48, Kappalur Village, Thirumangalam Taluk, Madurai District.

For Petitioners : Mr.J.Barathan
in both WPs

For Respondents: Mr.S.Shaji Bino,
Special Government Pleader
for R.1 to R.4 in WP(MD)3090/2014
for R.1 to R.3 in WP(MD)5593/2014

No appearance for R.5
in WP(MD)3090/2014

Mr.Sankar,
Amicus Curiae
in both WPs

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COMMON ORDER

These writ petitions are filed by the petitioners for a mandamus forbearing the respondents from evicting them from the lands, which are classified as 'Natham'.

2.According to the petitioner in WP(MD)No.5593/2014, the lands in Old S.No.11/1A were classified as Natham and the petitioner is residing in the said place along with his family. Under the natham settlement scheme, he was granted with patta for Natham S.Nos.136/12, 136/27, 136/28. Apart from this, the petitioner and his brothers are also in possession of the lands in Natham S.No.136/48. However, the respondents, by claiming it as poromboke, are trying to evict the petitioner from the lands. Hence, he filed the present writ petition.

3.Similarly, the petitioner in WP(MD)No.3090/2014 claims that her husband's family was residing in Old S.No.11/1A, which is classified as Natham. Under the natham settlement scheme, her husband was granted with patta for Natham S.No.136/2. Apart from this, the petitioner has put up a house in Natham S.No.136/36 as well, however, the respondent Panchayat has passed a resolution dated 14.11.2003, allotting the site for a library and are trying to evict the petitioner. Hence, she filed the present writ petition.

4.Learned Counsel for the petitioners submitted that Gramanatham is not vested with the Government and that the occupier of the Gramanatham becomes the absolute owner. Once long possession is proved, the petitioners are entitled to possessory title.

5.Heard the learned Special Government Pleader appearing for the respondents / State and the learned *Amicus Curiae*, as well.

6.'Grama Natham' is defined in the Law Lexicon as 'ground set apart on which the house of village may be built'. The natham survey and settlement was carried out pursuant to G.O.Ms.No.1971, Revenue Department, dated 14.11.1988. As per this survey, all private holdings in natham lands are registered as 'manai'. All other vacant sites were registered as 'vacant poromboke sites'. All other public lands such as roads, streets, cart ways, thrashing floors, etc., were recorded as it is. This settlement is said to have been completed by the year 1996. One of the purposes the natham survey and settlement scheme is to identify and assign the natham vacant sites for weaker sections of rural sites and to preserve them for future public use.

7.As per G.O.Ms.No.1971, Revenue Department, dated 14.11.1988, the Settlement Tahsildar was the authority for granting classification of the lands and issuance of patta. Any appeal against such decision was preferred before the respective Revenue Divisional Officers within a period of 30 days and the revisional power was vested with the respective District Revenue Officers. As of now, any ownership claim regarding natham land are decided as per the Circular No.K3/14710/2015 dated 07.08.2015 issued by the Additional Chief Secretary to Government / Commissioner of Land Administration.

8.In a similar issue, this Court, ***in R.Shanmugaraj v. District Collector & Others*** [***WP.No.2855/2013, dated 01.11.2018***], following the guidelines in the Circular No.K3/14710/2015 dated 07.08.2015, has held as follows:-

> *"24. In respect of Natham Land, the Additional Chief Secretary / Commissioner of Land Administration issued a Circular in reference No.K3/14710/2015 dated 07.08.2015. The Circular provides various guidelines for dealing with the Natham Land. In para 2 of the said circular, it has been explicitly stated that the vacant lands available in Natham shall be recorded as "Vacant Site" and can be assigned to the weaker sections of the rural population. One of the purposes of the Scheme is to identify vacant lands and preserve them for the use of future public purposes. Public properties such as temple, school*

buildings etc., will be separately distinguished and this will be useful for administrative and various development activities.

25. Para 5 of the circular reads as under:-

"5. As far as Natham lands are concerned, though they are clearly government lands, the titular rights of the people enjoying the same as house site cannot be denied. Moreover as a matter of practice Natham lands are being registered by the registering authorities of registration department for long time. The said title should be followed by enjoyment. While sending proposals the District Revenue Officers should ensure that the "Vacant Site" is under the enjoyment of the claimant along with clear documentary evidence to prove the title. Since the Natham settlement scheme was completed in the year 1996, the parent documents relied on by the claimants must have been registered before the year 1966 i.e thirty years prior to 1996. It is pertinent to mentioned that as the land value in the State has been soaring many times, there are possibilities of creating rights in the "Natham Vacant Site" by newly registering documents by the persons who have no title or enjoyment. Hence unregistered documents or documents registered after 1996 cannot be used to claim patta under this scheme. Another important fact to be verified is that the registered documents relate to the land for which they are sending proposals and the boundaries are correctly tallied without matching the

boundaries, it is not posssible to correlate these documents to the vacant site being cleared as "Natham" sites where not fully subdivided earlier under the Natham Settlement Scheme, patta was issued on the basis of enjoyment and the rules of darkast were not applied except for fixing the ceiling of 35 cents."

26. Para 6 of the Circular prescribes the procedures to be followed as under:-

"6. In view of the above discussion, the following criteria shall be adopted to consider the proposals received from the District Revenue Officers.

A. In para 5 of the notification of the Natham Settlement Scheme, it has been stated that in cases where no assignment order has been issued by the Revenue Department, the Special Tahsildar will decide the ownership of the property on the basis of enjoyment for 30 years prior to the date of publication of the notification in T.N.G.G. The notification was issued on 14.10.1988 and the scheme was completed in the most parts of the State in the year 1996. Hence, in the proposals received from the District Revenue Officers now, 30 years of continuous enjoyment may be counted from the year 1966.

B. In the case of category I, where built-up structures have been wrongly classified as vacant sites, the claimant should furnish proof of the existence of the house at the time of settlement by detail *in the FMB or other documentary proof and continuous possession and enjoyment by suitable documentary evidence.*

C. In category II, where the land continuous to be vacant / new structure has been built after the Natham Settlement, continuous chain of documents from prior to the year 1966 will have to be established. The boundaries mentioned in those documents should be matched with the land for which claims are made and clearly colour marked in the field sketch. This exercise should be done at Field level and a certificate in this regard should be furnished by the District Revenue Officer.

D. There are cases of claims for vacant Natham sites physically adjacent to Natham patta lands of the claimant that have alrady been issued patta under the Natham Settlement Scheme.

In such cases, the claim of the petitioner has already been evaluated during the Natham Settlement. The Natham patta has been granted after verifying the documents and possession during the Natham Settlement Scheme, and the vacant site not owned by the claimant has been settled as Natham vacant site, no further claim can be based made on the same documents (prior to 1996) which have been taken in to consideration during the scheme. Such petitions need not be entertained.

E. Under the Natham Settlement Scheme, the maximum area for which patta could be granted was 35 cents only. The scheme *restricted the claims to a maximum of 35 cents only. Hence, for a valid claim over a vacant Natham site, all vendors and vendees including the present claimant in the unbroken chain of transactions since 1966 should have held less than 35 cents only at any point of time. A certificate should be furnished by the District Revenue Officer that*

(i) The total Natham patta land of the claimant including the present claim, excluding patta lands purchased after the scheme, does not exceed 35 cents in that Revenue village.

(ii) all vendors and vendees in the unbroken chain of transactions since 1996 have held less than 35 cents only.

Therefore, the District Revenue Officers are requested to carefully examine the proposals received from the Revenue Divisional Offices and confirm that the above criteria are fulfilled before sending proposal to this office. It should be borne in mind that since the scheme was completed 28 years ago and there is no provision to apply under the scheme after the completion of the scheme. In the normal course, vacant Natham land should be assigned under RSO 21 as this is only a concession to those who have failed to get patta under Natham Settlement Scheme, though they were eligible. If the proposals received from the District Revenue Officer are found to be incomplete, they will be returned summarily."

27. In view of the circular issued by the Government, the writ petitioner cannot be declared as a owner of the property which is described in the present writ petition. The writ petitioner has not establishing any valid assignment in his favour. Contrarily, the petitioner claims that he inherited the property from his great grand father. Such stale claims cannot be entertained in the writ petition. Even if the petitioner claims over the title of the property then it is left open to him to approach the Competent Civil Court of Law for establishing his title, possession or ownership. Contrarily, by merely submitting a partition deed registered between the family members of the writ petitioner cannot be relied upon for the purpose of granting the relief as such sought for in the present writ petition."

9.The petitioners herein were issued with patta as per the scheme for S.Nos.136/2, 136/12, 136/27, 136/28. Apart from this, now they are claiming title for the adjacent lands in S.Nos.136/36, 136/48, for which, they are not issued with any patta.

10.As per G.O.Ms.No.1971, Revenue Department, dated 14.11.1988, the lands with no private holding have to be classified as 'vacant poromboke sites'. The petitioners can claim patta only under Circular No.K3/14710/2015 dated 07.08.2015 or apply for assignment of house site under Revenue Standing Order 21. As per the Circular, the petitioners' claim has already been evaluated during the natham settlement. Natham patta has already been granted, after verifying the documents and possession during the natham settlement scheme and the vacant site which was not owned by the claimant has been settled as natham vacant site. As such, the petitioners cannot make a further claim now.

In view of the above, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

22.12.2023

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

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2.The Revenue Divisional Officer,
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3.The Tahsildar,
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B.PUGALENDHI, J.

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