



W.A.No.125 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

W.A.No.125 of 2023

and

C.M.P.Nos.1259 & 14039 of 2023

Asthanthira Golla Naidu Kalyana Mandapam Trust @
Thottiyar Madam, represented by its President V.S.Ravichandran
No.2/222, Vettaikaran Koil,
Nagadevanpalayam Post,
Gobichettypalayam Taluk,
Erode District.

... Appellant

Vs.

- 1.The Additional Chief Secretary to Government/
Commissioner of Land Administration,
Ezhilagam, Chennai – 600 005.
- 2.The District Collector,
Tiruppur District,
Tiruppur.
- 3.The District Revenue Officer,
Tiruppur District,
Tiruppur.



W.A.No.125 of 2023

WEB COPY

4. The Tahsildar,
Avinashi Taluk,
Tiruppur District.

... Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.09.2022 in W.P.No.33648 of 2018 on the file of this Court.

For Appellant : Mr.M.Sriram
Senior Counsel

For Respondents : Mr.P.Ramanlaal
Additional Advocate General
assisted by Mr.A.Selvendran
Special Government Pleader

J U D G M E N T

(Judgment was delivered by **S.S. SUNDAR, J.**)

This Writ Appeal is directed against the order of the learned Single Judge dated 26.09.2022 in W.P.No.33648 of 2018 filed by the appellant, challenging the order passed by the 1st respondent dated 04.10.2018 and for issuing a direction to the respondents to issue patta to the petitioner in respect of the property in S.F.No.85/D15, Door No.47, West Rada Street,



W.A.No.125 of 2023

Avinashi Village, Tiruppur District.

WEB COPY

2. Brief facts that are necessary for the disposal of this Writ Appeal are as follows :

2.1. The appellant claims to be a Trust having landed property. It is the case of the appellant that the appellant Trust had put up a Kalyana Mandapam in the name and style of “Asthanthira Kolla Naidu Kalyana Mandapam or Thottiyar Madam” in S.F.No.85/D15, Door No.47, West Rada Street, Avinashi Village, Tiruppur District (measuring an extent of 6586 sq.ft.). The case of the appellant is that the appellant Trust was formed by the community people who live in and around Avinashi Village for the benefit of their community. It is stated by the appellant that the appellant had resolved to construct a Kalyana Mandapam. The request of the appellant for grant of patta in respect of an extent of 6586 sq.ft. in S.No.85/D15 was rejected by the District Revenue Officer earlier by proceedings dated 22.04.2016, referring to the objection raised by one Mr.P.Subramaniam, who has also claimed patta for another Trust namely Kollar Mada Social Trust, and another person by name Mr.Kailasam who



W.A.No.125 of 2023

has also claimed to have constructed a tiled house in 200 sq.ft. and is in possession of the same along with adjoining vacant land. The District Revenue Officer, finding that the appellant has not produced any document to show that the appellant was in enjoyment of the land as claimed by them, dismissed the request for assignment or patta.

2.2.The order of the District Revenue Officer, dated 22.04.2016, refusing to grant patta in favour of the appellant, was challenged by way of a review before the Commissioner of Land Administration, the 1st respondent herein. The 1st respondent by the impugned order, confirmed the order of the District Revenue Officer and dismissed the review, after holding that the appellant has not filed any document to show their possession or enjoyment as claimed by them. Having regard to the character of the property to which the appellant claims patta and the rival claims, the 1st respondent held that the appellant, who has neither produced any document to show their title nor possession and enjoyment of the said land, is not entitled to patta for the land. Accordingly, the review of the appellant was rejected, confirming the order of the District Revenue Officer, after recording a finding that the appellant has no right.



W.A.No.125 of 2023

WEB COPY

2.3.Challenging the order of the 1st respondent, the appellant filed the writ petition in W.P.No.33648 of 2018 before this Court. Learned Single of this Court found no reason to interfere with the order of the 1st respondent and ultimately, dismissed the writ petition filed by the appellant.

2.4.Challenging the order of the learned Single Judge, the above Writ Appeal is filed.

3.Learned Senior Counsel appearing for the appellant submitted that no other person has a rival claim as against the appellant in respect of the subject land and that the learned Single Judge, for no valid reason, discarded the contentions of the appellant as to their rights. Learned Senior Counsel then submitted that the appellant is in possession of the property by paying Tax for a long period at least from 1948 and that this aspect has not been gone into by the 1st respondent. He further submitted that there is no rival claim and that therefore, there is no necessity for filing a suit, as directed by the learned Single Judge while dismissing the writ petition. He



W.A.No.125 of 2023

then relied upon an observation as to the entry in Revenue records to show that the appellant has constructed a Kalyana Mandapam as per the Adangal Register obtained from the Village Administrative Officer. Finally, the learned Senior Counsel submitted that, in the same street, there are several Kalyana Mandapams and Community Halls constructed by persons belonging to different communities and that the appellant alone has been discriminated.

4. We are unable to countenance any of the submissions of the learned Senior Counsel appearing for the appellant for the following reasons :

First of all, it is not in dispute that the property in S.No.85/D15, in entirety, has been classified as Government Poramboke. In the 'A' Register, in the column with heading “Remarks” (குறிப்பு), the word 'Natham' is found. Since it is a residential portion of the Village, this Court presumes that the property is shown as 'Natham', but the same has been recorded in Revenue records as Government Poramboke, as it is not in the enjoyment of any particular individual for a residential purpose, or otherwise. All vacant sites within the property classified as Natham, can either be a property of an



W.A.No.125 of 2023

individual who is having a house or residence or a communal land. It is true that property classified as Natham does not vest with the Government under any of the enactments, viz., Tamil Nadu Estates (Abolition and Conversion Into Ryotwari) Act 1948 [**Act 26 of 1948**], The Tamil Nadu Inam Estates [Abolition and Conversion into Ryotwari] Act, 1963 [**Act 26 of 1963**] and The Tamil Nadu Minor Inams [Abolition and Conversion into Ryotwari] Act, 1963 [**Act 30 of 1963**]. That does not mean that anyone who has put up a building is entitled to claim title. The appellant was not given patta during settlement. The appellant has not even produced any document to show that, during Natham Settlement, the appellant has established title or possession. Except the fact that, in the Adangal, the Kalyana Mandapam is referred to, no document is produced by appellant to recognise its title. This has been clarified by the District Revenue Officer in his order that the building put up by the appellant was in an extent of 90 sq.m. earlier. That does not give title to the appellant in respect of 15 Cents as claimed by the appellant now. It is held by the 1st respondent that, during Natham Settlement, S.No.85D/1, measuring an extent of 2.75.5 Hectares in Avinashi Village, was recorded as Government Poramboke 'Natham'. This only



W.A.No.125 of 2023

shows that nobody was recognised as owner in any portion of the land in S.No.85D/1. Merely because a portion of the property has been referred to as a property in the enjoyment of the appellant, the appellant cannot claim title to the whole land with a larger extent. When the occupation or possession of appellant is confined only to the extent of 90 sq.m. (roughly about 2 Cents), the appellant's claim for larger extent of 15 Cents cannot be accepted.

5.This Court, having regard to the specific findings recorded by the 1st respondent about the third party claims in respect of the property, is unable to accept the contentions of the learned Senior Counsel appearing for the appellant. It is well settled that the respondents have no right to decide the question of title when there are rival claims. In this case, the land which is classified as Government Poramboke 'Natham', *prima facie* refers to a communal land within the property particularly classified as Natham, i.e., residential portion of a Village. In such circumstances, the appellant, at best, can be given liberty to file a Civil Suit to establish his title or enjoyment over any portion of the property which is classified as



W.A.No.125 of 2023

Government Poramboke 'Natham'.

WEB COPY

6.For the above reasons, this Court finds no infirmity in the order of the learned Single Judge. Therefore, preserving the liberty of the appellant to approach the Civil Court to establish its title, based on title documents or long enjoyment, this Writ Appeal is dismissed.

7.When a suit is filed, the jurisdiction of Civil Court to go into the question of title is wide, as it has been repeatedly held by this Court. Therefore, uninfluenced by any of the observations made by this Court or the 1st respondent or any other Revenue officials, the Civil Court shall decide the issues regarding appellant's title or enjoyment over the property which is the subject matter of this *lis*. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R., J.) (K.R.S., J.)
29.08.2024

mkn

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

Page 9 of 11



WEB COPY

To

- 1.The Additional Chief Secretary to Government/
Commissioner of Land Administration,
Ezhilagam, Chennai – 600 005.
- 2.The District Collector,
Tiruppur District,
Tiruppur.
- 3.The District Revenue Officer,
Tiruppur District,
Tiruppur.
- 4.The Tahsildar,
Avinashi Taluk,
Tiruppur District.



W.A.No.125 of 2023



WEB COPY



W.A.No.125 of 2023

S.S. SUNDAR, J.
and
K. RAJASEKAR, J.

mkn

W.A.No.125 of 2023

29.08.2024