



W.P. No. 12203 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR.JUSTICE K. RAJASEKAR

W.P. No. 12203 of 2019

&

W.M.P. Nos. 12476 & 12477 of 2019

C. Rukmangathan

..Petitioner

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
3. The Revenue Divisional Officer,
Chengalpattu,
Kancheepuram District.
4. The Thasildar,



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Thiruporur Taluk,
Kancheepuram District.

5. The Block Development Officer,
Thiruporur Panchayat Union,
Thiruporur, Kancheepuram District.
6. The Assistant Executive Engineer,
O & M, TANGEDCO,
Sub Station, Thiruporur,
Kancheepuram District.
7. The Divisional Engineer,
Tamil Nadu Pollution Control Board,
Maraimalai Adigalar Street,
Maraimalai Nagar,
Kancheepuram District,
Chennai – 603 209.

8. B. Gunasekaran ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing respondents 1 to 7 herein to forthwith take action against the 8th respondent and evict the encroachment made by him in the Government Grama Natham Kali Poramboke land and stop the unauthorized running of the industrial unit in the name and style of 'G.R. Industries' at Survey No.170/17 of Thandalam Village, Thiruporur Taluk, Kancheepuram District by disconnecting the power supply and sealing the premises.



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For Petitioner :: Mr.D. Arunachalam
For Respondents :: Mr.A. Selvendran,
Special Government Pleader for
R1 to R5
Mr.S.K. Raameshwar for R6
Mr.V. Gunasekaran for R7
Mr.Vairava Subramanian for R8

ORDER

(Made by **K. Rajasekar,J.**)

The writ petition has been filed for issue of a Writ of Mandamus directing respondents 1 to 7 herein to forthwith take action against the 8th respondent and evict the encroachment made by him in the Government Grama Natham Kali Poramboke land and stop the unauthorized running of the industrial unit in the name and style of ‘G.R. Industries’ at Survey No.170/17 of Thandalam Village, Thiruporur Taluk, Kancheepuram District by disconnecting the power supply and sealing the premises.

2. The petitioner, who is a resident of Thandalam Village, Thiruporur Taluk, has come forward with the present writ petition alleging encroachment by the 8th respondent of the land classified as “ Grama Natham Kali Poramboke” belonging to the Government, to an extent of 10



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cents, by constructing a factory in the name and style of ‘ G.R. Industries ‘ .

According to the petitioner, the industrial unit has been constructed without obtaining proper approval from any of the statutory authorities. The unit is being run without proper licence and without obtaining consent from the Pollution Control Board. The petitioner would further state that the chemical effluents discharged from the factory are posing a major health threat to the residents of the area apart from causing noise pollution. The petitioner’s further grievance is that the 8th respondent has applied for patta in his name in respect of the Government poramboke lands under the scheme announced by the Government and in spite of representations made by the petitioner to various authorities, no effective steps have been taken to stop the unauthorised running of the industrial unit by the 8th respondent and to clear the encroachment made by him. Hence, the writ petition for the relief aforestated.

3. A detailed counter has been filed by the 1st respondent, the



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relevant portions of which are extracted hereunder:

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“3. I state that the 8th respondent is owner of the patta land situated at S.No. 170/14, Thandalam Village, Thiruporur Taluk, Erstwhile Kancheepuram District now Chengalpattu District measuring an extent of 527 sq.metres.....

4. I state that adjacent to S.No. 170/14, there is a natham land in S.No. 170/17, measuring an extent of 479 sq.metres. I state that as per the Adangal (Natham A Register), the said S.No. 170/17 was classified as “Kali Manai Poramboke” and there was no name mentioned in the enjoyer column.....

5. I state that the Government after careful examination of the proposal given by the Director of Survey and Settlement and Commissioner of Land Administration has directed the revenue officials to record the land which is classified as “Sarkar Poromboke” and marked as “Kali Natham” & “Kali Manai” in the remarks column of natham adangal but without enjoyer. I state that in the present case, the enjoyer name was not mentioned in the Natham A register, hence the land in Survey No. 170/17 can be recorded only as “Sarkar Poromboke – Government Land”.

6. I state that the 8th respondent is not a landless person and as stated supra, he is owning patta land adjacent to the Sarkar Poramboke land in S.No. 170/17, hence, he is not entitled to claim ownership of the above mentioned land without obtaining patta in his favour.

7. I state that this respondent will initiate steps under the Tamil Nadu Land Encroachment Act, 1905 against the 8th respondent and



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recover the possession of sarkar poromboke land from the 8th respondent.”

4. The 7th respondent, namely, the Tamil Nadu Pollution Control Board has also filed a counter affidavit, the relevant portions of which are extracted hereunder:

“It is respectfully submitted that the unit of M/s.G.R. Industries is located at SF No. 170/14 & 170/17, NO. 1/103, Seliyamman Koil Street, 114, Thandalam, Thiruporur Taluk, Chengalpattu District has applied for consent of the respondent Board under the Water (P & CP) Act, 1974 and the Air (P & CP) Act, 1981 for metal processing activity of Brass sheet – 2.2 T/M and Mild Steel Sheet – 14 T/M on 20.12.2019. The unit was in existence from 06.06.2018.....There is no trade effluent generated from the process activity.....

4. It is respectfully submitted that as the petitioner has informed that the unit is Operating in the Grama Natham (residential area) it was requested the Block Development Officer, Tiruporur to take action on the said complaint as per Local Boady Acts vide 7th respondent letter dated 27.12.2023.”

5. When the matter is taken up for hearing, Mr.A. Selvendran, learned Special Government Pleader for the official respondents submitted



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that the land in Survey No. 170/17 has been classified as “ Grama Natham” and it is a poramboke land in which the 8th respondent is running his industry.

6. From the counter affidavits filed by the 1st respondent and 7th respondent and from the submission made by the learned Special Government Pleader, it is evident that the land in Survey No.170/17 is a Grama Natham and Government poramboke land and that the 8th respondent is running his industrial unit in the said land. The land, which is set apart for constructing house sites, has been utilized by the 8th respondent for running his industrial unit by taking advantage of the fact that no one is in possession of house sites and he has encroached the Natham land. Records show that, during regular survey of Natham land (House Sites), the Revenue Authorities have recorded the nature of land as “Poramboke Natham Land”. The Natham lands shall only be used for housing purpose of villagers. Admittedly, the 8th respondent is not a landless poor to seek patta for the land classified as “Poramboke”.



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7. This Court has seen many cases of encroachment made on the Grama natham lands by the persons, who is having the muscle power and the Government is not in a position to prevent such encroachment, on the ground that these lands are not vested with the Government. It is true that various land laws passed by the Government are not having provisions enabling Government to interfere in the matters of Grama natham lands, since they are not paying any income to the Government. However, Constitution of India, Article 39(b), directs that the ownership and material resources of the community are so distributed as best to sub serve the common good. This article has been interpreted in various judgments by the Hon'ble Apex Court and observation of Apex Court in ***Jilubhai Nanbhai Khachar etc., vs. State of Gujarat and another [1995 Supp (1) SCC 596]*** is relevant herein. After dealing with earlier pronouncement with respect to resources of community and the distribution as contemplated by article 39(b) of the Constitution and held in paragraph 29 as follows:

"It is, therefore, clear and we so hold that the material resources of community is a wide concept and must be broadly interpreted to bring within its sweep all resources, natural or physical resources, movable or immovable, corporeal and incorporeal, tangible or intangible etc. Private resources or property are part of material resources of the community. All things that produce



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wealth for the community or material resources". The word 'distribution' equally must be construed broadly to include not only allotment of resources to public use but also dispensation largess to the poor to provide access to equal opportunity. In other words it is a broad-based concept and it should not be confined within narrow confines...."

8. The object behind setting apart the lands as housing sites, recognised by the various Land Reforms Act shows that these housing sites have to be put to use for the persons, who are not having any housing facility. The purpose of not vesting the Grama natham lands to the Government, is that lands are not yielding any income to the Government. However the Government could not be a silent spectator in view of the principle enunciated under Article 39(b) of the Constitution. In this case, the housing sites which are not in possession of any person shall be distributed as best, to sub serve the common good and the Government shall take effective steps to distribute the above housing sites or natham lands. In other words, the Government shall take effective steps to take control of the above lands to prevent those lands from being encroached by the persons, who are already having sufficient resources.



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9. Recently, the Government has framed a policy by issuing Government Order in G.O.Ms. No. 221 Revenue and Disaster Management Department dated 04.05.2023 to the effect that Government will take over the Natham lands which are not in use or which are not in possession of any person. Even though the Government is not the custodian of the land, the fact that no individual member of the village has occupied the same, has to be construed that villagers are using it as communal land, i.e., common use of villagers. Hence, we are of the view that, the land, which has been set apart for the purpose of construction of house sites cannot be allowed to be encroached by the 8th respondent to run his industry. He has also not obtained any permission for converting the land and his possession itself is illegal. The building constructed is also liable to be razed and the industrial activities shall be stopped forthwith since the building is constructed without approval and the industry is being operated in residential lands.

10. For all the above reasons, the authorities concerned are expected to initiate appropriate steps to remove the encroachment, after giving notice to all parties concerned and restore the land to its original state



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within a period of three months from the date of receipt of a copy of this order.

8. The writ petition is disposed of with the above directions. No costs. Connected W.M.Ps are closed.

(S.V.N.J.) (K.R.S.J.)
02.02.2024

nv
To

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Kancheepuram District,
Kancheepuram.
2. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
3. The Revenue Divisional Officer,
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Thiruporur Panchayat Union,
Thiruporur, Kancheepuram District.
6. The Assistant Executive Engineer,

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S. VAIDYANATHAN,J.

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