



S.T.A(MD)No.1 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **23.10.2024**

CORAM:

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN**

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and

M.P(MD)No.2 of 2020

1. The District Collector,
Pudukkottai Town & Munsif.

2.The Assistant Settlement Officer,
Ezliagam,
Chennai- 600 005.

.. Appellants/Respondents

Vs.

A.Michael(died)

.. Respondent/Appellant

2.Stella Mary
3.Rethchaganathan
4.Celina Mary

... Respondents

[Respondents 2 to 4 are brought on record as LR's of the deceased sole respondent vide Court order dated 17.08.2023 made in STA(MD)No.1 of 2010(CMP(MD)Nos.10419,10420 & 10423 of 2023) by ASMJ & RVJ]

PRAYER: Special Tribunal Appeal filed under Section 30(1) of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act,1963, against the judgment and decree, dated 30.11.1990, made in I.T.C.M.A.No.1 of 2005, on the file of Sub Court, Pudukkottai.



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For Appellants : Mr.D.Sachikumar
Additional Government Pleader

For Respondents : Mr.N.Balakrishnan

JUDGMENT

(Judgment of the Court was delivered by **P.VELMURUGAN,J**)

This Special Tribunal Appeal has been filed against the judgment and decree, dated 04.04.2008, made in I.T.C.M.A.No.1 of 2005, on the file of Sub Court, Pudukkottai.

2. The brief facts of the case are as follows:

The 1st respondent submitted an application for granting patta in favour of him before the second appellant herein. The 1st respondent purchased the property under two registered sale deeds, dated 19.06.1985 and 24.06.1985 in Survey No.1/1 (New Survey No.17) from one Muthaiya Chettiar. After purchasing the property, he gave an application before the District Revenue Officer for issuance of patta. The District Revenue Officer, in his proceedings in Na.Ka.No.62478/88/B3 dated 16.02.1989, gave a direction to include the other joint owners of the properties in the revenue records. The first appellant/District Collector, Pudukkottai, in his proceedings in Na.Ka.No.531/85/Ka.Ma.Su dated 02.06.1989, granted permission for quarrying in the above said lands. When the



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third party tried to interfere with his possession, he has filed a suit against the third party and got a decree. So based on that, he requested to grant patta in his name for the subject matter of the property. The second appellant rejected the claim of the 1st respondent by proceedings in Na.Ka.No.2(2)/776/05, dated 21.03.2005. Challenging the rejection order passed by the second appellant, the 1st respondent filed an appeal in M.I.T.C.M.A.No.1 of 2005 before the Minor Inam Appellate Tribunal cum Subordinate Judge, Pudukkottai. The Tribunal, after hearing both the parties, allowed the appeal and set aside the order passed by the second appellant and directed to grant Ryotwari patta to the 1st respondent herein. Aggrieved over the order of the Inam Appellate Tribunal, the respondents therein have filed the present appeal before this Court.

3. The learned counsel for the appellants would submit that the decision made in the judgment of this Court, dated 30.07.1987 is that the entire village of Perunjinai originally belonged to Pudukkottai District and has given a finding that the total area of village is 565.61 acres, out of which, the Inam grant is only in respect of 418.85 acres. Therefore, it cannot be said that the subject matter of the property is covered under Pudukkottai Inam Estate or part Village Inam Estate. However, it has not come under the new Inam Estate. The 1st respondent wrongly got joint patta in his name by stating that the subject land



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has not come under the provision of Tamilnadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 30 of 1963 (hereinafter called as 'Act 30 of 1963'). Though against the order of this Court, the villagers had approached the Hon'ble Supreme Court, subsequently, the said appeal was withdrawn by the villagers. Thereafter, in view of the establishing the current position of law and the Act, the entire village had been declared under the Act 30 of 1963. The suit was filed within the two individuals in O.S.No.844 of 1985 and then, an appeal was filed in A.S.No.100 of 1989 on the file of the District Court, Pudukkottai, wherein the Government was not a party to the said suit and appeal. Therefore, that decision rendered in the above said suit and appeal will not bind the Government herein since the Government was not a party to the said suit.

4. Therefore, based on the decision, arising out of the dispute between two individuals, any relief cannot be claimed against the Government. In the letter issued by the Revenue Department dated 06.04.1992, a request was made to the Commissioner (Land Administration) to send necessary proposal to the Government to cancel the Notification issued under the Act 26 of 1963 in respect of the four villages, namely, Nilayapatti, Karampatti, Kothandaramapuram and Perunjinai village of Pudukkottai District and to issue a fresh Notification to settle these villages as Minor Inam villages under Act 30



of 1963. The District Revenue Officer, without invoking the procedures and without perusing the old records, ordered to issue joint patta. Based on the joint patta, without perusing the revenue records, the first appellant granted permission for the lease of quarry, but the entire village has been declared as Minor Inam under the Act 30 of 1963. After two decades in 1985, the 1st respondent purchased the subject property with a larger extent under two sale deeds. Therefore, it is not valid and the same did not bind the Government.

5. The disputed property belonged to the Government and classified as Government Poramboke as per the revenue records in A Register and Adangal. Hence, the 1st respondent has no right and the Assistant Settlement Officer, the second appellant herein, rightly rejected the claim since the village was classified under the Act 30 of 1963 in the year 1965 itself. Therefore, the vendor of the 1st respondent himself did not have any right in the property. Therefore, he cannot sell the property and the vendor cannot convey the better title to the 1st respondent. Therefore, the sale deed executed in favour of the 1st respondent is not valid and the 1st respondent has not established the right of the predecessor-in-title. Therefore, the second appellant rightly rejected the applications made by the 1st respondent for grant of patta in favour of him based on the above said sale deeds executed in the year 1985.



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6. However, the appellate Tribunal failed to consider the legal position and also classification of the land as poramboke as per the revenue records and therefore, even assuming that the predecessors were having title prior to the notification under Act 30 of 1963, but, on the date of notification, the vendor lost his right and therefore, he had no right to alienate the property based on that sale deed. The 1st respondent cannot claim any right. The Tribunal erroneously allowed the appeal and set aside the order of the second respondent. Therefore, the appeal is liable to be allowed and the order of the Tribunal is liable to be set aside and the order of the second appellant is liable to be restored.

7. The learned counsel for the respondents would submit that the 1st respondent is lawfully entitled to Kudiwaram in the lands described in the subject matter of the property. Therefore, he is entitled to get patta under Section 8(1) of the Act 30 of 1963. Further, he would submit that the 1st respondent purchased the subject property as a larger extent under two sale deeds dated 18.06.1985 and 24.06.1985 which is included in Survey No.17. Survey No.17 is included in the sale deed by virtue of the Act. The boundary recitals in the document tallied with Survey Nos.17, 18 and 24 and the subject matter of property formed part of the old Survey No.1/1 which cannot be



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disputed by any one and the vendors of the 1st respondent are the owners to the subject properties and they were lawfully entitled to Kudiwaram rights thereon. Therefore, both the Melwaram and Kudiwaram belonged to the vendors of the 1st respondent. The 1st respondent also established that both the warams belonged to the vendors by showing the revenue records and the title deeds.

8. The vendors of the respondent purchased the property under the sale conducted by the insolvency Court and purchased by auction by one Lakshmana Chettiar who is the purchaser in title of the respondent. The second appellant ignored the sale deed dated 01.03.1911. The title deed granted to the purchaser-in-title has been ignored by the second appellant and the second appellant also failed to correlate the documents with the land through his subordinate officers. However, the 1st respondent's recitals of the boundaries in the sale deed dated 18.06.1985, itself clearly indicates that Survey No.1 is included in the description of property. The correlation statement prepared at the time of complying with the provisions of Act 26 of 1963 and also when the survey was conducted for the purpose of Act 30 of 1963, the second appellant has not given sufficient opportunity to the 1st respondent to correlate the documents and the physical features of the properties through the appointment of Commissioner or survey of the subject property. Inam B Register of B1915 related to Survey No.



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1/1, which refers only Velu and Karuppiyah as sons of Periyathambi, is incorrect.

The earlier register produced before the second appellant, in which, the name of Muthiah Chettiar is found and therefore, the observation that it is not in the name of the vendors of the 1st respondent in the Inam-B Register is absolutely not correct. The order of the Deputy Tahsildar of Kolathur clearly shows that the entire area is registered in the name of Muthiah Chettiar and Michael, the 1st respondent herein. The documents produced by the 1st respondent before the second appellant was not properly considered and simply, he rejected the application filed by the 1st respondent for granting patta. However, the appellate Tribunal considered the documents produced by the 1st respondent and also the order of the Deputy Tahsildar of Kolathur and permission was granted by the first appellant for quarry licence. However, the Tribunal has appreciated and set aside the order of the second appellant and there is no valid and legal ground to interfere with the order of the appellate Tribunal.

9. The learned counsel for the respondents would further submit that the 1st respondent was accepted as the Inamthar for the lands and purchasers in interest of the Inamthar in the proceedings under the Act 30 of 1963. The 1st respondent and his purchasers in title contested the proceedings as minor Inam and that cannot be notified under the Act 26 of 1963 and the same was upheld



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by all the Courts constituted under the Act 30 of 1963. Since the Court held that the lands notified under Act 26 of 1963 is not valid and the Minor Inam Act was notified as Inam Estate on 14.05.1965. However, it will not affect the pre-existing title and interest of the purchaser in title of the 1st respondent. Once the order passed under Act 30 of 1963 and the area was declared not to be covered by the provisions of the Act 26 of 1963, there is no prohibition for alienation. These areas are notified as Minor Inam long after the purchase made by the 1st respondent. At the time when the property was sold to the 1st respondent, on the date of sale, the subject property was not notified as a Minor Inam. The property was not vested with the Government when it was notified under Act 26 of 1963 and therefore, no prohibition for alienating the property by the Inamthar. The property being the private property does not vest with the Government, the pre-requisite right of Inamthar does not extinguish by taking over the Inam Estate. Further, Section 43 also refers that the transferee of lawful transferrer is entitled to the same right as lawful transferee.

10. Considering all the facts, the first appellant recognised the transfer in favour of the 1st respondent and he granted a lease for quarry. The purchasers in title of the 1st respondent has a right to convey the property even though the village is taken over, the District Revenue Officer has got right to recognise the



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transfer of patta, if he finds that the purchasers have got pre-existing right.

Whether the properties are tank poramboke or not, the second respondent has not given proper opportunity to the 1st respondent to establish their sale. Once the first appellant being the head of the Revenue District, who finds that the subject property is not tank poramboke, granted the licence for quarry and without going into those aspects, the second appellant simply rejected the application of the 1st respondent, which is erroneous. Though the second appellant erroneously rejected the same, the appellate Tribunal has rightly considered all the aspects, especially, the Act 30 of 1963 is not a bar to grant patta to the rights, if the persons have got the pre-existing right. The 1st respondent based on the sale deed, is entitled for the patta. The land which comprises granite stone is not one of the items coming under Section 10 of the Act 30 of 1963. There is a distinction between Tamilnadu Act 26 of 1963 and 30 of 1963. The Act 26 of 1963 contemplates proof of cultivation whereas Act 30 of 1963 land need not be cultivated. All the rocky soils are not poramboke. Further, there is no concrete finding that it is a tank poramboke or a sunai or a granite stone and therefore, the second appellant without ascertaining the Act, simply rejected without any basis that it is a tank poramboke. Therefore, the appellate Tribunal rightly set aside the order of the second appellant and therefore, there is no merit in the appeal and the appeal is liable to be dismissed.



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11. Heard both sides and perused the materials placed before this Court.

12. The specific case of the appellants is that the subject properties covered under the erstwhile Pudukkottai District and the total area of village is 565.61 acres out of which Inam granted is only in respect of 418.85 acres. Therefore, it is not known as to whether the subject property is Pudukkottai Inam Estate or part village Inam Estate. However, it is not a new Inam Estate. The 1st respondent said to have purchased the property only in the year of 1985 after the verdict of the Hon'ble Supreme Court and the village was declared under the Act 30 of 1963. Once it is declared under Act 30 of 1963, the properties vested with the Government and no Ryothwari patta can be granted to the properties covered under the Act 30 of 1963 and no alienation can be made. Therefore, the purchase of the subject property by the 1st respondent is not valid. Therefore, the order of the appellate Tribunal is liable to be set aside. The specific case of the respondents is that even the purchasers of the 1st respondent purchased the property even in the year of 1911 through auction and therefore, even assuming that the land covers under the Act 30 of 1963, the vendors of the respondent had pre-existing right and title and therefore, the notification under Act 30 of 1963 would not a bar for alienation of the private



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ryot land when the person having pre-existing right and title. Earlier, the District Revenue Officer and the first appellant considered the same and ordered to grant patta and the first appellant also granted lease for quarry and therefore, there is no bar under Act 30 of 1963 to grant a patta for the private land. Further, there is a distinction between the Act 26 of 1963 and 30 of 1963 regarding the ryot patta. As per Act 26 of 1963, cultivation is necessary to grant ryot patta, whereas as per the Act 30 of 1963, the cultivation is not significant, but the ownership alone is significant. Even private person can have a rocky land and since a portion of the subject land is rocky, it cannot be stated that it is only a Government rocky poramboke and there is no material to show that it is a rocky poramboke.

13. It is not in dispute that the land covered in erstwhile Pudukkottai District and also it is not in dispute. Subsequently, as per the decisions of this Court and the verdict of the Hon'ble Supreme Court, the Tamil Nadu Government notified the Perunjinai village of Pudukkottai District under the Act 30 of 1963 and also it is not in dispute that the 1st respondent purchased the property in the year 1985. Though the 1st respondent has stated that his predecessors in title purchased the property in the year 1911 under Court auction purchase, however, the notification under Act 30 of 1963 came at a later



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point of time. Even as stated by the learned counsel for the appellants, there is a distinction between the Act 26 of 1963 and 30 of 1963. However, admittedly, the land is not a cultivating land and the respondents admitted that it is a rocky and the 1st respondent also obtained the permission for quarry. Therefore, now it has to be seen that whether the subject land covers under Act 30 of 1963 as to whether it is a tank poramboke, rocky poramboke or Government poramboke. If the land is classified as a tank poramboke or the Government poramboke or the rocky poramboke, the 1st respondent is not entitled to get patta. Even assuming that he had a ownership prior to the notification under Act 30 of 1963 or as per the Inam Estate or as per the notification, even it is conveyed as a private or the private tank or road etc., except the private ryot land, it is vested with the Government.

14. On a perusal of the order of the second appellant, it is seen that the classification and notification of the property itself is not clear as per the revenue records which shows that it is a tank poramboke. Therefore, the respondent has not established that it was only the ryot land and entitled for the ryot patta. Even though the Revenue Divisional Officer directed to grant the joint patta only based on the sale deed in favour of the 1st respondent in the year 1985, the first appellant also granted a permission for quarry only based on



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those documents and patta and thereafter alone, there was a dispute between the two private individuals, namely, the 1st respondent and other individuals before the civil Court. In the said suit in O.S.No.844 of 1985 and A.S.No.100 of 1989 on the file of the District Court, Pudukkottai, the Government was not a party. Therefore, under these circumstances, it is for the respondents to establish that the vendors of the respondents are having a pre-existing right and title, however, it is a mere production of the sale deed after the Act 30 of 1963 came into force.

15. Therefore, under these circumstances, though the land comes under the Act 30 of 1963 and under Section 9 of Act 30 of 1963 which provides that if the property covers under Section 8 of the Act, no one is entitled to get any ryot patta and the land only vested with the Government. Only the person is entitled to get a ryot patta in respect of the land, if it is a private land or the person who is having a pre-existing right in the land which was not covered under Section 8 of the Act 30 of 1963. Therefore, it is the duty of the 1st respondent who made an application for ryot patta to prove that the subject land was not covered under Section 8 of the Act 30 of 1963 and it covers under Section 9 of the Act 30 of 1963. For private land, Section 10 of the Act 30 of 1963 is very clear that if the properties are coming under the categories viz., (a) the forests (b) beds



and bunds of tanks and of supply, drainage, surplus or irrigation channels (c) threshing floor, cattle stands, village sites, cart-tracks, roads, temple sites and such other lands situated in any minor inam as are set apart for the common use of the villagers and (d) rivers, streams and other porambokes, they are not entitled to get ryotwari patta. Since the land was classified as only the tank poramboke, it is for the respondent to establish that it is only the ryot land which falls under Section 9 and which either falls under Section 8 of the Act or Section 10 of the Act. Even if the land covers under Act 30 of 1963, still the person can establish his pre-existing right but that can be only decided by the civil Court.

16. In this regard, it is pertinent to refer to the following judgments :

(i) ***Angappa Gounder vs. Sivamalai Gounder and Others [100 LW 721 para 8].***

“8. But the Minor Inams Abolition and Conversion into Ryotwari Act (Act 30 of 1963) stands on a different footing. Inams were granted by sovereigns for religious and charitable purposes. In some cases the Inam comprised of right to collect the assessment in a particular village, and the same is termed as an Inam Estate. In some cases it comprised of land free of assessment which is called Iruvaram Inam Lands. Inam which comprised of Iruvaram lands, which do. not fall in the category of Inam Estates are called Minor Inams. Such minor Inams were alienated indiscriminately by the Inamdars and the purpose of the grant was not achieved. There were difficulties in resuming the Inam by the Government on account of long possession by the alienees and the rights flowing from such long possession. Hence the Legislature thought fit to recognise the possessory right acquired and to impose a ryotwari assessment on such lands. Act 30 of 1963 was enacted not with view to take over the entire interest but only for the purpose



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of abolishing the Inam tenure and convert the same into Ryotwari tenure. The result is the assessment is levied on the lands and the right vested in the person in possession is recognised. The rights of a ryot who is in enjoyment of a minor Inam land, who is lawfully entitled to the Kudiwaram right and who satisfies the conditions laid down under the Act, are recognised and a ryotwari patta is given to him under the provisions of Act 30 of 1963. Thus the rights are not extinguished as in the case of estates, but on the other hand the right in the Minor Inam lands is confirmed and recognised by the issue of ryotwari patta. The vesting contemplated under Act 30 of 1963 is a notional vesting to enable the Government to effect a settlement and levy assessment. The rights of the persons in possession conforming to the conditions laid down in the said Act are not affected by the provision of Act 30 of 1963. The Proviso to [Section 3](#) of Act 30 of 1963 lays down that the Government shall not dispossess any person of any land in a Minor Inam in respect of which the person in possession is entitled to ryotwari patta pending decision of the appropriate authority under the Act whether the person is entitled to Ryotwari patta.”

2. Srinivasan and 6 others v. Sri Madhyarjuneswaraswami, Pattavaithalai,

Thiruchirappalli District [1998 (2) LW 189]:

14. Thirdly, having regard to the principle stated by this Court while enunciating the first proposition in *Dhulabhai Case*, 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 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. Now take the case of an applicant who has applied for a ryotwari patta under section 11 staking his claim thereto on the basis of his long and uninterrupted possession of the ryoti land but the Settlement Officer on materials before him is not satisfied that the land in question is ryoti land; in that case he will refuse the patta to the applicant. But can he, even after the refusal of the patta, protect the applicant's long and uninterrupted possession against the Government interference? Obviously, he cannot, for it lies within his power and jurisdiction merely to grant or refuse to grant the patta on the basis of materials placed before him. But such a person even after the refusal of the ryotwari patta would be entitled to protect his possessory title and long enjoyment of the land and seek an injunction preventing Government's interference otherwise than in due course of law and surely before granting such relief the Civil Court may have to adjudicate upon the real nature or character of the land if the same is put in issue. In other words since the Settlement Officer has no power to do what Civil Court would normally do in a suit it is difficult to imply ouster of Civil



Court's jurisdiction simply because finality has been accorded to the Settlement Officer's order under Section 64-C of the Act.”

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3.V.Subramania Thevar v. Kannan and others[1998 (1) LW 448]:

“4.We have carefully considered the submissions of the learned counsel appearing on either side in these appeals. The learned counsel for the appellants sought to place reliance upon the decision of this Court in *Jalini Ammal (died) A & another v. Sri Vedaranyaswami Devasthanam and another* (1992 2-L.W. 320) and *State of Tamil Nadu v. His Holiness Sri La Sri Ambalavana Pandara Sannadhi Ad heenakarthha & others* (1997-2 L.W. 531) of the Apex Court. In our view, the decisions relied upon do not in any way help the appellants to substantiate the claim in question. The decisions relied upon turned on the peculiar concept of private lands and ryot lands and the respective rights of the tiller of the soil and such concepts also particularly in the context of the landholder being a religious institution. So far as the case on hand is concerned, the contesting claim is between two private individuals claiming to be entitled to patta under the Act in terms of Section 8(1) of the Act. The considerations which have to weigh with the Authorities under the Act to grant patta, would also considerably differ. That apart, some of the observations found mentioned in those and in other decisions sought to be pressed into service by the learned counsel for the appellants, pertain to the rebuttability of the statutory presumptions contained in the Act about the particular class of lands relating to any inam granted for the benefit of any religious, educational or charitable institutions or for rendering service being a grant comprised of both warams or not. In these cases before us, we are not concerned with the construction or interpretation of any grant as such or Inam title deeds. On the other hand, there are absolutely no materials whatsoever for the appellants to prove that they or their predecessors-in-interest are the grantees of any right, be it kudiwaram or melwaram to both interest in the lands. The right that is sought to be waram projected is based merely on the possession and cultivation of the lands. Even in respect of the said right, it cannot be stated that they have substantiated any claim of acquisition of any right of permanent possession or occupancy rights. Per contra, the of materials on record disclosed, as have been adverted to in some of the orders under challenge before us, that the appellants have been asserting initially only tenancy rights of cultivating tenants and there appears to have been proceedings before the Civil Court and revenue authorities in that context and it is only after the notification of the inam under the Act in question, they appear to have shifted to stand assert a claim for patta under the Act.”



17. Therefore, on perusal of the materials placed before this Court and the orders passed by the second appellant as well as the appellate Tribunal, it is made clear that the 1st respondent made an application before the second appellant under Section 11 of the Act 30 of 1963. The second respondent exercising power under Section 11 of Act 30 of 1963, rejected the application. One of the grounds is that the land is classified as a tank poramboke and another is that the 1st respondent has produced only the sale deed of the year 1985. He has not produced any other documents to show that his predecessor has got right and title over the subject property. Therefore, they rejected the application for granting patta. The Tribunal without considering the said facts, relied on the sale deed of the respondent and granted decree and the District Revenue Officer based on the sale deed, gave the direction to issue a joint patta and the District Collector also granted permission for quarry and also relied on the decisions of the civil Court. The Tribunal failed to consider the Object of the Act and also failed to give any finding regarding the character/classification of the land. Even though the Act 30 of 1963 does not prohibit to grant ryot patta for the private land to a person, who has got pre-existing right and that the title as decided by this Court as well as the Hon'ble Supreme Court as referred to the decision supra, the length of the possession will not give any right and title. The person who is claiming ryot patta has to establish his right to get the patta and



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pre-existing right and title.

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18. On a careful perusal of the entire materials, this Court is of the view that the 1st respondent has not established the pre-conditions. Therefore, under these circumstances, this Court finds that the order passed by the appellate Tribunal is liable to be set aside and the order passed by the second appellant is also liable to be set aside.

19. Accordingly, this Special Tribunal Appeal is **allowed** and the judgment and decree, dated 04.04.2008, made in I.T.C.M.A.No.1 of 2005, passed by the learned Sub Judge, Pudukkottai is set aside and the proceedings of the second appellant rejecting the claim of the 1st respondent in Na.Ka.No. 2(2)/776/05, dated 21.03.2005 is also set aside. However, the respondents are at liberty to work out their remedy in the manner known to law. No Costs. Consequently, connected miscellaneous petition is closed.

[P.V.,J.] [K.K.R.K.,J.]
23.10.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
P JL



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To

1. The Sub Judge, Pudukkottai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VELMURUGAN, J.
and
K.K.RAMAKRISHNAN, J.

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