



*W.P.(MD) No.13915 of 2017*

**WEB COPY** BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 18.09.2024**

**CORAM**

**THE HONOURABLE Ms.JUSTICE P.T.ASHA**

**W.P.(MD) No.13915 of 2017**

**and**

**W.M.P.(MD) Nos.10867, 10868 and 15593 of 2017**

**K.Jeyaprakash**

**... Petitioner**

**/vs./**

1.The Director/Commissioner of Land Administration,  
Chepauk,  
Chennai 600 005.

2.The District Collector,  
Tirunelveli District,  
Tirunelveli.

3.The Tahsildar,  
Thiruvengadam Taluk,  
Thiruvengadam,  
Tirunelveli District.

**... Respondents**

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order Na.Ka.No. A3/656/2016 dated 05.04.2016



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issued by the 3rd respondent and quash the same as illegal and void and thereby directing the respondents to grant patta to the petitioner in the name of his mother Rengalakshmi brother Rengaraj, Vijayaraj and Rajesh Kannan (legal heirs of the deceased Rengasamy) jointly, for the natham lands of an extent of .00201 Hectare in 2 lots (1184.6 sq.ft., and 880.8 sq.ft.,) in S.No.227/2 in Naduvapatti Village in erstwhile Sankarankovil Taluk at present Thiruvengadam Taluk in Thirunelveli District.

For Petitioner : Mr.F.X.Eugene

For Respondents : Mr.D.S.Nedunchezian  
Government Advocate

### **ORDER**

Seeking to quash the order dated 05.04.2015 passed by the third respondent and thereafter directing the respondents to grant patta to the petitioner in the joint names of the petitioner's mother and his brothers, (legal heirs of the deceased Rengasamy Naicker), the petitioner is before this Court.

2. It is the case of the petitioner that his father, Rengasamy Naicker owned vacant Natham site in S.No.227/2 in Naduvapatti Village, Thiruvengadam Taluk, Tirunelveli District, measuring an extent of 0.0021 hectares. The said property is in 2 lots, an extent of 1184.6 sq.ft., and 880.8 sq.ft., The said properties were



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purchased under two different registered sale deeds dated 03.12.1965 and 03.01.1976 respectively. He was in possession of the said site till his life time and using the same to store fire woods and dump waste.

3. The petitioner's father was informed by the Village Administrative Officer that the vacant site belongs to the Government, as it is classified as a Government Natham Poramboke. He therefore filed a suit O.S.No.104 of 2013 on the file of the Principal District Munsif Court, Sankarankovil against the respondents 2 and 3 for declaration, mandatory injunction and permanent injunction.

4. After contest, the said suit was allowed with reference to the reliefs of declaration and permanent injunction and dismissed in respect of mandatory injunction. The respondents have not preferred any appeal against the said judgment and decree and therefore, the same has attained finality and the petitioner's father's right to the property was declared. His father had immediately taken steps to change the patta in his name. Pending the application, he died intestate on 01.07.2017 leaving behind the petitioner, his mother, Rengalakshmi



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and his three brothers, Rengaraj, Vijayaraj and Rajesh Kannan. The legal heirs of Rengasamy Naicker had been jointly enjoying the said vacant site.

5. On 20.04.2014, the petitioner has requested the respondents 2 and 3 to change the entry in the revenue records as their own patta land and to grant patta in their names on the basis of the judgment and decree in O.S.No.104 of 2013. However, no action was taken in this regard and therefore, the petitioner had filed W.P.(MD) No.10191 of 2015 directing the respondents to grant joint patta.

6. This Court, by order dated 23.06.2015, had directed the third respondent, the Tahsildar, to pass appropriate orders on the representation dated 20.04.2015, affording opportunity to all the parties concerned. Since the orders were even thereafter not passed, a contempt petition in Cont.P.(MD) No.305 of 2016 was instituted and when the contempt petition came up for hearing, the learned counsel represented that the orders in W.P.(MD) No.10191 of 2015 have been complied with. Since the patta was not transferred, the petitioner had filed W.P. (MD) No.461 of 2017, following which the impugned order came to be passed.



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7. A reading of the impugned order would show that the third respondent/the Revenue Tahsildar would observe that the patta can be grated only as per Standing Orders therein and since the Natham updating register work had been completed 15 years ago, the present request has to be turned down.

8. Heard the learned counsel on either side.

9. It is rather surprising that even though a civil Court after contest had declared the title of the plaintiff to the suit property and what remains is only the issue of patta, since the decree had not been challenged to date by the respondents, the respondents have not issued the patta. The relief claimed in the suit was one to declare the plaint schedule property as belonging to the plaintiff and consequential injunction restraining the respondents 2 and 3 herein from interfering with the petitioner's peaceful possession and enjoyment of the scheduled property and for mandatory injunction. The respondents herein had filed a written statement contending that the properties are Natham Poramboke vacant land and the petitioner is not in possession and enjoyment of the said properties.



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10. The learned Principal District Munsif had framed an issue as to whether the plaintiff's title should be declared in respect of the suit property after considering the evidence on record. The learned Judge had relied on various judgments of this Court, wherein it is stated that the Natham land does not vest with the Government and the title continues to remain with the person in possession and it is that person who is the owner of the property. The learned Judge has further observed that though the respondents herein had argued that the properties were the Poramboke land as per Ex.A1 and Ex.A2, it is clear that the property exclusively belonged to the plaintiff and the title has also been granted to the plaintiff.

11. While so, in the impugned order, the third respondent once again seeks to re-agitate the very same contention that has been rejected by the Civil Court and which judgment has reached finality. Therefore, the impugned order passed in Na.Ka.No. A3/656/2016 dated 05.04.2016 by the third respondent is set aside. The respondents are directed to issue patta as prayed for by the petitioner within a period of six weeks from the date of receipt of a copy of this order.



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12. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

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

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To

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**P.T.ASHA, J.**

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