



W.A.(MD).No.1736 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A.(MD).No.1736 of 2023
and
C.M.P.(MD)No.13277 of 2023**

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The District Revenue Officer,
Tirunelveli.

3.The Revenue Divisional Officer,
Tirunelveli.

4.The Tahsildar,
Tirunelveli Taluk,
Tirunelveli District.

... Appellants

-VS-

1.G.K.Ramakrishnan

2.N.Somasundaram

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, against the order passed by this Court in W.P.(MD)No.15042 of 2022, dated 08.08.2022.



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For Appellants : Mr.S.R.A.Ramachandran
Additional Government Pleader
For 1st Respondent : Mr.H.Lakshmi Shankar
For 2nd Respondent : Ms.Porkodi Karnam
For M/s.Polax Legal Solution

JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Mr.H.Lakshmi Shankar, learned counsel takes notice for the 1st respondent. Mr.Porkodi Karnam, learned counsel takes notice for the 2nd respondent.

2.The Mandamus issued by the learned Single Judge, directing the respondents 3 and 4 to process the application for grant of patta and forward the same to the competent authority, namely, the respondents 1 and 2 and further direction issued to the competent authority to issue patta in favour of the 1st respondent herein, is subject matter of challenge.

3.It is the claim of the 1st respondent that the land in question, which is classified as natham was possessed and occupied by one Subramaniya Iyer and when he left the village, he dedicated the property to his community. Thereafter, the building situated therein was used for performance of the last rites and since the building become dilapidated, the first respondent sought for permission to put up a new structure. Such permission was granted in the year 2003 on the heirs of the original owner



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Subramaniya Iyer, submitting a document conveying their no objection for grant of permission and a construction has also been put up. In the interregnum, the 2nd respondent claimed to have purchased the property from the power agent of one of the heirs of the original owner Subramaniya Iyer in the year 2005 and attempted to interfere with the possession of the 1st respondent. The validity of the said sale deed was challenged and the registration authority found that the document is a forged document. Since the request of the petitioner for grant of patta was not considered, the petitioner sought for Mandamus, which was ordered as above.

4.Mr.S.R.A.Ramachandran, learned Additional Government Pleader would contend that the revenue records do not show that the property was possessed by Subramaniya Iyer and therefore, the land being classified as natham vacant land in the revenue records, patta cannot be granted. Two documents, one of the year 1954 and another of the year 1964 have been produced by the 1st respondent, which show that there was a construction in the said land made by Subramaniya Iyer. Subsequently, the 1st respondent has been granted permission to put up construction and the said construction has been assessed to property tax.

5.It is therefore, clear that the land in question always remained as occupied natham and the claim for grant of patta is not for benefit of any



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individual but for benefit of a community and that too, for providing a place for performing last rites of departed persons. The Writ Court had taken into account the entire facts and had held that the 1st respondent has been in possession of the property right through and the land having been classified as natham cannot be treated as objectionable encroachment also. Therefore, we are unable to fault the Writ Court for having issued the directions as found in the order.

6.Hence, the Writ Appeal fails and it is accordingly, dismissed. The authorities will comply with the direction of the Writ Court within a period of 12 weeks from the date of receipt of copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.] [L.V.G., J.]
25.10.2024

NCC :Yes/No
Index :Yes/No
Internet: Yes
Mrn



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