



S.A.No.928 of 2013

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2025

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

S.A.No.928 of 2013

1. N.Venugopal (Died)
2. Sundarambal (died)
3. V.Radhakrishnan
4. V.Venkatesan
5. V.Manikandan
6. V.Elavarasu
7. V.Sivaji
8. Mrs.Punitha

... Appellants

[Appellants 2 to 8 are brought on record as LR's of the deceased first Appellant viz., (N.Venugopal) vide Court order dated 08.03.2022 made in C.M.P.No.3355 of 2022 in S.A.No.928 of 2023]

[Memo dated 18.06.2024 (USR No.20533) recorded. A2 died, A-3 to A-8 (already on record) are recorded as LR's of the Deceased A2 vide Court order dated 19.06.2024 made in S.A.No.928 of 2013]

Versus

1. The State of Tamil Nadu
Rep. by the District Collector,
Perambalur District.
2. The Tahsildar,
Jayankondam, Ariyalur District.
3. The Village Administrative Officer,
Ulkottai North, Udayarpalayam Taluk,
Ariyalur District

... Respondents



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Prayer:- Second Appeal filed under Section 100 of Civil Procedure Code to set aside the decree and judgment made in A.S.No.66 of 2007 passed by the Sub Court, Ariyalur, dated 12.09.2011 reversing the decree and Judgment made in O.S.No.83 of 2003 passed by the District Munsif Court at Jayankondam, dated 28.02.2005.

For Appellants : Mr. R. Anburaj
for M/s.R.Sethuvarayaar

For Respondents : Mr. M. Muthusamy,
Government Advocate

JUDGMENT

This Second Appeal has been filed to set aside the decree and judgment made in A.S.No.66 of 2007 passed by the Sub Court, Ariyalur dated 12.09.2011 reversing the decree and Judgment made in O.S.No.83 of 2003 passed by the District Munsif Court at Jayankondam dated 28.02.2005.

2. The brief averments in the Plaint reads as follows:-

2.1. The Plaintiff has ancestral property in S.No.305/57 to an extent of 0.08.5 ares i.e., 21 cents. The said property originally belonged to the Plaintiff's great grandfather Pavadai and that after him, it went to Plaintiff's grandfather Muthu. Thereafter, Plaintiff's father Natarajan possessed the said properties. After the death of the Plaintiff's father viz., Natarajan, the Plaintiff enjoyed the ancestral property and the Patta was also issued in the name of the



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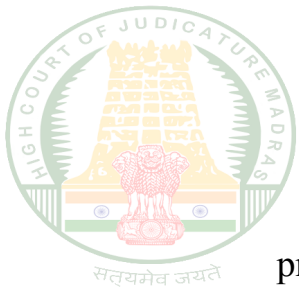
Plaintiff. As per the request of the Defendants, the Plaintiff had given some portion of property in S.No.305/57 for the benefit of the Villagers and in the remaining portion of Item No.1, the Plaintiff had constructed a shed and in Item No.2, the haystack was stored. The Plaintiff had a way to reach his other properties, through the Plaint Scheduled property. Apart from that, there is no other pathway. The Plaintiff's ancestors enjoyed the said properties for more than 100 years. Hence, he seeks the relief of permanent injunction restraining the Defendants from interfering with the possession of the properties.

3. The brief averments in the written statement are as follows:-

3.1. The suit scheduled properties do not belong to the Plaintiff. It belongs to the Government. Patta was wrongly issued to the Plaintiff. In S.No.305/57, threshing field and Amaravati Co-operative Society were located in the Plaint properties and thatched house was constructed by the Plaintiff, suddenly. Instead of seeking declaration of title, Plaintiff sought permanent injunction which is not maintainable.

4. On the pleadings of both parties, the following issues were framed:

(1) Whether the contention of the Defendants that the suit



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property belongs to Government and whether the Plaintiff has encroached into the suit property is true?

(2) Whether the Plaintiff is entitled to the relief of permanent injunction?

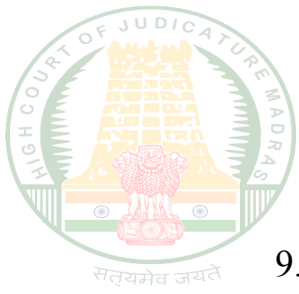
(3) To what other reliefs the Plaintiff is entitled to?

5. During trial, on the side of the Plaintiff, PW-1 to P.W-3 were examined and documents were marked as Ex.A-1 to Ex.A-4. On the side of the Defendants, D.W-1 to D.W-4 were examined and documents were marked as Ex.B-1 to Ex.B-7. Advocate Commissioner's report and plan were marked as Ex.C-1 to Ex.C-3.

6. On consideration of oral and document evidence, the learned District Munsif, decreed the Suit. Aggrieved, the Defendants had filed the Appeal in A.S.No.66 of 2007 before the learned Sub Judge, Ariyalur.

7. After hearing both sides and after perusal of the records, the learned Sub Judge had allowed the Appeal and set aside the decree of the Suit in O.S.No. 83 of 2003 filed before the learned District Munsif, Jayankondam.

8. Aggrieved the Plaintiff had preferred this Second Appeal.

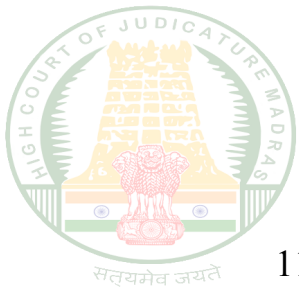


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9. The learned Counsel for the Appellants in the Second Appeal submitted that the Plaintiff before the learned District Munsif, Jayankondam in O.S.No.83 of 2003 is the Appellant in the Second Appeal. When the Second Appeal was pending, the Appellant died. The legal heirs of the Appellant had been impleaded as Appellants. The Plaintiff had filed suit in O.S.No.83 of 2003 on the file of the learned District Munsif, Jayankondam, seeking permanent injunction against the State of Tamil Nadu represented by the District Collector, Perambalur as Defendant-1, the Tahsildar, Jayankondam as Defendant-2 and the Village Administrative Officer, Ulkottai North, Udayarpalayam Taluk, as Defendant-3.

10. It is the case of the Plaintiff that the Plaintiff and his ancestors are in enjoyment of the suit property which is a Natham land in S.No.305/57 to the extent of 0.08.5 ares with specific boundaries. It is the submission of the learned Counsel for the Appellants that the Plaintiff had permitted the Government to put up buildings for the benefit of the villagers. Thereafter, the Government after putting up the construction objected to the enjoyment of the property by the Plaintiff in the remaining portion. Therefore, the Plaintiff was forced to file the suit for bare injunction against the Defendants.



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11. The learned Counsel for the Appellants invited the attention of this Court to the averments in the plaint and in the written statement, the issues framed by the learned District Munsif, Jayankondam and to the discussion of evidence by the learned District Munsif, Jayankondam in the judgment dated 28.02.2005.

12. It is the contention of the learned Counsel for the Appellants that the documents marked as Ex.B-1 and Ex.B-4, which states that the property is Arasu Poramboke, and it was relied by the learned Sub Judge, Ariyalur in reversing the finding of the learned District Munsif, Jayankondam.

13. The learned Counsel for the Appellants also invited the attention of this Court to the evidence of Village Administrative Officer, the Defendant-3 before the learned District Munsif as D.W-4 who in his cross-examination had admitted that the property in S.No.305/57 is classified as Natham land. Also, he invited the attention of this Court to the admission made by D.W-4 in his deposition that his grand father was in enjoyment of the Natham lands, the same Natham, a part of which is in enjoyment of the paternal grandfather of D.W-4. While so, he denied the possession and enjoyment of the Plaintiff and his ancestors in the very same land.



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14. Also, he invited the attention of this Court to Ex.B-1 and Ex.B-4 wherein in the explanation, it has been clearly stated as Natham. The learned Sub Judge failed to consider those facts while re-assessing the evidence available before the learned District Munsif and had reversed the finding based on the fact that Ex.B-1 and Ex.B-4 states it as Arasu Poramboke whereas by the very same document, it is classified as Natham lands.

15. The learned Government Pleader appearing for the Respondents submits that the judgment of the learned District Munsif is erroneous whereas the judgment of the learned first Appellate Judge is well reasoned judgment based on proper appreciation of evidence. The learned Government Pleader invited the attention of this Court to the discussion of evidence by the learned Sub Judge, Ariyalur in the judgment in A.S.No.66 of 2007, whereby he concluded that the Plaintiff was not in possession of the property on the date of filing of the suit. The learned first Appellate Judge had relied on the evidence of the Plaintiff himself that there was building put up in the suit property in the year 1978 and 1985 but also there is no document showing that the Plaintiff and his ancestors were in possession for more than 100 years. Also, there is no document to show that the Plaintiff had permitted the



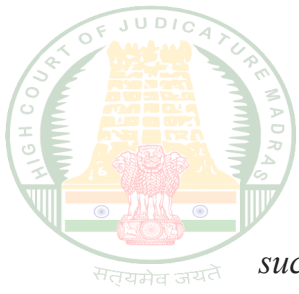
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Government to put up construction in the land, which was alleged to be in enjoyment of the Plaintiff and his ancestors. Therefore, the finding arrived at by the learned first Appellate Court is well reasoned judgment and it does not warrant any interference. The Second Appeal has no merits and has to be dismissed.

16. By way of rejoinder, the learned Counsel for the Appellant relied on the latest Government Order issued by the Government of Tamil Nadu in G.O.Ms.No.221, dated 04.05.2023 in which the lands are classified into two. Earlier, the lands which were classified as Natham had been mentioned in this Government Order, as Ryotwari Manai and Item 8 and 9 are only Sarkari Poramboke. The learned Counsel for the Appellant relied on the Government Order also in support of his contention.

17. The learned Government Pleader in support of his argument relied on the reported decision of the Hon'ble Supreme Court in (2019) 8 SCC 729 in the case of *Ravinder Kaur Grewal and others Vs. Manjit Kaur and Others* wherein it has been held as follows:-

“63. When we consider the law of adverse possession as has developed vis-à-vis to property dedicated to public use, courts have been loath to confer the right by adverse possession. There are instances when



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such properties are encroached upon and then a plea of adverse possession is raised. In such cases, on the land reserved for public utility, it is desirable that rights should not accrue. The law of adverse possession may cause harsh consequences, hence, we are constrained to observe that it would be advisable that concerning such properties dedicated to public cause, it is made clear in the statute of limitation that no rights can accrue by adverse possession.”

Therefore, the learned Government Pleader seeks to dismiss the Second Appeal as having no merits.

18. In last page of the Ex.B-1, it has been mentioned as 22A - Natham, 22C - Natham, 23 - Natham and 24 - Natham. When the other land holders are granted the status 'Natham', the evidence of the Defendants stating that it is Arasu Poramboke, had been taken for granted by the learned Sub Judge, Ariyalur, and thereby reversed the finding. Also, the learned Counsel for the Appellants relied on Ex.B-4, wherein it is clearly stated the name of the Plaintiff. It is the document maintained by the Village Administrative Officer. Therefore, he submits that the finding arrived by the learned Sub Judge, Ariyalur, is perverse and has to be set aside and the judgment of the learned District Munsif, Jayankondam, in O.S.No.83 of 2003, dated 28.02.2005 is to be confirmed.

19. This Court, while admitting this Second Appeal, framed the



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following substantial questions of law:-

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a) Whether the Lower Appellate Court while reversing the findings of the trial Court had given cogent reasons, as mandated under Order XLI Rule 31 of the Code of Civil Procedure?

b) Where the Plaintiff has proved his possession through Ex.A-1 to Ex.A-4 and even if such possession is considered to be an encroachment, whether the Plaintiff will be entitled for the relief of permanent injunction and he can be evicted only in accordance with law by the Defendants?

c) Whether the findings of the lower Appellate Court can be termed as perverse since it did not confirm to the oral and documentary evidence available on record?

20. Heard the learned Counsel for the Appellants and the learned Counsel for the Respondents.

21. Perused the judgment of the learned District Munsif, Jayankondam in O.S.No.83 of 2003, dated 28.02.2005 and the judgment of the learned Sub Judge, Ariyalur in A.S.No.66 of 2007, dated 12.09.2011.

22. The Plaintiff in O.S.No.83 of 2003 on the file of the learned District Munsif, Jayankondam, is the first Appellant before this Court in this Second Appeal. Since the first Appellant died, the Appellants 2 to 8 were brought on record as legal heirs of the deceased first Appellant.



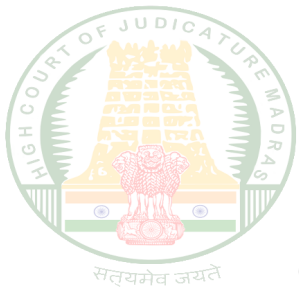
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23. The specific case of the Plaintiff before the learned District Munsif was that the Suit property is a Gramanatham land, it had been in the enjoyment of the family of the Plaintiff right from their ancestral times. Heeding to the request of the Villagers, the family of the Plaintiff permitted the Government to put up a Ration Shop, stockyard for agricultural produce and threshing floor (thalam) for threshing food grains. After putting up construction, the Revenue Officials measured the remaining portion of the land for further construction for the Government Department. If that the project is permitted, the pathway to his house from the main Road will be blocked. He has been using the properties shown as Item-1 and Item-2. Now, the Respondents are objecting to the use of Item-1 and Item-2. Therefore, he had filed the Suit only for permanent injunction.

24. The Defendants disputed the claim of the Plaintiff stating that the properties are in possession of the Defendants and the property is not Gramanatham. It is a Natham Poramboke which is vested with the Government. Therefore, the learned District Munsif, Jayankondam, had raised the following issues:-

(i) Whether the Suit property belong to the Government?



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(ii) *Whether the Plaintiff is an encroacher?*

WEB COPY (iii) *To what other reliefs, the Plaintiff is entitled?*

25. To prove the claim of the Plaintiff, the Plaintiff had examined himself as P.W-1 and marked documents under Ex.A-1 to Ex.A-4. Ex.A-1 to Ex.A-3 are the Patta regarding the enjoyment of the Gramanatham land by the Plaintiff. Ex.A-4 is the photograph in support of the Plaintiff's case. On the side of the Defendants, the learned Government Pleader had cross-examined the Plaintiff. In the cross-examination, he admitted that there had been a building constructed by the Defendants which is used as a Ration Shop and Storage Yard of the Agricultural Department. To the pointed question, whether he had filed any documents to prove that for more than 100 years it had been in enjoyment of his ancestors? He had answered in negative. The Plaintiff was examined as P.W-1 and two other witnesses were examined to support the claim of the Plaintiff. Also, the Plaintiff had sought the appointment of Advocate Commissioner and he had filed the Advocate Commissioner's report under Ex.C-1 to Ex.C-3. On behalf of the Defendants, four witnesses had been examined as D.W-1 to D.W-4. The learned District Munsif, on appreciation of evidence, had clearly answered the Issue No.1 in favour of the Plaintiff stating that as per the Revenue records, it is Gramanatham and not Natham Poramboke as claimed by the Defendants.



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Also, the learned District Munsif had observed that in the cross-examination, the Defendants' witnesses who are all the Revenue Officials admitted that the Plaintiff was issued with Patta for the Suit properties under the heading of Gramanatham. But offered an explanation that they had given the wrong Patta. If that had been so, there is no further proceeding from the Defendants issuing notice to the Plaintiff that the Patta was wrongly given and so it is cancelled or any proceedings on behalf of the Defendants. The learned District Munsif had relied on the reported ruling of this Court in the case of ***The Executive Officer, Kadathur Town Panchayat vs V. Swaminathan, The State Of Tamil Nadu*** reported in (2004) 2 MLJ 708 wherein it has been held as follows:-

“Land classified as Grama Natham - Such land does not vest with Government or the Town Panchayat. Patta cannot be cancelled by virtue of a resolution passed by the Panchayat - person in possession of 'Grama Natham' cannot summarily evicted.”

26. In the case of ***Krishnamurthy Gounder Vs. State of Tamil Nadu and others*** reported in 2002 (3) CTC 221 this Court has held as under:

“Land Encroachment Act- Provision of Act cannot be invoked against occupants of Gramanatham who own such land as house sites - eviction proceeding quashed.”

27. In the light of the above rulings, the evidence of the Plaintiff was



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accepted and the evidence of the Revenue Officials as D.W-1 to D.W-4 was rejected by the learned District Munsif, Jayankondam.

28. On Appeal by the Defendants, the learned Sub Judge, Ariyalur, had reversed the finding of the learned District Munsif on the ground that S.No.305/57 entirely vested with the Government as it is a Natham Poramboke. The Plaintiff is an encroacher. The burden is on the Plaintiff to prove that he had been in enjoyment of the property for more than 100 years right from the time of his ancestors. For which, he had not furnished Revenue records and thereby, the learned Sub Judge, Ariyalur set aside the Judgment of the learned District Munsif, Jayankondam.

29. From the Judicial pronouncement of this Court, repeatedly in many Judgments, this Court had held that Natham land was vested with the Villagers for their common purpose such as to put up a house, cattle shed for storage of firewood, hay and tying cattle, storage of cow dung, etc. It is for the Villagers to put it to use as per their wish and the Government or State does not have any right. When that be the case, the claim of the Defendants that the Plaintiff had not proved his right of possession from days of his ancestors through Revenue records is not found acceptable.



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30. From my Judicial experience as a Judge where served in the District Judiciary for over 20 years and having disposed off cases similar in nature, it is found invariably in cases of this nature that the Government creates confusion by interfering with the possession of the citizens. Thereby, the citizens are forced to file Writ Petition seeking the relief against the Government functionaries for interfering with their possession in ***W.P.No.6992 of 2020, dated 07.03.2022 (M.Sivasakthi Vs. The District Collector, Salem and others).***

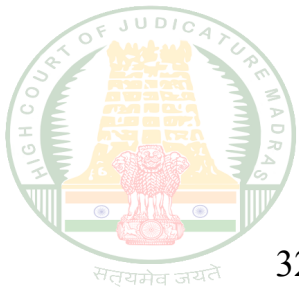
31. When the High Court had repeatedly held that Natham lands are vested with the common purpose for the Villagers in which the Government has no right to interfere, the conduct of the Defendants herein, claiming that they had already put up construction and therefore, the Plaintiff has no *locus standi* to file the Suit and that the Plaintiff ought to have filed the Suit seeking declaration of title, is found unacceptable. The Plaintiff has fairly conceded that the Plaintiff had allowed the Government to put up construction. Therefore, the finding of the learned Sub Judge that the Defendants had already put up construction and the Plaintiff by seeking an injunction for such property is attempting to encroach the property, is not in a proper appreciation



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of evidence. It is a clear case of the Plaintiff that the cause of action for filing the Suit arose on-demand made by the Defendants to put up further construction in the vacant site, the Defendants having already constructed, the remaining portion is in the exclusive possession of the Plaintiff. He had identified the properties as Item Nos.1 and 2 with specific boundaries and measurements. To support this, he had furnished Ex.A-4 and also the Advocate Commissioner's report. The learned Sub Judge was carried away by the words, 'Natham Poramboke' which is a word introduced by the Revenue Officials as though Poramboke means they can enter the land and that it is vested with the Government, which is not the case. Therefore, the Substantial Questions of Law raised by the learned Counsel for the Appellants in the Appeal are found justified. The action of the learned Sub Judge indicates that he had ignored the reported ruling of the Hon'ble Supreme Court in many cases. It is a settled position of law that Natham land is vested with the Villagers for their own use and that the Government has no right whatsoever to interfere with their possession. It cannot be treated as Poramboke whatever may be the classification in ***G.O.Ms.No.221, dated 04.05.2023 (Revenue & Disaster Management Department, Survey & Settlement Wing, SS-II (1) Section).***



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32. It is found from the Judicial pronouncement over the years that throughout Tamil Nadu, the Villagers are using the land for common use in the villages. It is for them to enjoy the land as cattle shed to tie their cattle, to store the cow dung, to store the firewood, etc., Government Order passed by the Government contrary to such Judgment will not bind the Court as it amounts to attempting to interfere with the possession of individual citizen. The learned Sub Judge had miserably failed in his duty to follow the ruling of the Division Bench of this Court, as well as other reported rulings of this Court, and thereby overwriting the Judgment of the learned District Munsif, Jayankondam. The learned Sub Judge failed to appreciate the evidence as it is and failed to interpret the evidence in the light of the reported Judgments. The Judgment of the learned Sub Judge is perverse in the light of the reported ruling regarding “Natham Lands” in which the State or Government has no claim or right. Therefore, attempting to threaten the Plaintiff as an encroacher is found objectionable. During the pendency of this Second Appeal, the sole Appellant died and his Legal Heirs were impleaded as Appellants 2 to 8.

33. The learned Sub Judge had observed that the Revenue Officials had in their evidence stated that they had wrongly issued Patta to the Plaintiff which cannot be pressed into service. That observation of the learned Judge is



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found to be unacceptable. The Revenue Officials have discretion, but that should be exercised based on the laws of this Country. As per Section 114(e) of the Indian Evidence Act, any official act done by the Officials of the State is treated as per law and the Court may presume that it was done correctly unless, there is evidence to contrary. Therefore, issuing Patta to the Plaintiff made him believe that he is in enjoyment of those properties. Issuing Patta commenced only after the State took up the responsibility of measuring lands in the State through the Revenue Officials who classified the lands to upgrade their Revenue records.

34. In the reported decision of this Court in **2012 (1) CTC 280 [Dharmapura Adhinam Mutt -vs- Raghavan and one another]**, it was held as follows:-

"32. Therefore, GramaNatham is not vested with the Government. Under UDR Scheme (Up Dating Revenue Record scheme) the GramaNatham lands were surveyed and survey numbers have been assigned. There was an attempt by the Government to levy tax (NathamNilavariThittam). Therefore, under that scheme, the Natham lands were surveyed and resurvey numbers were assigned and Pattas were issued. Since GramaNatham is the habitation where the land owners may build houses and reside they were known as house sites. They were classified as Gramanathain to differentiate the land from Inam lands Ryotwari lands, Pannai lands and Waste lands. While the lands under the other classifications vested with the Government, the GramaNatham never vested with the State. However, under the UDR scheme, to enforce a tax on the Natham lands, a ThorayaPatta, for tax purpose was issued to those persons who claimed to be the land holders. The land holding is



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based on the title through the predecessor-in-title. Therefore, the Patta issued under UDR scheme is not the Patta under the Land Encroachment Act and there is no bar of the jurisdiction of the Civil Court under Section 14 of the Land Encroachment Act."

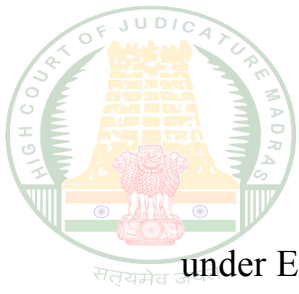
Therefore, the occupants of Natham Lands were issued Thoraya Patta only regarding enjoyment but the Thoraya Patta is not a document of title, rather it is only a proof of enjoyment. When the Revenue Officials issued Ex.A-1 to Ex.A-3, the Plaintiff as a citizen believed the conduct of Revenue Officials. But they denied Ex.A-1 to Ex.A-3 stating that they had issued Patta by mistake. The said conduct of the Officials is condemnable for which the State Officials had to proceed with Departmental action, as they had forced the ordinary citizens to approach the Civil Court to protect their possessions.

35. As per Article 300-A of the Constitution of India, the citizens of this Country are entitled to protect their possession of their property. Article 300-A of the Constitution of India is extracted hereunder:-

"300-A. Persons not to be deprived of property save by authority of law

No person shall be deprived of his property save by authority of law."

36. Further, the conduct of the Defendants before the learned District Munsif, Jayankondam that the properties are Natham Poramboke and the Patta

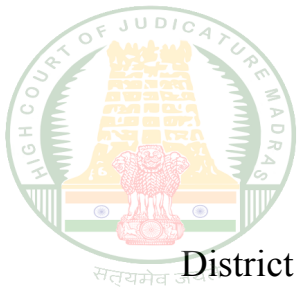


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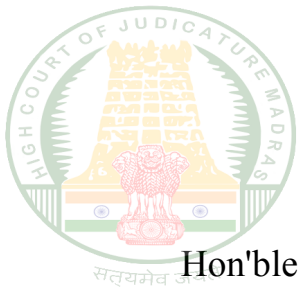
under Ex.A-1 to Ex.A-3 was issued mechanically is to be treated under Section 115 of the Indian Evidence Act. The Officials of the State issued a document to the citizen of the country making him be in possession of the property, which was also possession of his family for generations and had been recognized by the State and then the State had subsequently withdrawn it. Above all, interfering with the possession claiming that the land is possessed by the Government and confusing the citizen by claiming that it is a Natham Poramboke are all considered to be in violation of the decision of the Hon'ble High Court of Madras in the case of ***T.S. Ravi and another Vs. The District Collector, Thiruvallur and others*** reported in ***CDJ 2018 MHC 8248***. The conduct of the Defendants is found objectionable under Article 300-A of the Constitution of India also.

37. In the case of the ***Executive Officer, Kadathur Town Panchayat Vs. V.Saminathan and others*** reported in ***MANU/TN/0517/2004*** was cited before the learned District Munsif, Jayankondam by the learned Counsel for the Plaintiff. The facts in the case of the reported decisions are similar to the facts in this case. In the reported decisions, a Writ Petition was filed by the Villagers claiming the Writ Petitioners and their ancestors were in occupation of a small piece of land in Kadathur Village, Papireddipatti Taluk, Dharmapuri



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District for more than 40 years. The said lands are classified as “Natham Lands” otherwise called Gramanatham Lands. The Petitioners have submitted the necessary applications for issuance of Patta. The Tahsildar, Natham Scheme, Harur Taluk conducted an enquiry and recommended the names of the Petitioner for grant of Patta. The then District Collector of Dharmapuri District had passed orders granting Patta as early as in the year 1992 and necessary entries were also carried out in the Revenue records. However, subsequently, Authorities evicted the Petitioners on the ground that the land in question is required for the use of the fourth Respondent/Town Panchayat. The claim made by the fourth Respondent/Town Panchayat was that the land belonged to the Panchayat and the resolution was passed by the Government that the land was required by the Panchayat and necessary action is to be initiated to evict the Petitioner, which resulted in the Petitioner approaching this Court wherein final orders given to the effect that the Petitioners cannot be effected without following the due process of law, much less without cancelling to the Patta. Subsequently, the third Respondent by Order dated 28.12.2000, passed an Order cancelling the Patta already granted in favour of the Petitioners. Aggrieved against the said Order, the Petitioners filed the Writ Petitions which were allowed, against which the fourth Respondent viz., Town Panchayat had filed an Appeal. While disposing of the Appeal, the then



Hon'ble Chief Justice and the Judge had observed as follows:-

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“6. In the early days, as regards public roads, the Government has divested itself of its rights over them by directing them under Section 49 of the Local Boards Act (V of 1884) to be vested in the District Board which is a statutory body constituted for the maintenance of the roads and for other objects of public utility. As regards irrigation channels, rivers and tanks, the beds, would ordinarily remain vested in the Government under Act VII of 1865.

7. We draw inference for the above view from the decision by the Division Bench of this Court in *Papala Narayanaswamy Naidu vs. The Secretary of State for India* (24 MLJ 36) (BENSON AND BAKEWELL, J.J.), while interpreting the term 'Besides Poramboke' which was incorporated in the inam title deed. The learned Judges have held that the term 'poramboke' indicates the poramboke land such as unassessed waste and all kinds of communal property such as burying grounds, temple sites, threshing floors and public roads viz., road porambokes and river porambokes but it does not include all porambokes.

8. As regards the sites of 'pagodas', burning grounds, cattle-stands and unassigned house sites and backyards, Government is the custodian of the above. The above view is expressed by the Division Bench of this Court in its decision rendered in *Venkatarama Sivan vs. M. Sambasiva Aiyar* dated 25.9.1918 reported in 9 L.W. 381.

9. A perusal of a combined reading of Section 3(b) and Section 18 of Madras Estates (Abolition and Conversion into Ryotwari) Act viz., Madras Act XXVI of 1948 and Section 2 of the Madras Land Encroachment Act, 1905 disclose that the title to a house site in a Grama Natham is protected from transfer to Government.

10. We draw inference for the above view from the decision rendered by this Court in *S. Rangaraja Iyengar vs. Achi Kannu Ammal* dated 3.3.1959 reported in 1959 (2) MLJ 513 = 72 L.W. 767. A similar view is expressed by the Apex Court in its decision rendered in *C.V. Subbaya vs. P. Anjayya*, while referring to Section 3(b) of the Madras Act XXVI of 1948, it is held therein that the communal lands, porambokes, other ryotwari lands, waste lands, forests, mines and minerals, quarries, rivers and streams tanks and irrigation works etc., vest with the Government other than the land classified as 'Grama Natham'. This Court in its decision rendered in *N.S. Kuppaswamy Odayar vs. Narthangudi*



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Panchayat reported in 1971 MLJ REPORTS 190 has held that the classification of 'Natham Poramboke' and the description of 'Poramboke' in the settlement register will not by itself establish title of the Government to the land in question.

11. Similarly, this Court in Thillaivanam, A.K. And Another vs. District Collector, Chengai Anna District and 3 Others (1998 (3) L.W. 603) and in Krishnamurthy Gounder vs. Government of Tamil Nadu (2002 (3) CTC 221) held that the house sites classified as 'Grama Natham' cannot be construed as vesting with the Government.

12. Further, 'Grama Natham' is defined in the Law Lexicon as "ground set apart on which the house of village may be built". Similarly, Natham land is described in Tamil lexicon published under the authority of University of Madras to the effect that it is a residential portion of a village; or portion of a village inhabited by the non-Brahmins; or land reserved as house sites; etc.

13. In the light of the above and in view of the fact that the admitted classification of the land being a 'Grama Natham', it is obvious that the land was never vested with the Government or the Town Panchayat. Inasmuch as the petitioners and their ancestors were in exclusive possession of the lands in question for the past 40 years, the impugned order of the third respondent in canceling the pattas with a view to evict them summarily at the instance of the resolution passed by the Panchayat is not sustainable. Further such a summarily eviction is not permissible in law when the disputed question of title is involved for adjudications as laid down by the Apex Court in number of decisions.

14. As regards the further contention of the learned counsel for the appellant to the effect that the impugned order came to be passed only in view of the observation of this Court, it is seen that the said observation was made in the earlier writ petitions, permitting the authorities to take action only in accordance with law. In the previous litigations, no finding was rendered with regard to the classification of the land as 'Grama Natham' and only liberty was reserved to the authorities, which would not enable them to proceed in the manner as set out in the impugned order."

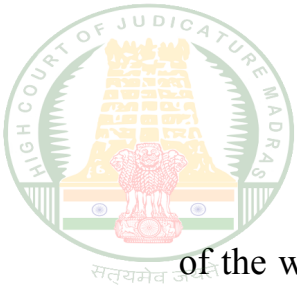
The same ruling squarely applies to the facts of this case. Here, the Plaintiff



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had approached the Civil Court claiming ownership of the Gramanatham Lands. The Defendants, who are the Revenue Officials filed a written statement disputing the claim of the Plaintiff which is similar to the claim made in the Writ Appeal disposed by the then learned Judge that in Kadathur Town Panchayat, the land is vested with the Government, in support of the specific decisions. These are repeatedly held by the Hon'ble High Court which are all discussed in the Judgment in Paragraph No.10.

38. The written statement of the Defendants in O.S.No.83 of 2003 before the learned District Munsif, Jayankondam is itself illegal against the settled position of law laid down by the highest Court of the State and by the Division Bench of the High Court. It is also based on the earlier rulings of this Court which had been reiterated. Therefore, the learned Sub Judge ignored the reported rulings cited by the learned Counsel for the Plaintiff before the learned District Munsif in *MANU/TN/0517/2004* in the case of the ***Executive Officer, Kadathur Town Panchayat Vs. V.Saminathan and others*** which was violated and ignored by the learned Sub Judge reversing the Judgment and taking for granted the contents of the written statement is found to be objectionable and condemnable. The contents of the written statement are illegal *per se* by ignoring the evidence on the side of the Plaintiff in the light



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of the well settled proposition of law laid down by the highest of the Court of the State. Patta was issued under the Natham Lands Scheme. Having the copy of the Patta of respective land, they cannot be held as encroachers to suit the convenience of the Officials of the State. It is nothing but land grabbing by the Officials. When the settled position of law clearly states that the State has no right or stake in Gramanatham land by whatsoever name is called – Natham, Gramanatham or Natham Poramboke.

39. The reported decision in ***MANU/TN/1054/2002*** in the case of ***Krishnamurthy Gounder Vs. Government of Tamil Nadu and Ors. (S.A.No.686 of 1991)*** which was also cited by the learned Counsel for the Plaintiff, the facts of this case are also similar to the cited Judgment. The Plaintiff before the trial Court was issued with notice in the Second Appeal as per Section 2 of the Land Encroachment Act as though he was an encroacher. In that case also, the written statement filed by the Panchayat Union claimed that the land is a Natham Poramboke and as such, it belongs to the Government and therefore, neither Plaintiff nor his predecessor in title have any right over the property and therefore, the action taken under the Provision of the Land Encroachment Act, 1905 is in accordance with law. The trial Court admitted that the land is Natham Poramboke, but on the basis of the



claim made by the Government, dismissed the Suit. In the Appeal, the Appellate Court also confirmed the finding of the learned District Munsif. Therefore, the Plaintiff before the Appellate Court and the trial Court had preferred the Second Appeal in the reported decision. The learned Counsel for the Appellant in the Second Appeal in the reported decision relied on another reported decision of this Court in the case of ***Thillaivanam, A.K. And Another vs. District Collector, Chengai Anna District and 3 Others (1998 (3) L.W. 603)*** wherein it has been held as follows:-

“5. On behalf of the respondents, the 4th respondent has filed a counter affidavit. In the counter affidavit, it has been stated that Survey No. 23/1 is a Village Natham as per the Village accounts. During 1954, it was used as a residential area by the Harijans of Athanacheri Village. It is admitted that the petitioner's father had acquired and was in enjoyment of 6.62 acres since 1954 on wards.

11. It is admitted that since 1954 onwards, the village site has been converted as cultivable lands and they have made the cultivation. It is further stated that it is highly irregular as the village site which is intended only for residential purpose is being used for cultivation. It is admitted that the land is under the enjoyment of the petitioners since 1954.

12. The respondents further state that though the petitioners are occupants of the land they have no right to sell the Government land. It is alleged that the petitioners have been prosecuted for offence under Section 420 IPC. It is stated that the petitioners have been allowed to enjoy the land and plot it out for selling the same. It is further claimed that the petitioners are the enjoyers of the Government site and not title owners. It is alleged that the petitioners have made illegal sale of government land and thereby they have cheated the public.

13. It is further claimed that the land is a Government land and the Government has right to take possession of the property at any point of time and the enjoyers have no right to sell the Government property.

14. Heard Mr. R. Gandhi, Senior Counsel appearing for the petitioner and Mrs. T. Kokilavani, Government Advocate appearing for



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the respondents.

15. It is vehemently contended by Mr. R. Gandhi, Senior Counsel that admittedly from 1954 onwards, the petitioners and their father had been in exclusive possession. Thus the admitted possession for over 43 years is more than sufficient to establish their right and title and absolute right has accrued to them. It is not the case of the respondent that the petitioners have been assessed to penal charges at any point of time nor the

petitioners have paid penal charges for their occupation and hence the senior counsel contends that the respondents have acquired title by continuing possession and there cannot be a dispossession and there could be no criminal prosecution against the petitioner. The petitioner's counsel further contended that the entire action of the respondents are nothing but misconception and they have no right to interfere with the peaceful possession of the petitioners."

40. The learned Judge of this Court had held as early as in **MANU/TN/0191/1949 : (1949) 1 MLJ 290 = 62 L.W. 204 (Palani Ammal v. L. Sethurama Aiyangar)** wherein it was held that the "Grama Natham a land in the occupation of the individual in possession of the gramathanam cannot be interfered and it could very well resist ejectment and also institute a suit in ejectment against the trespasser."

41. The same position was upheld by another learned Judge of this Court in the reported decision in **Thillaivanam, A.K. And Another vs. District Collector, Chengai Anna District and 3 Others (1998 (3) L.W. 603)**, wherein it had been clearly held that the Land Encroachment Act or Ryotwari cannot be invoked for the representation of Grama Natham property occupied by the



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general public.

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42. From the perusal of the Judgment of the learned District Munsif, Jayankondam, it is found proper as per the reported ruling cited before him by the learned Counsel for the Plaintiff and as per Ex.A-1 to Ex.A-3, wherein it is classified as “Natham Land”. In the cross-examination of D.W-4, he himself admits that his ancestors were also in the enjoyment and possession of the property in the same Survey Number. He distinguished the particular land in the possession of the Plaintiff as “Natham Poramboke” claiming that it belongs to the Government, while the rest as “Natham lands”. This cannot be accepted. When the same Survey Number is part of the enjoyment of the Village Administrative Officer, who had adduced evidence as D.W-4, that itself is found unacceptable in the principles of estoppel of Section 115 of the Indian Evidence Act.

43. Substantial Question of Law (C):

In the light of the above discussions in paragraphs 21 to 42, the learned Sub Judge, Ariyalur, had not properly appreciated the evidence available before the learned District Munsif, Jayankondam and also had not at all



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considered the appreciation of evidence by the learned District Munsif in the light of the settled position of law regarding Gramanatham or Natham lands.

He had been carried away by the contents of the written statement filed by the Officials of the State claiming that the Natham Poramboke belongs to the Government and the Plaintiff was an encroacher. Therefore, the finding of the learned Sub Judge, Ariyalur reversing the finding of the learned District Munsif is found not proper, it is perverse in the light of the reported ruling of this Court in various decisions. **The Substantial Question of Law (C) is answered in favour of the Appellants/Plaintiff against the Respondents/Defendants.**

44. Substantial Question of Law (A):

In the light of the above discussions in paragraphs 21 to 42, the learned Sub Judge, Ariyalur had raised the points for determination as per Order XLI, Rule 31 of the Civil Procedure Code and had properly answered the Point for determination. The reasonings given by him are not cogent in the light of the reported ruling of this Court relied on by the learned Counsel for the Plaintiff before the trial Court, the learned District Munsif, Jayankondam. Therefore, the finding of the learned Sub Judge even though proper as per Order XLI, Rule 31 of the Civil Procedure Code warrants interference of this Court as it is



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against the settled position of law regarding Natham Lands and Gramanatham lands which had been misinterpreted by the State Officials as “Natham Poramboke”. **The Substantial Question of Law (A) is answered in favour of the Appellants and against the Defendants/Respondents.**

45. Substantial Question of Law (B):

In the light of the above discussions in paragraphs 21 to 42, the Plaintiff has proved his possession under Ex.A-1 to Ex.A-4, the possession that is claimed to be encroachment by the Defendants in the written statement that is not at all encroachment. Natham lands are enjoyed by the Villagers through their ancestors. This was not at all taken into consideration by the Revenue Officials. Only after the independence, survey of the lands in the country had been taken up to update the records of the lands in the State. In the Revenue records, they had re-surveyed the lands and after the resurvey, there has been pending litigation across the Civil Courts in the State, particularly, regarding Gramanatham lands or Natham lands, as the case may be. Every time, the enjoyment of the citizens is questioned by classifying the lands to the whims and fancies, thereby instigating litigation. Repeatedly, this Court had held in various decisions that Natham lands are in the exclusive possession of the Villagers, and State or Government does not have any stake or rights.



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Therefore, the question of encroachment does not arise. The consequential portion of the Substantial Questions of Law is answered in favour of the Plaintiff. The Plaintiff cannot be evicted from Natham lands as it is a settled position of law in the case of ***Krishnamurthy Gounder Vs. State of Tamil Nadu and others*** reported in ***2002 (3) CTC 221***. The Substantial Question of Law (B) is also answered in favour of the Appellant/Plaintiff against the Respondents/Defendants.

In the result, this ***Second Appeal is allowed with costs throughout along with compensatory costs***. The Judgment of the learned Sub Judge, Ariyalur in A.S.No.66 of 2007, dated 12.09.2011 is set aside and the Judgment of the learned District Munsif, Jayankondam in O.S.No.83 of 2003 is restored.

25.06.2025

dh/shl
Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking order



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SATHI KUMAR SUKUMARA KURUP, J.,

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To

1. The Sub Judge,
Ariyalur.
2. The District Munsif,
Jayankondam.
3. The District Collector,
Perambalur District.
4. The Tahsildar,
Jayankondam,
Ariyalur District.
5. The Village Administrative Officer,
Ulkottai North, Udayarpalayam Taluk,
Ariyalur District

Judgment in
S.A.No.928 of 2013

25.06.2025