



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2025

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CORAM

THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

WA No. 2450 of 2024

AND

CMP NO. 17488 OF 2024

Periyasaamy Aided High School
Rep. by its Correspondent / Secretary
G.Kalavathy, F/66
W/o.N.R.Govindarajar ,
Mettur Main Road,
Ammapettai, Anthiyur Taluk,
Erode District-638 311.

Appellant(s)

Vs

1.The Chief Audit General
Teynampet, Chennai 18.

2.The District Collector
Erode District, Erode.

3.The Tahsildar
Bhavani Taluk,
Bhavani, Erode District.

Respondent(s)



WA No. 2450 of 2024

PRAYER

To set aside the order dated 22.03.2024 in WP No.18081 of 2019 and pass such further or other orders as this Court.

For Appellant(s): Mr.C.Prakasam

For Respondent(s): M/s. J.Sree Vidya- For R1
Mr.A.Selvendran Sgp For R2
And r3

JUDGMENT

(Judgment was delivered by S.M.Subramaniam J.)

Under assail is the writ order dated 22.03.2024 passed in W.P.No.18081 of 2019. The writ petitioner, Periyasaamy Aided High School represented by the Correspondent / Secretary is the appellant before this Court.

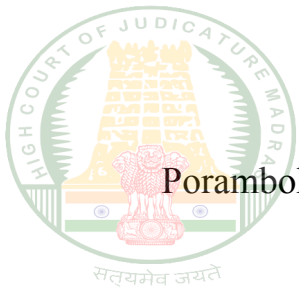
2. The writ petition has been instituted challenging the order dated 20.06.2019 passed by the 3rd respondent / Tahsildar, Bhavani Taluk, Erode District. The order pertains to the determination of the lease for Periyasaamy Middle School, which operates on Government land in Erode District, specifically in Bhavani Circle, Padavalkalvai Village (Natham Plot Nos.7/46



and 7/47) and Andiyur Circle, Ammapet Village (Plot No.680/3). The order directs the administrator and principal of the school to pay a lease amount of Rs. 5,03,839/- to the government account and submit the original challan to the authority.

3. The Writ Court observed that Natham land is not Government property, but rather designated for residential purposes. The appellant / petitioner school's Correspondent admitted to operating the school on Natham land. It appears that the appellant/petitioner and respondents colluded to prevent others from occupying the land, which is meant for dwelling purposes.

4. Therefore, the Writ Court rejected the appellant's claim and granted them liberty to pursue their remedy in accordance with the law. Furthermore, the Writ Court directed the District Collector, Erode District, to vacate the appellant school from the Natham land within three weeks from the date of receipt of a copy of the writ order. If the school is deemed essential for the area, the Government may allocate alternative land, either government-owned or



Poramboke land.

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5. The learned counsel for the appellant would submit that Mrs. E. Sujatha, the former Correspondent/Secretary, had been operating the school and had requested the 2nd respondent/District Collector to grant a 99-year lease and determine the lease amount for the Natham land. However, she failed to pursue the matter further and, regrettably, did not inform the appellant school about the status of the request when the management changed hands.

6. It is further contended that the appellant on realizing the school was operating on Natham land, the appellant approached the Revenue Officials and requested that patta be granted for the land occupied by the school. The 3rd respondent / Tahsildar initiated a proposal to the Sub-Collector, Gobichettipalayam, recommending the issuance of patta to the appellant/School. This proposal, which includes endorsements from the Revenue Inspector and Village Administrative Officer (VAO), is currently pending before the Sub-Collector. As the issuance of patta is still under consideration, the appellant

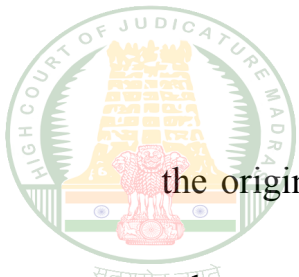


argues that the writ order is liable to be set aside.

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7. Mr.A.Selvendran, the learned Special Government Pleader appearing on behalf of the respondents 2 and 3 would submit that “Natham Poramboke” cannot be exploited for commercial purposes. Instead, it is to be regulated by the Government, which assigns smaller extents for residential use to eligible persons. In the present case, the subject property was utilised by the appellant/School for commercial purposes without regular Patta being granted in their name. The subject land remains classified as “Natham Poramboke”. Therefore, for all purposes the appellant is considered as an encroacher of “Natham Poramboke” land. Therefore, the question of granting of lease or patta would not arise at all.

8. We have considered the judgments on the subject, since there are certain ambiguities raised before this Court then and there that Natham lands do not belong to Government, but vest with the occupier absolutely. In order to eradicate the the said concept, we have considered the legal position, including



the origin and definition of lands and definition of Grama Natham lands. The

relevant portions of the order passed in W.P.Nos.7051 and 7052 of 2017 dated

15.09.2023 are extracted as hereunder:

“Definition and Origin of 'Grama Natham' lands

48. 'Grama Natham' has been defined in the Law Lexicon as follows:-

“Ground set apart, on which the house of a villager may be built”.

49. 'Grama Natham' is the village habitation, where the land holders may build houses and reside. They are also known as 'House Sites' (Manai). They were classified as 'Grama Natham' to differentiate from Inam lands, Ryotwari lands, Pannai lands and Waste lands, while later vested with the Government, the 'Grama Natham' did not vest with the State.

50. As far as the Corporation limits and Municipal limits are concerned, the Government imposed ban for assignment of 'Grama Natham' lands and in many cases, the Government has reclassified the 'Grama Natham' lands as 'Government Poramboke' and in such circumstances, the occupants are not entitled to claim patta or right over the



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property.

51. If the Natham is unoccupied, it will be classified as a 'Poramboke Natham'. Where such 'Poramboke Nathams' are concerned, the Government acts as a custodian, and may allocate the piece of land to an individual, only for the construction of houses.

52. The Government Order has provisions for “encroachments” on poramboke land. A penalty is levied on encroachments on poramboke land, which also acts as a record of occupancy (because it makes them visible on an official register). It’s called a B-memo and is issued by the village panchayat or the government agencies under whose control the poramboke land lies. Although Tahsildars are supposed to act to remove encroachments within three months of the B-memo being issued (pending appeals), it has been observed that the memo is often used as a proof of occupancy.

53. According to Government Order issued, no poramboke land “shall be used for any purpose other than that for which it was originally intended except with the prior approval of the Collector” (G.O. [Ms]



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No.317, Rural Development [C4], dated December 6, 2000). In case it is not required for the purpose originally intended, it may be used for any other “specified public purpose”, in which case the panchayat must publish the notice in the village and invite objections to its proposed use of the poramboke land. The proposal, along with any objections, must then be submitted to the district collector, who will take the final call.

54. Poramboke land is often compared with 'Grama Natham'. “Poram” means outside, and “boke” means revenue record. Hence the word, 'poramboke', can be defined as land, which lies outside revenue records. By such a definition, any piece of land can be classified either as a privately-owned Patta land, 'Government Poramboke' land or 'Grama Natham land'. Although 'Grama Natham' can be used for building a house, there is always a risk of litigation when the Government needs the land for its projects.

55. 'Grama Natham' lands are house sites, and must be actively used by the land owner. If the 'Natham' is unoccupied, it will be classified as a



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'Poramboke Natham'. Where such 'Poramboke Nathams' are concerned, the Government acts as a custodian, and may allocate the piece of land to an individual. Hence, 'Grama Natham' may not be an ideal investment if the buyer does not have intention to build a house and reside in it.

56. Grama Natham lands cannot be used for commercial activities. A joint venture to construct an apartment complex on such a land is treated as a commercial activity. Any activity that does not clearly show the intent of the owner of a 'Grama Natham' to reside on the land can be classified as a commercial activity. In June 2011, a judgement was passed in the Madras High Court on a joint venture project built on a 'Grama Natham' land where one owner had entered into a joint venture to construct stilt + 4 floors of an apartment complex. Since the apartment was built on a 'Grama Natham' land, the Madras High court ruled that this activity could be classified as a commercial activity.

NEED FOR UNIFORMITY IN NOMENCLATURE.

WITH RESPECT TO 'NATHAM' LANDS



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57. *The Government has announced that the nomenclature with respect to lands will be changed to reflect the difference between private and Government ownership. As 'Natham' land records have adopted different nomenclature for different areas, the Government has found an urgent need to bring in uniformity in these records. This change will have to be brought to all 'Natham' land records of different places excluding Chennai.*

58. *'Natham' lands belongs to no one. There is no legal proof of the ownership of such a land. 'Grama Natham' land can only be used for residential purposes and not commercial. There is no surrounding social infrastructure and almost negligible scope of development in future. The extract of Natham chitta from Tamil Nilam will be treated as a valid and legal document. Hence the necessary changes have to be made. When the land is titled as Government-manai, it leads to a perception that the public may be encroaching on private property. But that is not the case, as many land holdings are private holdings within the 'Natham' land settlement. This particular change will lead to all 'Natham' lands*



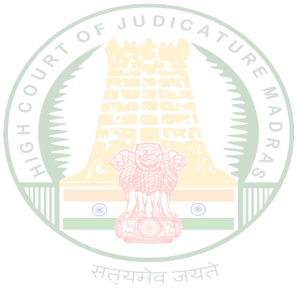
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falling under two categories of "Ryotwari Manai" and 'Sarkar Poromboke'. This will ensure uniformity and ease confusion between different names for 'Natham' lands.

59. Pertinently, in **Chinnathami Goundan vs. Venkatasubramania Iyer [1939 MWN 207]**, **Wadsworth J.**, dealt with unoccupied village site and it is held as follows:-

"I am of opinion that by the recognised practice of this Presidency - excluding areas with a Special Revenue law such as Malabar - the control of unoccupied village site land vests in the proprietor whoever he may be. In Ryotwari areas that control is exercised by the Government in the Revenue Department by means of the grant of house site Pattas without which occupation by an individual villager would be unauthorised. In Zamindari areas that control is exercised by the Zamindar. In a Shrotriem village not falling under the Estates Land Act, I am of opinion that according to the common practice of this Presidency the control of such unoccupied village site vests in the Shrotriemdar. My attention has been drawn to the decision of a Bench of this Court in Venkataramana Sivan v. Secretary of State for India (1), which is a case arising out of a whole Inam village wherein the Government claimed the right to penalise an unauthorised occupation of a cremation ground poramboke. It was held in that case that the Government was vested with the right of protecting such communal ground for the benefit of the



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community and there is an observation in the judgment of Spencer, J. To the effect the Government is the custodian of the rights of the public in lands such as sites for Pagodas, burning grounds, threshing floors, cattle stands, unassigned house sites and backyards. The suggestion is that the legal title vests in the Government in trust for communal purposes”.”

60. In the present case, the title has not been established by the petitioner's vendor except by stating that they were having uninterrupted possession and enjoyment of the land. It is not stated, whether the petitioner's vendors were granted assignment of the subject land by the Government. The statement in the Sale Deed would be insufficient to prove the title. The said statement itself is doubtful in view of the fact that the executants of the Sale Deeds of the year 1995 belonged to the same family or the relatives and they made statements that they were in uninterrupted possession of the land without any assignment from the Competent Authorities. More-so, there was an absolute ban during the relevant point of time and the lands earlier classified as 'Grama Natham' were reclassified as 'Sarkar Poramboke – Grama Natham' on account of



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urbanisation. The urban belt areas urbanised no more remain as villages. On urbanisation, the land values were sky-rocketing and the Government thought fit to protect such 'Grama Natham' lands and accordingly imposed ban and reclassified the lands as 'Sarkar Poramboke'.

61. That being the factum, any patta or assignment made by the Revenue Authorities are invalid and no person can claim title over such 'Government Poramboke' lands. Thus the manner in which the Sale Deeds were executed in the year 1995 by the petitioner's vendors create serious doubt regarding their occupation of 'Grama Natham' lands during the relevant point of time. The Koyambedu area and nearby areas were classified as 'Grama Natham' before being declared as Chennai Built Area and the ban imposed was extended by the Government in G.O.Ms.No.1135, dated 17.03.1962. The Koyambedu area is lying within 32 kms of Chennai City limits and therefore, the lands falling within the Chennai City limits, cannot be assigned nor patta can be issued by the Revenue Authorities on the basis of the statement that the persons are in occupation of the



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subject land. Presuming that persons are in occupation of 'Government Poramboke' lands, they are liable to be evicted by invoking the provisions of the Tamil Nadu Land Encroachments Act, 1905, since the said lands were reclassified as 'Government Poramboke'. Once it is reclassified as 'Government Poramboke' lands, then the provisions of the Land Encroachments Act, 1905 can be applied and the encroachers are liable to be evicted.

62. The impugned Government Order issued in G.O.Ms.No.139, Planning Development and Special Initiatives Department, dated 27.08.2010 states that the subject land is in Koyambedu in Chennai District, Egmore-Nungambakkam Taluk, Koyambedu Village is a 'Grama Natham' land and accordingly it was transferred for developing Chennai Metro Rail Project. Though the Government Order transferring the subject lands were passed in the year 2010, the said order is challenged by the writ petitioner in the year 2017 in the present writ petitions. In the earlier writ petition, the petitioner has not challenged the said Government Order.

63. The notice issued under Section 7 of the



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Land Encroachments Act, 1905 reveals that the subject land has been classified as 'Government Poramboke'. Presuming that the lands are not reclassified as 'Government Poramboke', the 'Grama Natham' lands are meant for housing to homeless poor people in a village. The occupants of 'Grama Natham' lands in villages are assigned for their benefit only with an idea to provide shelter to homeless poor people. The Government is duty bound to regulate 'Grama Natham' lands for the benefit of all homeless poor people without causing any discrimination.

64. Occupation of 'Grama Natham' lands to a larger extent and usage of such 'Grama Natham' lands for commercial purposes are not only impermissible but also unconstitutional. The very purpose of classification of 'Grama Natham' lands are to provide shelter to homeless poor people and therefore, any abuse of such 'Grama Natham' lands are causing infringement of basic rights of the citizen, who all are homeless poor people.

65. It is not as if 'Grama Natham' lands can be occupied to a larger extent by greedy men and utilise



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the said lands for commercial purposes for personal gains. Such occupation of 'Grama Natham' lands are to be resumed by the Government and the assignments are to be granted only to the homeless poor people on establishing their eligibility.

66. In the event of permitting such greedy men to encroach upon the 'Grama Natham' lands to a larger extent, and usage of 'Grama Natham' lands for commercial purposes, it would lead to lawlessness in the Society. Persons with money power, muscle power or political power alone would be in a position to occupy such vast extent of 'Grama Natham' lands for exploitation and for unjust gains, which would cause infringement of the rights of homeless poor people and the same will result in an unconstitutionality with reference to the Constitutional mandate of 'Social Justice'.⁷⁰

“Social Justice” and “Equality Clause” are hallmark principles under the Indian Constitution. Since because Grama Natham lands do not vest with the Government, it does not mean that the Government losses its power to regulate the Grama Natham lands in accordance with the Constitutional principles as



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the Government is mandated to protect the basic rights of the citizen under the Constitution.

67.

68.

69.

71. *“We people of India” resolved the Indian Constitution and ensured “social justice and equality” and elimination of inequality is the inherent philosophy in the Constitution. While speaking about equality elimination of inequality is a deemed principle under the Indian Constitution. Thus, the Government creating inequality at no circumstance be tolerated by the Constitutional Courts.*

72. *Political parties across the country specifically in the State of Tamil Nadu are claiming themselves as champions of social justice and equality. Thus, any ruling political party is expected to honour the 'Will' of the People, which is the Constitution. “Social justice and equality” clause enunciated under the Constitution do not permit any greedy men to occupy larger extent of Grama Natham lands for commercial purposes and for personal gains. The very classification “Grama Natham”*



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cannot be suited to the lands falling under the territorial jurisdiction of Corporations, Municipalities and Towns. Thus, under the guise of the classification as “Grama Natham” no person can be allowed to grab the lands for unjust gains and by depriving the homeless poor people, who all are longing to secure free house sites to lead their livelihood. Greedy men are liable to be evicted under the provisions of the Tamil Nadu Land Encroachment Act, 1905. Whether the Government notified reclassification of Grama Natham lands in urban areas or not. It is deemed to be reclassified on account of urbanisation and the Grama Natham lands lost its character and relevance after urbanisation of towns, municipal areas or cities.

73. Classification of lands are not static. It is changing due to continuous developments and the villages are becoming Towns and the Towns are becoming Cities. So also the Panchayats are upgraded based on the developments and Municipalities are upgraded as Corporations based on the population and the developments in various localities. Therefore, classification of land is a changing phenomena, which can never be static. Even



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if the Government failed to reclassify the lands in a particular area, no citizen can abuse the non-classification or incorrect classification of Government lands for illegal and unjust gains. In such circumstances, reclassification is a deemed concept, which is to be applied taking note of the urbanisation in the particular locality. Even in case, where there is no reclassification of Government lands notified and such lands are high value lands falling within the urban areas, then the occupants cannot claim that they are the title holders of Grama Natham lands, unless such persons hold title approved in the manner known to law.

74. Exploitation of 'Grama Natham' lands for commercial purposes at no circumstances are permissible. 'Grama Natham' lands are not meant for commercial usage. The persons in occupation of 'Grama Natham' lands if allowed to convert the same for commercial purposes, then the concept of 'Grama Natham' lands for the usage of construction of houses for landless poor people is defeated. Thus the Government is empowered to step in and evict the encroachers abusing the 'Grama Natham' lands for



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commercial purposes.

75. The spirit of the Revenue Standing Order 21 (RSO 21) is to be looked into by this Court. RSO 21 (1) Note stipulates that “in assigning lands for house sites care should be taken to see that land is not granted to persons already possessing enough land for their reasonable requirements and that preference is given to those who own no house site and whose family's income does not exceed Rs.12,000/- per annum”.

76. Clause (1)(ii) to RSO 21 speaks about the assignment of house site is banned in the following cases:

(a) District Headquarters and Towns with a population of with over 2 lakhs – 8 kilometers.

(b) Other Towns with a population exceeding one lakh and upto two lakhs – 5 kilometers.

(c) Town with a population exceeding 50,000 and not exceeding one lakh – 3 kilometers.

(d) Other Towns with a population of less than 50,000 – 1.5 kilometers.

77. RSO 21 commences in general by stating that portions of 'Grama Natham' lands or village



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site at the disposal of the Government not being the land required for the common use of the villagers may be granted for building purposes to the bonafide applicants. Therefore, the procedures for assignment of 'Grama Natham' lands in villages are enumerated in RSO 21 and the Revenue Authorities are incompetent to assign the lands classified as 'Grama Natham' beyond the scope of RSO 21. Sub clause (2) to RSO 21 provides procedure in dealing with the applications. The contents state that the applications for house site shall be made in the form in Appendix IV-A and shall clearly specify the land required, the purpose for which it is wanted (i.e.,) whether for constructing a Thatched or Tiled or Terraced building or for erecting a Cow Shed and so on". The publication is to be made while dealing with the applications filed by the persons seeking assignment of 'Grama Natham' lands in villages. A report is to be prepared and sent to the Tahsildar signed by the Village Administrative Officer counter signed by the Revenue Inspector. Thus the procedures to deal with the applications are elaborately stipulated in RSO 21.

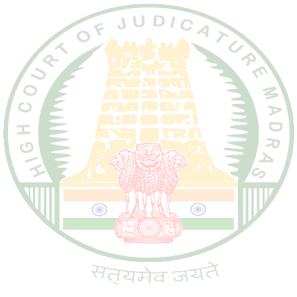


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78. *Pertinently, sub Clause (3) to RSO 21 denotes **Treatment of Unauthorised Occupation.** (i) **Village site not to be appropriated without previous permission.**-Collectors will assert the prerogative of Government by making it known in all Government villages that village site cannot be appropriated without permission previously obtained. (ii) **Consequence of such appropriation.**-If any portion of the village site is appropriated without permission and if the occupation is considered to be objectionable, the provisions of Act III 1905 should be applied in accordance with the instructions contained in Standing Order No.26. If the occupant is found to be entitled to an allotment and the occupation is unobjectionable the site may be formally granted in accordance with the rule, contained in paragraph 2 above and no penalty or at most a mere nominal penalty, should be imposed unless special circumstances render the imposition of penalty desirable.*

79. *RSO 21 (3)(ii) unambiguously stipulates that if any portion of the village site is appropriated without permission and if the occupation is*



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considered to be objectionable, the provisions of Act III 1905 should be applied in accordance with the instructions contained in Standing Order No.26.

80. In-discriminate assignment of Government land without running through the required background checks and without consulting the stake holders involved will defeat the object sought to be achieved. The object here is to ensure that the bonafide applicants are granted “Grama Natham” lands or Village site for construction of housing purposes, when the Government is of the view that it is not required for common public use. In such a scenario, such lands are being assigned by identifying potential bonafide applicants, who are well fitted within the parameters as stipulated under the Revenue Standing Orders (RSO) and the Government Orders.

81. Apart from ensuring that the conditions as stipulated in the Revenue Standing Orders (RSO), complied with, it is also vital to ensure that the object envisioned is achieved.

82. But this Court is witnessing that in Multitude cases, the assignment of Government lands or majorly done to the powerful and



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influential members of the society, who may not be bonafide applicants and in turn these Government lands are used for commercial purposes. With the efflux of time, the de facto purpose or essence is washed away and or is made to seem right to the visible eyes.

83. This defeats the crux of such assignments of Government lands done by the Government. An independent and meticulous examination and discussion is a cardinal requirement before such assignments of Government lands or Grama Natham lands are made.

84. The Government is not empowered to grant lands based on their own whims and fancies. A guideline needs to be put in place to ensure that power in assignment of Grama Natham lands is bridled and used for the rightful purposes to the rightful people. The Government is not just for politicians and party men. It is the representative of the common man. It does not only include the top echelons of the society, but travels the bottom rung of the ladder and it is the inherent duty of the Government to work for their upliftment both



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socially and economically. This can be achieved through schemes, such as assignment of Government lands, Natham lands, which is a welfare measure.

85. Therefore, any unauthorised occupation of 'Grama Natham' lands is impermissible and occupants are to be construed as encroachers and are liable to be evicted by following the procedures as contemplated under the Tamil Nadu Land Encroachments Act, 1905. Thus the contention of the petitioner that Land Encroachments Act, 1905 is not applicable in respect of 'Government Poramboke - Grama Natham' land is untenable."

9. The cardinal principles are carved out from the Directive Principles of State Policy under Article 39(b) of the Constitution of India, which states that the ownership and control of the material resources, including Grama Natham lands should be distributed as best to sub serve the common good. In order to achieve the said principles, the State themselves ensures that the lands, including Grama Natham Poramboke lands are distributed to sub serve the common good. Equal distribution of land to the landless poor people is the



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10. Therefore, the larger extent of such Grama Natham Poromboke cannot be claimed by individuals for commercial exploitation or personal gains.

Therefore, the notion that the Government has no power to interfere, in respect of Grama Natham lands contradicts constitutional principles. We are of the considered opinion that the State is empowered to regulate the more material resources, including Grama Natham Poromboke lands, so as to ensure that it is distributed to sub serve the common good.

11. In the present case, the appellant/school could not establish that the assignment of a larger extent of Grama Natham Poramboke lands granted in their favour by the Government. They are unable to establish that the Patta was granted in their favour by the Government. Therefore, the appellant/school cannot claim rights over the subject property, which is classified as Natham Poramboke.



12. Thus, the writ order dated 22.03.2024 passed in W.P.No.18081 of

2019 is confirmed, and consequently, the Writ Appeal stands dismissed. The

connected Miscellaneous Petition is closed. There shall be no order as to costs.

(S.M.SUBRAMANIAM J.)(K.RAJASEKAR J.)

03-03-2025

Jeni

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1.The Chief Audit General
Teynampet, Chennai 18.

2.The District Collector
Erode District, Erode.

3.The Tahsildar
Bhavani Taluk, Bhavani Erode Dt.



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