



C.S.No.725 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :23.01.2025

Pronounced on : .02.2025

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Civil Suit No.725 of 2018

D.Shankar,
Son of M.Devaraja Gramani,
406, Old No.207 to 209, Arcot Road,
Vadapalani, Chennai 26

.. Plaintiff

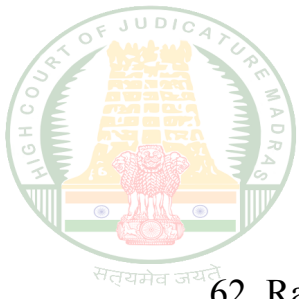
/versus/

1.The Government of Tamil Nadu,
Represented by the Secretary to Government,
Planning and Development,
Fort St.George,
Chennai 600 009.

2.The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Fort St.George, Chennai 600 009.

3.The Additional Chief Secretary,
Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai 600 005.

4.The District Collector, Chennai,
District Collector Office,



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62, Rajaji Salai, Chennai 600 001.

5.The Tahsildar, Mambalam Taluk,
No.1, Bharathidasan Salai,
K.K.Nagar, Chennai 600 078.

6.The Special Tahsildar and Land Acquisition Officer,
Chennai Metro Rail Limited,
Admin Building, Poonamallee High Road,
Koyambedu, Chennai 600 107.

7.Chennai Metro Rail Limited,
Rep.by District Revenue Officer/
Legal Officer, CMRL-Admin Building,
Poonamallee High Road,
Koyambedu, Chennai 107.
(7th defendant impleaded as per order
dated 24.06.2019 in Appln.No.3966/2019)

..Defendants

Civil Suit has been filed under Order VII, Rule 1 of the Code of Civil Procedure and Order IV, Rule 1 of the Original Side Rules of the Madras High Court, praying to pass a judgment and decree:-

(a)Declare that the plaintiff is the owner of the Schedule A, B and C mentioned properties and consequentially, direct the defendants to jointly or severally pay a sum of Rs.4,93,94,080.00(Rupees four crores ninety thousand eight thousand and eighty only) together with interest at 12% per annum from the date of plaint till the date of realization towards compensation for the lands acquired;

(b)To direct the defendants to pay the costs of the suit.

For Plaintiff	:Mr.V.Raghavachari, Senior Counsel for M/s V.Srimathi
For D1 to D6	:Mr.R.Ramanlal, AAG, Asst.by Dr.S.Suriya, AGP



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For D7

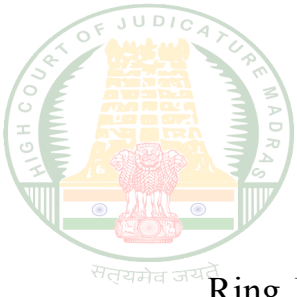
:Mr.P.Wilson, Senior Counsel for
M/s Rita Chandrasekar

J U D G M E N T

Civil Suit for declaration of ownership and consequential relief of direction to the defendants to pay jointly and severally compensation of Rs.4,93,94,080/- together with interest at the rate of 12% p.a. for the portion of the land acquired.

2. Plaint averments:

According to the plaintiff, the suit land classified as Grama Natham situated at S.No:11, 12 and 13 of Block 9, Saligramam Village, Madras, came to be occupied by his predecessors several years ago. On 01.10.1932, the suit property was purchased by one Munusamy Gramini from S.Ranganatha Pillai. Thereafter, the sons of Munusamy Gramini sold a portion of it jointly and after partition among them, they sold their share individually to Tmt.Krishnaveni Ammal and her husband Devaraj Gramini. The plaintiff is the adopted son of Krishnaveni ammal. In the year 1982, a portion of the property in T.S.No:11/2 was acquired by the State for Inner



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Ring Road project. Recognising her interest in the property, compensation was paid to Krishnaveni Ammal vide, Award proceedings No:6/1986, dated 30.07.1986.

3.During her life time, Tmt.Krishnaveni Ammal raised construction over the land, after obtaining necessary planning permission. In the portion of the building, Tmt.Krishnaveni Ammal was residing and using the remaining portion for commercial purpose. The Tax for the property was regularly paid by Tmt.Krishnaveni Ammal. Later, through two deeds Krishnaveni Ammal settled the properties bearing Door Nos:207, 208 Arcot Road, Vadapalani, Chennai, and land in S.No:178/1, Old Door No:26, Mosque Street, Vadapalani, to the plaintiff. Pursuant to the settlement, the plaintiff's name stood mutated in the revenue records. In the T.S.L.R. the existence of a house is mentioned. Thus, the title of the suit property vest with the plaintiff.



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4. While so, unmindful of the fact that the plaintiff is the owner of the property, on 04.05.2011, notice under the provisions of the Land Encroachment Act, 1905, was issued to the plaintiff as if the plaintiff is an encroacher of the suit land. Challenging the notice issued under the Land Encroachment Act, 1905, the plaintiff filed W.P.No.12795 of 2011. The said Writ petition was disposed with the direction to consider the explanation/objections submitted by the Writ Petitioner and pass an appropriate order. Till then, the interim stay of the impugned eviction notice was ordered.

5. Subsequently, when the CMRL required the land for its project, the Government of Tamil Nadu again treated the suit land as poramboke land and took possession of a portion of the plaintiff's land. The claim of the plaintiff that the property is a Grama Natham and the plaintiff as the first occupant of the Grama Natham is the title holder, was rejected by the District Collector. However, the Government in its proceedings dated 30.09.2011 recognising the long enjoyment and sale documents in favour of



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the plaintiff, directed the Special Deputy Collector (Land Acquisition Tamil Nadu Urban Development-III, Madras-55) to settle the compensation as per the norms prescribed in G.O.(Ms)No.1971, Revenue Department, dated 14.10.1988.

6. In breach of the order passed by the Special Deputy Collector, dated 30.09.2011, The Land Encroachment Act was again invoked against the plaintiff, which compelled the plaintiff to file W.P.No.22984 of 2011. In the said Writ petition, the Division Bench of the High Court by order dated 13.09.2013 directed the State to disburse the compensation amount within a period of eight (8) weeks. The requisitioning body (CMRL) though have no locus standi, preferred SLP before the Hon'ble Supreme Court challenging the order of the Division Bench questioning the title of the plaintiff. The SLP preferred by the CMRL was disposed by the Hon'ble Supreme Court on 27.10.2017 observing that the plaintiff has to take appropriate civil action or any other action, as permissible under the law, to establish that he is the owner of the land. Such action to be taken within 8 weeks from the date of



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order. If the plaintiff fails to take action within 8 weeks, the amount deposited to be refunded to the depositor (CMRL). The present suit is warranted on account of the observation made by the Hon'ble Supreme Court.

7. Pending proceedings the Government has conducted survey through the Revenue Department and Natham Patta had been granted to the other occupants in the vicinity. The suit subject land is Grama Natham. So the first occupant gets title. The plaintiff is not an encroacher. The State has no authority except to accept the title. It has no right to invoke the provisions of Land Encroachment Act, 1905. The value of the land acquired for CMRL and Highways Department including the value of the building damaged is worth Rs.4,93,94,080/-. By acquisition, the remaining portion of the building has become unfit for occupation. For restoration of the building the plaintiff had to spend about Rs.85,00,000/-. For the loss of business the defendants are bound to pay compensation, which is estimated about Rs.1,80,00,000/-.



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8. According to the plaintiff, the cause of action for the suit arose as below:-

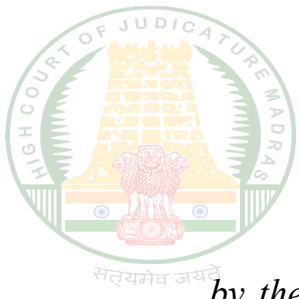
The cause of action for the suit arose on 01-10-1932, when Ranganathan Pillai executed a sale deed in favour of M.Gramini. Thereafter on 27-09-1960 when Natesa Gramini and Sundaramurthy executed a sale deed in favour of Krishnaveni Ammal. On 10-10-1960 when Natesa Gramini and Sundaramurthy executed a partition deed, dealing with the property. On 09-02-1966 when Sundaramurthy executed a sale deed in favour of M.Devarajan. On 11-11-1967, when Sundaramurthy executed a sale deed in favour of Krishnaveni Ammal. On 02-09-1968, when Natesa Gramini executed a sale deed in favour of Krishnaveni Ammal. On 26-06-1978, when the Collector in his proceedings admitted title of the plaintiff's predecessor. On 08-12-1982, 06-01-1983, 06-06-1983, 18-10-1984, 19-10-1985, 03-09-1985, 02-12-1985, 29-07-1986 and 30-07-1986 when the Government acquired the property of the Plaintiff's predecessor. On 26-03-1990, when Angaiyarkanni Ammal executed a sale deed in favour of Krishnaveni



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Ammal. On 28-04-1992, when the Plaintiff's predecessor handed over charge of the property. On 26-08-1996 & 23-10-1996, when settlement deeds were executed in favour of the Plaintiff for the entire extent. On 24-12-1998, when the High Court issued letters of administration for the Will of Devarajan. On 02-02-2011, when G.O.Ms.Nos.31 & 32 were issued by the Planning, Development and Special Initiatives Department. On 25-03-2011 when a publication was made in the official gazette notifying G.O.Ms.80, Planning, Development and Special Initiatives Department. On 04-05-2011, when a notice under Section 7 of the Land Encroachment Act was issued. On 16-05-2011, when the Plaintiff issued a notice on the 5th defendant. On 20-05-2011, when the Tahsildar issued a notice under Section 6 of the Land Encroachment Act. On 23-05-2011 when the Plaintiff filed W.P.No.12795 of 2011. On 21-06-2011, when the High Court passed judgment in W.P.No.12795 of 2011. On 19-08-2011, 26-09-2011 and 30-09-2011, when the Defendants held proceedings with regard to the acquisition of the land. On 04-10-2011, when the Plaintiff filed W.P.22984 of 2011. On 30-11-2011 & 17-12-2011, when the interim order in W.P.No.22984 of 2011 was issued



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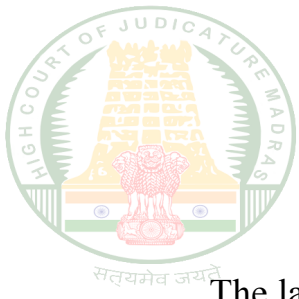
by the High Court, Madras and confirmed by the Hon'ble Supreme Court.

On 28-12-2011, when transfer of charge was issued for Schedule A & B. On 06-07-2012, when notice was issued under Section 6 of the Land Encroachment Act. On 13-09-2013, when the High Court passed judgment in W.P.22984 of 2011 and 27-10-2017 when the Hon'ble Supreme Court disposed of Civil Appeal No.8269 of 2015.

9. Gist of the Statements by the Defendants:

The Fourth Defendant/ District Collector, Chennai had filed written statement and same is adopted *mutatis and mutandis* by the defendants 1, 2 and 3.

10. In the written statement, the fourth defendant had stated that the plaintiff cannot be termed as owner of the suit schedule property situated at S.Nos.11, 12 and 13 of Block 9, Vadapalani. In the records maintained by the Government, the suit land is classified as Village Natham Poramboku. In the Adangal register, the usage of the land is mentioned as village Natham.



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The land been exploited by the plaintiff for commercial purpose. Payment of Tax will not confer title. Till date, no patta issued to the plaintiff recognising his title. There is no proof that the predecessor of the plaintiff received compensation for the piece of land acquired earlier for laying Inner Ring Road.

11. Grama Natham lands are earmarked for community residential purpose and only dwelling units can exist in the land. It cannot be occupied for commercial purpose. When a portion of the land acquired by CMDA., Krishnaveni Ammal, who is the mother of the plaintiff was not recognised as owner of the property. She was only identified as a person interested in the property. While acquiring the land for CMDA, the land was mentioned as Grama Natham, Ryotwari Manai and Government Porambokku. Whereas, in the Award passed for acquisition, the nature of the land acquired was mentioned as Grama Natham. In fact, the land in S.No:11 (old survey number 178/1 pt) is classified as Sarkar Porambokku-Grama Natham which is actually Government Land.



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12. For the Chennai Metro Rail Project, the Government decided to remove the encroachment and hand over the land. Hence, the Thasildar, Numgambakkam Taluk, in her proceedings M4/36002/2010 dated 19.08.2011, ordered the plaintiff and others to vacant the land. This order was challenged before the District Collector, Chennai. The appeal was dismissed by the Collector on 26.09.2011 in the proceedings No: J3/12566/2011. The order passed by the Collector was challenged in W.P.Nos.22984, 24513 and 24514 of 2011 by the plaintiff and others. The High Court, by a common order dated 13.09.2013 directed to disburse the compensation amount to the occupants in accordance with law within 8 weeks. In the Special Leave Petition filed by CMRL, the Hon'ble Supreme Court declined to recognise the ownership claim of the plaintiff. It opined that the plaintiff ought to have taken appropriate civil action or any other action, as permissible under the law to establish that he is the owner of the land. It gave plaintiff the option to prefer suit or any other action appropriate under law within 8 weeks extending the benefit of Section 14 of the



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Limitation Act for such action initiated.

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13. The plaintiff is squatting over the Government land and exploiting it for commercial purpose. He has no title or patta for the land. He is liable to be evicted from the land which is under his encroachment. He is not entitled for any compensation for the land or loss of business.

14. CMRL/the seventh defendant being the requisitioning authority had filed its written statement through its Representative the DRO/Legal Officer.

15. According to the 7th defendant, a portion of the land in dispute required for CMRL project. Hence, it requested the State to provide the land for its utilisation. As requisitioning body, CMRL has right and interest in the proceedings. Being aggrieved by the direction of the High Court to pay compensation to the private party for the Government land, CMRL preferred SLP and in that SLP, the Hon'ble Supreme Court found that the ownership



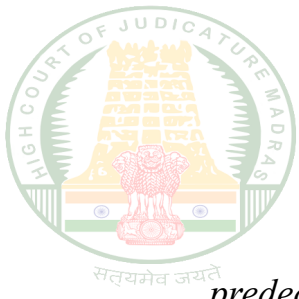
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claim of the plaintiff is not yet established and the civil right has to be established in the manner known to law. The land in dispute classified as Grama Natham is meant exclusively for residential purpose. The plaintiff is admittedly exploiting the land for commercial use. The plaintiff had put up commercial building on the land in dispute for which he has no valid title or patta. Mere possession will not confer ownership over the land. In the earlier acquisition proceedings, Krishnaveni Ammal was only shown as person interested and not person who own the land. Even to prove his predecessor in title was person interested in the land, there is no evidence that ultimately, compensation paid to Kishnaveni Ammal. Without valid title or patta, the plaintiff is neither entitled for declaration of ownership nor compensation for the land which he is in possession.

16. Based on the pleadings, the Court has framed the following issues:

"1. Whether the plaintiff is the owner of the schedule A, B and C properties?

2. Whether having recognized the ownership of ther plaintiff's



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predecessors, in earlier land acquisition proceedings, the defendants can deny the title of the plaintiff?

3. Whether having accepted the objection of the plaintiff's mother, to the inclusion of the tenant's name in earlier land acquisition proceedings, the defendants can deny payment of compensation?

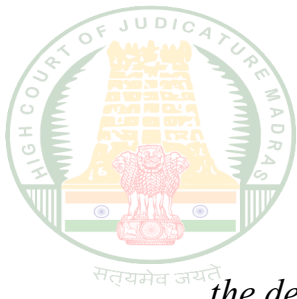
4. Whether the defendants were justified in resorting to the Land Encroachment Act?

5. Whether the plaintiff would be entitled to seek compensation for the suit schedule land which had been admittedly classified as Gramma Natham land and which had been put to commercial use by the plaintiff?

6. Whether the plaintiff is entitled to payment of Rs.4,93,94,080/- as compensation?

7. Whether the defendants are liable to pay solatium at the rate of 30% and interest at the rate of 15% for the first year and 12% every year thereafter, till the date of recovery on the market value of the property?

8. Whether the defendants are liable to pay Rs.85,00,000/- expended by the plaintiff towards restoration of the building, damaged on account of



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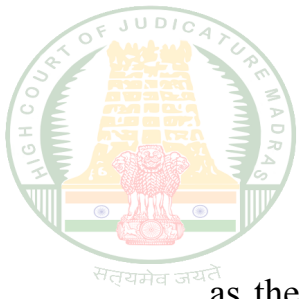
9. Whether the defendants are liable to pay Rs.1,80,00,000/- towards the loss of business of the plaintiff?

10. To what other reliefs the parties are entitled to? "

17. The plaintiff-Shankar filed his proof affidavit in lieu of examination in chief. He graced the witness box and Ex.P-1 to Ex.P-51 were marked as documents. He was cross examined by the Defendants counsels. On behalf of defendants 1 to 4, Mr.C.K.Kumaaran, Thasildar, was examined as DW-1. Through him, Ex.D-1 to Ex.D-7 were marked as defendant side documents. During his cross examination, Ex.P-52 and Ex.P-53 were marked by the plaintiff. For the 7th defendant, Tmt.Sinduja, Special Thasildar, Land Acquisition, CMRL examined as DW-2. In her cross examination, Ex P-54 was marked.

Issues 1 to 3:

18. D.Sankar, Son of Devaraj Gramini, has laid the suit to declare him



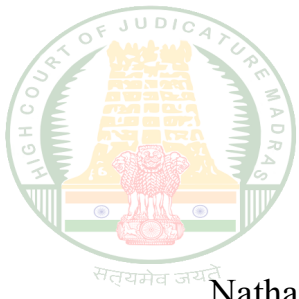
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as the owner of the three items of properties more fully described as A, B and C in the schedule to the plaint. He claims ownership over the property based on two settlement deeds executed by Krishnaveni Ammal (Ex.P-27 dated 26.08.1996 and Ex.P-28 dated 23.10.1996) and a Will dated 17.06.1987 executed by the Devaraj Gramini. (Ex.P-29- Letters of Administration granted to the Will of Devaraj Gramini by High Court on 24.12.1998).

19. The plaintiff claims that his father Devaraj Gramini married sisters by name Krishnaveni ammal and Gnanasoundari Ammal and he is the son born to Gnanasoundri ammal. Since Krishnaveni ammal had no issues, she adopted the plaintiff who is one of the three sons born to Devaraj Gramini through his second wife Gnanasoundari. This fact is reflected in the Will of Devaraj Gramini.

20. According to the plaintiff, the suit schedule properties earlier part of Survey No:178/1 measuring about 9,668.50 sq.ft classified as Grama

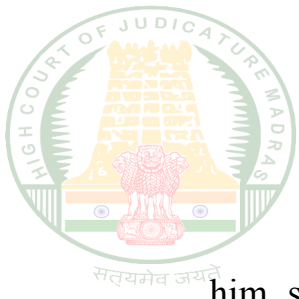


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Natham in the revenue records was in enjoyment and possession of one Ranganatha Pillai along with another piece of land measuring 1505 sq.ft in the same survey number. The said Ranganatha Pillai got the property through partition among his family members. The said Ranganatha Pillai on 01.10.1932 through a registered sale deed (Ex.P-1) sold the above mentioned properties to one Munusami Gramini, S/o Ekambara Gramini. After the demise of Munusami Gramini, from the sons of Munusami Gramini by name (1) Natesa Gramini and (2) Sundaramoorthy Gramini, on 27.09.1960 through registered sale deed (Ex.P-3), Krishnaveni ammal purchased 3872 ½ sq.ft of land. Subsequently, the sons of Munusami Gramini divided the remaining land in S.No:178/1 among themselves through a partition deed dated 10.10.1960 (Ex.P-4). In this partition deed, the portion sold to Krishnaveni Ammal is referred as one of the boundaries and in all these sale deeds, the property is identified as Grama Natham.

21. After the partition between the sons of Munusamy Gramini, one of the Son Sundaramoorthy Gramini from out of 2916 sq.ft of land allotted to

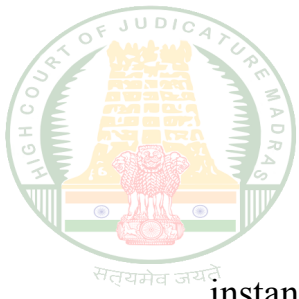


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him, sold a portion of his share measuring 1344 sq.ft land with building and right in the common path way, to Devaraj Gramini vide, sale deed dated 09.02.1966 which is marked as Ex.P-5. The remaining portion measuring 1490 (excluding the common pathway) was sold to Krishnaveni Ammal wife of Devaraj Gramini under sale deed dated 11.11.1967 (Ex.P-6). Likewise, the other son Natesa Gramini, sold to Krishnaveni Ammal on 02.09.1968 (Ex.P-7) 1753 sq.ft of land out of 2880 sq.ft of land allotted to him under the partition. After the demise of Natesa Gramini, his wife Angaiyarkanni sold the portion retained by her husband which extent to 1127 sq.ft of land and structure on it vide sale deed dated 26.03.1990 (Ex.P-24).

22. The Learned Senior Counsel appearing for the Plaintiff, after referring these sale deeds to trace the right of the plaintiff and his legal entitlement to declare him as the owner of the suit mentioned properties, by relying on the description of the property in the sale deeds between the parties as Grama Natham, emphasis on the principle that in so far as the properties classified as Grama Natham, the first occupier is the owner. In the

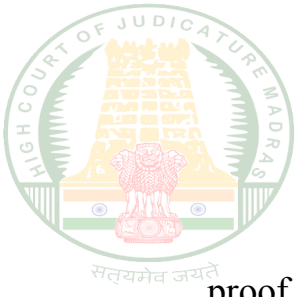


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instant case, the plaintiff had traced his right from the first occupier namely Ranganatha Pillai through his sale deed Ex.P-1, therefore, he is entitled for declaration as prayed. Ex.P-15 and Ex.P16, which are the copy of the applications by Krishnaveni ammal and Devaraj Gramini for issuance of patta pending since 1984 and 1985, also relied by the plaintiff in support of his claim. Besides the above mentioned documents, the proceedings initiated under the Land Acquisition Act by the Housing and Urban Department and the consequential award dated 30.07.1986 (Ex.P-22) in favour of Krishnaveni ammal for the acquisition of a piece of land for the purpose of Inner Ring Road recognising her as the owner is strongly relied by the plaintiff.

23. The Learned Senior Counsel for the plaintiff submit that Ex.P-2 the tax receipt for the property tax collected since 1935 and Ex.P-9 dated 28.12.1970 which is the notice issued under Section 10(2)(b) and 10(2)(c) r/w Section 5-C and 40-A of the Tamil Nadu Urban Land Tax Act to Krishnaveni demanding urban land tax from the owner of the land are the

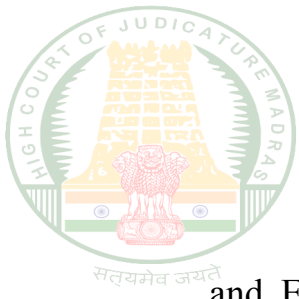


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proof to establish that the predecessors of the plaintiff were recognised as owners of the land. While so, the land in possession of the plaintiff classified as Grama Natham in the revenue records and sale deeds for denial of compensation cannot be altered as Sarkar porombokku. The attempt of the defendants to treat the land as Government Porambokku is with the sole object of depriving the plaintiff, the due compensation for the land acquired and damages caused to the structure. Such an attempt is not legally sustainable.

24. In furtherance of the said submission, the learned Senior Counsel for the plaintiff draw the attention of the Court, the legal actions initiated by the plaintiff challenging the eviction notice issued under Section 6 of Tamil Nadu Land Encroachment Act, 1905 and subsequent actions taken by the respondents to evict the plaintiff without any compensation. The Learned Senior Counsel also refer to the observations of the High Court in W.P.No. 12795 of 2011 order dated 21.06.2011(Ex.P-37); in W.P.No.22984 of 2011, interim order dated 30.11.2011 and final order dated 13.09.2013 (Ex.P-43



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and Ex.P-50 respectively) and the order passed by the Hon'ble Supreme Court granting liberty to the plaintiff in S.L.P.No.8269 of 2015 dated 27.10.2017 (Ex.P-51).

25. To buttress the claim that the suit property been classified and recognised as grama natham, the plaintiff while cross examining DW-1, had marked the TSLR (Town Survey Land Register) in respect of Block No.9, Old Survey No:178/1 part, New T.S.Nos:10 to 18 of Saligramam as Ex.P-52 and the building plan approval for the proposed demolition and reconstruction at Door No.207, Opp to Arcot Road (Mosque Street) S.No:178/1 part issued by the Chennai Corporation on 17.11.1998 marked as Ex.P-53. Further, to prove that CMRL recognising the ownership of the neighbouring land owners and had entered into private negotiation with them to purchase property in S. No:15/1, the sale deed dated 4th May 2022 between CMRL and a private individual in respect of old S.No:178/10B; New Survey No:15/1 Saligramam Village is marked as Ex.P-54 during the cross examination of DW-2.



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26. According to the Learned Senior Counsel for the plaintiff, the suit property was all along been enjoyed absolutely by his predecessors and thereafter by the plaintiff. Superstructure was put up and necessary statutory levies were paid ever since 1935 (Ex.P-2). For the first time, the officials in the Revenue Department treating the plaintiff and others as unauthorised and illegal encroachers. This notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 was challenged in W.P.No.12795 of 2011 and similarly aggrieved persons filed W.P.No.22984 of 2011, W.P.No.24513 of 2011 and W.P.No. 24514/2011. The Division Bench of this Court in its common order dated 13.09.2013, held that the Government is not clear as to the classification of the land whether it is Government Porambokku or Grama Natham. Hence, the Court left open the issue whether the land is Government Porambokku or Grama Natham and directed the acquisition authority and the requisitioning body to disburse the compensation amount to the writ petitioners within 8 weeks. This direction was given in view of the fact that the land of the plaintiff and others were required for a public



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purpose and dehors of the classification of the land, the person in long possession is entitled for compensation.

27. After recognising the land in S.No.178/1 as grama natham for several decades, the doubt about the classification of the land, whether it is grama natham or Government porambokku raised by the authorities only in the year 2011. Till then, the Revenue Department was considering the land only as grama natham and collecting Tax. The Hon'ble Supreme Court having granted liberty to the plaintiff to ascertain the plaintiff's right of ownership in respect of the suit property, the proceedings initiated under the TamilNadu Land Encroachment Act, 1905 has no binding effect on the plaintiff. The plaintiff need not challenge the order of transfer of charge dated 28.12.2011 (Ex.P-45) made unlawfully pursuant to the eviction proceedings under Land Encroachment Act.

28. In support of his arguments, the Learned Senior Counsel relies on the Judgment of this Court in ***R.A.V.Kovil Annayya Charities –vs- The District Collector and others rendered in W.P.No.25608 of 2023, dated***



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22.11.2023, wherein the Division Bench of this Court after considering the earlier judgments on this issue has held that once a land is classified as Grama natham, no portion of the land vests with the Government, even if a portion of the land is converted into an agricultural land. Therefore, the land classified as Grama natham till 2011 cannot be changed as Government Porambokku land and taken over or evicted without compensation.

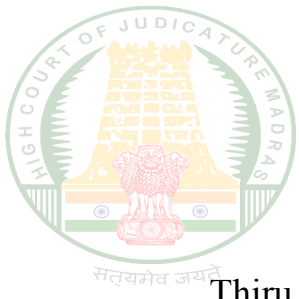
29. In the judgment cited above, the below Judgments of this Court are referred:-

(1)A.K.Tillaivanam –vs- The District Collector and others (1997 SCC OnLine Mad 977).

(2)A.R.Meenakshi and others –vs- State of Tamilnadu and others (2013-4-LW 76)

(3)T.S.Ravi and another –vs- The District Collector and others (W.P. Nos: 26234 of 2018 and 26237/2018).

30. Per contra, the Learned Additional Advocate General,



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Thiru.Ramanlal representing defendants 1 to 5 submitted that, the land in dispute always remained as Government porambokku. The Extract from Permanent Land Register for Old S.No:178/1 part New Survey Nos: 11,12 and 13 marked as Ex.D-1 to Ex.D-3 is relied by the defendants to emphasis that the land in dispute classified as Sarkar (Government) land and its use by the occupants been noted either as residential building or vacant site. According to Learned Additional Advocate General, though while considering its usage, in some of the revenue records like adangal, the land in old S.No.178/1 is mentioned as Grama Natham, in any case, the plaintiff cannot claim title or ownership over the land in his occupation and possession, for the simple reason neither he nor his predecessors had title. Admittedly, patta for the land not issued to the occupier. Even for some reason, the land to be held as grama natham, the plaintiff and his predecessors can use grama natham land only for residential purpose and not for commercial purpose. Having put up a building for commercial purpose, the benefit of recognising the illegal occupant as owner of grama natham land does not arise.



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31. According to Learned Additional Advocate General, even assuming the land in question is a 'Grama Natham', nonetheless as per Revenue Standing Order 21, a person is entitled to hold only upto 3 cents that too only for residence and cannot have a commercial building in the grama natham land, which is exclusively meant for residential purpose. Judgements without reference to Revenue Standing Order 21 is not binding and relevant to the case in hand.

32. Referring the judgment *dated 27.03.2024 in S.Anbananthan –vs- District Collector, Perambalur reported in MANU/TN/1616/2024*, the Learned Additional Advocate General submitted that the Division Bench of this Court has distinguished the earlier judgements, particularly *Thillaivanam case* rendered without considering the legal position and Revenue Standing Order about Grama Natham lands and had held that these judgments had lost its status as precedent.



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33. The further case of the Government as placed before this Court through the Learned Additional Advocate General is that, it is not in all cases, the first occupant of the grama natham to be treated as the title holder. This preposition is clarified by the Division Bench of this Court, in W.P.No.22984 of 2011 etc., vide order dated 13.09.2013 in the following terms, when the plaintiff canvassed the very same proportion :-

“5(x) A faint attempt has been made by the respective learned counsel appearing for the petitioners, by submitting that the first occupier will be treated as the owner and since the petitioners are claiming title through the said person, they are to be declared as owners and in support of the said submission, they placed reliance upon a decision reported in 2006(3) MLJ 216 (MUTHAMMAL (DIED) AND OTHERS V. STATE OF TAMIL NADU).

5(xi) A perusal of the above said decision would disclose that the learned Senior Counsel appearing for the applicant therein, made a submission that the first occupier will be treated as the owner and it has been merely accepted without reference to any earlier decisions of this Court. The said proposition advanced on behalf of the petitioners, is too wide and there cannot be any universal principal that the first occupier will be treated as the owner as the said issue/question depends upon the facts and circumstances of each case and evidence“.



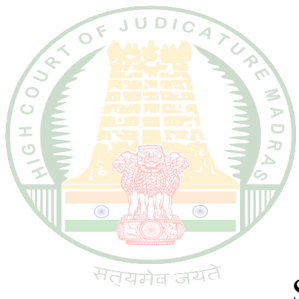
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34. The Learned Additional Advocate General also submitted that in the earlier Land Acquisition proceedings, Krishnaveni Ammal was never recognised as owner of the property or the holder of title. She was considered as person interested in the property which was proposed to be acquired. Since there was rival claim among the parties interested, the compensation amount was not paid, it was kept in deposit. This fact already been considered by the Division Bench of this Court in W.P.No.22984 of 2011 and decided as under:-

“5(xii).The uncontraverted fact remains that the predecessors in title, were issued with notices in respect of the earlier acquisition of the part of the lands in the same survey numbers for the formation of Inner Ring Road and Krishnaveni Ammal, form whom the petitioner in W.P.No.22984/2011, claim title and possession, was paid with compensation and in respect of predecessor and other writ petitioners, though compensation was awarded to them, in view of the pendency of the civil proceedings, it was orders to be deposited under Section 30 of the Land Acquisition Act, 1894, with a direction to make a reference under

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Section 13(2) of the Act.“

35. The Learned Additional Advocate General, further submitted that the suit itself is not maintainable for want of proper valuation under proper provision of law. The Court Fees paid under Section 22 of the Tamil Nadu Court Fees and Suit Valuation Act is for the relief of money claim. The plaintiff had not paid Court fees for the relief of declaration of ownership under Section 25 of the Tamil Nadu Court Fees and Suit Valuation Act. For non payment of just and proper Court fees, the suit is liable to be dismissed.

36. In the 'A' Register, the property is described as Government Porambokku, in the remarks column alone it is mentioned as Grama Natham. Action under Tamil Nadu Land Encroachment Act 1905 was initiated by issuing notice under Section 7 (Ex.P-33) on 04.05.2011. Thereafter, notice under Section 6 was issued on 20.05.2011. In both the notices, the land been described as Sarkar porambokku. In the writ petition W.P.No.12795 of 2011 filed by the plaintiff challenging these notices, the Division Bench made it clear that the objection of the plaintiff to be

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considered, and if any adverse order is passed, it should be challenged by the plaintiff before the Appropriate Authority under Section 10 of the Act. Thus, the notice for eviction under the Land Encroachment Act treating the property as Government Proambokku has not been set aside and had reached finality after the Collector dismissed the appeal of the plaintiff on 26.09.2011 confirming the order of the Thasildar. Consequently, the plaintiff had handed over the property mentioned under 'A' schedule to the Firka Revenue Inspector on 28.12.2011 vide Ex.P-45 and Ex.P-46.

37. In respect of the Ex.P-3 the tax receipt and Ex.P-9- the notice demanding Urban Land Tax from Krishnaveni ammal, the Learned Additional Advocate General contended that the survey number found in the demand notice does not co-relate with the survey numbers mentioned in the suit seeking declaration. Further, it is argued that payment of tax to the local body or any other statutory body will not confer title .

38. Regarding claim of damages, Learned Additional Advocate

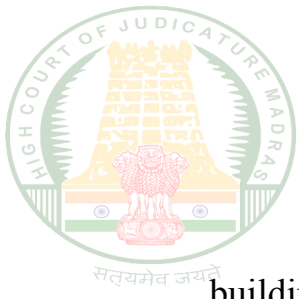


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General submitted that, the plaintiff, who seeks damages for the acquisition of the land and damage of his property constructed on the said land, had not let any evidence to quantify the damage. For the relief prayed, appropriate Court Fees under appropriate provision of law not paid. The valuation in the suit for the property is not supported by evidence Hence, the suit is liable to be dismissed.

39. The Learned Senior Counsel Mr.Wilson appearing for the 7th defendant, supporting the contention of the Government, in addition to submission made by the learned Additional Advocate General, stated that, the purpose of Revenue Standing Order 21 is to prevent illegal encroachment of Grama Natham land for commercial purpose. The purpose and extent of utilisation of Grama Natham land is well stated in Revenue Standing Order 21 and interpreted by the Court in catena of judgments. In *Zonal Officer Vs. Corporation of Chennai and another Vs. K.Narasa Reddy, Kances Constructions Pvt.Ltd. and others reported in((2012)4 MLJ 646)*, the Division Bench of this Court has held that permission for commercial

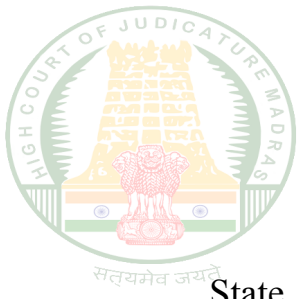


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building on a land classified as grama natham cannot be granted, even in the cases where patta is issued to the occupier. Only lands used as house sites are excluded from the Land Encroachment Act. Whereas the land in dispute is substantially a commercial building, the plea of the plaintiff that the land is grama natham land assessed to tax and is in use and occupation for several years or the application for grant of patta pending for several years will not confer the plaintiff or any of the occupant of the said land the right of ownership of the Government Land.

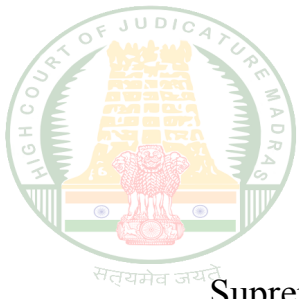
40. The Learned Senior Counsel, in response to Ex.P-54, submitted that, the land in T.S.No.5/1 was purchased through private negotiation under Ex.P-54 not on recognising the vendor as the owner of the land, but as occupier of the land. Neither the sale deeds marked as Ex.P-1, Ex.P-3 to Ex.P-7, Ex.P-24, Ex.P-27 and Ex.P-28 will confer ownership to the plaintiff, when ownership of the land in question vest with the Government. Without assignment by way of patta, whether the land is a grama natham or a Government porambokku, the occupier right is subject to the will of the



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State. Utilisation of Grama Natham land for commercial activity is prohibited. Hence, the Government has rightly initiated action under Land Encroachment Act and taken possession of the land. The land in T.S.Nos:11, 12 and 13 were classified in the revenue records as Government proambokku and owned by the Government. For which no compensation need be paid to the illegal occupant. The 7th defendant CMRL for the public purpose viz, to establish Metro Rail Project, sought for the land in T.S. No.12pt and T.S.No: 13 pt of Block 9 Saligramam village. By G.O. Ms.No.31 and G.O.Ms.No.32 dated 02.02.2011 (Ex.P-30 and Ex.P-31) the Planning, Development and Special Initiatives (SI) Department issued enter upon permission to CMRL. For the said project, the land in possession of the plaintiff was utilised. The land being classified as government porambokku and the plaintiff being in possession unauthorisedly, the CMRL is not bound to pay any compensation for the land. Since the Division Bench of this Court directed the CMRL to deposit Rs.25 crores towards compensation for the land, after depositing the amount, the CMRL preferred SLP before the Hon'ble Supreme Court and the said SLP was disposed by the Hon'ble



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Supreme Court with the following observation:-

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“Having heard learned counsel for the parties, we are of the considered opinion that respondent No.1 should take appropriate civil action or any other action, as is permissible under the law, to establish that he is the owner of the land within eight weeks from today. The amount that is lying before the High Court in deposit shall be kept in deposit, and the same shall be dealt with on the basis of the result of the action taken by respondent No.1 before the appropriate forum. Be it clearly stated that the Civil Court or any other authority while deciding with regard to the nature of the land or right and title of respondent No.1, shall not be influenced by any of the observations that have been delineated by the High Court in the impugned order.

Needless to say that as the respondent No.1 was prosecuting the case, the benefit of Section 14 of the Limitation Act, 1963 shall be extended to him if the Civil Suit or any other action is initiated within a period of eight weeks.

If respondent No.1 does not take any action, the amount shall be refunded to the depositors. In case it is initiated within the time stipulated herein above, the intimation shall be given by respondent No.1 to the Registry of the High Court and thereafter, the said amount shall be kept in a fixed deposit in a nationalised Bank.”



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41.The plaintiff without proper title or right cannot claim compensation for the land in his unauthorised occupation. The plaintiff has miserably failed to prove, how he has quantified the compensation of Rs.4,93,94,080/-. In the revenue record, old S.No.178/1 is classified as Government Porambocku. In the usage column, it is mentioned as house or vacant site or building. Grama Natham is defined and understood as “ground set apart on which the house of village may be built. It is the residential portion of the village. Whereas, the land in dispute is not a residential building but commercial structure and land appurtenant to it. The plaintiff has not established that the land acquired by CMRL is the property owned by him. The plaintiff has no valid title or patta for the land.

42. In addition to the oral submissions by the respective counsels as discussed above, written submissions were filed by the parties for due consideration of this Court.



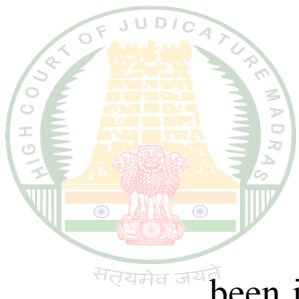
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43. At the outset, this Court is bound to record that the relief sought and the Court Fees paid does not synchronize. Nonetheless, the said defect being curable, court proceed analysing the evidence adduced by the parties to decide on the facts controverted.

44. The core dispute between the plaintiff and the defendants is in respect of the classification of the property. While the plaintiff claims the property is grama natham, the defendants claim that it is Government porambokku and even otherwise the plaintiff is not entitled for declaration or compensation, since the land is not used as residence, but used for commercial purpose.

45. Admittedly, till date, patta to the land not issued. The land been dealt by individual on the premise that it is village natham. Due to rapid urbanisation, Saligramam till recently a village and outside the corporation limit, has now brought within the Greater Chennai Corporation. During the month of May, 2011, terming the land as Government porambokku, action



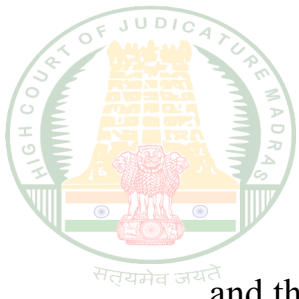
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been initiated against the plaintiff and the plaintiff has objected to it stating that the land is classified as grama natham and excluded from the scope of Land Encroachment Act. The Thasildar declined to accept this objection. The appeal preferred against the order of the Thasildar, negatived and the District Collector has confirmed the order of the Thasildar vide proceedings dated 26.09.2011, which is marked as Ex.P-39.

46. The case of the plaintiff pegs on the long possession and the sale deeds in favour of his predecessors. The land has to be classified as Ryotwari land, in view of the Abolition and Conversion of Royatwari Act, 1948, since the land been transferred by a registered deed prior to 01.07.1939. It is admitted by the Government that as far as City of Chennai the process of granting Ryotwari patta not completed.

47. This Court take note of the fact that while deciding the objection of the plaintiff, the District Collector has stated that patta not issued to the plaintiff, since the Natham settlement work not yet completed in Chennai



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and the plaintiff not given royatwari patta for his land, hence it is proved that the land is Government Porambokku land.

48. In or around the same time, the Secretary to the Government at Highways and Minor Ports (HW-2) Department vide his letter dated 30.09.2011 had addressed the Special Deputy Collector (Land Acquisition) to settle compensation to the claimants, who are in long enjoyment and possess sale documents, even though they do not have patta for the land. Direction to the District Collector issued to follow the norms prescribed in G.O.(Ms) No: 1971, Revenue Department , dated 14.10.1955. The above letter marked as Ex.P-40. Relying on this communication, the learned Senior Counsel for the plaintiff submitted that accepting the above instruction received from the Government, the plaintiff's predecessor (Krishnaveni Ammal) was paid compensation for the linear acquisition made for the Inner Ring Road considering the long enjoyment and sale documents. While so, to deprive the plaintiff from getting due compensation, for the first time in the year 2011, for the acquisition of the land for CMRL, after issuing



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enter upon permission to CMRL, the eviction notice under Tamil Nadu Land Encroachment Act, 1905 is issued, despite the settled principle of law that the Land Encroachment Act not applicable to Grama Natham land and no tax is levied for Government land. Further, it is also contented that, Revenue Standing Order 21 is applicable only in case of assigning patta for Grama Natham land afresh and not in case of land already occupied and tax paid.

49. No doubt, the records maintained in the Revenue Department though had mentioned the usage of the land in old S.No.178/1 as grama natham, contrarily, in Permanent Land Register and in 'A' Register, the land is classified as Government Porambokku. In any event, whether the land classified as grama natham or Government porambokku, commercial construction and holding of land over and above the prescribed extent is not permissible as per the Judgment of the Division Bench of this Court rendered in *S.Anbanathan Case* cited supra.

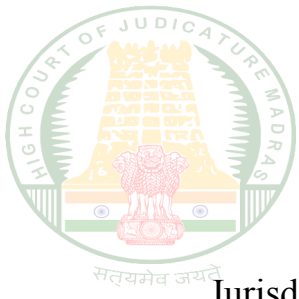


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50. In Anbanathan case, The Division Bench, after considering the history of land revenue settlement in the State and the law governing disposal of the grama natham lands in the State, in the light of the Revenue Standing Order 21 had distinguished *A.K.Thillaivanan case and T.S. Ravi and another case cited supra* . While protecting the occupant of house sites in grama natham, the Hon'ble High Court in the said judgment at paragraph 86 has held that, in order to regulate and prevent encroachments and abuse of grama natham lands for commercial activities, the competent authorities of the Government empowered to remove the encroachment invoking the provisions of Land Encroachment Act and Revenue Standing Order 21.

51. The Judgement in *R.A.V.Kovil Annayya Charities –vs- District Collector, Tiruvallur, dated 22.11.2023*, is relied by the plaintiff and the Judgment in *S.Anbananthan –vs- District Collector, Perambalur, dated 27.03.2024* in W.A.Nos.203,205 of 2023 is relied by the Defendants. Both the judgments are by Two Judges Bench, but *R.A.V. Kovil Annayya Charities case* which is earlier in point of time is on the Extra ordinary Original Writ



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Jurisdiction, whereas the later judgement is in the Intra Court Writ Appeal under Letters Patent. *Anbananthan case* is later in point of time. However, in both the cases, the judgment of this Court in *A.Sacractice and others -vs- the District Collector and others (2023 2023 MHC 1047)* been considered at length. The facts in these two cases are slightly different and particularly, in *R.A.V. Kovil Annayya Charities case*, thoraya patta was issued to many of the occupants recognising the land in occupation as a grama natham. Having granted thoraya patta for few, though the classification in the revenue record is mentioned as Sarkar Porambokku, the Government tried to recover the land from others, who have not sought for patta. Hence, this Court held that after started issuing thoraya patta for the occupants, the Government cannot claim right in the property of others, who had not sought for patta. This decision was on the principle of parity between the persons, who had applied and got thoraya patta and the person who have not applied for thoraya patta. It is also to be noted that in this judgment, Revenue Standing Order 21 not been referred or considered. Whereas, in *Anbananthan case*, the plea of granting patta for grama natham land was considered with the aid of



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Revenue Standing Order 21 and clarified that, house sites legitimately owned by any person and issued with natham patta, the Government has no right to interfere in the possession. At the same time, unauthorised occupation of Grama natham lands is impermissible and those occupants are to be considered as encroachers and liable to be evicted by following the procedure as contemplated under the Tamil Nadu Encroachment Act, 1905.

52. It is profitable to extract para 86 of *Anbananthan case*, which put the lid to the entire question in dispute.

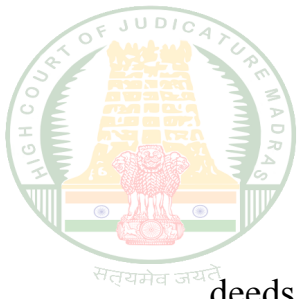
“86.The competent authorities of the Government are empowered to regulate the “Grama Natham Lands“. It is essential for regulating the land in order to prevent encroachments and abuse of grame natham lands for unjust and personal gains. Commercial activities in grama natham lands are to be prohibited and all such establishments are to be removed by invoking the provisions of the Tamil Nadu Land Encroachments Act,1905. Revenue Standing Orders R.S.O.21 is to be followed in order to protect the grama natham lands and to utilise the same as house sites for homeless poor people or public purposes.“



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53. Therefore, in this case, the facts as narrated above, evidence indicates that the land in question classified as Government porambokku, and substantially used for non residential purpose. The request for grant of patta not considered and land now in the possession of the plaintiff is required for a public purpose. This Court on examination of Ex.P-54, the Town Survey Land Register, marked as plaintiff document, during the cross examination of DW-1 is fully convinced with the submissions made by the learned Additional Advocate General and the learned Senior Counsel representing the CMRL that the column meant for classification and the column meant for the nature of usage may defer, however, the classification in column (3) will prevail over the column meant for usage. In the instant case, the scrutiny of the Town Survey Register and Permanent Land Register, the column meant for the classification of the land, the land in old survey No. 178/1pt, it is mentioned as Royatwari or Sarkar porambokku. In the columns meant for usage of the land and person using it, the nature of the usage is mentioned either as vacant land or house or hut, as the case may be. Therefore, never the suit land been a Grama natham though in the sale

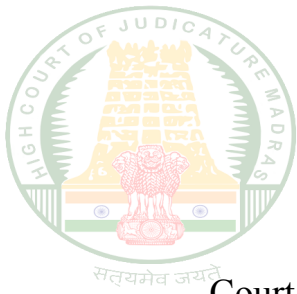


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deeds relied by the plaintiff, the land is described as Grama Natham. It has always been the land of the Government classified as porambokku. For some reason, the Revenue Department officials had issued documents describing the land as Natham porambokku without referring the Permanent Land Register and Town Survey Register. The plaintiff cannot take advantage of the said error to claim ownership or compensation for the land.

54. Further, the plaintiff plea of declaration is in respect of three sets of properties more fully described as 'A', 'B' and 'C' schedule. As far as 'A' schedule is concerned, it is described as land measuring 0.01.78 h in block No:9, Old S.No:178/1., R.S.No:13B. The 'B' Schedule property is described as Rs No:12-B, measuring 0.01.91h and 'C' schedule property described as R.S.No.11(p) measuring 13 sq.mts. None of the document relied by the plaintiff provides evidence to co-relate the properties in T.S.No:12-B, 13-B and 11 (p) to the properties mentioned in the settlement deeds Ex.P-27 or Ex.P-28. The plaintiff has not taken any efforts to either relate the suit schedule property to the property dealt in the Will of Devaraj Gramini. This



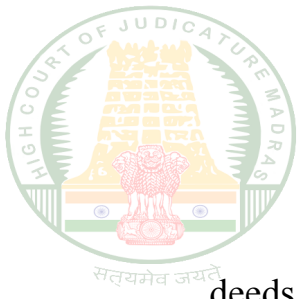
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Court finds the description of the properties in the suit and in the sale documents is S.No.178/1, Block 9 of Saligramam village. This survey number and block number covers a large extent of land which has been fragmented into pieces and dealt through various sale deeds at different point of time. Without proper description of the property, declaration of ownership cannot be granted. More so, as pointed out by the learned Additional Advocate General, for the relief of Declaration, no Court fees paid by the plaintiff. Even otherwise, the suit is bound to be dismissed for want of proof and co-relation to the documents relied viz-a-viz the suit schedule.

55. For the above said reasons, this Court holds that :

(a)the plaintiff does not derive any right of ownership over the suit schedule properties through Ex.P-27 and Ex.P-28, the settlement deeds executed by Krishnaveni Ammal or through the Will of Devaraj Gramini. The Court further hold that, Ex.P-1, Ex.P-3, Ex.P-5 to Ex.P-7 purport to be sale deeds in respect of S.No. 178/1 of the Saligramam Village, are not the



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deeds pertaining to transfer of title or ownership, but it is only a transfer of right to use and occupy the land.

(b) The payment of compensation to Krishnaveni Ammal recognising her as the person interest will not tantamount to recognising her as the owner of the property.

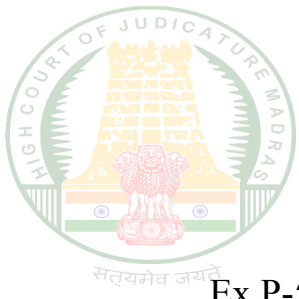
(c) The plaintiff failed to prove that the objection of Krishnaveni Ammal to delete the name of Rejina from the award proceedings was accepted. In fact, the Division Bench of this Court in W.P.No.22984 of 2011 has recorded that the civil proceedings is pending under Sections 30 and 31 of the Land Acquisition Act, in view of rival claim and the compensation amount not paid to Krishnaveni Ammal.

56. As the consequence, issues 1 to 3 are answered in negative.

Held against the plaintiff.

Issue No: 4

57. The revenue documents particularly Ex.D-1 to Ex.D-3 and



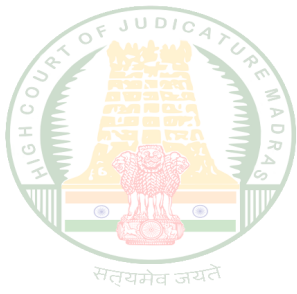
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Ex.P-54 proves that the land in question is classified as Sarkar (Government) Porambokku. In the light of Revenue Standing Order 21, the Government is justified in resorting to the provisions of Tamil Nadu Land Encroachment Act, 1905. **Hence, issue No 4 is answered in affirmative. Held against the plaintiff.**

Issue No:5:

58. After analysing the evidence, this Court has held that the suit schedule land is not classified as grama natham. The land in old S.No:178/1 (part) has always been classified as Sarkar (Government) Porambokku in the Permanent Land Register and Town Survey Register. The usage of the land by the occupants or the description of the property in the private documents will not change the character of the land contrary to the records. Therefore, for the land which he is in occupation without any right, the plaintiff is not entitled to claim compensation. **Accordingly, Issue No: 5 is answered in negative. Held against the plaintiff.**



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Issue No 6 and 7:

59. The plaintiff has miserably failed to prove the right to claim compensation and also failed to prove, how the quantum of compensation arrived by him. Therefore, he is not entitled for the compensation or solatium with interest as claimed.

60. It is made clear that, if the plaintiff is entitled for any compensation under law, for the superstructure on the land in occupation, the dismissal of the suit will not stand in his right to claim the said compensation. **With the said observation, Issue Nos.6 and 7 answered in negative. Held against the plaintiff.**

Issue Nos: 8 and Issue 9:

61. Though the plaintiff has averred in the plaint that he spend Rs.85 lakhs for restoring the building and he incurred loss of business to the extent of Rs.1,80,00,000/-, no relief sought and no corresponding Court fees



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paid for the said claim. That apart, in view of the finding of the Court in respect of the Issues Nos.1 to 3, the claim of compensation under these two heads not sustainable.

Issue No: 9

62. The suit suffers infirmity both on law and facts. Hence, the plaintiff is not entitled for the relief sought.

63. In the result, **the Civil Suit is dismissed.** In view of the facts and circumstances, the parties to bear their respective costs.

13.02.2025

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Index:yes

Speaking order/non speaking order

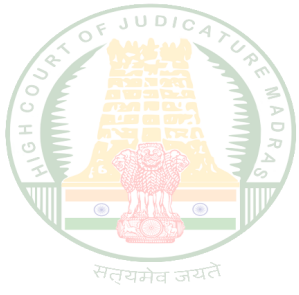
Neutral Citation:yes

To

1.The Government of Tamil Nadu, Represented by the Secretary to Government, Planning and Development, Fort St.George, Chennai 600 009.

2.The Secretary to Government, Government of Tamil Nadu, Revenue Department, Fort St.George, Chennai 600 009.

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3.The Additional Chief Secretary, Commissioner of Land Administration,
Ezhilagam, Chepauk,Chennai 600 005.

4.The District Collector, Chennai, District Collector Office,
62, Rajaji Salai, Chennai 600 001.

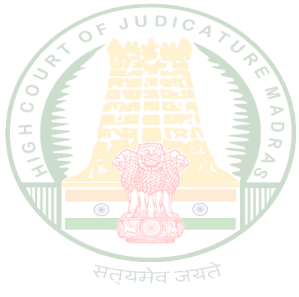
5.The Tahsildar, Mambalam Taluk, No.1, Bharathidasan Salai,
K.K.Nagar, Chennai 600 078.

6.The Special Tahsildar and Land Acquisition Officer,
Chennai Metro Rail Limited, Admin Building, Poonamallee High Road,
Koyambedu, Chennai 600 107.

7.Chennai Metro Rail Limited, Rep.by District Revenue Officer/
Legal Officer, CMRL-Admin Building, Poonamallee High Road,
Koyambedu, Chennai 107.

DR.G.JAYACHANDRAN,J.

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13.02.2025