BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED: 14.07.2025

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P.(MD) Nos.10999, 11001 to 11008, 11148 to 11153, 10715 and 14046 of 2023
and W.M.P.(MD)Nos.9618 to 9622, 9624, 2626 to 9633, 9636, 9637, 9640, 9642, 9645, 9646, 9648, 9652, 9653, 9656, 9661, 9663, 9665, 9733, 9734, 9736, 9737, 9738, 9742, 9440 and 11879 of 2023

W.P.(MD)No.10999 of 2023

K.Jegatheesan ... Petitioner

Vs

1. The District Collector,
Office of the Collectorate,
Madurai District, Madurai.

2.The District Revenue Officer,
Office of the District Revenue Officer,
Madurai District, Madurai.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Madurai North, Vellaripatti,
Madurai District.

4.The Tahsildar,
Office of the Tahsildar,
East Taluk, Madurai District.

5.The Executive Officer,
Arulmigu Kalamega Perumal Temple,
Thirumohoor, Madurai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 2nd respondent in Na.Ka.No.44/2018/J5, dated 31.03.2023 and quash the same and consequently, directing the respondents to mutate the patta in favour of the petitioner.

For Petitioner	:	Mr.S.Ramsundarvijayraj
For Respondents	:	Mr.A.Baskaran, Addl. Govt. Pleader for R1 to R4 Mr.S.Manohar for R5

COMMON ORDER

These Writ Petitions are filed challenging the orders passed by the District Revenue Officer, Madurai District allowing the application filed by the Executive Officer, Arulmigu Kalamega Perumal Temple, seeking cancellation of patta issued in the name of the petitioners under UDR scheme and restoration of patta in the name of Arulmigu Kalamega Perumal Temple.

2. According to the petitioners, the subject properties with total extent of 1 acre 17 cents situated in S.No.27/6, Thirumohoor Village, Madurai East Taluk, Madurai District has been developed in the name of P.K.Residency and the petitioners purchased the plots developed in the said land and constructed houses and have been residing thereon. It is stated by the petitioners that ryotwari patta has been issued in favour of vendors of petitioners under the "Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 [Tamil Nadu Act 30 of 1963]" (hereinafter referred to as "Act 30 of 1963") and the impugned order has been passed without noticing the right available to the petitioners' vendors. It is stated by the petitioners that the District Revenue Officer, Madurai District has no jurisdiction to cancel the patta issued by the Settlement Officer under the provisions of Act 30 of 1963 and therefore, the impugned orders are liable to be set aside on the question of jurisdiction. In support of his contention, the learned counsel relied on the judgment in ***Sennimalai Gounder (Died) and others Vs Additional District Magistrate and District Revenue Officer, Coimbatore and others*** reported in ***(2019) 5 MLJ 279.***

3. Per contra, the learned counsel appearing for the Arulmigu Kalamega Perumal Temple would submit that the properties in question were Inam lands and the same were granted to the benefits of the temple for rendering Meikaval service in the temple. It is stated that originally six persons viz., Perumal, Karuppaiah, Raman, Murugan, Lakshmanan and Mookayee were granted settlement patta under Section 8(2)(ii) r/w Section 8(5) r/w Section 21 of Act 30 of 1963. It is vehemently contended by the learned counsel appearing for the temple that the service holders are entitled to patta subject to the condition that they must continue to do service and they have no right to alienate the property. It is his submission that in the case on hand, the service holders, who were granted patta under the Act 30 of 1963, violating the statutory condition, sold the properties to the third parties and the properties were developed and sold to the petitioners and therefore, the same is invalid. It is also stated that when conditional patta was granted under the Act 30 of 1963, the revenue authorities have no jurisdiction to grant patta in the names of the predecessors of the petitioners under UDR scheme. Any erroneous entry in UDR scheme can be corrected by the District Revenue Officer. Therefore, the impugned orders are not affected by error of jurisdiction.

4. The learned Additional Government Pleader appearing for the official respondents would submit that service inam lands are inalienable in nature and hence, alienation of the same by the service holders will not convey any title. He further submitted that any alienation of temple land is hit by Section 34 of "the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959" (hereinafter referred to as 'HR & CE Act'). The learned Additional Government Pleader further submitted that the alienations of the subject properties by the service holders to whom patta was issued under the Act 30 of 1963 are invalid and hence, the petitioners are not entitled to claim any right over the same. The learned Additional Government Pleader further submitted that as per G.O.Ms.No. 385, Revenue (Public-3) Department, dated 17.08.2024, the District Revenue Officer, Madurai District has got jurisdiction to entertain the applications seeking modification of UDR entries and therefore, the impugned orders passed by the District Revenue Officer, Madurai District are in accordance with law.

5. A perusal of the old 'A' Register included in the typed set of papers would clearly establish that the said S.No.27/6, Thirumohoor Village was classified as Inam dry land with an extent of 1 acre 17 cents. The extract of the settlement proceedings produced in the typed set of papers would indicate that the subject lands in S.No.27/6, are Meikaval service inam lands with inam title deed 999 granted in favour of the Arulmigu Kalamega Perumal Temple. It is further established that Inam patta has been issued in the name of Perumal, Raman, Mookayee, Karuppaiah, Murugan and Lakshmanan under Section 8(2)(ii) r/w Section 8(5) of Act 30 of 1963, subject to provisions of Section 21 of Act 30 of 1963.

6. Section 8(2)(ii) of Act 30 of 1963 talks about the entitlement of the person rendering service to get ryotwari patta. Section 8(5) of Act 30 of 1963 reads as follows:

> *"**8.Grant of ryotwari pattas**.*
>
> *(1) to (4) ...*
>
> *(5) In the case of a minor inam held immediately before the appointed day by an individual on condition of rendering service to a religious, educational or charitable institution, the grant of ryotwari patta under sub-section (1) or (2) shall be subject to the provisions of section 21."*

7. Section 21(2) of Act 30 of 1963 reads as follows:

> *"**21. Service inams.***
>
> *(1) ......*
>
> *(2)The service-holder shall subject to the provisions of sub-section (3) be bound to continue to render the service after the appointed day."*

8. Section 21(7) of Act 30 of 1963 reads as follows:

"(7) (a) For so long as the service-holder renders the service, he shall be entitled to occupy permanently the lands in respect of which he is entitled to a patta under section 8, subject, however, to the payment of the assessment fixed [under section 16 or under section 16-A, as the case may be] in respect of such lands.

(b) If the service-holder fails to render the service, the prescribed officer shall, after such inquiry and after such notice to the service-holder as may be prescribed in this behalf, notify such failure in such manner as may be prescribed. He shall then declare that the service-holder's right to occupy permanently the land under clause (a) shall cease and determine, and the institution shall be at liberty to make such arrangement as it thinks fit for the performance of the service and shall be entitled to hold the land as its absolute property subject, however, to the payment of the assessment fixed therefor [under section 16 or under section 16-A, as the case may be]."

9. A combined reading of above mentioned provisions make it clear that a service holder, who is entitled to patta under Section 8(2)(ii) of Act 30 of 1963, is bound to continue the service to the temple and as long as he continues to render his service, he is entitled to occupy the lands permanently. However, if he fails to render service, his right to occupy the lands shall cease and the institution shall be at liberty to hold the lands as its absolute property, subject to payment of assessment.

10. Section 41(2)(a)(iii) of the HR & CE Act reads as follows:

"41. Resumption and re-grant of inam granted for performance of any charity or service.—

(1)....

(2)(a) The Collector may, on his own motion, or on the application of the trustee of the religious institution or the Commissioner or of any person having interest in the institution who has obtained the consent of such trustee or the Commissioner, by order, resume the whole or any part of any such inam, on one or more of the following grounds, namely : —

(i)...

(ii)...

(iii) that the holder of such inam or part has failed to perform or make the necessary arrangements for performing, in accordance with the custom or usage of the institution, the charity or service for performing which the inam had been made, confirmed or recognized as aforesaid, or any part of the said charity or service as the case may be.

When passing an order under this clause, the Collector shall determine whether such inam or the inam comprising such part as the case may be, is a grant of both the melvaram and the kudivaram or only of the melavaram:

Provided that, in the absence of evidence to the contrary the Collector shall presume that any minor inam is a grant of both the melvaram and the kudivaram."

11. Therefore, it is clear that in case of failure of service holder to render service, it is open to the temple to resume the lands by moving proper application before the competent authority.

12. The documents included in the typed set of papers clearly established that the subject properties are Inam dry lands and the petitioners' predecessors in interest viz., Perumal, Raman, Karuppaiah, Murugan, Lakshmanan and Mookayee were granted Inam patta under the provisions of Act 30 of 1963, subject to the condition that they must render Meikaval service in the temple. Violating the said conditions, the legal representatives of those persons alienated the property in favour of third parties and developed the lands. Those developed plots were purchased by the petitioners. In view of the provisions of law extracted above, the alienations by the legal heirs of original patta holders under Act 30 of 1963 are invalid. The invalidity of such alienation is very well declared by the Division Bench of this Court in ***P.Adiakappan Chettiar and others Vs. Executive Officer, Arulmighu Kallalagar Devasthanam Alagarkovil*** reported in ***2024 (3) CTC 285***. The relevant observation of the Division Bench reads as follows:

> *"9. From the answer above, it would be clear from Section 21 (7) of the Act 30 of 1963 that it is only a right to occupy the lands permanently, which is the subject matter of service inam.*

The Hon'ble Supreme Court of India in Sankaranarayana swamy Devasthanam's case (cited supra), in paragraph No.17 held as follows:-

> *"Once it is clear that even as per the admitted case of the respondent, it was a grant burdened with the service and that there was a right of resumption under Section 21 (7) of the Act, the respondent cannot resist the relief sought by the temple. In other words, the sale deeds in favour of the respondent or his predecessors in title cannot take away the statutory right of the appellant temple to resume the lands."*
>
> ***[Emphasis supplied by this Court]***

The statutory right to resume is not only granted under Section 21(7) of the Act 30 of 1963, in case of default in service, but is also granted under the HR & CE Act, for various other grounds."

13. In fact, the Division Bench followed the law laid down by the Hon'ble Apex Court in ***Sankaranaraya Swamy Devasthanam Vs. P.S.Chandrasekara Raja*** in ***Civil Appeal No.2671 of 2013***. The relevant observation of the Apex Court reads as follows:

> *"17. Once it is clear that even as per the admitted case of the respondent, it was a grant burdened with the service and that there was a right of resumption under Section 21 (7) of the Act, the respondent cannot resist the reliefs sought by the temple. In other words, the sale deeds in favour of the respondent or his predecessors-in title cannot take away the statutory right of the appellant-temple to resume the land. An institution which has the*

right of resumption has a right to seek a declaration that the sale is null and void. There is no point in allowing title to remain with someone and possession with another." ***[Emphasis supplied by this Court]***

14. In ***C.Muthu Bhattar Vs. The Authorised Officer (Land Reforms)*** reported in ***(1979) 1 MLJ 480 : MANU/TN/0634/1979,*** the inalienable nature of the service inam land was emphasized in the following words:

> *"16. ......That a personal service inam is inalienable is well settled. In Anjaneyalu v. Venugopala Rice Mills Ltd. MANU/TN/0098/1922 : AIR 1922 Mad 197, it was held that a personal inam for public service is not a property that is liable to attachment under Section 60, Civil Procedure Code. It is pointed out that where the land is personal inam for public service, under Section 6(h) of the Transfer of Property Act, it is opposed to public policy and the transfer cannot convey any title. In Ramakrishamma v. Venkatasubbiah MANU/TN/0021/1934 : (1934) 40 L.W. 918 :(1934) 68 M.L.J. 46 : I.L.R. (1935) Mad. 389 : A.I.R. 1935 Mad. 252, it was held that the land burdened with the performance of a service of a public nature is inalienable being opposed to public policy and that Dasabandam inams being burdened with a, service of a public nature are inalienable and cannot be sold in execution of a decree against the inamdar. In Masumayya v. Official Receiver,*

Kurnool 55 L.W. 640 I.L.R. (1943) Mad. 349 : (1942) M.L.J. 504 : A.I.R. 1943 Mad. 72, the question "arose whether, on the adjudication of the holder of a certain inam as an insolvent, the inam land would vest in the Official Receiver. The question was answered in the negative, holding that such land not only could not be alienated, but could not be transferred from the holder to the Official Receiver. In Ramanathan Chettiar v. Kalidasa Kavandam MANU/TN/0021/1934 : (1934) 40 L.W. 918 : (1934) 68 M.L.J. 46 : I.L.R. (1935) Mad. 389 : A.I.R. 1935 Mad. 252, it was held that the mortgage of a temple service therefore, invalid. The counsel appearing for the second claimant, who claims to have acquired as an alienee from the descendants of the original grantee, has no valid title to the acquired property and is, therefore, not entitled to claim a share in the compensation.

17. An extent of 44.70 acres of land included by the authorities below in the holding of the petitioner were minor inam lands and a ryotwari patta was granted to the petitioner under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, XXX of 1963. The petitioner opposed the inclusion of these lands in his holding on the ground that he can enjoy the lands only so loner as he continues to render services of sthanikam and archaka. Even though patta has been granted in the name of the petitioner, he has not paid the compensation specified in the Act to enable him to become the absolute owner of the lands. Therefore, the petitioner prays that these lands cannot be included in his holding and the ceiling area calculated. The decisions referred to above clearly establish the inalienable nature of inam lands granted for rendering service.

Admittedly the lands measuring 44.70 acres are service inam lands, even though patta has been granted in favour of the petitioner herein. Inasmuch as these 44.70 acres of lands are inalienable, they cannot be considered as lands of a person who is entitled "to hold" the same as provided in Section 7 of the Ceiling Act. The lands of this nature held by a person cannot come under the definition of Section 5(19) of the Ceiling Act, since he, who is holding such service lands, can be considered neither the owner, nor a possessory mortgagee nor a tenant, nor an intermediary. The definition of 'owner' in Section 3(33) of the Ceiling-Act will not also apply to a person who holds such service inam lands. The decisions 1 referred to above support this view in toto, and as such the inclusion of 44.70 acres of land for the purpose of calculating the ceiling area of the petitioner's holding, is not correct." ***[Emphasis supplied by this Court]***

15. In view of the authorities cited above, there is no difficulty in coming to the conclusion that alienation of service inam lands by its holders or their heirs to a third party is not valid and hence, such alienation will not confer any title on the purchasers/petitioners in this case.

16. In the impugned order, the District Revenue Officer clearly recorded that prior to UDR, the properties stood in the name of patta holders under Act 30 of 1963 viz., Perumal and 5 others. In the settlement register, it is clearly mentioned in foot-note that patta in the name of Perumal and 5 others was granted under Section 8(2)(ii) r/w Section 8(5) r/w Section 21 of Act 30 of 1963. Once, it is shown that inam patta was granted by the Settlement Officer under the Act 30 of 1963, subject to condition that patta holders shall render service, during UDR, the updation should not have been done in favour of petitioners based on the subsequent alienations made by heirs of service holders. Therefore, the District Revenue Officer, Madurai has jurisdiction to correct the errors that had crept in during UDR updation. In view of the same, the submission made by the learned counsel for the petitioners that the orders passed by the District Revenue Officer, Madurai are vitiated by error of jurisdiction is not appealable to this Court. I would like to emphasise that by the impugned orders the District Revenue Officer, Madurai has not tinkered with the order passed by the Settlement Officer under the Act 30 of 1963 and he only corrected the error that had crept in during UDR updation.

17. In the impugned orders, after ordering deletion of names included in the UDR, based on sale by heirs of service inam holders, the

District Revenue Officer, Madurai directed restoration of patta for the subject property with the following entry "Meikaval service land of Thirumohoor Village Arulmigu Kalamega Perumal Thirukovil.". It is not in dispute that service inam patta was issued in favour of six persons viz., Perumal, Raman, Mookaye, Karuppaiah, Murugan and Lakshmanan. If the service holders stopped rendering service, the temple has to resume the land by initiating appropriate proceedings. Therefore, the District Revenue Officer, Madurai ought have mentioned the names of patta holders under the Act 30 of 1963 in the revenue records. Till the right of the patta holders, who occupied the land ceases by formal declaration under Section 21(7)(b) of Act 30 of 1963 by the competent authority, their names shall be reflected in the revenue records. Therefore, the order passed by the District Revenue Officer, Madurai is modified with a direction to make entry in the revenue records as "Meikaval service land of Thriumohoor Village Arulmigu Kalamega Perumal Thirukovil along with the names of individual inam patta holders". It is always open to the Arulmigu Kalamega Perumal Temple to proceed under Section 21(7) of Act 30 of 1963 and Section 41 of HR & CE Act.

18. With this modification, the impugned orders passed by the

District Revenue Officer, Madurai stand confirmed and these Writ Petitions are disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

14.07.2025

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Index: Yes
Internet: Yes
Neutral Citation: Yes

S.SOUNTHAR, J.

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