

W.P.(MD)No.17262 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **21.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.17262 of 2024

Dr.N.Ramamoorthy

.... Petitioner

/Vs./

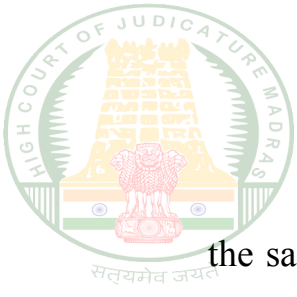
1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Revenue Divisional Officer,
Aruppukottai Revenue Division,
Aruppukottai,
Virudhunagar District.

3. The Revenue Tahsildar,
Kariyapatti Taluk,
Virudhunagar District.

.... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondents resulting in the 3rd Respondent's Impugned Order dated 13.06.2024 passed in Na.Ka.A4/1931/2024 and quash the same and direction directing the Respondents 1 to 3 to issue house site Patta in the Petitioner's name in respect of the land in Survey No.333/1A situated at Mallanginaru Post, Kariyapatti Taluk, Virudhunagar District pursuant to



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the sale deed dated 27.04.2018 executed in his favour duly registered as Document No.820 of 2018 in the Sub Registration Office, Kariyapatti, Virudhunagar District.

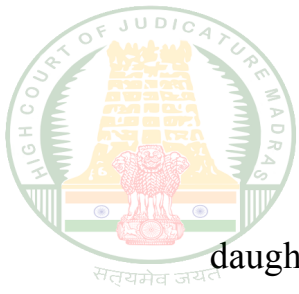
For Petitioner : Mr.V.R.Venkatesan

For Respondents: Mr.M.Lingadurai,
Special Government Pleader

ORDER

Heard Mr.V.R.Venkatesan, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondents.

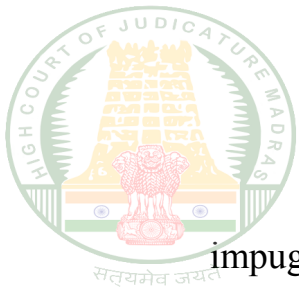
2. The learned counsel for the petitioner would submit that the subject lands are Natham lands and even as early as in the year 1955, there was a registered partition deed in document No.834 of 1955, on the file of the Sub-Registrar, Ramanathapuram. The petitioner's father's brother namely Parthasarathy became entitled to portion of the property, which was the subject matter of the said partition deed. The said Parthasarathy during his lifetime being in possession and enjoyment of the lands allotted to him and the said partitioned portion was using it as a cattle shed and he has executed a Will on 25.06.1997 in favour of his



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daughter Lakshmi Prabha. After the lifetime of the said Parathasarathy, his daughter Lakshmi Prabha was in enjoyment of the subject lands, which were bequeathed to her father. Thereafter, the said Lakshmi Prabha in and by the settlement deed dated 23.07.2015 in document No. 2301/2015, on the file the Sub-Registrar, Kariyapatti, Virudhunagar District, has settled the property in favour of her elder brother P.Rajasekaran. The said Rajasekaran in and by the sale deed dated 27.04.2018 has conveyed the property in favour of the writ petitioner.

3. It is further contended by the learned counsel for the petitioner that at the time of petitioner's purchase, there was a compound Wall and other structures in a dilapidated condition. It is the further case of the petitioner that after purchase, he has renovated the old structures, which were in existence for more than 65 years and based on his purchase and enjoyment of the property, he has applied for mutation of patta in his name. It is the further case of the petitioner that the lands have always been Natham Government Poramboke lands, however in the village account, it has been reflected as vacant land/Sarkar poramboku. It is also the further contention of the learned counsel for the petitioner that the

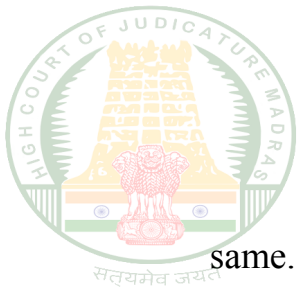


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impugned order was passed without hearing the petitioner. The petitioner would also placed reliance on the Division Bench of this Court in *the Executive Officer, Kadathur Town Panchayat Vs. Swaminathan and others* reported in *2004(3) CTC 270*.

4. Per contra, the learned Special Government Pleader Mr.M.Lingadurai appearing for the respondents would submit that the lands in respect of which, the petitioner seeks patta are reflected as Government Sarkar Poramboke lands and vacant site and this classification was done at the time of Natham survey, since no person was found to be in possession of the property.

5. He would also rely on the FMB to contend that the property in which the petitioner claims is in the occupation of other individuals, who have also put up constructions. However, straight away, meeting this objections of the learned Special Government Pleader, Mr.V.R.Venkatesan, learned counsel for the petitioner would submit that the petitioner is not claiming right in respect of the entire portion which is projected by the respondents as if the petitioner claims patta for the



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same. The petitioner's claim is restricted to 10 cents alone in the subject survey number and in fact, he would draw strength from the said FMB to contend that other persons have been allowed to construct houses and they have also been issued patta.

6. However, the learned Special Government Pleader, on instructions, from Mrs.Uma Maheshwari, the Revenue Inspector, who is present before this Court, would confirm that no patta has been issued to the said persons and according to the respondents, even those persons are only encroachers.

7. Be that as it may, I find that the petitioner traces title right from 1955. The learned Special Government Pleader has also placed reliance on circular dated 27.08.2024 in R1/7699421/2024 issued by the Commissioner of Land Administration, Chennai. On going through the said circular, it is seen that the said circular was necessitated in view of the decision of the Division Bench of this Court, setting aside the earlier circular dated 7.8.2015 as being unconstitutional. This order came to be passed in W.P(MD)No.9466 of 2021 etc., batch. Thereafter, taking into

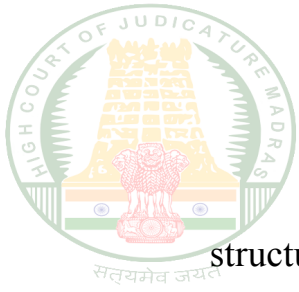


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account the ratio laid down by the another Division Bench of this Court in W.A(MD)Nos.203 and 205 of 2023 dated 27.03.2024 holding that the Commissioner of Land Administration can issue a fresh circular correcting the lacuna in the subsequent Circular dated 07.08.2015, the circular dated 27.08.2024 has been issued.

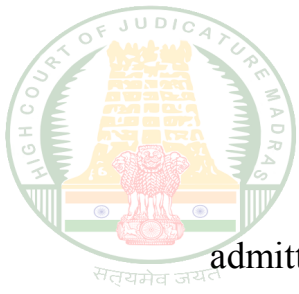
8. It is seen from the said circular that there are three categories that have been culled out. In the first category, a house should have existed at the time of Natham settlement or prior to such settlement and the house currently exists as on date. In second category, the houses existed at the time of Natham settlement/ prior to that, but no house exists as on date. In the third category, houses did not exist during Natham settlement and now also the property remains vacant.

9. Though the learned counsel for the petitioner claims that there was a structure and compound Wall and that it was in a dilapidated condition and that the petitioner has renovated the same and the structure exists as on date, from the documents that have been relied on by the petitioner himself, I am unable to see existence of any building or



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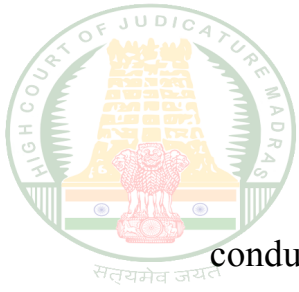
structure. In fact, even in the sale deed dated 27.04.2018 under which, the writ petitioner purchased the property, it is clearly mentioned in the schedule that there are no trees or building existing there. Therefore, I am unable to accept the submission of the learned counsel for the petitioner regarding existence of superstructure. Therefore, the case of the petitioner squarely fall under category-3 being vacant land before and after the Natham settlement. As regards the reclassification of the lands as Government Sarkar Poramboku vacant site, as rightly contended by learned counsel for the petitioner, the Division Bench of this Court in reported in **2004 (3) CTC 270** has categorically held that title of the house sites in Grama Natham is protected from transfer to Government. It has been further held, relying on the earlier judgement of this Court as well the Hon'ble Supreme Court that only communal lands, porambokes, other ryotwari lands, waste lands, forests, mines and minerals, quarries, rivers and streams tanks and irrigation works vest with the Government. However, the land classified as 'Grama Natham' would not vest with and cannot be given description as Government lands. It is further held that the classification of 'Poramboke' in the settlement register will not, by itself, establish title of the Government to the land in question. Here



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admittedly, even from the impugned proceedings, it is seen that originally the lands were classified only as Natham lands and therefore, the contention of the respondents that the lands belongs to the Government cannot be countenanced.

10. Therefore, on this ground, the impugned order, necessarily, is liable to be set aside. Even in the impugned order, I find reference to the fact that the property has been reflected only as old natham survey number. However, as rightly pointed out by the learned Special Government Pleader for category-3, a prescribed procedure is set out under the circular dated 27.08.2024 and the competent authority would be the District Revenue Officer, who shall send a detail proposal, after conducting an enquiry, subject to fulfillment of various conditions under this category, to the Commissioner of Land Administration for taking appropriate decision. The report of the District Revenue Officer has to be furnished after due verification of all connected records and details. Therefore, in the light of the above, it is made clear that the petitioner is entitled to issuance of Grama Natham Patta, subject to the satisfaction of his case falling under Category-III and the District Revenue Officer shall



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conduct an enquiry, giving an opportunity to the petitioner to place all the relevant materials on record. Thereafter, the District Revenue Officer shall send a detailed proposal to the Commissioner of Land Administration, Chennai, who shall take a final decision in the matter, considering the elaborate procedure that is required to be adhered to. The said exercise shall be completed within a period of four months from the date of receipt of a copy of this order. Insofar as the extent of land, the respondent also take into account the registered documents in favour of the petitioner and the title documents to arrive at the extent under the occupation of the petitioner.

11. With the above direction, the writ petition is disposed of. No costs.

Index : Yes / No
NCC : Yes / No
am

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P.B. BALAJI, J.

am

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