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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2026

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE R.RAJESH VIVEKANANTHAN

WP.No.45147 of 2026
CNR:{HCMA012617872026}
and
WMP.No.50671 of 2026

Case QR

A.Masilamani

..Petitioner

Vs

1. The District Collector,
   Erode,
   Erode District.

2. The Revenue Tahsildar,
   Nambiyur Taluk Office,
   Erode District

3. The Land Revenue Inspector,
   Vemandampalayam A-Village,
   Nambiyur Taluk,
   Erode District.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for entire records

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pertaining to the notice issued by the 2nd respondent dated 15.10.2026 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and the notice issued by the 3rd respondent dated 28.9.2026 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 respectively and quash the same as illegal without jurisdiction and consequentially direct the respondents to transfer patta in the name of legal heirs of Kaliammal by considering representation dated 15.10.2026.

For Petitioner: Mr.Ma.P.Thangavel

For Respondents: Mr.B.Sivakollappan
Additional Government Pleader

ORDER

(Order of the Court was made by S.M.Subramaniam, J.)

The lis on hand has been instituted challenging the show cause notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred as “the Act, 1905) and the final notice issued under Section 6 of the Act,1905.

2.The learned counsel appearing for the petitioner Mr.Ma.P.Thangavel would contend that the Tahsildar has failed to consider the explanation given by the petitioner in response to the show cause notice issued under Section 6 of the Act, 1905. The petitioner’s mother was the assignee of the Grama Natham land and after demise of

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the mother of the petitioner, he is in occupation of the assigned land and he made an application to assign the said land in his favour as a legal heir. During the pendency of the application, enforcement action has been initiated under the provisions of the Act, 1905. The petitioner would contend that the Tahsildar has no jurisdiction since the subject land is an assigned land, more so, it is a Grama Natham land not vests with the Government and thus, the occupant has got a right to possess the land. Once the Government is not the owner of the Grama Natham lands, the Tahsildar has no jurisdiction to invoke Act, 1905.

3.The learned Additional Government Pleader Mr.B.Sivakollappan, would oppose by stating that the Grama Natham lands can be regulated by the Government under Revenue Standing Orders (RSO) 21 and 26. The Grama Natham lands vest with the Government and to be utilised for public purposes or to be assigned for landless poor persons for dwelling purposes. The extent of land to be assigned i.e. 3 cents also contemplated under the Revenue Standing Orders. When the Revenue Standing Order empowers the Government to regulate Grama Natham lands and utilise the same for public purpose or assign the same in

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favour of landless poor persons for dwelling purposes, the contention of the petitioner that the Government has no powers is incorrect. The learned Additional Government Pleader would further submit that even as per the petitioner, assignment was granted in the name of the mother of the petitioner, it is only a conditional patta and therefore, the assignee complied with the conditions or not is also the subject matter to be enquired into and therefore, the petitioner has to necessarily prefer an appeal under Section 10 of the Act, 1905.

4.This Court considered the submissions made between the parties to the present writ petition.

5.The primary contention of the petitioner is that the Government land was assigned in favour of the mother of the petitioner and after demise of the mother, the petitioner as a legal heir submitted an application for change of patta. In this context, Grama Natham lands are to be assigned in favour of the landless poor persons to an extent of 3 cents maximum. If the legal heirs of the original assignee are found to be an ineligible, such legal heirs may not be entitled to get transfer of

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Patta. Assignment of Government land on condition cannot be converted for succession to claim as a hereditary property. It is a Government land and the assignment is granted on terms and conditions as stipulated under the Revenue Standing Orders. On the demise of the original assignee, the authorities on enquiry if found that the legal heirs are not eligible for assignment of Government land at free of costs, then such lands can be assigned in favour of any other eligible poor persons by following the procedures as contemplated under the Revenue Standing Orders. In the present case, the assignee had violated the conditions.

6.Secondly, the petitioner raised a ground that Grama Natham lands does not vest with the Government and the occupant is entitled for the Grama Natham land. Therefore, the Government has no jurisdiction to invoke the provisions under the Act, 1905. The issue raised is no more *res integra.*

7.This Court has elaborately considered the issues relating to Grama Natham lands in the following cases:

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1) Dr.V.Kalanidhi vs. The State of Tamil Nadu rep. By Principal Secretary to Government, Planning Development and Special Initiatives Department[1]

2) S.Anbananthan vs. The District Collector, Perambalur[2]

3) The Tahsildar, Sankarapuram vs. T.Elumalai[3]

4) K.Shanmugavel Mudaliar vs. The Secretary, Government of Tamil Nadu, Department of Revenue[4]

5) Selvakumar vs. The Additional Chief Secretary to Government[5]

8.In the case of ***S.Anbananthan*** (cited supra), the Division Bench of this Court has elaborately considered the earlier Division Bench judgments and its applicability in respect of the Grama Natham lands occupied by the individuals without any authority of law. Grama Natham lands may be occupied only under the authority of law and mere occupation of Grama Natham lands would not confer any ownership to an individual. If such rights are conferred, it would result in lawlessness

[1]2023 MHC 4182
[2]2024 MHC 1682
[3]2025 MHC 1238
[4]2024 MHC 1553
[5]2026 MHC 1572

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in the society. Persons with political and muscle power will occupy the Grama Natham lands and will claim that he has vested right and the Government has no power to invoke the Act, 1905.

9.Generally lands vest with the Government and individuals are owning lands only under the authority of law. That being the basic concept of owning property, the Grama Natham lands vest with the Government and to be regulated in terms of the Revenue Standing Orders. This Court passed several orders following the earlier Division Bench judgments and all those Division Bench judgments were discussed in the case of ***S.Anbananthan*** (cited supra) and distinguished.

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10.Subsequently, in the case of ***Selvakumar*** (cited supra), again this Court considered the same issue and relied on two Full Bench judgments of this Court delivered in the cases of ***Madathapu Ramaya vs. The Secretary of State for India in Council***[6] and in the case of the ***Taluk Board, Dindigul vs. Venkatarama Ayyar and others***[7]. Two different Full Benches in the above said cases held that the Government has got powers to regulate Grama Natham lands.

11.The petitioner would rely on the recent Full Bench judgment in the case of ***Kaman @ Kamatchi vs. The District Collector and others*** in ***W.P.(MD).Nos.19720 of 2017 etc., batch dated 06.03.2026***. Pertinently, one Hon'ble Judge authored a dissenting judgment and therefore, the two Full Bench judgments in the cases of ***Madathapu Ramaya and Venkatarama Ayyar*** continue to be the binding precedent as per the ratio laid down by the Constitutional Bench of Hon'ble Supreme Court in the case of ***National Insurance Company Limited vs. Pranay Sethi***[8].

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[6]ILR 1904 (27) Mad 386

[7]1923 (18) LW 366

[8]2017 (16) SCC 680

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12.Article 39(b) and (c) of the Constitution of India reads as under:

> *"39.Certain principles of policy to be followed by the State.—The State shall, in particular, direct its policy towards securing—*
>
> *(a) .....*
>
> *(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;*
>
> *(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment."*

13.In respect of Grama Natham Lands, the provisions of the 1905 Act would apply in view of the terms and conditions stipulated under Revenue Standing Orders 21(1) read with 26(1), which reads as under:

> "**RSO 21(1)**
>
> A General (i) Scale of grant :- Portions of grama natham or village site at the disposal of Government, not being land required for the common use of the villagers, may be granted for building purposes to bonafide applicants. The maximum extent that could be assigned to any applicant for building houses is 1.25 ares. But the Tahsildars have

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discretion to grant a smaller extent in special circumstances, if, for instance the grant of an extent of 1.25 ares would encroach too much upon the area available for future assignments or the extent encroached upon already is less than 1.25 ares. In cases, where the extent is more than 1.25 ares and where it cannot conveniently be sub-divided for grant to another person assignment may be ordered under this R.S.O on collection of market value as per the norms fixed by the Government, from time to time. The assignment in all cases shall be subject to the conditions of the orders of the assignment referred to in paragraph 7 below.

Note: - In this Standing Order, the designation Tahsildar includes Special Tahsildar employed for assignment work.

In assigning lands for house sites care should be taken to see that land is not granted to persons already possessing enough land for their reasonable requirements and that preference is given to those who own no house site and whose family income does not exceed Rs.12,000/- per annum.

G.O.Ms.No.281. Rev.dt 16.3.95 People belonging to the Scheduled Castes and Scheduled Tribes are to be given priority in assigning house sites.

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RSO 26(1)

"26. Unauthorised occupation of Government Land:

1.Lands to which Act III of 1905 applies:-

Act III of 1905 lays down the procedure to be followed in dealing with unauthorised occupation of lands, which are the property of Government. The term “occupation” must be taken to have the meaning attached to it in common parlance; there must be an intention to appropriate land either temporarily or permanently in order to constitute occupation. For example, when a man dumps earth or rubbish on Government land even though he has no intention of utilizing it afterwards, he “takes possession” of the land for the purpose of depositing his earth or rubbish on it. A man who puts a dam across a stream, digs a channel across a path “takes possession” of that portion of the bed of the stream or the path for his own purposes even if only temporarily. The Act does not however, cover the case of prickly-pear spreading from private land to Government land. The phrase “lands which are the property of Government” as defined in Section 2of the Act, includes public roads, streets, lands and paths, vesting in a local body, viz., village panchayat / town panchayat or municipality and railway lands whether classed as permanent or temporary, but does not apply to lands claimed by right of escheat, resumption or reversion, which

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have not been reduced to the possession of Government. (section 16) Encroachment of any Government land is otherwise a trespass and the encroacher is therefore liable for criminal action also."

14.Pertinently, the Revenue Standing Orders were earlier not considered by the Division Benches of this Court as well as the learned Single Judges of this Court. Therefore, this Court has distinguished the earlier judgments of this Court in the case of ***S.Anbananthan and the Tahsildar, Sankarapuram*** (cited supra).

15.The Revenue Standing Orders will have the force of law and further contemplates that the occupants of Grama Natham lands without authority of law are to be treated as encroachers and the Government is empowered to evict those encroachers by following the procedures as contemplated under the provisions of the Act, 1905.

16.In the present case, the petitioner has not preferred any statutory appeal as contemplated under Section 10 of the Act, 1905. Exhausting the efficacious alternate remedy contemplated under the Act,

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1905 is of paramount importance. The original authority, namely, Tahsildar relied on the revenue documents and considering the violations against conditional patta not considered the case of the petitioner for grant of transfer of patta. Thus, the challenge made against the notices are not entertainable.

17.Accordingly, the present Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (R.R.V.,J.)
04-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

cse

Note: The Registry is directed to return the original impugned order to the learned counsel on record.

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S.M.SUBRAMANIAM, J.
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