

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.04.2025

PRONOUNCED ON : 03.06.2025

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.A.No.1014 of 2025

and

C.M.P.Nos.8262 & 9555 of 2025

The Tahsildar,
Sankarapuram,
Kallakurichi District.

... Appellant

Vs.

1.Mr.T.Elumalai

2.The Superintendent Electricity Engineer,
Tamil Nadu Electricity Board,
Kallakurichi.

3.The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
Pudupattu, Kallakurichi District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 12.09.2024 made in W.P.No.33767 of 2022 and allow this writ appeal.

For Appellant	: Mr.R.Ramanlaal Additional Advocate General Assisted by Mr.T.Arun Kumar Additional Government Pleader
For R1	: Mr.M.Ganesan
For R2 & R3	: Mr.S.Swami Subramaniam Standing Counsel For TANGEDCO

J U D G M E N T

S.M.SUBRAMANIAM, J.

Under assail is the order dated 12.09.2024 passed in W.P.No.33767 of 2022. The appellant before this Court is the 3rd respondent in the writ petition.

2. The 1st respondent, Mr.T.Elumalai instituted the writ proceedings in W.P.No.33767 of 2022, seeking an electricity service connection for the disputed subject property from the Tamil Nadu Electricity Board. The respondents 2 and 3 representing the Tamil Nadu Electricity Board, called for information from the appellant/Tahsildar, about the subject land in question.

3. In response, the appellant informed that the land in question is classified as "Government Poromboke Vacant Natham". Relying on the report of the appellant, the respondents 2 and 3 rejected the application submitted by the 1st respondent seeking electricity service connection. Consequently, the 1st respondent filed the writ petition challenging the order of rejection.

4. The learned Single Judge impleaded the appellant as the 3rd respondent in the writ petition and consequently issued a direction to grant patta in favour of the 1st respondent vide order dated 30.06.2023. On examining the documents submitted by the 1st respondent, the appellant found them to be forged and fabricated. A report was submitted to the District Collector, Kallakurichi, who in turn passed an order vide proceedings dated 09.10.2023, refusing to issue patta in favour of the 1st respondent.

5. The appellant preferred an appeal in W.A.No.533 of 2024 to set aside the order dated 30.06.2023 passed in W.P.No.33767 of 2022, mainly on the ground that no opportunity was given by the Writ Court to the appellant/Tahsildar before issuing a direction to grant patta in favour of the 1st respondent. The Division Bench of this Court set aside the writ order impugned and remitted the matter back to the learned Single Judge for

fresh consideration.

6. The learned Single Judge re-considered the writ petition in pursuance of the directions issued by the Division Bench and allowed the writ petition by issuing a direction to the appellant/Tahsildar to issue patta in favour of the 1st respondent within a period of four weeks. The Court also directed the respondents 2 and 3 herein to entertain the application seeking electricity service connection and provide the same. Additionally, a direction was issued to the District Collector to initiate action against the Revenue Officials, who have failed to issue patta without following the provisions of the Revenue Standing Orders (RSO).

7. The Writ Court further observed that if the land is required for public purposes, it may be acquired by following the due process of law. Aggrieved by the said writ order impugned, the present Intra-Court appeal came to be instituted.

8. Mr.R.Ramanlaal, the learned Additional Advocate General appearing on behalf of the appellant would mainly contend that the land in question is classified as Government Poromboke Vacant Natham [hereinafter referred to as 'Natham']. The 1st respondent is not entitled to

patta for Natham land because he already possesses 5 acres of land in Survey Nos.140/10A, 140/12, 30/1A, 30/4, 29/4 and 140/10B, with patta standing in the name of the 1st respondent in Patta Nos.458 and 451 respectively. Additionally, the 1st respondent further possesses a house building in a land measuring to an extent of 5 Cents.

9. Therefore, as per the Revenue Standing Orders, he is not entitled to patta. More so, the 1st respondent is an encroacher utilised the encroached portion of Natham land for constructing a commercial building for personal gains. According to the Revenue Standing Orders, Natham land is meant for house sites, which is to be allotted by the Government to the poor, landless people by following the guidelines under RSO 21.

10. Thus, the 1st respondent has not approached this Court with clean hands, and therefore, the writ petition ought to have been rejected in limine.

11. Regarding the fraudulent documents produced by the 1st respondent, the learned Additional Advocate General would contend that the 1st respondent claims that he has purchased the property by means of a registered Sale Deed dated 18.02.2022 registered as Document No.412/2019 in the office of the Sub-Registrar of North, Ponparappai. The

Sale Deed was executed by Elumalai S/o. Thambi Muniyan, and Subraminan S/o. Periyathambi.

12. The aforementioned name reflects in the (Natham Land Tax Scheme Chitta) as Survey No.344. The above said name is an insertion as the relevant documents starts from page 39, the name of holder in Survey No.344, one Mr.John Basha Sahib S/o. Sathar Sahib at Column No.3, serial number starts from 344 running serial wise. The copy of the said document produced before this Court would also reveal that Survey No.344 is an insertion. Thus, the 1st respondent has played fraud and inserted those names despite the fact that no patta was issued to them.

13. The transfer of registry number is not related to Periyathambi S/o. Nallathambi, and Subramanian S/o. Periyathambi. The transfer of registry refers TK8A-145-1418 dated 26.06.2015 is made available. The TK refers to subdivision 8A, but that subdivision refers to a different survey number and 1418 refers to the Fasli year – 1418 refers to year 2008. However, the order in TK8A is dated 26.06.2015, which appears to be a forgery and unrelated to the land in question.

14. The Sale Deed refers to the following documents:

- (1) Form 4, Rough Patta;
- (2) Death Certificate dated 10.12.2008 of Periyathambi;
- (3) Legal Heirship Certificate of Periyathambi dated 18.09.2019;
- (4) Death Certificate of Nallathambi dated 10.12.2008;
- (5) Death Certificate of Karuppayi, mother of Nallathambi dated 10.12.2008,
- (6) Death Certificate of Pappathi dated 10.12.2008 were annexed.

However, all these documents are identified as forged. The document was registered on 18.02.2022, but the patta appears to have been changed as if on 23.07.2019. As per the Sale Deed, the property was sold by Subramanian S/o. Periyathambi to Thambi Muniyan S/o. Elumalai. However, the names of these individuals are not found in the patta. Instead, the name "Indrani, wife of Thambi," is found.

15. The authorities found that all the documents produced by the 1st respondent for grant of patta are forged and fabricated. The Village Administrative Officer (VAO), who has allegedly involved in the commission of offence, was placed under suspension, and the prosecution is also in progress.

16. Under these circumstances, the writ order would not only cause

prejudice to the public interest but also result in unjust gain to the 1st respondent, who has encroached the Natham land by producing forged and fabricated documents.

17. Mr.M.Ganesan, the learned counsel for the 1st respondent would oppose by stating that the 1st respondent purchased the subject property through a Sale Deed dated 18.02.2022, vide Document No.412/2022, from Mr.Subramanian, S/o Periyathambi. The 1st respondent is constructing a house and has raised walls on the property. He applied for electricity service connection and it was rejected, therefore he filed a writ petition.

18. The appellant/Tahsildar was impleaded in the writ petition. Subsequently, the 1st respondent filed a petition seeking amendment of the prayer for restoration of patta, which stood in the name of the 1st respondent during the pendency of the writ petition.

19. The 1st respondent mainly contended that he is the purchaser of the property and as far as the Natham lands are concerned, the Government cannot claim ownership as per the Division Bench judgment of this Court. Thus, the present writ appeal is to be rejected.

20. Admittedly, the 1st respondent is in occupation of Natham land, which is classified as “Government Poromboke Kalinatham”. Natham lands are meant for construction of houses, and therefore the Revenue officials have no power to raise objection to the 1st respondent for seeking new electricity service connection.

21. In the context of the above background, the issues that arise for consideration are as follows:

- (1) Whether a person in occupation of Natham land can be declared as an absolute owner without reference to a grant by the Government in accordance with RSO 21.
- (2) Whether Government has the power to regulate the Natham lands, which is to be allotted for dwelling purposes to landless poor people in terms of RSO 21, and for other public usages.
- (3) Whether unilateral occupation of Natham land by any person would confer any title or ownership to the person who occupies it or whether such a person could be construed as an encroacher, and can be evicted by invoking the provisions of Tamil Nadu Land Encroachment Act, 1905.

22. No person can be allowed to claim title or ownership of the land in

the absence of the authority of law. Mere occupation of the land, including Natham land, would not confer title or ownership in the absence of any authority of law. Ownership or title must be established legally, and mere possession would be insufficient.

23. The legal position regarding Natham lands, including power of the Government to regulate the same in accordance with RSO 21, has been elaborately considered by the Division Bench of this Court in the context of various judgments, its scope, and applicability in the case of ***S.Anbananthan vs. The District Collector, Perambalur District***¹.

24. The eligibility criteria for the allotment of Natham land to landless poor people shall be considered in terms of RSO 21 by the Revenue Authorities. Mere possession of Natham land without reference to the extent of the land in terms of RSO 21 would not confer any title or ownership. If rights are conferred, it will lead to lawlessness, and greedy men with muscle and political power alone can occupy such Natham lands to a larger extent for their personal gain, by depriving landless poor people for securing allotments from the hands of the Revenue Authorities in consonance with RSO 21.

1. 2024 MHC 168

25. It is brought to the notice of this Court that in the case of ***N.S.Krishnamoorthi vs. The District Collector, Krishnagiri District²***, the learned Single Judge of this Court passed an order on 26.03.2025, holding that the judgment of the Division Bench in ***S.Ananandan's*** case cited *supra* is per incuriam. Thus, it is just and necessary for this Division Bench to further go into the legal principles and the judgments earlier considered by this Court in the context of Natham lands, to meet the ends of justice.

HARMONIOUS INTERPRETATION OF “GRAMA NATHAM”:

A. PREAMBLE:

26. Tamil Nadu is home to one of the oldest civilizations in the sub-continent. Since time immemorial, people have lived in settlements constructing residential houses of different types. A typical Tamil village may be considered to have one or more habitations surrounded by cultivated agricultural lands. Though civilization of such a format dates back to antiquity, modern land revenue administration has evolved only since British times, over two centuries ago. Modern land administration is also interconnected with the question of Title to the land whose jurisprudence also dates back to colonial times.

27. Among the various types of land as classified by the nature of the

2. 2025 MHC 790

land tenure system being followed, Grama Natham is a special type of land. Differing judicial pronouncements, executive decisions and common-sensical interpretations, often contradictory to each other have led to considerable differences in understanding of the character of the land. There is a need to comprehensively explicate the meaning and nature of Grama Natham and harmoniously interpret the various pronouncements and provisions hitherto existing.

B. DEFINITION:

28. The phrase “Grama Natham” means the ground set apart, on which the houses of a village may be built,, as per Glossary of Judicial and Revenue Terms in British India, 1855.

29. According to the book **“Land Tenures in the Madras Presidency”** by Mr.S.Sundararaja Iyengar, Advocate, High Court, Madras, (1933) *“...Every Tamil village is divided into (i) Warapat; (ii) Tirwapat; (iii) Tarisu and (iv) Poramboke.”* The term “Poramboke” is explained as being meant from three perspectives, that is cultivation, communal purpose and revenue. They are various kinds classified according to the purpose for which they have been set apart. In common parlance, any land that does not yield revenue is known as Poramboke. Thus, it can be seen that the

word “Poramboke” has twin connotations. Firstly, it would mean the lands which are used for public or communal purposes, but at the same time, it would include the land which does not yield any revenue to the Government. In this context, the Natham or Gramanatham lands are to be understood.

30. The excerpts from Chapter – II relating to Grama Natham which are relevant to the issue on hand reads as follows:-

“Natham or Grama Natham is a site on which village habitations are situated, and is held free of assessment. It is included in Poramboke and is known as Natham Poramboke. It is on this side that the villagers must build their houses. This does not mean that they are absolutely prevented from building their houses elsewhere, but only they will have to pass the assessment fixed on the land on which they build houses and cannot claim to hold it free of assessment. In Natham are included Pilakadai or backyard of houses, a small portion of ground immediately adjoining the dwellings of the villagers and kollai or homestead. Both are free of assessment...”

The freehold in the soil of Gramanatham in a Ryotwari village is in Government. Its right therein consists in regulating the distribution of unoccupied natham among the intending applications for house sites and to ensure its

utilisation for such purpose. The owners of houses and house sites in natham as well as grantees of unoccupied natham who have satisfied the condition of the grant by building houses are at liberty to dispose of them in any manner they choose. The classification of land as natham poramboke or Government Poramboke by the revenue authorities is not conclusive as to the character of the land is poramboke; nor does the omission to describe it as such prevent the Government from showing that it is really poramboke; nor does the mere description in the settlement register as temple poramboke vest any title in the temple."

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

"Ground set apart on which the house of a village may be built".

C. DISPOSAL OF GRAMA NATHAM LANDS BY THE STATE:

31. Since time immemorial, vacant lands in Natham lands have been assigned to houseless poor as house sites under Revenue Standing Order 21. This is in contrast to the assignment of land for agricultural or other purposes under the Revenue Standing Order 21, or the alienation of land for Public Purposes under Revenue Standing Order 24.

32. The relevant portion of RSO 21 is extracted as below:

General – (i) Scale of grant : *Portions of 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 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. In assigning lands for house sites care should be taken to see that land is not granted to persons already possessing enough land for their reasonable requirements and that preference is given to those who own no house site and whose family's income does not exceed Rs.12,000/- per annum. People belonging to the Scheduled Castes and Scheduled Tribes are to be given priority in assigning house sites.*

33. **Extension of village sites:** Revenue Standing Order 21(6) deals with extension of village sites (Grama Natham). Where existing village site is not sufficient for the needs of the resident villagers, in which case, assessed waste can be transferred to the village site poramboke by the Revenue Divisional Officer. The Collector is competent to transfer all unobjectionable poramboke to village sites, thus lending credibility to the view that the Government has rights over the Natham lands.

34. Further, where availability of vacant lands in Grama Natham is not adequate to provide assignment to the houseless poor, unobjectionable Government poramboke lands are identified to be provided as house sites to the houseless poor. Before assignment of such lands, the classification of these lands is converted to Natham and only then the house sites are assigned to the poor. Notably, for assignment of house sites to members of Scheduled Caste / Scheduled Tribe communities, private patta lands are acquired for the purpose of assignment, and converted into Natham, before being assigned to persons belonging to the SC/ST Communities.

35. It is to be noted that the above limits on extent and eligibility have been modified from time to time by the Government but do not appear to

have been incorporated in the Revenue Standing Orders. Illustratively, assignment of lands in the vicinity of Corporations or District Headquarters has been banned since the 1980s. It is high time to incorporate the limits and re-issue the Revenue Standing Order 21 to avoid mischief by assigning valuable lands quoting the earlier provisions without taking into cognizance the subsequent developments.

36. No one can occupy a land, including Natham land and declare himself/herself to be the owner as against the right of other subjects under the sovereign authority. The concept of first occupier is not accepted in a decision reported in ***D.Sankar and others vs. Special Commissioner and Commissioner of Land Administration and others***³.

37. The corollary is that an individual's claim of right by mere occupation would defeat the sovereign rights of the 'State' and the rights of all other citizens in rem over the land so occupied. Ownership, including the right to possess, control and use, can be conferred and recognised only by the sovereign power under the authority of law. Otherwise, such occupation of land, including Natham land in the present case, has no legal right and it is illegal.

3. 2014 (1) MLJ 818

38. There cannot be any land within the territory of Union of India without an owner. The 'State', as a sovereign authority, is the owner of all lands declared under Section 2 of the Tamil Nadu Land Encroachment Act, 1905, viz. List II Entry 18 of the Constitution of India.

39. Section 54 of the Transfer of Property Act, 1882, deals with sale. As per Section 54, sale is a transfer of ownership. So to have ownership, there are three ways to establish the same:

- (a) Must have a prescriptive title, like that of the State as a dominant owner;
- (b) Patta, which recognizes occupation, so one has to establish the ownership and;
- (c) Any prescriptive title against Government through adverse possession.

40. None of the decisions relied on earlier for granting relief have considered Natham lands by taking into account the definition as a “owned house site”, inclusive of extent, which has a reference to RSO 21 in the context of Section 2(e) of the Tamil Nadu Land Encroachment Act, 1905.

The relevant portion of RSO 21 is extracted hereunder:

**“3. Treatment of unauthorized
occupation:- (i) Village site not to be appropriated**

without previous permission: Collectors will assert the prerogative of Government by making it known in all Government villages that village site cannot be appropriated without permission previously obtained.

*(ii) **Consequence of such appropriation:-** If any portion of the village site is appropriated without permission and if the occupation is considered to be objectionable, the provisions of Act III 1905 should be applied in accordance with the instructions contained in Standing Order No.26. If the occupant is found to be entitled to an allotment and the occupation is unobjectionable the site may be formally granted in accordance with the rule, contained in paragraph 2 above and to penalty or at most a mere nominal penalty, should be imposed unless special circumstances render the imposition of penalty desirable.*

*(iii) **Responsibility of Village Administrative Officers:** Village Administrative Officers will be held responsible for presenting and reporting encroachments.”*

41. In the context of the aforementioned facts, this Court is inclined to consider the decisions that are in favour of the Government and those that are against the Government, despite the fact that some of the judgments were earlier considered by this Bench in **S.Anbananthan's** case cited

supra. This Court has drawn-up a Tabular Column comprising of cases from the year 1903 onwards for better understanding of the case laws on the subject:

Decisions in favour of the Government	Decisions Against the Government
<i>The Taluk Board, Dindigul vs. Venkatramier and Ors [AIR 1924 MAD 197]</i> This case addressed whether the Government could assign or permit construction (specifically, a Girls' School) on land classified as Natham Poramboke, traditionally used by villagers for residence. Villagers opposed the move, claiming that Grama Natham is communal land, and they had a customary right to use it. They argued that the Government had no authority to reassign such land. The Madras High Court (Division Bench) rejected this argument. It held that: Natham land remains under Government ownership, though typically used for village residence. ● The Government has the right to regulate or assign such land,	<i>Kuppuswami Odayar vs. Panchayat Narthangudi, [1970 SCC OnLine Mad 97]</i> The appellants filed a suit (O.S. No. 351 of 1962) seeking a declaration of ownership and fishery rights over a tank, or alternatively, for recovery of possession. They claimed over a century of ownership and leasing of fishery rights, supported by documents from as early as 1873. The dispute arose when the local panchayat attempted to auction the fishery rights in 1962, asserting the tank was on <i>natham poromboke</i> land and therefore Government property vested in the Panchayat under the Madras Panchayats Act. The lower courts dismissed the appellants' claim, relying primarily on a resettlement register (Ex. B-1) from 1925 that recorded the land as

Decisions in favour of the Government	Decisions Against the Government
especially when it is unoccupied. ● Unlike other communal lands (e.g., burial grounds, grazing lands), natham lands do not enjoy immunity from Government control. The Court emphasized that custom or local usage cannot override sovereign rights, and the Government may repurpose such land for public welfare, including schools.	<i>poromboke</i>, and misconstruing statements by the appellants as admissions. This Court held that the lower courts misunderstood and misapplied the law. It clarified that: 1. Labeling land as <i>poromboke</i> in a government register does not establish government ownership. 2. Adverse possession can be established by long, open, and uninterrupted exercise of ownership, such as leasing fishery rights. 3. A lack of leases for certain years does not break the continuity of possession if the start and end points of long-term possession are proven. 4. The fact that the appellant was a village munsif (revenue officer) does not negate personal ownership unless proven to be acting in that official capacity.
<i>Jayaram Naidu Vs. Secretary of State [AIR 1929 Mad 441]</i> The suit was filed by an individual against the state claiming that piece of Natham land belongs to them by the virtue of long enjoyment. This Court	<i>State of Madras vs. Kasthuri Ammal and Ors [1973 SCC OnLine Mad 203]</i> It is a land acquisition matter for the water tank. Compensation was denied for the reason that it is a common poramboke land, so compensation is

Decisions in favour of the Government	Decisions Against the Government
discussed the matter in detail, referred the earlier citations and held that it is the discretion of the Government to grant/assign to persons who have applied for building purpose and that the declaration of title is negative.	not payable and hence the suit. The State contended that part of the land is road poramboke and the remaining portion is natham poramboke and has been taken under the Inam Abolition Act, 1963. The Learned Single Judge after discussing the factual aspects as well as the legal position, held that the land, which was already in the possession of the private individual by way of two Sale Deeds, therefore, she is entitled for compensation relying upon the judgment of Rengaraja Iyengar vs. Achikannu Ammal.
<i>Palani Ammal vs. L. Sethuram Aiyangar [1949 SCC OnLine Mad 4]</i> The central issue in this case was the nature of Natham land and whether the plaintiff, a co-owner of the inam village, had the right to recover possession of such land. The defendant argued that Natham was communal property and thus not subject to individual ownership or recovery by a co-owner. However, this court held that Natham is not communal property in the strict legal sense, such as burning grounds or	<i>A.K.Thillaivanam and Ors. vs.. The District Collector, Chengai Anna District [1997 SCC OnLine Mad 977]</i> The petitioners claimed ownership based on a registered sale deed executed in 1954 and had since converted the land into cultivable use and later developed it into 42 residential plots. Subsequently, criminal proceedings were initiated against them, alleging that they had sold government land, and the petitioners were accused under

Decisions in favour of the Government	Decisions Against the Government
thrashing floors that are reserved for community use. Instead, if Natham land is unoccupied, it is typically assigned by the village proprietor or inamdar. In this case, since the land was not communal poromboke and the plaintiff was an inamdar, he was entitled to reclaim possession.	Section 420 IPC. The petitioners, however, asserted that they had been in exclusive possession since 1954, and had been issued D-memos (demand memos), typically used by authorities to record occupation over government land. The Learned Single Judge, taking into account the admitted long possession, observed that the land being natham did not vest with the Government and the possession was not shown to be unauthorized or penalized under the Land Encroachment Act. Relying on precedents like Palaniammal v. Sethurama Iyengar and Rangaraja Iyengar v. Achikannu Ammal, the Court held that the petitioners had perfected their title by prescription (adverse possession). Accordingly, the Court ruled in favor of the petitioners, recognizing their title and restraining the government from interfering with their possession or prosecuting them.

Decisions in favour of the Government	Decisions Against the Government
In a case of <i>Zonal Officer – V, Corporation of Chennai vs. K. Narasa Reddy, Kances Constructions Pvt. Ltd., and Ors</i> [2012(4) MLJ 646], <i>This writ appeal centered around a building constructed by the first respondent on land classified as Natham. The construction was carried out without prior approval from the authorities. The Commissioner rejected the application for building permission, stating that Natham land could not be used for such purposes.</i> The court criticized the misuse of Natham lands for commercial exploitation and held that such practices must be curtailed to protect public village lands. As the first respondent's construction was not for personal residential use but for commercial purposes, the court found no basis to interfere with the Commissioner's rejection order. Consequently, the writ appeal was allowed, reinforcing the government's authority to regulate the use of Natham land.	<i>Executive Officer, Kadathur Town Panchayat vs. Swaminathan and Ors.</i> [2004 SCC OnLine Mad 412] In this case, the petitioners and their ancestors had been in exclusive possession of the lands for over 40 years. Pattas were granted to them in 1992 after due enquiry and were duly recorded in the revenue registers. Later, the Panchayat passed a resolution stating that the lands were needed for public use and sought to evict the petitioners, prompting the third respondent to cancel the pattas. The petitioners challenged this eviction. This Court held that Grama Natham lands are not vested in the Government or in local bodies like the Panchayat. Referring to several authoritative precedents, including <i>Palani Ammal v. L. Sethurama Iyengar and Rangaraja Iyengar v. Achikannu Ammal</i>, the Court reaffirmed that: ● Grama Natham lands are distinct from communal or government poramboke lands like roads, rivers, or burial

Decisions in favour of the Government	Decisions Against the Government
	grounds. ● Title to house sites in Grama Natham is protected from vesting in the Government, even under laws like the Madras Estates Abolition Act and the Land Encroachment Act. ● The long-standing possession and enjoyment of such lands by individuals can lead to valid ownership, and mere classification as 'poramboke' in settlement records does not establish government title. ● Eviction cannot be done summarily without proper adjudication, especially where disputed title and pattas already granted are involved. This Court affirmed the petitioners' rights over the Grama Natham land and holding that the Town Panchayat had no authority to treat the land as its own or evict the petitioners without proper legal process.
In another unreported judgment in <i>W.P. No. 15692 of 2014, Indra Prasad vs.</i>	Unreported judgment in <i>W.P. NO. 18754 of 2005</i>

Decisions in favour of the Government	Decisions Against the Government
<i>State of Tamil Nadu</i> In this case, a notice issued under Tamil Nadu Land Encroachment Act, 1905 was challenged on the ground that the property is situated in Aminjikarai Village. The Court held that Petitioners are using the land for commercial purpose and they are not residing on the said land. Therefore, they are not entitled for the relief since they are not using it for a residential purpose.	<i>K. Elangovan vs. District Collector, Coimbatore</i> In this case, the petitioner sought to restrain government authorities from evicting him from 1.38 acres of Grama Natham land, claiming over 60 years of continuous possession by his joint family. The Government admitted the land was classified as natham poramboke but alleged the petitioner had encroached on land intended for houseless poor. The Court relied on precedents, including: ● S. Rengaraja Iyengar v. Achikannu Ammal (1959) ● A.K. Thillaivanam v. District Collector (1998) ● State of Tamil Nadu v. Madasami (2012) and held that Grama Natham land does not vest with the Government, and that mere classification as 'natham poramboke' does not confer title to the State. Long-standing, undisputed possession could not be

Decisions in favour of the Government	Decisions Against the Government
	treated as encroachment. The writ petition was allowed, and the Court restrained the respondents from interfering with the petitioner's possession.
<i>M.Sekar Vs. District Collector, Namakkal [2016 SCC OnLine Mad 27115]</i> This case following the Zonal Officer, Chennai Corporation vs. Narasa Reddy directed the State to protect the Natham lands.	<i>T.S.Ravi Vs. District Collector, Tiruvallur [CDJ 2018 MHC 8248]</i> The petitioners, T.S. Ravi and T.S. Sulochana, challenged notices issued under the Tamil Nadu Land Encroachment Act, 1905. They contended that the land in question was classified as Grama Natham, for which they held valid pattas (land titles), and that part of the land had earlier been acquired by the government for a public project with compensation paid. This Court examined the A-Register, which confirmed the land as Grama Natham. Relying on precedents and legal principles, the Court ruled that: 1. Grama Natham lands do not vest in the government, hence eviction under the Land

Decisions in favour of the Government	Decisions Against the Government
	Encroachment Act is not permissible. 2. Commercial use (like having small shops) does not alter the nature of Grama Natham, unless it becomes a large-scale commercial exploitation. 3. The Government can only acquire such land for public purposes through proper acquisition and compensation not by treating occupants as encroachers.
In another unreported judgment in <i>W.P.No. 7230/2014</i> <i>P.Balasubramaniam vs. District Collector Kancheepuram</i> This Court has directed the state to protect the Natham land and dismissed the Writ Petition and initiate the eviction by following Tamil Nadu Land Encroachment Act, 1905.	The Division Bench of this Court in W.P. (MD). No.22809 of 2021 <i>C.Lakshmanan vs. District Collector, Sivagangai [MANU/TN/0615/2022]</i> In this case, the petitioner challenged an order issued by the Revenue Authority directing the demolition of a wall constructed on land classified as Grama Natham, allegedly without approval. The petitioner contended that the land

Decisions in favour of the Government	Decisions Against the Government
	in question belonged to a temple (Oorkavalan Maydai Kovil), had been used for religious purposes for generations, and was classified as Grama Natham. The petitioner further argued that action under the Tamil Nadu Land Encroachment Act, 1905 was inapplicable to Grama Natham land and that due process under the Act, including the issuance of a notice under Section 7, had not been followed. By citing several landmark judgments, including <i>T.S. Ravi v. District Collector and A.K. Thillaivanam v. District Collector</i>, the Court reaffirmed the legal principle that Grama Natham land does not vest in the government, and therefore cannot be subject to eviction under the Land Encroachment Act.
In <i>W.P.No.2855 of 2013 Shanmugaraj vs. District Collector, Tiruppur</i> In this case, the petitioner sought to restrain government authorities from constructing a government hostel on	Hon'ble Division Bench of this Hon'ble Court in W.P.No.31688 of 2022 <i>A.Socretes vs. District Collector, Tiruvallur[2023(2) LW 24]</i> The petitioners challenged eviction

Decisions in favour of the Government	Decisions Against the Government
land claiming it as ancestral property and asserting long-standing possession. The government countered that the land was classified in the revenue records as Natham vacant land, not assessed or assigned to any private person, and was therefore vested with the State. They produced evidence that the land had been subdivided under the Natham Land Development Scheme and was being used for public purposes, including a functioning Aathidraavidar government hostel and adjoining playground. The Court reaffirmed the settled legal position that Grama Natham lands do not automatically confer private ownership merely on the basis of long-term possession or familial claims. Citing the 2015 circular issued by the Commissioner of Land Administration, the Court reiterated that vacant Natham lands must be preserved for future public use or assigned only per government policy. It emphasized that claims based on historical occupation without documentary title are not legally	orders issued under the Tamil Nadu Land Encroachment Act, 1905, concerning land in Survey No. 595 of Poovirunthavalli Village, Thiruvallur District, earmarked for the Chennai Metro Rail Project. The petitioners argued that the land was classified as “Adi-Dravidar Natham” in the revenue records. They contended that such land does not vest with the government and, therefore, cannot be reclaimed under the Land Encroachment Act. The Court examined the classification in the A-register and confirmed the land was indeed recorded as Adi-Dravidar Natham. Referring to precedents, particularly the decision in <i>T.S. Ravi v. District Collector, Thiruvallur</i>, the Court held that Grama Natham land does not belong to the government, and the Tamil Nadu Land Encroachment Act could not be used to evict longstanding residents.

Decisions in favour of the Government	Decisions Against the Government
tenable in writ proceedings and must be resolved through the appropriate civil forum.	
Judgment reported in Full Bench of this Hon'ble Court in <i>Madathapu Ramaya vs. The Secretary of State [1903 SCC OnLine Mad 56]</i> 'the lane is a portion of the "Natham" or village site and presumably the free hold in the soil is in the Government". It is admitted that for centuries, from time immemorial, the British Crown and its predecessors have had title to all unoccupied village natham."	The Division Bench of this Court in Batch of writ petitions in <i>W.P.(MD).No.9466 Of 2021 Babu vs. District Collector, Thoothukudi</i> The petitioners were residents of a colony in Kalappaipatti Village, Kayathar Taluk, Thoothukudi District, living on land classified as Natham. They had constructed and were residing in their homes for a considerable period. However, the Tahsildar initiated eviction proceedings on the grounds that the petitioners could not produce title documents prior to 1966, and therefore, their occupation was deemed as encroachment. The petitioners argued that Natham land does not vest with the government, and cited various judicial precedents establishing that possession of such land confers rights, even in the absence of formal title. Courts have consistently held that Natham lands are meant for

Decisions in favour of the Government	Decisions Against the Government
	villagers and not for disposal as government property under land reform laws like the Tamil Nadu Estates Abolition Act (1948), the Tamil Nadu Inam Estates Abolition Act (1963), or the Tamil Nadu Minor Inam Estates Abolition Act (1963). The Respondent, State relied on a 2015 circular issued by the Commissioner of Land Administration, which claimed that Natham lands are government poramboke and that only patta issued under Natham Settlement could grant any rights, thus denying any ownership claim by mere possession. The Court rejected the government's stance, declaring the 2015 circular unconstitutional, as it directly contradicted well-established legal principles. The Court reaffirmed that Natham lands do not vest in the State, and possession and enjoyment by villagers establishes a right to ownership, unless there is a competing claim between private parties. The writ petitions were allowed, and the Court held that the government cannot evict the petitioners merely for lack of

Decisions in favour of the Government	Decisions Against the Government
	pre-1966 documentation, nor can it treat such long-standing possession as encroachment.
In an Unreported judgment of this Court Second Appeal No. 131 of 2003 Commissioner Dharapuram Municipality vs. K.Marimuthu The second appeal was filed against the concurrent judgments of the trial court and the appellate court, which had granted a declaration of title and permanent injunction in favor of the plaintiff regarding a disputed piece of land classified as natham poramboke. The plaintiff claimed possession of the land for over 30 years, during which his family constructed a house, fenced the property, and obtained utilities. He further claimed to have received patta (land ownership record) and to have obtained the property through a family partition. He relied on adverse possession as an alternative ground for ownership. The defendant, a municipality, argued that the land was public property,	Hon'ble Division Bench of this court in W.P.No.25608 of 2023 R.A.V Kovil Annayya Charities vs. District Collector and Ors [2023 SCC OnLine Mad 8360] The Court addressed whether land classified as Natham can be treated as government property, especially when the occupants use it for commercial purposes. In this Case, the petitioner trust claimed ownership over land in Survey No. 1382/2 in Poonamallee Village, used for charitable purposes and rented shops. The land was classified in revenue records as “Natham” and “Poramboke.” However, without initiating land acquisition proceedings, authorities issued eviction notices under the Tamil Nadu Land Encroachment Act, 1905, on the grounds that the land was needed for the Chennai Metro Rail Project and that it was government land

Decisions in favour of the Government	Decisions Against the Government
vested in the municipality, and contended that the plaintiff had encroached on government land and had no legal right to it. The High Court found several flaws in the lower court decisions: 1. The plaintiff failed to produce the alleged patta or any credible evidence to support government grant. 2. The claim of adverse possession was unsubstantiated with reliable evidence. 3. The suit property was admitted by the plaintiff to be natham poramboke, which is government land, and yet the government was not impleaded as a party to the suit. 4. The High Court emphasized that a plaintiff cannot claim title via adverse possession in a civil suit (relying on <i>Gurdwara Sahib v. Gram Panchayat</i>, 2014). 5. The claim that the land was <i>Grama Natham</i> (village habitation land not vested in government) was not supported	being used commercially. The Court quashed the eviction orders, holding that: 1. Natham lands do not automatically vest in the government, even if noted as “poramboke” in the A-register or revenue records. 2. Merely using Natham land for commercial purposes does not change its character or make it government property. 3. The Tamil Nadu Land Encroachment Act cannot be invoked against lawful occupants of Natham lands. 4. If the land is required for a public purpose, the government must proceed through formal acquisition with compensation, not through eviction under the 1905 Act.

Decisions in favour of the Government	Decisions Against the Government
by any evidence or classification records. Given these deficiencies, the High Court held that the plaintiff had not proven title or adverse possession, and the government should have been made a party if title by adverse possession was claimed.	
<i>Puthoor Boyanna vs. Golusu Asethu and Another [AIR 1915 Madras 720]</i> The Division Bench of this Court in Second Appeal No.849 of 1912, dismissed the Second Appeal and held that mere possession and enjoyment of Natham land would not confer any title. It is undisputable that the Government has the right to assign vacant Natham poramboke lands.	Learned Single Judge in <i>P.Solomon vs. The District Collector, Kancheepuram[2014 SCC OnLine Mad 8156]</i> The petitioners challenged the State's failure to disburse compensation after their land was acquired for the Chennai IT Expressway project. The land in dispute was classified in revenue records as Natham. From the date of purchase, the petitioners were in possession and had constructed a dwelling on the property. Despite this, during acquisition proceedings under the Tamil Nadu Highways Act, 2001, the State issued notices, invited objections, conducted an inquiry, and eventually passed an

Decisions in favour of the Government	Decisions Against the Government
	award on 30.04.2013, determining compensation of Rs. 56,06,401. The petitioners participated in the proceedings, accepted the award under protest, and even submitted a formal request under Section 20(1) of the Act for reference to the civil court for enhancement of compensation. However, the compensation was never paid. In the counter affidavit filed during the writ proceedings, the State asserted for the first time that the land was poromboke and that the petitioners were mere encroachers with no title or entitlement to compensation. The Court decisively rejected the government's contentions. It held that the land in question, having been classified as Natham, could not be treated as government property. The Court pointed out that the petitioners were consistently treated as owners during the entire acquisition process and that notices and the award itself acknowledged their ownership. The issuance of such notices and the passing of an award estopped the government from now contending that

Decisions in favour of the Government	Decisions Against the Government
	the land was poromboke.
<i>Secretary of State vs. Rajah Chelikani Rama Rao and Ors [1916 SCC OnLine PC 42]</i> The dispute was regarding ownership of newly formed lands specifically, islands formed in the sea near the Godavari River delta. The Government of Madras proposed to declare these islands as reserved forests under the Madras Forest Act, 1882. The respondents, zemindars (landholders) of nearby estates, opposed this move, claiming ownership of the islands based on long-standing possession by them and their ancestors. The Forest Settlement Officer held that the islands had emerged from the sea and thus originally belonged to the Crown. He rejected the zemindars' claims, stating that they had failed to prove adverse possession for the statutory period of 60 years. This decision was confirmed by the District Judge. However, the decision later reversed by	<i>Ponniah Pillai and Ors vs. Pannai Minor Sivanupandiya Thevar [AIR 1947 Mad 282]</i> The case involves a dispute over several plots of land classified as <i>Natham</i>, which were part of the Pannai estate formerly owned by Sivanupandia Thevar. After his death, the estate passed through his daughters and eventually came under the possession of Murugiah Thevar through a family partition in 1927. However, after Madipillai Ammal (the last surviving daughter) adopted a son, the plaintiff and passed away in 1928, the adopted son became the rightful reversionary heir. Murugiah continued to manage the estate and collect rent through an intermediate lessee, but did not recognize the plaintiff's rights. The plaintiff, after being appointed a guardian, sued in 1932 to reclaim possession from several occupants. The defendants argued they had

Decisions in favour of the Government	Decisions Against the Government
this Court stating that the zemindars had shown possession for over 20 years, and therefore the burden was on the Government to prove that its title had not been extinguished by limitation or that its title still subsisted. The Privy Council disagreed with the High Court's reasoning and restored the original findings of the Forest Officer and District Judge. It ruled that lands formed in the sea or from the seabed automatically vest with the Crown as a matter of sovereign right unless someone can prove a legal claim, such as ownership through grant or prescription. It held that mere long possession even over 20 years was not sufficient to establish ownership against the Government. Instead, a clear case of adverse possession for at least 60 years had to be proven to defeat the Government's title, and the burden of proving such possession lay with the claimant, not with the Crown.	acquired title by adverse possession or that the land belonged to the government since it was registered as <i>Natham poromboke</i>. The court held that the plaintiff had established valid title through longstanding ownership and dealings by his predecessors, and that <i>Natham</i> land does not automatically vest in the government. The defendants had previously paid rent to the plaintiff's family, and village officials confirmed the land was privately held and not government property. The court rejected the defendants' claims of ownership, denied them compensation for improvements, and dismissed their appeals, confirming the plaintiff's right to possession.
The High Court of Andhra Pradesh in the case of <i>Pasupuleti Krishnamurti</i>	<i>A. Srinivasan vs. Tahsildar Egmore Madras [2010 (3) MLJ 72]</i>, In this case

Decisions in favour of the Government	Decisions Against the Government
vs. Annadasu Bapanayya and Ors [1955 SCC OnLine AP 282], held that only poramboke land that is not required for any other communal purpose can be assigned by the Government. Since the land is required for a communal purpose, namely grazing land (cattle stand), the Plaintiff cannot seek assignment as a matter of right.	<i>the key issue was whether Grama Natham lands vest with the Government and whether possession of such land without patta could be treated as encroachment. The petitioners claimed title through adverse possession and relied on earlier judicial precedents asserting that Grama Natham is intended for the residential use of village inhabitants and does not automatically vest in the State.</i> This Court held that land classified as <i>Grama Natham</i> is not Government land by default. The Court reiterated that such lands are meant for village habitation and, if occupied by individuals who have put them to personal residential use, they cannot be treated as encroachers. Further, the Land Encroachment Act is not applicable to private <i>Grama Natham</i> lands.
W.P.No.4927 of 2018 Mummurthi vs. District Collector, Thiruvannamalai, the petitioner, K. Mummurthi,	Perumal Gounder vs. Athappa Gounder and Ors [1971 SCC Online Madras 89], Second Appeal matter.

Decisions in favour of the Government	Decisions Against the Government
challenged an eviction order issued by the Block Development Officer. He claimed to have been residing on the land, classified as "Pattai Poramboke" for over 60 years, and argued that it was originally "Natham" land. He relied on possession of official documents like ration card, Aadhaar, electricity connection, and payment of house tax to assert his long-term occupation and entitlement. The Court held that possession of identity documents or utility connections does not confer legal ownership or right to occupy government land. Since the petitioner was considered an encroacher, the plea for equity was also rejected. The Court dismissed the writ petition, validating the eviction order.	A Second Appeal has been filed in a representative capacity between two individuals against another individual, concerning <i>Oor Natham</i>, in the light of the case of <i>Palani Ammal vs. L.Sethurama Iyengar</i>, which upheld the collective rights of villagers over <i>Oor Natham</i> land.
The Learned Single Judge of this Court in W.P.No. 7051 of 2017 <i>Dr.V.Kalanidhi Vs. State of Tamilnadu [2023:MHC:4182]</i>, made a detailed discussion on the genesis of Natham. It was held that Natham is meant for residential purposes and assignment can be given only for	<i>State Vs. Madasamy [2012(2) CTC 315]</i>, This second appeal dealt with the ownership of land classified as <i>Natham</i> in Irukkankudi Melmadai Village. The plaintiffs had purchased the property from the heirs of one Saminatha Pattar, who had long used the land for residential purposes. After their

Decisions in favour of the Government	Decisions Against the Government
residential purposes, based on the merit of the claimant, and no commercial activity is permissible.	purchase, the government attempted to assign the land to others, claiming it was Government <i>poramboke</i> land because it was classified as <i>Natham</i>. The plaintiffs sought a declaration of ownership and an injunction to restrain the government from interfering. Both the trial and appellate courts ruled in their favor, holding that <i>Natham</i> land, though originally intended for village habitation, does not automatically vest in the government. When such land is occupied, used for housing, and passed down or transferred, it becomes private property. This Court upheld this view, citing established precedents that <i>Natham</i> land once used personally cannot be treated as government land. It rejected the government's argument that lack of patta negates ownership and held that long-standing possession and use are sufficient to establish private rights. The second appeal was dismissed, and the plaintiffs' ownership and possession were confirmed.
The Division Bench of this court in <i>W.A.No.203 of 2023 S.Anbanandam</i>	

Decisions in favour of the Government	Decisions Against the Government
<i>Vs. District Collector, Perambalur</i> <i>[Cited Supra]</i> Had took great pain to trace the history of Natham with reference to RSO 21, compartmentalized the arguments, and also referred to the commentaries on land tenures in the Madras Presidency by learned author M. Sundararaja Iyengar. Notably, this is the only Division Bench case that referred to RSO 21 in the context of assignment of land, which has been occupying the field for more than a century. None of the other judgments held against the Government have discussed the context of RSO 21 in detail, instead making only passing remarks about it. This Division Bench distinguished all the judgments factually and legally and finally held that the Government is empowered to regulate Natham land and that assignment should be based on welfare schemes in consonance with Revenue Standing Order 21.	
In Second Appeal matter of <i>Rudrappa</i>	

Decisions in favour of the Government	Decisions Against the Government
<i>Nayak vs. Dasan [AIR 1933 Mad 610]</i>, it was held that the Government's power to assign land from one public purpose to another public purpose cannot be questioned.	
The Learned Single Judge of this Court in the Second Appeal Matter of <i>Syed Abdul Jabbar vs. Executive Officer [2010 SCC Online Mad 4634]</i>, dealt with the issue of Whether the title to land classified as Natham can be derived by long possession. While this Court discussed the line of judgments including <i>A.K. Thillaivanam and Ors. v. The District Collector, Chengai Anna District</i>, it distinguished the statutory vesting under Section 170 of the Tamil Nadu Panchayats Act. Having admitted the classification of the land as Natham, mere possession would not assist the plaintiff in establishing title through adverse possession, as discussed in the Second Appeal."	

42. Reading of the judgments referred in Tabular Column above would reveal that there are two sets of decisions, one set are from the year

1905 to 1955 and those decisions are related to civil suits between the private individuals. Pertinently, in none of those judgments, the Government is a party to the *lis*. However, in the case of ***A.K.Thillaivanam and Others vs. The District Collector Chengai Anna District***⁴, the learned Single Judge relied on the two decisions i.e., ***Palani Ammal vs. L.Sethurama Aiyangar***⁵; and ***Rengaraja Iyengar and Another vs. Achikannu Ammal and Another***⁶.

43. Pertinently, in the cases of ***Palani Ammal*** cited *supra* and ***Rengaraja Iyengar*** cited *supra*, the Government is not a party. Thus, the reliance of the above two judgments placed by the learned Single judge in the ***A.K.Thillaivanam's*** case cited *supra* may not have much relevance in the context of the legal principles. ***Palani Ammal's*** case cited *supra* was civil suit for ejectment in an inam village and thus, the said judgment has no application to the Natham land in the present context.

44. In the case of ***Rengaraja Iyengar*** cited *supra*, refers to a land situated in the Shrotriam Village of Kurunthampallam, which was an estate. The Government notified the estate under Madras Act, XXVI of 1948 on 01.10.1951. The Trial Court found that the plaintiff's vendors lost title in view

4. 1997 SCC Online Mad 977

5. AIR 1949 Mad 81

6. 1959 (2) MLJ 513

of Act XXVI of 1948. The finding is that immediately on coming into effect of Tamil Nadu Land Encroachment Act 1905, on 19.04.1905 by operation of law, the lands owned in Natham could not be brought under Act XXVI of 1948. It is relevant to extract paragraph 12 of the above judgment which reads as under:

“held that Section 3(b) of Madras Act XXVI of 1948 does not have the effect of transferring to the Government, title to a house site within Natham belonging to person other than the landholder, when the estate in which the house site is situated is taken over under a notification of Act XXVI of 1948”

45. Pertinently, both cases were taken out of context and referred in **A.K.Thillaivanam's** case cited *supra*, which was delivered by a learned Single Judge of this Court. The cases referred to in **A.K.Thillaivanam's** case speaks about buildings on a house site, whereas **A.K.Thillaivanam's** case, involves a vacant land of 6.22 acres. Thus, we must fall back on RSO 21, which prescribes the extent of land to be granted to landless people by Revenue authorities and hence the view taken in **A.K.Thillaivanam's** case by the learned Single Judge seems to be not correct.

46. Consequently, all the decisions that follow **A.K.Thillaivanam's**

case without considering RSO 21, are primarily not deciding the mode of right or ownership on Natham and hence distinguishable and, does not constitute a binding precedent.

47. Very importantly, neither in **A.K.Thillaivanam's** case nor in the cases of **Palani Ammal** and **Rengaraja Iyengar**, the following judgments are considered.

(a) The Division Bench in the case of **Jayaram Naidu** cited *supra*, more specifically in paragraph 5 held as follows “As explained in **Collector of Godaveri District vs. Rangayya**⁷, according to the common law of the country the control of Natham vests in the revenue authorities, and they are at liberty to grant portions of it at their discretion to persons who apply for it for building purposes; Government has the right at any time to appropriate it for any public special purpose.”

48. Also apart from the Division Bench judgments of this Court relating to gramamatham, there are two Hon'ble Full Bench judgments rendered by this Court, which has not been relied upon by any of the Division Bench or the learned Single Judges. It is essential to quote these Full Bench judgments in the context of Natham lands. It would be impossible to analyse the scope and purpose of Natham lands without

7. 1908 4 M.L.T. 440

referring to the Full Bench judgments.

49. The Hon'ble Full Bench consisting of Sir S.Subramania Ayyar, Officiating Chief Justice, Mr. Justice Boddam and Mr. Justice Bhashyam Ayyangar delivered judgment in the year 1903 in the case of ***Madathapu Ramaya vs. The Secretary of State for India***⁸, Bhashyam Iyengar, J., observed as follows:

“..... The lane in question is apparently a portion of the "Grama-nattam" or " village-site" and presumably the freehold in the soil is in the Government; and if, as was assumed during the argument, the lane or street had continued to vest in the District Board in 1998-when the penal assessment was imposed-then according to the decision in Sundaram Ayyar v. The Municipal Council of Madura (2), the street, qud-street, i.e., the surface and so much of the air space above and so much of the soil below the surface as is reasonably necessary to enable the District Board adequately to maintain and manage the street as a street, was vested in and belonged to the District Board. In Sundaram Ayyar v. The Municipal Council of Madura (1), the legal effect of the statutory vesting of a street in a municipality (by Act (Madras) IV of 1884 as amended by Act III of

8. (1904) 27 MAD 386

1897) was considered and the conclusion arrived at; on a review of various English and some Indian decisions, was that such vesting did not transfer to the municipality the ownership in the site or soil over which the street exists. This conclusion is fortified by the recent decision of the Court of Appeal in *Finchley Electric Light Company v. Finchley Urban District Council* (2) in which, after a review of all the English decisions, Collins, M. R., stated: "The conclusion to be derived from the authorities seems to me to be this; all the stratum of air above the surface, and all the stratum of soil below the surface which in any reasonable sense can be required for the purposes of the street as street, vest in and belong to the local authority" (at page 441)."

.....

"A street in a "Natham" between two rows of houses is not necessarily a highway and it may merely be as it generally is in rural tracts—**land belonging to Government**, over which however there is a right of way to the houses or buildings on either side Assuming, as found by the Courts below, that **the freehold in the soil of the lane belongs to Government...**"

"But whether it is a highway or merely **Crown land** over which there is a right of way in favour of the inhabitants of the street, it is in the

very nature of things land exempted from assessment; and any person encroaching thereon is a trespasser (civil) and in no sense a "landholder"..."

The custom is also unreasonable as it will equally compel a person who is in or has taken possession of his own land and is not really a trespasser—though supposed to be such by the village or other Revenue authorities—to relinquish or vacate the land rather than pay a crushing assessment, which, if paid for some years, will even exceed the full value of the land.

50. In yet another case, the Hon'ble Full Bench of this Court consisting of Sir John Wallis, Chief Justice, Mr. Justice Ayling and Mr. Justice Kumaraswami Sastriyar in the case of **Seshachala Chetty and four others vs. Para Chinnasami and ten others**⁹, held as follows:

"..... The true view of the case is that gramanattam is the communal property of the villagers and that the Collector can only interfere with a view to benefit the community and when his action is consistent with the common law. To alter this state of things a special enactment would be necessary. "By immemorial usage a portion

9. 1916 SCC OnLine Mad 347

of every village is assigned rent free as a site for the dwellings of the villagers; but, as the old hukumnamas show, the enjoyment of it is subject to regulation by the Government.”

..... *“In purely mirasi villages, where the entire area belongs to the mirasidars, the gramanattam no doubt appertains to them equally with the other poramboke, but these cases are exceptional.”*

..... *I am not satisfied that before the establishment of British rule and especially under the Muhammadan Government, unoccupied nattam was generally recognized by Government, as the private property of the mirasidars,.....”*

.....

.....

..... ***The Government has always the paramount right of disposing of waste lands subject of course to such vested rights (either in mirasidars or communities) as may be proved to exist.”***

.....

.....

“To conclude I am of opinion that—

(1) in mirasi villages the rights of Government over waste (including nattam and cheri) are subject to the rights of the mirasidars;

(2) the nature and extent of such rights are not

*uniform throughout the Presidency but vary and the onus is on the mirasidars to prove that any specified incident attaches to mirasi rights in any particular district, **there being no presumption that gramanattam is the exclusive property of the mirasidars;***

(3) the rights of mirasidars over waste are not extinguished by the mere fact that the Government grants pattas to strangers;”

51. Thus, the majority judgments are that the Government is the owner of the house sites. Further it is held in the judgment cited supra as follows:

“These decisions it appears to me, are binding upon us, and they fully recognize the ownership of the mirasidars in all the lands in mirasi village including the waste. They recognizes also the right of the Government, in cases where the mirasidars refuse to cultivate the lands, waste or under cultivation, to let them to another for temporary cultivation. Whether in such cases the mirasidars retained his mirasi right, either to recover swatantrams is from the tenant let in by the Government or to turn him out, was question apparently not settled.”

52. After the Constitution of India coming into force, agrarian reforms were introduced by abolishing the mirasi system through a series of Acts, starting from Act XXVI of 1948 and including the Abolition of Intermediaries like Zamindars, Mirasi, Maniyam, etc., and conversion into Ryotwari laws, such as the Tamil Nadu Inam Abolition (Conversion into Ryotwari) Act, 1963, in short, Act XXVI of 1963. By virtue of Act XXVI of 1948 and Act XXVI of 1963, the mirasi systems were abolished. Hence, whatever rights were enjoyed by the collective body of persons (mirasidars) are now governed by the Act and appropriated by the Government as per RSO 21, as amended from time to time.

53. The Hon'ble Full Bench in the case of **Seshachala Chetty** cited *supra*, held as follows:

“It seems to me that the Government on the dissolution of village communities stands for executive purposes in their place and is clothed with all the rights of management which originally vested in the mirasidars jointly. There can be little doubt that, before the dissolution of the village communities, the affairs of the village were managed by the mirasidars in common. They were responsible for the distribution of lands, and they collected certain fees or merahs from the villages

*to meet the expenses of the village. The dissolution of the village communities naturally vested in the Government the administrative duties which were formerly exercised by the mirasidars, The right of Government to allot lands to non mirasidars and to put such persons in the position of ulkudis also gave the Government an interest in the nattam for, as a corollary to that right, the right of Government to grant sites in nattam followed. It would be against all principle to hold that, though the Government can confer waste lands on ryots, they cannot give the ryots sites in the nattam to build on. **The Government has, therefore, a double right in the nattam. One is the right of superintendence over the nattam which originally vested in the mirasidars collectively and the other is to grant sites on the unoccupied portions of the nattam to ryots to whom they grant waste lands.**"*

54. In the case of **Ponnia Pillai and others vs. Pannai Minor Sivanupandia Thevar through his brother and guarding R.K.Viswanatha Thevar**¹⁰, the Division Bench consisting of Mr. Justice Wadsworth, Officiating Chief Justice and Mr. Justice Govindarajachari, decided the case, Speaking for the Bench, the Officiating Chief Justice

10. AIR 1947 Mad 282

Wadsworth held as follows:

“The argument is that all these lands were plots situated within a large number which is registered in the revenue records as Natham poramboke and it is contended on the authority of the decision in Jayarama Naidu Vs. Secretary of States for India (1929) MWN 143 that when there is a question of title to land registered as Natham poramboke, mere proof of occupation for a period of years less than 60 years would not be sufficient and it is necessary to establish either a grant from Government or occupation for a sufficient period to establish a prescriptive right against the Government.”

55. In another Division Bench of this Court consisting of Mr. Justice Ayling and Mr. Justice Odgers, in the case of ***The Taluk Board, Dindigul vs. Venkatramier and Others***¹¹, it was held as follows:

“I do not propose to labour this point, as it is sufficient to quote from the judgment of a Bench of this court (Benson and Bhashyam Iyengar, JJ) dealing with an absolutely similar case Collector of Godavari District Vs. Peddareneayya; 'according to the common law of the country, the control

11. AIR 1924 Mad 197

of Natham vests with the revenue authorities and they are at liberty to grant portions of it at their discretion to persons' who applies for it for building purposes' Since this is a Division Bench judgment, the other second Judge Odeers J observes as follows: the question is have the Plaintiffs acquired any and what rights in the suit lands. The question falls under two heads, (i) have they acquired such rights, if at all by joint enjoyment; (ii) or by grant? ***The land is admittedly building site poramboke and any right acquired by long enjoyment must have been acquired against Government.'*** Further they have also observed that ***'but it is always understood that this use is permissive on the part of the Government and that Government has the right at any time to appropriate it for any special public purpose, or grant it to an individual for building purpose'***

The judgment recognized the right of Government on Natham lands.

56. In the case of ***Rudrappa Nayak vs. Dasan***¹², Mr. Justice Pakenham Walsh, held as follows:

"The registration of the land has cattle-stand in the settlement registers does not imply any

12. AIR 1933 Mad 610

grant. See decisions in S.A.No.1656 of 1928 and S.A.No.692 of 1926 of this Court. In the former case, Wallace J; held that "the mere Registry of land in a village as a particular kind of poramboke creates no vested right in the villages to hold it against Government."

57. In the same paragraph, it was further held that *"the revenue officials must be left to their own judgment in such matters and their judgment cannot be questioned by Civil Court. We see the undesirable result of the Civil Court's interference in the present case. 4 M.L.T.440 which is quoted for the Appellants appears to be against them. It was there held that according to the common law of the country, the control of Natham vest in the revenue authorities and they are at liberty to grant portions of it at their discretion to persons to apply for it."*

58. In view of the above discussion, this Court is of the considered view that misplaced reliance has been placed in the cases of **A.K.Thillaivanam, Palani Ammal** and **S.Rengaraja Iyengar**, since in none of these cases the Hon'ble Full Bench judgments have been referred to nor discussed. Hence, the cases of **A.K.Thillaivanam, Palani Ammal** and **S.Rengaraja Iyengar** is not a correct law. In the cases involving right over Natham lands, no concrete decision can be arrived at without referring the

Full Bench judgments cited *supra*. In essence, the Full Bench judgments are rendered by some of the most eminent Judges of this Court and cannot be bypassed in the cases dealing with Natham lands.

59. Now we have to see, whether the order of the Learned Single Judge in **N.S.Krishnamoorthi's** case cited *supra* is correct in declaring that **S.Anbananthan's** case cited *supra* as per incuriam. The Learned Single Judge proceeded on the basis that in **S.Anbananthan's** case the following judgments have not been considered. It is factually not correct. **S.Anbananthan's** case refers to the judgments as under:

- 1) Paragraph 70 deals with **A.K.Thillaivanam's** case cited *supra*:
- 2) In paragraph 75, **A.Sacractice's** case cited *supra* has been dealt with;
- 3) In paragraph 6(2), **R.A.V.Kovil's** case cited *supra* is dealt with;
- 4) In paragraph 73, **T.S.Ravi's** case cited *supra* has been referred;
- 5) In paragraph 52, **Babu's** case cited *supra* the judgment of Madurai Bench which quashed the circular dated 07.08.2015 is referred.

60. The next point for consideration is whether the decisions in

A.Sacractice's case, **R.A.V.Kovil Annaiya Charities** case and **T.S.Ravi and T.S.Sulochana's** case, dealt with in **S.Anbananthan's** case are distinguishable. These judgments have not dealt with RSO 21. This arose because the Learned Single Judge found otherwise, stating that the principles contained in the above judgments were not followed in **S.Anbananthan's** case. However, the above three judgments did not take into consideration RSO 21, as they dealt with compensation payable under land acquisition matters and did not decide title of Natham.

61. In all the above cases, the findings are that the land is Natham, and therefore, the Government has no right or power to regulate, and thus, the compensation has to be paid for the acquisition. Incidentally, in the above three cases, stated in the aforementioned paragraph, the subject lands were classified as "Natham" meant for house-sites to be allotted to the landless poor people in terms of RSO 21, which had been converted for commercial usage for personal gains by the occupants.

62. In the case of **D.Sankar** cited supra, the issue was about payment of compensation. As against this judgment Mr.D.Sankar preferred a Special Leave Petition (SLP) in S.L.P.(Civil).No.34439-34440 of 2021 and it was dismissed by the Apex Court on 15.12.2011. Pertinently CMRL filed

separate SLP which was converted as Civil Appeal No.8269 of 2015 **(Chennai Metro Rail Limited, represented by Managing Director Mr.D.Sankar and Others)** by an order dated 27.10.2017. The Hon'ble Supreme Court relegated the land owners to approach the Civil Court of law to establish their right. The respondents in the said civil appeal filed Civil Suit No.725 of 2018 and it was dismissed by the Civil Court by judgment and decree dated 13.02.2025.

63. The Division Bench in ***C.Indra Prasad Represented by its P.O.A.P Srinath Vs. The State of Tamilnadu and Others***¹³, has found that if the gramantham is used for commercial purpose; they are not entitled for any compensation. In paragraph 5, it is observed as follows:

*“We do not find any merit in these Writ Petitions. A perusal of the impugned order would show that as per the records, the lands have been classified as circar poramboke. It is seen that the Town Survey Register shows the classification of land poramboke. **Even assuming that the lands are Natham lands, they can only be used for residential purpose. Admittedly, in all these cases, the Petitioners have put up commercial building. Therefore, the authorities have rightly held that the Petitioners do not have any right***

13. 2014 SCC Online Mad 2267

over the properties which are subject matter of the proceedings.”

64. The judgments of the Division Bench in the cases of ***D.Shankar*** and ***C.Indra Prasad represented by its P.O.A.P Srinath***, held that the persons in occupation of the Natham lands and using for commercial purposes are not entitled for compensation. The above two judgments are not considered in the cases of ***A.Sacractice's***, ***R.A.V Kovil Annayya Charities's***, and ***T.S.Ravi and T.S.Sulochana's*** cases cited *supra*. The learned Single Judge also has not considered those judgments while holding that ***S.Anbananthan's*** case cited *supra* is per incuriam. In ***T.S.Ravi's*** case, an appeal has been filed before the Hon'ble Supreme Court and the same had been subsequently withdrawn. In ***T.S.Ravi's*** case, patta has been given by the Revenue Authorities and at later point of time the same was revoked by the Revenue Authorities. But the difference is that in ***T.S.Ravi's*** case, RSO 21 had not been considered at all.

65. Similarly in ***A.R.Meenakshi and others vs. State of Tamil Nadu***¹⁴, it is also a case of compensation, wherein patta has been given and there is no contradiction to the proposition stated in ***S.Anbananthan's*** case,

14. 2013 (4) LW 76

except that RSO 21 was not considered in the judgment. Likewise, in another unreported judgment in W.A.No.1263 of 2024, ***R.Elumalai and another vs. The Commissioner of Revenue Administration*** dated 04.07.2024, there is a reference to RSO 21. In this case, the Natham land was assigned, and the assignment was cancelled, since the assignees had violated the conditions. Paragraph 6 of the judgment, which is extracted below, establishes the right of the Government in Natham lands:

“6. Mr.T.K.Kulasekaran, learned counsel for the appellants would contend that the land being classified as Grama Nathan does not vest with the Government and the Government not being the paramount title-holder, is not entitled to resume the grant. The said proposition of law would apply only in cases of occupied natham lands and not unoccupied natham lands, which are assigned under RSO 21. Having accepted the assignment from the Government, it is not open to the appellants to now contend that the Government is not the paramount title-holder.”

66. In another judgment in W.P.(MD). No.24407 of 2024 ***K.Veluisamy vs. the District Collector cum Chairperson High Level Monitoring Committee Tenkasi District*** dated 21.10.2024 accepts the proposition that under Section 2 of Tamil Nadu Land Encroachment Act,

1905, all lands, which are public lands vest in the Government except that those that are owned as house sites or backyard but however, says that Government is barred in taking proceedings under Tamil Nadu Land Encroachment Act, 1905. But there is no reference about RSO 21.

67. The Learned Single Judge in ***N.S.Krishnamoorthi's*** case cited *supra* has classified natham as occupied and unoccupied. For occupied natham, the extent is not mentioned and the proof for occupation is not defined and so only the available source is RSO 21 and the issuance of patta by the Government are prescription to title by adverse possession. Regarding the classification of unoccupied lands, the Learned Single Judge says that for unoccupied lands, the Government has got right. What is applicable to unoccupied land is also applicable to occupied lands. In the decision in W.A.No. 1263 of 2024 ***R.Elumalai and another Vs. The Commissioner of Revenue Administration*** dated 04.07.2024, the Division Bench said even for the violation of the assignment conditions, the Government has got right to take action and cancel patta. So, the right of the Government has been decided in both the categories and hence the finding of the Learned Single Judge is not in consonance with the principles laid down in two Full Bench judgments and Division Bench judgments cited *supra*. Thus, ***N.S.Krishnamoorthi's*** case has denuded to loose its status

as precedent.

68. In a decision reported in **Zonal Officer Chennai Corporation vs. Narasa Reddy Kances Constructions Pvt Ltd**¹⁵, it has been pointed out that:

"the pathetic situation prevailing in this part of the globe, as observed is that ignoring the fact that the Natham land is a common village land, the greedy persons like the Petitioners in this case are indulging in activities which are purely commercial in nature. When the Appellants themselves have accepted in all fairness that patta has been issued erroneously and that they have initiated necessary proceedings to cancel the same, we are unable to find fault with the impugned action initiated necessary proceedings to cancel the same, we are unable to find fault with the impugned action initiated by the Appellants herein. It is rampant practice of misusing the Natham lands in this part of the globe has to be curtailed immediately, so as to protect the common village lands for the welfare of the public in general. Therefore the Government of Tamil Nadu and its revenue officials are directed to strictly protect the Natham land being misused, particularly for commercial purpose."

15. 2012(4) MLJ 646

69. Even though this paragraph has been quoted in almost all the Division Bench judgments, the anguish expressed in these paragraphs of the judgment has not been considered at all. In the present appeal, the respondent owns land and a house, and he has encroached on another natham to an extent of 20 Cents, and comes up with a commercial building. The finding is that it is a Natham, hence, the Government has got no role, and a patta is to be issued. If such a proposition is accepted, the anguish expressed in the above judgment will become a reality.

70. Pertinently, in the present case, the appellant/Tahsildar could establish that the 1st respondent is not entitled for patta, mainly on two grounds, i.e., firstly, he possesses 5 acres of land and a house property, wherein he constructed a pucca house and secondly, mere occupation of Natham land would confer no right of title or ownership.

71. Natham lands, meant for dwelling houses, and to be regulated by the Government in terms of RSO 21. The land is to be allotted evenly to the landless poor people based on eligibility criteria contemplated under RSO 21.

72. In the event of conferring right, title or ownership of natham lands,

merely based on voluntary occupation of a person or to an encroacher, then on account of sky-rocketing of land value, few powerful greedy individuals alone will illegally occupy natham lands for unjust personal gains. Natham lands are meant for dwelling purposes and to be allotted by Revenue authorities to the poor landless people in terms of RSO 21 or for public usage.

73. In the present case, the 1st respondent is not a poor landless person, but already owning lands and house. That apart, he has encroached upon natham lands by creating bogus and fraudulent documents by manipulating the revenue records with the collusion of few revenue officials and constructed commercial buildings for personal gains.

74. In view of the above discussion, the writ order impugned dated 12.09.2024 passed in W.P.No.33767 of 2022 is set aside and the Writ Appeal stands allowed. Consequently, the connected Miscellaneous Petition are closed. There shall be no order as to costs.

[S.M.S., J.] [K.R.S., J.]
03.06.2025

Jeni

Index : Yes / No

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

To

- 1.The Superintendent Electricity Engineer,
Tamil Nadu Electricity Board,
Kallakurichi.
- 2.The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
Pudupattu, Kallakurichi District.

W.A.No.1014 of 2025

S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

Jeni

Pre-delivery Judgment in
W.A.No.1014 of 2025

03.06.2025