BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MRS.JUSTICE R.KALAIMATHI

W.P.(MD)No.22488 of 2015 AND
W.P.(MD)No.16897 of 2017 &
M.P.(MD)No.1 of 2015 &
W.M.P.(MD)No.13464 of 2017

W.P.(MD)No.22488 of 2015

C.Nedunchezhian ... Petitioner

Vs.

1. The District Collector,
Collectorate,
Cutchery Road,
Thanjavur District.

2. The Revenue Divisional Officer,
O/o.the Revenue Divisional Office,
Dr.Murthy Road,
Kumbakonam – 612 001.

3. The Tahsildar,
Taluk Office,
Dr. Murthy Road,
Kumbakonam – 612 001.

4. The Commissioner,
Kumbakonam Municipality,
Dr.Murthy Road,
Kumbakonam – 612 001.

5. The Joint Commissioner,
HR&CE Department,
Mayiladuthurai,
Thanjavur District.

6. The Assistant Commissioner,
Kumbakonam.

7. The Executive Officer,
A/m.Sri Someswaraswamy Temple,
Kumbakonam. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from in any manner interfering with the petitioner's properties in T.S.No.74/1, 74/2, 74/3 and 74/6 in Kumbakonam Town(Pudur Diwan Wadathottam), Moopakovil Vattam, Kumbakonam Taluk and more specifically under the guise of removing / evicting encroachments of the properties belonging to the seventh respondent temple.

For Petitioner : Mr.H.Lakshmi Shankar

For Respondents : Mr.R.Baskaran,
Additional Advocate General,
assisted by,
Mr.A.Baskaran,
Additional Government Pleader
for R-1 to R-3.
Ms.J.Gayathri for R-4.
Mr.J.K.Jeyaselan,
Government Advocate for R-5 & R-6.
Mr.V.Chandrasekar,
Standing counsel for R-7.

* * *

W.P.(MD)No.16897 of 2017

C.Nedunchezhian ... Petitioner

Vs.

1. The Additional Chief Secretary/
   Commissioner Land Administration,
   Ezhilagam, Chepauk,
   Chennai – 600 005.

2. The Executive Officer,
   A/m.Sri Someswaraswamy Temple,
   Kumbakonam. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the proceedings in K1/28713/2015 dated 21.12.2016 on the file of the first respondent and quash the same as illegal and incompetent.

For Petitioner : Mr.H.Lakshmi Shankar

For Respondents : Mr.R.Baskaran,
Additional Advocate General,
assisted by,
Mr.A.Baskaran,
Additional Government Pleader

* * *

COMMON ORDER

Heard both sides.

2. The writ petitioner is a practising lawyer. His father Thiru.Chandra and his grandmother Kanagavalli purchased the petition-mentioned properties vide sale deeds dated 21.02.1963 and 27.07.1963. The sale deed dated 27.07.1963 was executed by one Balagurumoorthi. The said Balagurumoorthi in turn had purchased the property from one Sambasiva Kothanar vide registered sale deed dated 21.10.1960. Sambasiva Kothanar in turn had purchased the property from Kumbakonam Bank. Vide sale deed dated 22.09.1955, Kumbakonam Bank had purchased the property pursuant to the Court auction sale in O.S.No.25 of 1952 on the file of the Sub Court, Kumbakonam. It is not in dispute that the property formed part of inam estate (Tanjore palace property known as Pudu Diwanvada Thottam). The entire inam village came to vest in the Government on 27.08.1982 following the notification issued under the Tamil Nadu Act 26 of 1963. The petitioner's father and grandmother applied for issuance of settlement patta under Sections 10 and 15 of the Tamil

Act 26 of 1963. The Assistant Settlement Officer, Thanjavur vide order dated 07.02.1983 granted settlement patta in respect of survey Nos.74/1, 74/2, 74/3 and 74/6. The very same authority conducted *suo motu* enquiry and held that survey No.74/7 happens to be a temple and survey No.74/14 happens to be a water body and declined to issue settlement patta in respect of those two survey numbers. But what was denied for survey Nos.74/7 and 74/14 in 1983 came to be granted by the succeeding Assistant Settlement Officer, Thanjavur vide proceedings dated 31.08.1988 in favour of one Krishnan and his brother Kaliyamoorthi.

3. These proceedings became the subject matter of *suo motu* action taken by the Commissioner of Land Administration in the year 2016. Notices were issued to the petitioner and vide order dated 21.12.2016, the settlement patta granted in respect of survey Nos. 74/1, 74/2, 74/3 and 74/6 were set aside. The Commissioner of Land Administration proceeded on the footing that all the survey numbers are actually water bodies known as "Chandra Pushkarani Kulam". Challenging the said order, these writ petitions came to be filed.

4. The Hon'ble First Bench which entertained the writ petition was pleased to grant an interim order of stay. Counter affidavits have been filed and we heard the learned counsel for the petitioner, the learned Additional Advocate General for the State as well as the learned Standing counsel for Arulmighu Someswaraswamy temple which asserts rights over the water body(Chandra Pushkarani Kulam).

5. The learned counsel for the writ petitioner reiterated all the contentions set out in the affidavits filed in support of the writ petitions and contended that the impugned orders are without jurisdiction. He also added that on the date of vesting of the Inam village by virtue of the notification issued under Section 3 of the Act, survey numbers in question were not classified as water bodies in the revenue record.

6. Per contra, the learned Additional Advocate General as well as the learned Standing counsel for the temple submitted that in view of Section 11A of the Act, grant of patta was rightly cancelled by

the Commissioner of Land Administration and interference with the impugned order is not called for.

7. We carefully considered the rival contentions and went through the materials on record.

8. *Suo motu* power has been conferred on the Commissioner of Land Administration(formerly the Board of Revenue) under Section 7(c) of the Tamil Nadu Act 26 of 1963. Section 7(c) of the Act reads as follows:-

> " **7. Powers of control of the Board of Revenue-**
>
> **The Board of Revenue shall have the power-**
>
> (a) ...
>
> (b) ...
>
> (c) to cancel or revise any of the orders, acts or proceedings of the Director or of any District Collector, including those passed, done or taken in the exercise of revisional powers."

The Board of Revenue was abolished in the year 1980 and by virtue of Tamil Nadu Act 36 of 1980, any reference to the Board of Revenue shall be deemed to be a reference to the State Government. Though the relevant order of delegation is not available before us, we can safely infer that the said jurisdiction has since been conferred on the Commissioner of Land Administration. A reading of Section 7(c) of the Tamil Nadu Act 26 of 1963 leads us to the conclusion that the *suo motu* jurisdiction can be exercised by the Commissioner of Land Administration only if the following conditions are fulfilled:

a) the order or act or proceedings sought to be cancelled or revised must have been passed by the Director of Settlement or any District Collector. or

b) the order or act or proceedings sought to be cancelled or revised must have been passed, done or taken in the exercise of revisional powers. Section 5(2) confers the power of revision on the Director of Settlements against the orders passed by Settlement Officers. The District Collector has been given the power of revision over the orders or acts or proceedings of Managers of Inam Estates appointed under Section 6(1) of the Act.

The sequitur is that if the order, act or proceeding does not fall under the two categories mentioned above, the Commissioner of Land Administration or the State Government cannot exercise their suo motu jurisdiction in respect of such orders. In other words, an order, act or proceeding passed or taken by the original authority cannot be the subject matter of suo motu jurisdiction. An Assistant Settlement Officer is not an appellate or revisional authority. He is a original authority and therefore, the settlement patta granted by him cannot be cancelled or revised by the Commissioner of Land Administration or the State Government.

9. A remark on the scope of Section 7 may be in order. The distinction between appellate and revisional jurisdiction is well settled. An appeal is a continuation of proceedings; in effect, the entire proceedings are before the appellate authority and it has power to review the evidence subject to the statutory limitations prescribed. But in the case of revision, whatever powers the revisional authority may or may not have, it has not the power to review the evidence unless the statute expressly confers on it that power. That limitation is implicit in the concept of revision(State of Kerala Vs. K.M.Charia Abdulla and Co. AIR 1965 SC 1585). But in Section 7 of the Act 26 of 1963, the conferment is not only the power of revision but also of cancellation. We are therefore, of the view that

it is a very wide power and the limitations of revision cannot come in the way when suo motu jurisdiction is exercised under this provision. But then, the expressions employed in the section cannot be expansively construed. Only if the order in question falls within the scope of the section, the power can be exercised and not otherwise. We hold that the original order passed by the Assistant Settlement Officer or Settlement Officer is not amenable to *suo motu* jurisdiction of the Commissioner of Land Administration.

10. This conclusion is reenforced by comparing Section 7(c) of the Tamil Nadu Act 26 of 1963 with Section 7 of the Tamil Nadu Act 26 of 1948. Section 7 of the Tamil Nadu Act 26 of 1948 reads as follows:-

> "**Powers of control of the Board of Revenue.-** - The Board of Revenue shall have the power -
>
> (a) to give effect to the provisions of this Act and in particular to superintend the taking over of estates and to make due arrangements for the interim administration thereof;
>
> (b) to issue instruction for the guidance of the Director, District Collectors, Settlement Officers and

managers of estates;

(c) to cancel or revise any of the orders, acts or proceedings of any Settlement Officer other than those in respect of which an appeal lies to the Tribunal or of any managers; and

(d) to cancel or revise any of the orders, acts or proceedings of the Director or of any District Collector, including those passed, done or taken in the exercise of revisional powers."

A comparison of these Section 7 of the Tamil Nadu Act 26 of 1963 and Section 7 of the Tamil Nadu Act 26 of 1948 would show that while under Section 7 of the Tamil Nadu Act 26 of 1948, the orders of the original authority are also amenable to *suo motu* jurisdiction, under Section 7(c) of the Tamil Nadu Act 26 of 1963, the orders of the original authority are not amenable to *suo motu* jurisdiction. There is no provision in Section 7 of the 1963 Act corresponding to Section 7(c) of the 1948 Act. Therefore, the Commissioner of Land Administration could not have cancelled the settlement patta granted in favour of the writ petitioner's father and grandmother by exercising her suo motu power under Section 7(c) of the Tamil Nadu Act 26 of 1963.

11. That apart, *suo motu* jurisdiction cannot be exercised after a lapse of unreasonably long period. The Hon'ble Supreme Court in the decision reported in ***AIR 1969 SC 1297 (The State of Gujarat Vs. Patil Raghav Natha)*** held that where there is no period of limitation prescribed under the provision conferring revisional power, this power must be exercised in reasonable time and the length of the reasonable time must be determined by the facts of the case and the nature of the order which is being revised. Patta was issued in favour of the petitioner's family in the year 1983. The impugned order came to be passed only in the year 2016. There has been a gap of more than 33 years in-between. Our conclusion is that the Commissioner of Land Administration exercised the power after an unreasonably long period. The impugned order is vulnerable on this count also.

12. However, the petitioner has to necessarily overcome the challenge under Section 11A of the Act. Section 11-A of the Act reads as follows:-

> "**Ryotwari patta not to be granted in respect of private tank or oorani –** (1) Notwithstanding any thing contained in this Act, no

> ryotwari patta shall be granted in respect of any private tank or oorani.
>
> (2) Any ryotwari patta granted in respect of any private tank or oorani under this Act before the date of the publication of the Tamil Nadu Inam Estates, Lease holds and Minor Inams(Abolition and Conversion into Ryotwari) Amendment Act, 1975, in the Tamil Nadu Governmental Gazette, shall stand cancelled, and for purposes of compensation under this Act, this private tank or oorani shall be deemed to be land in respect of which neither the land holder nor any other person is entitled to ryotwari patta under this Act."

The effect of the above provision is that the authorities under the Act are forbidden from granting ryotwari patta in respect of any private tank or Oorani. This section was inserted vide Tamil Act 2 of 1976. Any ryotwari patta granted earlier should be deemed to have been cancelled. If in breach of Section 11-A of the Act, settlement patta is issued in respect of water body, it can be cancelled by the Commissioner of Land Administration or the State Government at any point of time and the question of limitation does not arise at all. This is because the very issuance of patta was without jurisdiction and in breach of a statutory prohibition. Therefore, patta granted in respect of survey No.74/14 was rightly cancelled by the Commissioner of Land Administration. Therefore, the petitioner has to overcome the barrier erected by Section 11-A of the Act. If it is demonstrated that the survey number in question encompasses a water body, then in view of Section 11A of the Act, the settlement patta granted in favour of the writ petitioner's family would have to be cancelled.

13. Section 14-A of the 1948 Act which corresponds to Section 11-A of the 1963 Act was considered by the Madras High Court in the decision rendered in ***1987 SCC OnLine Mad 453 (N.Govindarasu Naidu Vs. State of Tamil Nadu).*** It was held therein that for the statutory inhibition to come into play, the land in question should be registered as private tank or Oorani on the date when the land came to be vested in the Government by virtue of the Act. This decision was followed by a learned Judge of this Court in ***Hansaraj Chandran Vs. Sivakasi Municipal Council (2010 (5) LW 640)***. It was held therein that the relevant point of time to decide whether the grant of patta was for ryoti land or for a private tank is only the date of grant of such patta. We disapprove this proposition. ***Govindarasu*** decision

has been misconstrued. The relevant date would be the date when the land in question came to vest in the Government by virtue of the statutory notification. Though there might be mention about Oorani in anterior documents, the revenue records must describe the property as private tank or Oorani on the date of vesting or the notified date.

14. Let us apply the ratio laid down in ***Govindarasu*** to the facts on hand. We verified the old records. It is seen therefrom that survey No.74 was originally classified only as ***Natham private***. Though the old records indicated the existence of a water body known as "Chandra Pushkarani Kulam" in survey No.74, its exact extent had not been mentioned. Be that as it may, on behalf of Arulmighu Someswaraswamy temple, injunction suit was instituted against the original purchaser of the property in O.S.No.264 of 1932 on the file of the District Munsif, Trivadi. The trial Court decreed the suit. The matter went up to the High Court and was remanded. However, the first appellate Court in A.S.No.2 of 1937 vide judgment and decree dated 15.07.1940 set aside the judgment and decree passed by the trial Court and dismissed the suit for injunction instituted on behalf of the temple. Once the trial Court's judgment had been reversed and

set aside, one ought not to rely on the findings set out therein. The prayer made in the suit has to be taken note of. The plaintiffs wanted the purchaser of the property to refrain from filling up the tank "Chandra Pushkarani Kulam". Since the injunction suit suffered dismissal on 15.07.1940, one can safely assume that the filling up work went on and a substantial part of the water body got obliterated. In fact, this conclusion is further reenforced by the observation found in the order dated 07.02.1983 passed by the settlement authority who had noted that even before the inam village was vested in the Government, the tank in question had been filled up and levelled. As on date, the tank remains confined to survey No.74/14.

15. We are satisfied that as on 27.08.1982, when the vesting took place, Chandra Pushkarani Kulam's overall extent had been reduced. In any event, the survey numbers for which the petitioner's family was granted patta did not retain the character of water body. Nor were they reflected in the revenue record as a water body as on 27.08.1982. Survey No.74/14 alone continues to be a water body. The Commissioner of Land Administration and the Assistant Settlment Officer have not mentioned the character of the survey number in

revenue record as on the date of vesting of the inam property in the Government. The impugned order passed by the Commissioner of Land Administration does not say that on the date of vesting, survey No.74 was shown as a water body in the revenue record. This clinches the issue in favour of the writ petitioner. The lands for which the patta was granted either had a building or were vacant. If the building had already been in existence when the land got vested in the Government, the question of invoking Section 11-A of the Act did not arise at all.

16. Looked at from any angle, the Commissioner of Land Administration did not have the jurisdiction to *suo motu* revise the settlement patta issued in favour of the petitioner's family. Section 11-A of the Act also cannot be invoked. The impugned order is set aside. These writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (R.KALAIMATHI, J.)
18th February 2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

PMU

To:

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   Collectorate,
   Cutchery Road,
   Thanjavur District.

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   O/o.the Revenue Divisional Office,
   Dr.Murthy Road,
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G.R.SWAMINATHAN, J.

AND

R.KALAIMATHI, J.

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