



W.P.(MD). No.14499 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.02.2023

PRONOUNCED ON : 27.04.2023

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

W.P.(MD). No.14499 of 2013
and M.P(MD).Nos.1 & 2 of 2013

K.Manokaran

. . . Petitioner

Vs

1.The District Registrar,
District Registration Office,
Ramana thapuram – District.

2.The Sub Registrar
No.2, Sub Registration Office,
Ramanathapuram,
Ramanathapuram – District.

3.The Tahsildar,
Ramanathapuram ,
Ramanathapuram – District.

4.Thivan and Administrative - Secretary
Ramanathapuram Sarnsthanam - Devasthanam
Aranmanai, Ramanathapuram,
Ramanathapuram - District.

. . . Respondents



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PRAYER: PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, calling for the records pertaining to order in No.20/Aa l/2011 dated 05.01.2011 passed by 1st respondent based on the Na .Ka.No.A3/1121/2010-2 dated 09.12.2010 by the 4th respondent and quash the same as illegal and consequently direct the 2nd respondent to remove the encumbrance entry No.1 of 2011 dated 24.01.2011 in respect of property belongs to petitioner's S.No.462/2B2A to an extent of 022.5 hectare i.e., 56 cents in Devipattinam Village, Ramanathapuram-District.

For Petitioner : Mr.D.Balamurugapandi

For Respondents : Mr.M.Ramesh for RR 1 to2
Government Advocate

: Mrs.Farjana Ghoushia for R3
Special Government Pleader

ORDER

This instant Writ Petition has been filed seeking for a Certiorarified Mandamus to quash the impugned order dated 05.01.2011 passed by the 1st respondent on the basis of the order dated 09.12.2010 made by the 4th respondent and consequently direct the 2nd respondent to remove the encumbrance entry No.1 of 2011



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dated 24.11.2011 in respect of the property in S.N.462/2B2 to an extent of 22.5 hectares of Devipatinam Village, Ramanathapuram District.

2. Heard Mr.D.Balamurugapandi, learned counsel for the petitioner and the Mr.M.Ramesh, learned counsel Government Advocate appearing for the respondents 1 to 2 and Mrs.Farjana Ghoushia, learned Special Government Pleader appearing for 3rd respondent and Mr.S.Ramesh, learned counsel appearing for the 4th respondent.

3. Mr.D.Balamurugapandi, learned counsel for the petitioner would submit that the land in S.No.462/282 to an extent of 56 Cents belongs to him. He had purchased the same under registered document number bearing Doc.No.1494 of 2009 dated 15.07.2009 on the file of the office of the Sub-Registrar-II, Ramanathapuram. While that being so, the 4th respondent herein by his proceedings dated 09.12.2010 addressed to the 2nd respondent herein had indicated that various properties belonged to Arulmighu Thilakeeshwarar Temple, Devipatnam Village, under its control, and had requested the 2nd respondent not to register



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any documents in the list of properties given. The said communication has also been marked to the 2nd respondent. Under item 34, the property in S.No.462/2 measuring an extent of 2 acres and 52 cents had been included. Based upon which the 1st respondent had issued a communication to the 2nd respondent.

4. Based upon which the 2nd respondent had issued a proceedings dated 05.01.2011 calling upon the 2nd respondent not to entertain any documents in respect of properties given by the 4th respondent in its communication dated 09.12.2010. He would submit that the land in S.No.462/2 had been sub-divided into various sub-divisions and that patta has also been issued in favour of the petitioner in respect of the S.No.462/2B2A by the 3rd respondent in his proceedings dated 21.09.2010. Therefore, he would submit that the claim of the 4th respondent to be the owner of the entire property in S.No.462/2 is without any basis and also the impugned order passed by the 1st respondent is wholly arbitrary. The further reason that he would make is that before passing of such order, the 1st respondent had not issued any notice to the interested persons including the petitioner. On that ground also he would submit that the order impugned in these Writ Petition



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will have to be set aside.

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5. Countering his arguments, the learned counsel appearing on behalf of the 4th respondent would contend that the property in S.No. 462/2 belongs to Sri Arulmighu Thilakeeshwarar Temple of Devipattinam Village. Even prior to the settlement the property belonged to the temple and the Revenue Records reflects the same. Hence, the alleged Sale Deed based upon which the petitioner claims to have title will not bind the 4th respondent. He would further submit that a joint patta had been issued including the name of the Arulmighu Thilakeeshwarar Temple represented by its trustee in respect of S.No. 462/2. He would submit that it is not known as to how the petitioner had been issued with the patta and he would submit that the 4th respondent would reserve his right to challenge the patta issued in favour of the 4th respondent.

6. He would further submit that pursuant to the directions issued by the Commissioner, HR&CE in his proceedings dated 03.07.2010, the 4th respondent had submitted the list of properties standing in the name of



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various temples under its management. The petitioner had not challenged the said proceedings and therefore, he cannot maintain this Writ Petition which is a consequential proceeding pursuant to the directions issued by the Commissioner, HR&CE. Therefore, he would submit that there is no necessity to interfere with the orders impugned in this Writ Petition.

7.Mr.M.Ramesh, learned Government Advocate appearing on behalf of the 1st and 2nd respondents would submit that there is a rampant registration of documents with regard to the properties belonging to the temple, Government. Hence, to avoid multiplicity of proceedings, the respective Departments/ temples has been putting the Registration Department on notice and requesting them to refrain from registering documents . Only in that view, the order impugned in this Writ Petition passed by the 1st respondent has been made. The petitioner can always establish his title before an appropriate Civil Court. Therefore, the impugned order passed by the 1st respondent cannot be said to be arbitrary.

8.Since, there was a claim by the petitioner and the 4th respondent



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that the Revenue Records stands in their name, Mrs.Farjana Ghoushia learned Special Government Pleader who was appearing on behalf of the 3rd respondent was directed to get a report from the Revenue Department along with the relevant Revenue Records for this Court to analyse the claim made by the respective parties.

9.I have considered the rival submission made by the learned counsel appearing on either side and perused the materials available on record before this Court.

10.Before adverting the facts and circumstances of the present case, as claimed by the petitioner and the 4th respondent it would be useful to analyse the report filed by the 3rd respondent pursuant to the direction issued by this Court. The 3rd respondent in its report dated 21.02.2023 had indicated that as per the Survey Land Register land in S.No.462/2 was classified as Ryotwari Punjai and measuring an extent of 1.0.5 hectares. A patta in Patta No.255 had been issued in favour of one K.Chittupillai, K.Sigapi, K.Ponnammal and Sri Thilakeshwarar Temple represented by its trustee Ramanathasethupathi. However, during the updation of Revenue Records, the name of the temple alone has been recorded in Patta No.941. But, _however, he had submitted that



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as per the village records S.No.462/2 had originally was classified as Ryotwari Punjai and measuring an extent of 1.01.5 hectares had been issued in favour of one K.Chittupillai, S/o Karrupan, K.Sigapi, K.Ponnamal and Sri Thilakeshwarar Temple represented by its trustee Ramanathasethupathi.

11. Thereafter, the said survey number has been sub-divided by various proceedings of the 3rd respondent which is enumerated hereunder :

Registration according to the Survey Land Register is as follows:-

S.No	Survey No.	Classification	Extent	Patta No.	Pattadar Name
1.	462/2	Ryotwari Punjai	1.01.5 hectare	255	1.K.Chittupillai 2.K.Sigappi 3.K.Ponnamal 4.Sri Thilakeeshwar Temple represented by its Trustee Ramanathasethupathi

Registration according to the UDR Scheme is mentioned as follows:-

S.No	Survey No.	Classification	Extent	Patta No.	Pattadar Name
1.	462/2	Ryotwari Punjai	1.01.5 hectare	941	Arulmighu Thilakeeshwarar Temple



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Registration according to Grama 10(1) as follows:-

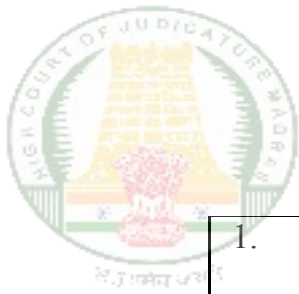
S.No	Survey No.	Classification	Extent	Patta No.	Pattadar Name
1.	462/2	Ryotwari Punjai	1.01.5 hectare	941	1.K.Chittupillai 2.K.Sigappi 3.K.Ponnamal 4.Sri Thilakeeshwar Temple represented by its Trustee Ramanathasethupathi

According to the proceedings in T.K.SA 227/1402 dated 30.11.1992, the S.No.462/2 was sub divided into following sub divisions.

S.No	Survey No.	Classification	Extent	Patta No.	Pattadar Name
1.	462/2A	Ryotwari Punjai	0.34.0 hectare	1157	Gursath Fathi ma represented by guardian Mother Su bhatha Ammal
2.	462/2B	Ryotwari Punjai	0.67.5 hectare	941	1.K.Chittupillai 2.K.Sigappi 3.K.Ponnamal 4.Sri Thilakeeshwar Temple represented by its Trustee Ramanathasethupathi

According to the proceedings in T.K.8A 706/1418 dated 12.02.2009, the S.No.462/2B was sub divided into following sub divisions.

S.No	Survey No.	Classification	Extent	Patta No.	Pattadar Name
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1.	462/2B1	Ryotwari Punjai	0.33.5 hectare	2123	Suraya Begum W/o.Seeninambhu
2.	462/2B	Ryotwari Punjai	0.34.0 hectare	941	1.K.Chittupillai 2.K.Sigappi 3.K.Ponnamal 4.Sri Thilakeeshwar Temple represented by its Trustee Ramanathasethupathi

According to the proceedings in T.K.8A 1457/ 1418 dated 25.05.2009, the S.No.462/2B2 was sub divided in to following sub divisions.

S.No	Survey No.	Classification	Extent	Patta No.	Pattadar Name
1.	462/2B2 A	Ryotwari Punjai	0.22.5 hectare	2179	Vellaisamy S/o Poochi
2.	462/2B2 B	Ryotwari Punjai	0.11.5 hectare	941	1.K.Chittupillai 2.K.Sigappi 3.K.Ponnamal 4.Sri Thilakeeshwar Temple represented by its Trustee Ramanathasethupathi

Later vide proceedings FLS/1979 dated 06.10.2015 changes in patta was made as follows:-



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S.No	Survey No.	Classification	Extent	Patta No.	Pattadar Name	Remarks
1.	462/2B1	Ryotwari Punjai	0.33.5 hectare	3508	Ayub Khan S/o.Syed Iburamsa	Revenue Patta 2123 (Suraya Begum W/o.Seeni ambhu)

According to proceedings in R.T.R.No.3254/10 dated 05.05.2010, changes in patta was made as follows:-

S.No	Survey No.	Classification	Extent	Patta No.	Pattadar Name	Remarks
1.	462/2B2 A	Ryotwari Punjai	0.22.5 hectare	2282	Manoharan S/o.Karmegam	Revenue Patta No. 2179 (Vellaisamy S/o.Poochi)

12.Further by the proceedings dated 06.10.2015, in proceedings No.FIS/1979 the mutation made in respect of S.No.462 /2B 1 on 12.12.2009 was further mutated in the name of one Ayubkhan

S.No	Survey No.	Classification	Extent	Patta No.	Pattadar Name	Remarks
1.	462/2B1	Ryotwari Punjai	0.33.5 hectare	3508	Ayub Khan S/o.Syed Iburamsa	Revenue Patta 2123 (Suraya Begum W/o.Seeni ambhu)



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13.Hence, from the above report of the 3rd respondent it could be seen that S.No.462/2 originally, a joint patta has been issued in favour of four persons including Arulmighu Thilakeshwarar Temple. Thereafter, sub-divisions had also been carried out under various proceedings and subsequent, to the said sub-divisions, patta has also been mutated. Now as per the village records an extent of 0.11.5 Hectares in Patta No. 941 relating to S.No.462/2B2B, a joint has been issued in the name of four persons including Arulmighu Thilakeeshwarar Temple represented by its trustee. In this above background, I would propose to the analyse claim made by the 4th respondent and the impugned order passed by the passed by the 1st respondent. The request made by the 4th respondent who claims to in management of various temples and being the owners of the such properties as entertained by the 1st respondent who issues an order directing the 2nd respondent not to entertain any documents that may be presented in respect of survey numbers indicated in communication to the 4th respondent. I find that before issuing the impugned communication, the respondents had not taken any efforts to find out the verocity of the truth in the claim made by the 4th respondent. The 1st respondent had even not attempted to call for a report from the respective Revenue Tahsildars so as to find whether the land claimed by the 4th respondent stands in the name of the 4th respondent.



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14.It is also suprising that the 4th respondent had not submitted any documents either beore the 1st respondent or even this Court to substantiate their right in the property particularly S.No.462/2 of Devipattinam Village. When queried upon, the learned counsel appearing for the petitioner would request this Court to invoke the Doctirne of *Lost Grant*. I do not propose to entertain such a request as it would lead to an anomaly. The present case on hand, the earlier Survey Land Register in clear terms jointly stands in the name of the individuals. When that be so, 4th respondent cannot seek to make a claim that the entire property in S.No.462/2 belongs to Temple.

15.It may be correct on the part of the 4th respondent to claim that during the updation of Revenue Records, the temple name has alone be entered as pattadar. On the contrary, the village records speak otherwise. The village records co-relate with the Survey Land Registers which is prior in time to the UDR proceedings. It is also not stated by the 3rd and 4th respondent as to how under the UDR proceedings, the name of the other joint pattadars were omitted. Further, the 1st respondent pass such a blanket direction to the Sub-Registrar not to register any documents on the basis of



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the claim made by the 4th respondent. It is relevant to analyse various provisions of the Registration Act delaing with the registration of documents.

16.As per various provision of the Registration Act, 1908 particularly Part XII Section 71, it could be seen that the power to refuse the registration of document has been vested with the Sub-Registrar. The said power is to be exercised only by the 2nd respondent. If such an order of refusal is passed then the aggrieved person has an appeal remedy which would lie with the 1st respondent. What the 1st respondent has now passed a blanket direction whereby he has issued directions encroaching the powers vested with the 2nd respondent.

17.This in my view is ultra vires of the provision the Registration Act. Such a blanket order in my view cannot be made, the Sub-Registrars of their respective Office can act. May be they are entitled to receive such a request from the respective Departments including the temples but they cannot pass a blanket order. Whenever a document is presented for registration to which a objection has been made, the Sub-Registrar concerned can exercise his



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power under Part XII of the Registration Act and when such a power is exercised, the aggrieved person has been provided with an appellate remedy in certain situations or he can initiate a suit as provided under Section 77 of the Registration Act.

18.Hence, as stated supra, in my view, the impugned order is liable to be set aside. However, the 2nd respondent can exercise his powers under Registration Act when documents are presented before him. Before concluding this Writ Petition, from the report submitted by the 3rd respondent before this, I do not find the sub divisions made in the S.No. 462/2 had been made in its right perspective. The sub divisions made creates a doubt as to its genuinity. Admittedly S.No.462/2 measuring an extent of 1.01.5 hectares stood jointly in the name of four individuals. But, when subsequent sub divisions were made, one of the sub divided portion still stood jointly in the name of the four individuals. It is not known as to how, and on what basis a portion of the land has been carved out from the larger extent and patta issued in the name of an individual. When such sub divisions are made, it is axiomatic that the said sub divisions has been made based upon a transfer of title from one of the joint pattadars in whose name



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the sub division is made. But, in this case, whenever a sub division is made, the joint patta continued and as on date the joint patta in the name of the four individuals is only for an extent of 0.11.5 hectares.

19.This in my view created a doubt. Therefore, I would direct the Revenue Divisional Officer, Ramanathapuram District to conduct a detailed enquiry by issuing notice to all the pattadars in respect of the S.No.462/2 as it originally stood and also the pattadars who have been issued pattad based upon the various proceedings of the 3rd respondent herein and submit a report to the District Collector, Ramanathapuram District for taking appropriate action. Such exercise shall be completed within a period of six months from the date of receipt of a copy of this order .

20.The Registry is directed to mark a copy of this order to District Collector, Ramanathapuram and Revenue Divisional Officer, Ramanathapuram.

21.In fine, this Writ Petition is allowed and the impugned order made by the 1st respondent in No.20/Aa1/2011 dated 05.01.2011 is set aside.



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However, there shall be no order as to costs. Consequentially, connected miscellaneous petitions are closed.

27.04.2023

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Index/ Yes/No

Speaking order: Yes/No

Neutral citation: Yes/ No

To

- 1.The District Registrar,
District Registration Office,
Ramana thapuram – District.
- 2.The Sub Registrar
No.2, Sub Registration Office,
Ramanathapuram,
Ramanathapuram – District.
- 3.The Tahsildar,
Ramanathapuram ,



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Ramanathapuram – District.

4. The District Collector,
Ramanathapuram.

5. The Revenue Divisional Officer,
Ramanathapuram.

K.KUMARESH BABU,J.

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and M.P(MD).Nos.1 & 2 of 2013

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