



W.P.(MD).Nos.17059 to 17061 and 19079 to 19081 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.17059 to 17061 and 19079 to 19081 of 2021

and

W.M.P.(MD)Nos.13991 to 13999, 15852, 15855, 15856 of 2021

W.P.(MD).No.17059 of 2021:

Rajalekshmi

... Petitioner

Vs.

1.The District Revenue Officer/Revisional
Authority,
District Revenue Office,
Kanyakumari District at Nagercoil.

2.The Sub Collector,
Collectorate,
Kanyakumari District at Nagercoil.

3.The Tahsildar,
Tahsildar Office,
Vadiveeswaram Taluk,
Kanyakumari District.

4.The Joint Commissioner/Executive Officer,
Incorporated and Unincorporated Devaswom,
Suchindram, Kanyakumari District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorarified Mandamus***, to call for the records of the of the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.M4/36081/2019, dated 11.08.2021 and to quash the same as illegal and further, to direct the 3rd respondent herein to restore the patta with respect to the land in S.No.81/2 to an extent of 5.876 cents (237.87 sq.m) in Vadiveeswaram Village, Agastheeswaram Taluk, Kanyakumari District within a time stipulated by this Court.

In all cases:

For Petitioner : Mr.D.Nallathambi

In W.P.(MD)Nos.17059 to 17061 of 2021:

For R1 to 3 : Mr.C.Baskaran
Government Advocate
For R4 : Mr.K.Sathiya Singh

In W.P.(MD)Nos.19079 to 19081 of 2021:

For Petitioner : Mr.D.Nallathambi
For R1 : Mr.C.Baskaran
Government Advocate
For R2 and 3 : Mr.K.Sathiya Singh



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COMMON ORDER

All the writ petitions are filed same and similar issues and hence all the writ petitions were taken up and a common order is passed.

2.(i) The writ petition in W.P.(MD)No.17059 of 2021 is filed by Rajalekshmi for issuance of a writ of Certiorarified Mandamus, to quash the impugned order dated 11.08.2021 passed by the 1st respondent as illegal and to direct the 3rd respondent herein to restore the patta with respect to the land in S.No.81/2 to an extent of 5.876 cents (237.87 square meter) in Vadiveeswaram Village, Agastheeswaram Taluk, Kanyakumari District within a time stipulated by this Court.

2.(ii) The writ petition in W.P.(MD)No.17060 of 2021 is filed by C. Anand for issuance of a writ of Certiorarified Mandamus, to quash the impugned order dated 11.08.2021 passed by the 1st respondent as illegal and to direct the 3rd respondent herein to restore the patta with respect to the land in S.No.81/2 to an extent of 4.500 cents (182.16 square meter) in Vadiveeswaram Village,



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Agastheeswaram Taluk, Kanyakumari District within a time stipulated by this Court.

2.(iii) The writ petition in W.P.(MD)No.17061 of 2021 is filed by Rahiya Beevi for issuance of a writ of Certiorarified Mandamus, to quash the impugned order dated 11.08.2021 passed by the 1st respondent as illegal and to direct the 3rd respondent herein to restore the patta with respect to the land in S.No.81/2 to an extent of 4.250 cents (171.5 square meter) in Vadiveeswaram Village, Agastheeswaram Taluk, Kanyakumari District within a time stipulated by this Court.

3.(i) The writ petition in W.P.(MD)No.19079 of 2021 is filed by Rajalekshmi for issuance of a writ of Mandamus directing the respondents more particularly the 2nd respondent Joint Commissioner / Executive Officer Incorporated and Unincorporated Devasom herein to remove the illegal notification Nil dated by way of erection of hoarding by considering the petitioner's representation dated 16.07.2021 with respect to the land in S.No.81/2 to an extent of 5.876 cents (237.87 square meter) in Vadiveeswaram Village,



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Agastheeswaram Taluk, Kanyakumari District within a time stipulated by this Court.

3.(ii) The writ petition in W.P.(MD)No.19080 of 2021 is filed by Rahiya Beevi for issuance of a writ of Mandamus directing the respondents more particularly the 2nd respondent Joint Commissioner / Executive Officer Incorporated and Unincorporated Devasom herein to remove the illegal notification Nil dated by way of erection of hoarding by considering the petitioner's representation dated 16.07.2021 with respect to the land in S.No.81/2 to an extent of 4.250 cents (171.5 square meter) in Vadiveeswaram Village, Agastheeswaram Taluk, Kanyakumari District within a time stipulated by this Court.

3.(iii) The writ petition in W.P.(MD)No.19080 of 2021 is filed by C. Anand for issuance of a writ of Mandamus directing the respondents more particularly the 2nd respondent Joint Commissioner / Executive Officer Incorporated and Unincorporated Devasom herein to remove the illegal notification Nil dated by way of erection of hoarding by considering the



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petitioner's representation dated 16.07.2021 with respect to the land in S.No.81/2 to an extent of 4.500 cents (182.16 square meter) in Vadiveeswaram Village, Agastheeswaram Taluk, Kanyakumari District within a time stipulated by this Court.

4. The brief facts as stated in the affidavit filed in W.P.(MD)No. 17059 of 2021 are that the property in dispute in S.No.81/2 in Old S.No.2408 in Patta No.18 to an extent of 5.876 cents (237.87 square meter) situated in Vadiveeswaram Village, Agastheeswaram Taluk, Kanyakumari District. Originally the property belongs to one Ramasasthri who performed charity to the Thanumalaya Swamy Temple, Suchindram from the income of the subject matter land and other properties. The said properties thereafter inherited by his son Subramaniya Sasthri and he executed a Charity Assignment Deed, dated 28.09.1934, i.e., 13th day of Aippasi month of the year 1109 in favour of "Asramam Grama Samudayam" and appointed Vaidyanathan and Sankaranarayanan as Trustees to continue the charity to the Thanumalaya Swamy Temple, Suchindram. The property in S.No.81/2 is 30 cents in total was mentioned as item 2 of the A schedule in the Charity Assignment Deed. The



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changed Managing Trustees had passed a resolution, dated 18.06.1993 and appointed one S.Venkatraman as President and one Viswanathan as Managing Trustee. The resolution authorized Viswanathan to deal with the affairs of the property for the benefit of the "Asramam Grama Samudayam". Hence the said Managing Trustee Viswanthan had executed a registered sale deed, dated 18.09.1997 vide Document No.1385/2003 in favour of Sumathi and deposited the same in Canara Bank on 18.09.1997 as per the resolution dated 18.06.1993. The revenue records were mutated and the same stands in the name of the said Sumathi and she was in possession and enjoyment of the land in S.No.81/2 to an extent of 30 cents. The said Sumathi died on 16.09.2010 leaving behind her husband and two sons as her legal heirs. The legal heirs of the Sumathi executed a power of attorney in favour of one Velayutham and he executed a sale deed dated 25.10.2012 in favour of Kanagam who is writ petitioner Rajalekshmi's mother in respect of 5.876 cents (237.87 square meter) in S.No.81/2 in Old S.No.2408 in patta No.18. The revenue records also mutated in favour of the writ petitioner Rajalekshmi's mother Kanagam and she was in peaceful possession and enjoyment of the subject matter property. The power of attorney executed sale deed with respect to the remaining extent of the land in S.No.81/2 to some other



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persons also. The writ petitioner Rajalekshmi's mother Kanagam executed a settlement deed dated 01.08.2017 in favour of the writ petitioner Rajalekshmi and handed over the property and the writ petitioner Rajalekshmi became the absolute owner. Subsequent to the settlement deed, the writ petitioner Rajalekshmi constructed a superstructure and residing in the property. In these circumstances, the 4th respondent submitted a representation to the 2nd respondent to cancel the patta standing in the name of the writ petitioner Rajalekshmi's mother Kanagam and change the same in favour of the Temple. Pursuant to the same, the writ petitioner Rajalekshmi's mother received summons dated 04.07.2018 for the enquiry dated 17.07.2019. The contention of the writ petitioner Rajalekshmi is that the 2nd respondent has no jurisdiction to deal with the subject matter. Further, the 4th respondent has no title to claim any right over the said land. The petitioner's mother appeared before the 2nd respondent and submitted all the relevant records to substantiate her claim. The 2nd respondent without appreciating the records, by relying only on the SLR copy (A Register) decided the issue and cancelled the patta. Aggrieved over the same, the writ petitioner Rajalekshmi is before this Court. The facts stated in the other writ petitions are one and the same.



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5. The writ petition in W.P.(MD)No. 17060 of 2021 is filed by C. Anand who had purchased the same land in S.No.81/2 however to an extent of 4.500 cents (182.16 square meter). The writ petition in W.P.(MD)No.17061 of 2021 is filed by Rahiya Beevi for the same land in S.No.81/2 to an extent of 4.250 cents (171.5 square meter).

6. Pending writ petitions in W.P.(MD.No.17059 / 2021 to 17061 / 2021, the writ petitioners had filed the W.P.(MD.No.19079 of 2021 to 19081 of 2021, stating that the temple authorities may claim only the charities are to be performed and claiming title over the property by way of issuance of patta is an erroneous procedure and the temple has no right to claim title through the order of revenue department and is a wrong procedure tainted with malafide intension. Further at the time of purchase there was no encumbrance over the said property and the writ petitioner Rajalekshmi's mother had verified the documents, encumbrance certificate and other connected revenue records and paid consideration as per market value. Hence, the writ petitioners are bonafide purchaser and their title cannot be denied. The 2nd respondent temple without any right whatsoever had taken step to disposes the petitioners pursuant to the order



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passed of the District Revenue Officer and immediately erected hoarding in the property on 06.09.2021 and which would be evident from the photographs annexed in the typed set. Hence the petitioners had submitted objections through representation dated 16.09.2021 and filed the present writ petitions in W.P. (MD)No.19079 of 2021 to 19081 of 2021.

7. The 4th respondent in W.P.(MD)No.17059 of 2021 has filed a counter affidavit stating that in the year 1934, the trustees of the specific endowment executed a deed entrusting the specific endowment with the community in Asramam nearby Suchindram to conduct and manage the affairs of the specific endowment through the deed of transfer of management to the trust. The said property is absolutely belonging to this specific endowment attached with the Temple under the administration of Kanyakumari district temples commonly known as incorporated and unincorporated temples. Those temples were under the control and management of erstwhile State of Travancore. As per the Travancore Devaswom Proclamation and Hindu Religious Act, 1950, the properties endowed for the specific purpose shall be treated as Devaswom property and the properties comes under the classification as Devaswom property.



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As per section 97 D of the Tamil Nadu HR and CE Act. 1959, the precluded from any kind of encumbrance. Since the endowment is not been performed, hence the 4th respondent informed the defunct status of Specific Endowment attached with temple to the Divisional Assistant Commissioner of HR & CE Department, Kanyakumari District. As per Section 6(17) of the Act the property endowed for the performance of any service related with the temple is called religious endowment and the endowment comes under the purview of the act as specific endowment under Section 6(19). As per the transfer of Management Deed and the above said Act, no one has right to alienate the properties without getting any approval or sanction from the appropriate authority under section 34 (1) of the above said Act and the resolutions are null and void. Hence, all the transactions created over the property are void as the transactions are against public policy. So, the mutation of revenue records on the basis of void documents are illegal. As per section 10 and 11 of Tamil Nadu Patta Pass Book Act, 1983, the entries in the revenue records can be done by the Tahsildar. If any party is aggrieved by the order of mutation, they can file an appeal before the Revenue Divisional Officer. Hence, the 4th respondent preferred an appeal under section 12 of Patta Pass Book Act before the 2nd respondent, after considering the appeal the patta was cancelled.



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The petitioners instead of preferring revision under section 13 of Patta Pass Book Act had preferred appeal under CPC. And the 1st respondent had confirmed the order passed by the 2nd respondent. The petitioner has alternative remedy under section 14 of the Patta Pass Book Act. Hence, the respondents submitted that the writ petition is not maintainable. The 4th respondent had filed additional counter wherein it is stated that the writ petitioners had filed a revision petition before the District Revenue Officer and the same was dismissed. Further submitted that the said land was allotted by Sri Anantha Subramoni Sasthri for the purpose of performing the “Last Somavara Pooja” in the month of Karthigai of last Monday in every year. But for the last so many years the above said pooja was not conducted by the successors of Sri Anantha Subramoni Sasthri. Moreover, the land was sold by the successors of Sri Anantha Subramoni Sasthri to various persons and the sale is not valid in law. Hence, the District Revenue Officer has rightly dismissed the Revision Petition. Hence, the 4th respondent prayed to dismiss the writ petition.

8. Heard Mr.D.Nallathambi the Learned Counsel appearing for the petitioners in all the writ petitions, Mr.C.Baskaran, the Learned Government



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Advocate appearing for respondents 1 to 3 and Mr.K.Sathiya Singh, the Learned Counsel appearing for the 4th respondent in W.P.(MD)Nos.17059 to 17061 of 2021 and Mr.C.Baskaran, the Learned Government Advocate for 1st respondent and Mr.K.Sathiya Singh the Learned Counsel appearing for the respondents 2 and 3 in W.P.(MD)Nos.19079 to 19081 of 2021 and perused the records placed before this Court.

9. It is seen originally one Ramasasthri was the owner of the property in S.No.81/2 in Old S.No.2408 in Patta No.18 to an extent of 5.876 cents (237.87 square meter) situated in Vadiveeswaram Village. The said Ramasasthri was performing certain rituals out of his own income from cloth business. After his demise his son Subramaniya Sasthri had inherited the property as well as continuing the cloth business. Thereafter due to old age and dull in business, the said Subramaniya Sasthri had executed a Charity Assignment Deed, dated 28.09.1934, i.e., 13th day of Aippasi month of the year 1109 in favour of "Grama Bramana Samudayam", residing in the village of Asramam and appointed Vaidyanathan and Sankaranarayanan as Trustees to continue the charity to the Thanumalaya Swamy Temple, Suchindram. The property in S.No.81/2 is 30 cents



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in total was mentioned as item 2 of the A schedule in the Charity Assignment Deed. Thereafter there was change in the Managing Trustees. The Grama Samudayam had passed a resolution, dated 18.06.1993 and appointed one S.Venkatraman as President and one Viswanathan as Managing Trustee. The resolution authorized Viswanathan to deal with the affairs of the property for the benefit of the "Asramam Grama Samudayam". Hence the said Managing Trustee Viswanthan had executed a registered sale deed, dated 18.09.1997 vide Document No.1385/2003 in favour of one Sumathi and deposited the sale proceeds in Canara Bank on 18.09.1997 as per the resolution dated 18.06.1993. Thereafter the legal heirs of the said Sumathi had executed a power of attorney in favour of one Velayutham and the said Velayutham had executed a sale deed dated 25.10.2012 in favour of the present writ petitioners and one Kanagam who is writ petitioner Rajalekshmi's mother.

10. From the records it is seen that this Court had directed the Joint Commissioner / Executive Officer, Incorporated and Unincorporated Devasom, Kanyakumari District to present in the Court on 28.06.2023 along with the relevant records to show the last date on which the Somavara Pooja has been



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conducted. On 28.06.2023 the said authority had not produced the file and the Court had passed orders. Aggrieved over the same the Joint Commissioner / Executive Officer had preferred writ appeal in W.A.(MD)Nos.1146,1147 and 1148 of 2023 and the Hon'ble Division Bench had dismissed the appeals on 20.07.2023 and had observed that "it is always open to the appellant to explain his case before the Learned Single Judge, production of relevant files". And also observed that the Single Judge may pass orders uninfluenced by the observations made against the appellant in the order dated 30.06.2023. On the aforesaid background this case was taken up for hearing.

11. In order to grant one more opportunity to the Joint Commissioner / Executive Officer, this Court directed the respondent to produce the file. But the respondents failed to produce the file. It is pertinent to note that the said Grama Samudayam Asramam is not a party to the present proceedings. However, the writ petitioners took some effort and had produced the receipts issued for four years namely, in Receipt No.67388 dated 14.12.2015 for Rs.150/-, in Receipt No.90436 dated 12.12.2016 (indicating Somavaram) for Rs.250/-, in Receipt No.168563 dated 09.12.2021 (indicating Somavaram is on 13.12.2021)



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for Rs.500/- and in Receipt No. R3836722121200091333 dated 12.12.2022 (indicating 4th Somavaram Valibadu) for Rs.500/-. All these receipts are issued in the name of “Grama Bramana Samudayam, Asramam Village. Even though two receipts were issued after the filing of the writ petition, the receipt issued in the year 2015 and 2016 shall be taken into account. In the receipt issued in the year 2016 it is seen that the temple had issued for the Somavaram only to Grama Bramana Samudayam Asramam.

12. But the Learned Counsel appearing for the Joint Commissioner / Executive Officer vehemently submitted that the said receipts were issued to the “Grama Bramana Samudayam” and the same is issued to Somavaram Valibadu. But the writ petitioners are duty bound to conduct the specific endowment of Somavara Pooja before the said temple, since the petitioner had purchased the said property. Since the said endowment is created for Somavara Pooja when the petitioners failed to do so, then the respondents have authority to cancel the patta granted to the petitioners and recover the said land which is endowed to the temple. The said contention is refuted by the Learned Counsel appearing for the petitioners and submitted that the property was not endowed but the income from



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the property shall be used for carrying on the “Karthikai Kadaise Somavara Abishekam Poojai” and referred to the charity deed created by the said Anantha Subramania Ayyan. The relevant portion of the exchange deed is extracted hereunder:

“இப்போது எனக்குள்ள வயோதிகத்தின் நிமித்தம் மேலால் மேற்படி தர்மம் வகை சொத்துக்களை பரிபாலிப்பதற்கும் மேற்படி தர்மங்களை நடத்துவதற்கும் எனக்கு உண்டாயிட்டுள்ள அசௌகரியத்தையும், சகாயக் குறைவையும், நிரந்தரமாய் நடந்து வரவேண்டிய இந்த தர்மத்தின் கௌபவத்தையும் ஆலோசனை செய்ததில் தர்ம சொத்துக்களையும், தர்மம் நடத்த வேண்டிய அதிகாரத்தையும் உங்களுடைய கிராம சமுதாயத்தில் ஏழ்பிக்கிறது மிகவும் நலம் எனவும் உத்தமமும் ஆக இருக்கும் என்று எனக்குள்ள உத்தம விசுவாசம் அபிப்பிராயங்களோடு உங்களுடைய கிராம சமுதாயத்திலும் இப்போது மேற்படி டிரஸ்டிகளாக இருக்கிற உங்களையும் நான் தெரியப்படுத்தியதில் நீங்களும் கிராம ஜனங்களோடு நல்லவண்ணம் ஆலோசனைசெய்து என்னுடைய ஆலோசனையை நீங்களும், கிராம ஜனங்களும் பூரணமாக ஏற்று சம்மதித்து இருப்பதும் ஆகும். என்னுடைய கைவசம் இருக்கிற ஏ.பட்டிகை ஸ்தாபர சொத்துக்களையும், பி.பட்டிகை ரொக்க பணத்தையும் தர்மம் வகைக்கு ஈடாக வேண்டிய நோட்டுகளையும், டிகிரிகளையும் சி.பட்டிகை தர்ம சொத்துக்களுடைய பிராமணங்களையும், டி.பட்டிகை மாராய கடன்களையும், கடைகளுக்கு உள்ளதாக்கோலுகளையும் இன்று தானே உங்களிடம் ஏழ்பித்து இருப்பதும் மேலால் எனக்குள்ளதாக சகல கைவச அனுபவங்களையும், அதிகாரங்களையும் ஒழிந்து மேற்படி கிராம சமுதாயம் வகை பிரதிநிதிகளையும் மேற்படி டிரஸ்டிகளுமான உங்களை



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ஏழ்பித்து இருப்பதால் ஏ.பட்டிகை சொத்தை அனுபவித்தும் சர்க்கார் முதலான கரங்கள் தீர்த்தும் பி.பட்டிகை முதலுகளை ஈடாக்கியும் சிவிள் கோடதிகளில் எனக்கு வேண்டி என்னுடைய மேற்படி டிரஸ்டி நிலையிலும் நீங்கள் கட்சி சேர்த்து அவசியம் உள்ள நடவடிகள் நடத்திக் கொள்வதற்கும் ஏ.பட்டிகை சொத்துக்களுக்கு பாட்டகாரர்களிலிருந்து வாங்கின மாராய வகை பணங்களை பாட்டக்காரன் அவசியப்படுகிற சமயம் கொடுத்து தீர்த்து ரசீதும் மேற்படி தர்ம வகை சொத்துக்களில் இருந்து கிடைக்கிற ஆதாயம் கொண்டு சுசீந்திரம் பெருமாள் ஸ்தானுமாலைய பெருமாள் சுவாமி கோவிலில் கார்த்திகை மாதம் கடைசி வாரத்தில் உள்ள சோமவாரத்தில் அபிசேகம் சிறப்பு முதலானதுகளை சாகவதாக நடத்தி வரவேண்டும் ஆகும். என்னுடைய கைவசம் இருக்கிற தர்ம சொத்துக்கள் முதலானதுகளை உங்களுடைய கிராம சமுதாயத்தில் ஏழ்ப்பிக்கிறதிலோ பரிபாலம் செய்வதிலோ எனக்கோ என்னுடைய அவகாசிகளுக்கோ யாதொருவிதமான மனஸ்தாபமும் இல்லை என்று மனப்பூர்வமான சம்மதத்தோடு கூடி பூரணமாக நான் சம்மதித்து இந்த தர்மபரிபாலன் கைமாற்று பத்திரம் எழுதி தந்திருப்பதும் ஆகும். மேற்படி தர்மத்தினுடைய பரிபாலத்தை நடத்துவதற்கும் நடத்திக் கொள்வதற்கும் அது விஷயமாக உள்ள கணக்குகள் பரிசோதிப்பதற்கும், கேட்பதற்கும் உங்களுக்கும் உங்களுடைய கிராமத்தில் உள்ள சகல மேஜரான ஆண்களுக்கும் பூரண பாத்தியதையும் அவகாசமும் உள்ளதாகும். பி.பட்டிகையில் விவரிக்கிற ரொக்க பணம் 2850/- இரண்டாயிரத்தி எண்ணூற்றி ஐம்பதும் சப்ரெஜிஸ்தார் அவர்கள் முன்பாக வைத்து தந்து கொள்வதும் ஆகும்.”

On perusing the aforesaid document, it is evident that the income from the property shall be used for carrying on Karthikai Somavara Poojai and the Grama



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Bramana Samudayam ought to carry on the said endowment.

13. Further it is seen that the said Asraman Grama Samudaya had sold the property and the sale proceeds were deposited in the Canara Bank on 18.09.1997 as per the resolution dated 18.06.1993. In the resolution it is stated that the lands are being encroached, hence the trust is incurring loss and had taken a decision to sell the property and invest the same in fixed deposit and the said decision cannot be faulted with. Therefore, it is evident that from the income of the said Fixed Deposit, the trust is carrying on the Somavara Poojai. Hence the claim of the respondents that the endowment charity had not been performed, it is considered as “defunct status” are incorrect and false.

14. The respondents tried to convince this Court by circulating a letter dated 23.06.2023 issued by the Asramam Grama Bramana Samudayam wherein it is stated that the said Karthikai Somavaram is being conducted from the common fund of the Village. Further the income from the land in S.No.81/2, the Asramam Grama Bramana Samudayam has no connection with the land and the trust has nothing to do with the same. Referring to this letter the respondents tried



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to persuade this Court by submitting that the Trust is conducting the Somavaram Poojai from the common fund of the village and not from the fund / income from S.No.81/2. Such submission is suicidal to the respondents. Since the facts state that the said land in S.No.81/2 was sold in the year 18.09.1997 and the sale proceeds is deposited in the fixed deposit. The said fixed deposit is in the name of the Grama Bramana Samudayam, which means the sale proceeds of the said land in S.No.81/2 has become common fund of the village. And it is from this common fund the said Somavaram pooja is conducted. In such circumstances, this Court is of the considered opinion that the said endowment is being carried on by the Grama Bramana Samudayam Asramam and the allegation by the respondent that the said endowment is not being performed and had become defunct status are incorrect and false and the submission of the respondents is absolutely absurd. The “Grama Bramana Samudayam” is the group who is bound to carry on the “Somavaram Abisheka Poojai”. From the above receipts it is evident that they are carry on the same. In such circumstances, it cannot be stated that the writ petitioners who are no way connected with the said Grama Bramana Samuthayam ought to carry the Somavara Poojai.



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15. Further the respondents submitted that the temple is incurring increased pooja expenses for the said Somavaram Poojai and hence the petitioners are bound to pay the same and produced the record showing the expenses of the temple. On perusing the records, it is seen that the expenses indicate daily expenses of the temple for Abhishakam and to prepare Neivathiyam. Infact the receipts stated supra indicate that each year the amount is increased. Hence the said Trust is paying the increased amount only. Therefore, the claim of the respondents on this angle also has no merits.

16. The respondents had relied on the Shriomani Gurudwara Prabandhak Committee, Amritsar Vs. Shri Som Nath Dass and others reported in (2000) 4 SCC 146 and submitted once the property is gifted to the temple, then no body is having any right to revoke the same. In the said case the property was gifted through deeds. In the present case the property was not gifted but the income from the property ought to be utilized for conducting poojai on the fourth Monday in Tamil month Karthikai i.e. Karthikai Kadaise Somavaram Poojai. Now the sale proceeds are deposited and the said income is being utilized in conducting the same. Therefore, the said judgment is not applicable to the present case.



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17. The petitioner had relied on the judgment rendered in ***Sudha Ravi Vs. The Special Commissioner and Commissioner, HR&CE and others*** reported in ***2017 (3) CTC 135*** and submitted even if the property belonging to the temple the respondent ought to take proper legal course of action as per law and not by way of cancelling the patta and by erecting the hoarding. In the said Judgment is has been held as under:

“23. This contention is seriously objected to by the learned Counsel for the Petitioners. First of all, we should state that we are not going into this issue because the constitutionality of Section 22-A of the Registration Act is not under challenge. Secondly, whether the property which is covered in the Deed presented for registration is a Religious Endowment or not in terms of the TN HR & CE Act also cannot be gone into by us as the said dispute could be resolved only by a Civil Court on evidence. Even the Registering Authority is not competent to go into the said disputed question as he is not exercising any Judicial or Quasi-Judicial function. Similarly, simply because some lands were shown as the properties belonging to the Religious Institution in the register maintained by the Temple, it cannot be construed that the said land belongs to the said Religious Institution. It needs to be noted that the register of properties under Section 29 was prepared not after Notice to the interested persons. It was done unilaterally by the Religious Institution. Similarly, the maintenance of the register by updating the same is also not done after Notice to the parties who are interested in the property which is included in the Register after the



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preparation of the Original Register. Thus, the preparation as well as the maintenance of the Register is by the unilateral act of the Religious Institution and therefore, likelihood of the private lands belonging to any individual being included in the register by error cannot be ruled out. All these issues are to be resolved by the Civil Court. Therefore, in our considered view, once Patta has been issued under either the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 and the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 it is for the Temple to establish its title before the Civil Court. The registrar is bound to act on the basis of the Ryotwari Patta issued by the Authority concerned and he shall not refuse to register the said deeds. As we have already pointed out the remedy for the religious institution is to approach the Civil Court for appropriate remedy.”

In the present case, the sale deed is executed as early as 1997, only the competent Civil Court is having power to cancel the sale deed. As held in the aforesaid judgment the remedy for the religious institution is to approach the Civil Court for appropriate remedy.

18. Further the respondents submitted that under section 6(17) the word “religious endowment” or “endowment” is defined and as per the definition



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the above charity also includes and hence the said sale is illegal. On perusing the definition, it is seen that the provision states if the charity is stopped then the authority would be empowered as per the Act. In the present case the said charity is not stopped, but it is carried on from the income of the fixed deposits of the Trust.

19. The further contention of the respondents is that the sale deed was executed without getting any permission from the Commissioner HR&CE under section 34. If that is so then the appropriate action of the respondents ought to be against the said Grama Bramana Samudayam Asramam and not by cancelling the patta and erecting holdings. Further the limitation to cancel the sale deed executed for proper sale consideration ought to be considered. Therefore, the respondents are not having any power to reverse the patta. If at all the respondents are aggrieved, the respondents ought to file suit to cancel sale deed. As on date the respondents had not filed any suit and limitation would stare at the respondents. Therefore, the impugned orders are quashed and the revenue authorities are directed to restore the patta in the name of the petitioners. Since the respondents have erected the hoarding, the same shall be removed. The said exercise shall be



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completed within a period of four weeks from the date of receipt of a copy of this order.

20. Since the said Grama Bramana Samudayam Asramam is not a party before this Court, no direction can be issued against the said Trust. Furthermore, this Court is of the considered opinion that still the trust is having sufficient means to carry out the specific endowment.

21. With the above said observation, the writ petitions in W.P. (MD)Nos.17059 to 17061 and 19079 to 19081 of 2021 are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

07.09.2023

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

Tmg



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To

- 1.The District Revenue Officer/Revisional Authority,
District Revenue Office,
Kanyakumari District at Nagercoil.
- 2.The Sub Collector,
Collectorate,
Kanyakumari District at Nagercoil.
- 3.The Tahsildar,
Tahsildar Office,
Vadiveeswaram Taluk,
Kanyakumari District.
- 4.The Commissioner,
Commissioner Office,
Hindu Religious and Charitable Endowment
Department,
Chennai-600 034.



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S.SRIMATHY, J.

Tmg

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