



C.R.P.(MD)No.1520 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
24.10.2024	10.12.2024

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.R.P.(MD)No.1520 of 2022
and
C.M.P.(MD)Nos.6470 and 6471 of 2022

M.Subramanian Chettiar

... Petitioner

Vs.

1.Siru Kaala Sandhi Trust,
Represented by
Hereditary Trustee,
K.C.Duraimurugan,
S/o.Late.Chidambaram,

(1st respondent is substituted vide court order
dated 16.06.2023 made in C.M.P.(MD).No.10141/2022
in C.R.P.(MD).No.1520/2022)

2.The Revenue Divisional Officer,
Aavudayarkovil,
Pudukottai District.

3.The Tahsildar
Aavudayarkovil,
Pudukottai District.

... Respondents



C.R.P.(MD)No.1520 of 2022

PRAYER : Civil Revision Petition is filed under Section 115 of C.P.C., against the impugned Fair and Decreetal order in Trust O.P.No.47/2017 dated 20.12.2017 on the file of the Learned Principal District Court, Pudukottai.

For Petitioner : Mr.R.M.Arun Swaminathan
For R1 : Mr.M.Mahaboob Athiff
For R2 : M.Muthumanikkam

ORDER

The Revision Petition is filed by a third party against the impugned Fair and Decreetal order dated 20.12.2017 passed in Trust O.P.No.47 of 2017.

2. The brief facts as stated by the revision petitioner/third party is that, the petitioner is one among the legal heirs of M.P.Palaniyappan Chettiyar of Nemathanpatti Village, shortly known as M.P. family (K.ng. kudubam). The said M.P.Palaniyappan Chettiyar had two sons namely M.P.P.Subramaniyan Chettiyar, and M.P.P.Periyakaruppan Chettiyar. The petitioner is coming under M.P.P. Subramaniyan Chettiyar branch. The ancestors of the petitioner were conducting the Annadhanam, Temple Kattalai of Arulmigu Aathmanadha Swamy Temple, Avudayarkovil from time immemorial.



C.R.P.(MD)No.1520 of 2022

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3. The said temple was built by Saint Manikkavasakar who was the forefront Minister of King Arimarthana Pandian. The Saint is revered as one among the Nalvar Tamil Saints. An extraordinary Mandapam was constructed by the Saint Manikkavasakar, using iron screws, stone chain, musical pillars, panchakshara mandapam with high architectural values. The temple is being administered by Thiruvavadurai Aatheenam. Every day six times poojas are conducted in the said Saivite Temple which are as follows:

- a. Thiruvanandhal
- b. Kaala sandhi
- c. *Siru kaala sandhi***
- d. Utchi kaalam
- e. Sayaratchai
- f. Ardha jaamam

The petitioner's family is having right to conduct the Siru Kaala Sandhi Kattalai (சிறு காலசந்தி கட்டளை) since 18th century and they are having their own establishment namely மு.பெ.அன்ன சத்திரம் which is very next to the temple. The patta was standing in the name of the revision petitioners family. But the same was changed to Siru Kaala Sandhi Kattalai represented by its trustees. Aggrieved over the same the petitioner's family had filed petition to change the same in the



names of the petitioner's family. Hence vide order dated 05.01.2016 the patta was changed in the name of the petitioner's family namely Mu.Pe.Pa. Muthuiah Chettiar son of Mu.Pe.Pa Annamalai Chettiar. The 1st respondent had challenged the same before the Revenue Divisional Officer (RDO), the 2nd respondent herein.

4. The revision petitioner further stated that ordinarily the petitioner is residing at Chennai and he would come to his native for functions occasionally. Hence the revision petitioner has engaged Chidhambaram (father of K.C.Duraimurugan 1st respondent herein) to collect the rent from the tenants for several years. Taking advantage of the same the said Chidhambaram requested and insisted the petitioner's elders for assignment of the property to him and the petitioner's ancestor had rejected the said request. However to their shock and surprise, the 1st respondent had applied for transfer of patta as if he is the Trustee of the Siru Kaala Sandhi Kattalai Trust, when the same was objected the patta was transferred in the name of the petitioner. Thereafter, the 1st respondent had challenged before the 2nd respondent RDO. After hearing the rival submission the 2nd respondent RDO vide order dated 22.04.2017 had cancelled the patta standing in the name of the individuals and transferred the entire patta in the of Siru Kaala



Sandhi Kattalai in respect of Survey No.257/2, Avudayarkovil Village and directed the parties to approach the Civil Court to redress their grievance. In the said order both the revision petitioner and the 1st respondent are parties. Thereafter the 1st respondent had filed Trust O.P.No.47 of 2017 under section 22, 34 of Indian Trust Act, on the file of Principal District Court, Pudukottai by falsely claiming as heredity trustee of the said Siru Kaala Sandhi Kattalai. The O.P was filed to allow the Trust to sell the trust properties i.e. the suit property. The said O.P was allowed on 20.12.2017. Thereafter the 1st respondent is selling the properties. Aggrieved over the same the present Civil Revision Petition is filed.

5. The 1st respondent had filed written arguments wherein it is stated that the deity Shri. Aathmanatha Swamy is their family deity and his ancestor Muthukaruppu Pillai of the first respondent hereditary trustee has established Siru Kala Sandhi Trust and in order to use the income from agriculture in the lands owned by his ancestors for Kala Pooja and other Temple functions. Following him, his sons, Palanivel Pillai, Kuppusamy Pillai were the organiser of the Sandhi for a short time and used to provide the income to this temple. The total area in



survey number 257/2 is registered in the name of Palanivel Pillai and Kuppaswamy Pillai who are sons of Muthukaruppa Pillai as a trustee of Siru Kala Sandhi in FLR register of 1967. The said Palanivel died intestate and thus the Kuppasamy Pillai managed the Trust in his early days. Thereafter the said Kuppasamy Pillai was succeeded by his only son Chidambaram Pillai and he has registered and managed the said Trust. And the records and relevant documents of the revenue department pertaining to the said survey number exhibits the name of Kuppasamy Pillai and Palanivel Pillai as a trustee of Sri Kala Sandhi in 1974. When the facts being that the properties belong to Siru Kala Sandhi Trust, the names of Muthiah Chettiar son of Annamalai Chettiar and his associates were wrongly mentioned in the Patta as their personal property and was muted in their personal name as joint pattadars. It is pertinent to note that the S.No.257/1A was subdivided in the name of Muthiah Chettiar son of Annamalai Chettiar and S.No. 257/2B was subdivided in the name Mahalingam son of Vaithialingam and the relevant documents were forged and counterfeit. Further submitted that for the welfare of the temple, his ancestors Muthukaruppa Pillai had established the Siru Kala Sandhi Trust for the functioning of the temple and allotted huge properties to the same. While so, after knowing that the assets of the Siru Kala Sandhi Trust



had been fraudulently converted into personal properties of Muthiah Chettiar and his wife Devaki, the grandson of Muthukaruppa Pilla namely Chidambaram Pillai had filed a petition before Revenue Divisional Officer and thereafter the order dated 22.04.2017 was passed cancelling the Patta in the name of Muthiah Chettiar and his wife Devaki and changed the entries back to Siru Kala Santhi Trust as per the old documents. The said Chettiar had not preferred any review petition against the said order. During the enquiry before the RDO, the said Muthaiah Chettiar had admitted the S.No.257/1 administering 0.80.5 acre belongs to Siru Kala Santhi Trust and its revenue was given for the functioning of Temple.

6. The first respondent further submitted that some people of the Avudaiyar Koil Village had created some fabricated fake documents and used those documents to claim personal rights over the properties of the trust. While so, the said Chidambaram son of Kuppuswamy Pillai, who is the grandson of Muthukaruppa Pillai filed the Trust Original Petition in T.O.P.No.47 of 2017 and sought permission to sell the property as the trustee and deposit the amount for temple work. And the said petition was allowed and directed the Chidambaram Pillai to deposit the amount in the name of trust and to file the bank statement



reflecting the deposit. The said Chidambaram came forward to sell the property and subsequently his son, who knew about the gravity of the issue, had paid the reasonable lawful consideration, then the same was registered. The government valuation of the property is ₹1,47,000/-, but the sale is for the purpose of the temple, hence the first respondent purchased graciously the same for Rs.10 Lakhs/-. And the said Rs.10 Lakhs/- was deposited to the Trust Account in the bank and the interest amount are duly paid to the temple work. Following the lines of the father Chidambaram the first respondent K.C.Duraimurugan is duly paying the interest amount to the temple and receipts are issued. After the death of the said Chidambaram, the respondent K.C.Duraimurugan being the lawful legal heir and a lawful hereditary trustee took step to collect the interest amount unpaid to the temple as it can be collected only after the change in the name of the respondent in the relevant files. The revision petitioner is a close associate and brother of Muthiah Chettiar and the petitioner had filed the present petition with unclean hands and malice intention at the instigation of Muthiah Chettiar. The Annathaana Chathiram established in Sithampur Village, Thirumayam and the documents submitted by the revision petitioner are pertaining to the said Annathana Chathiram and the same is submitted as if it belongs to Siru Kala



Sandhi Trust. In the order of the RDO, it has been held that the said Mu.Pe.Sitha.Sa.Chokkalingam from Chennai, claiming himself to be the trustee of Mu.Pe.Chathiram Trust, fraudulently sold the properties of Siru Kaala Sandhi Trust which is comprised in S.No.257/2 to an extent of 0.40.0 arse (1 acre) to one Vaithialingam son of Mahalingam and the same was registered as Doc. No. 730/1993. The said Mu.Pe.Chathiram is located in Sithampur Village, Thirumayam Taluk. The properties in S.No.257/2 is situated in Aavudaiyar Kovil Revenue Village. However, the said Chettiars have fraudulently created forged documents in their names as their own personal properties and they had been issued with separate Patta for the same. When it came to the knowledge of the 1st respondent's father Chidambaram Pillai, about these illegal transactions, he approached appropriate authorities and changed Patta back in the name of Siru Kaala Sandhi Trust and sold the same for valuable consideration of Rs. 10,00,000/- (Rupees Ten Lakhs only) and deposited the entire amount in the account of the trust to be used for the temple work. As alleged by the petitioner, if Chidambaram Pillai had intended to defraud the amount, he could have deposited only the government value of Rs.1,47,000/- (Rupees One Lakh and Forty Seven Thousand only) as sale consideration and could have misappropriated the



remaining amount, but he did not do so. After that, he and other successor hereditary trustees continues to pay the interest amount to the temple treasury.

7. It is to be noted that, when Chidambaram Pillai came to know that the said Chettiars misappropriated the trust properties, he himself approached the appropriate authorities and cancelled the Patta and changed it back in the name of Trust. Subsequently, he had filed the Trust O.P.No.47 of 2017 and got an order for sale and deposited the entire sale consideration of Rs.10,00,000/- (Rupees Ten Lakhs only) to the account of the Siru Kaala Sandhi Trust. If the said Chidhabaram Pillai had not filed the said Trust OP, the said members of Muthaiah Chettiar family would have misappropriated the assets as personal property and apparently would have sold to the third parties. But the said Chidambaram Pillai for the welfare of the temple sold the property for valuable consideration after obtaining court permission and deposited Rs.10 Lakhs/- and paying Rs.30,000/- as interest to the temple. Hence, prayed to dismiss the revision petition.



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8. Heard Mr.R.M.Arun Swaminathan, the Learned Counsel appearing for the revision petitioner, Mr.M.Mahaboob Athiff, the Learned Counsel appearing for the 1st respondent and M.Muthumanikkam, the Learned Counsel appearing for the respondent 2 and 3 and perused the records.

9. The primary contention of the revision petitioner is that the property belongs to his family. The revision petitioner's grandfather namely Palaniappa Chettiar had purchased the said property through registered sale deed dated 18.07.1867 in Document No.447 of 1867. After the demise of the said Palaniappa Chettiar his only son Annamalai Chettiar had inherited the property. After the demise of the said Annamalai Chettiar his son Muthiah Chettiar had inherited the property, thereafter the present revision petitioner Subramanina Chettiar had inherited the property. The land in question was let for lease to do cultivation to the said Kuppusamy Pillai family and through the said income the said Siru Kaala Sandhi Kattalai activities was carried on. The revision petitioner had circulated the family tree. Further he had relied on village settlement register, wherein under S.No.257/2 is classified as ryot land and nanja land. The extent of the land is



C.R.P.(MD)No.1520 of 2022

mentioned as 0.80.5 hectors. And in Column 11, it is sated as “Sirukala Sandhi Kattalai Nambakargal” (சிரு கால சந்தி கட்டளை நம்பகர்கள்).

10. On the other hand, the 1st respondent is claiming right as ancestral property and stated that the grandfather Muthukaruppa Pillai was having several properties and he had given the present property for Siru Kala Sandhi Trust. The grandfather had two sons namely Kuppusamy Pillai and Palanivel Pillai and they were handling the trust. Thereafter the Chidhambaram Pillai son of Kuppusamy Pillai was carrying on the activities, after the demise of Chidhambaram Pillai, at present legal heir K.C.Duraimurugan is carrying on the activities. But the 1st respondent has not stated how the said Muthukaruppa Pillai was holding the disputed property, whether it is inherited or purchased. When the revision petitioner is claiming the property in question as purchased property in the year 1867, it is not possible for the 1st respondent either to hold as ancestral property or purchased property. If the said Muthukaruppa Pillai was holding the same, some documents ought to have been produced, but the 1st respondent had not produced any documents to this effect. Therefore, this Court is of the considered opinion when the revision petitioner is able to trace the title through sale deed dated



18.07.1867, then a bare statement by the 1st respondent that the property is ancestral property without any evidence had no legs to stand. Hence the claim of the 1st respondent that the property is ancestral and the same is belong to the family is unbelievable. When the revision petitioner is claiming title over the property through the said sale deed dated 18.07.1867, the RDO had rightly directed the parties to approach the Civil Court. But the 1st respondent instead of filing civil suit to establish the title had filed Trust OP, which itself is illegal.

11. The documents submitted by the 1st respondent before the Court is Trust OP are as follows:

- i. Ex.P1 – FLR of Aavudaiyarkoil S.No.257
- ii. Ex.P2 – Patta transfer order passed by Aranthangi RDO
- iii. Ex.P3 – Copy of 10(1) Chitta with regard to S.No.257/2A to an extent of 0.80. Hectares stands in the name of Siru Kala Santhi Trust.
- iv. Ex.P4 – Copy of ‘A’ register with regard to S.No.257/2A stands in the name of Siru Kala Santhi Trust.



Even the revision petitioner had produced the following documents:

- i. Extract of SLR where it is stated “Sirukala Sandhi Kattalai Nambakargal”
- ii. Chitta wherein it is stated as “Sirukala Sandhi Kattalai Trusteegal”
- iii. Certificate from the Temple to show that the revision petitioner is carrying on the activities of Siru Kala Sandhi Katalai.

Both the revision petitioner and the 1st respondent admits that the disputed property is given for carrying on Siru Kala Sandhi Trust. But both are claiming rights as Trustees. In such circumstances, the 1st respondent ought to have filed civil suit to determine who is the original Trustee to the Siru Kala Sandhi Trust. In other words, when there are rival claims of Trusteeship, then the parties ought to first determine who is having right over Siru Kala Sandhi Trust. Before such determination, the present Trust OP filed by the 1st respondent that too to sell the property is illegal, besides being land grabbing.



12. The revision petitioner had filed the certificate issued by the temple, wherein it is stated that the revision petitioner is carry on the said trust. But the 1st respondent has not produced any evidence that he is running the trust, not even a certificate from the temple. When the 1st respondent had filed the Trust OP, the 1st respondent is bound to file the details of the trust, especially when the trust was started, how the property in question belongs to them, through which document the land was handed over to the Trust, registered Trust Deed, statement of accounts of the trust, who are the trustees from the date of stating the trust. But not even a single document was filed to this effect. Nothing is mentioned in the petition and no documents or piece of evidence was filed in the Trust OP.

13. Further contention of the revision petitioner is that they had let the property for lease to several persons and one such person is the 1st respondent family. Further they appointed the said Chidhambaram, son of Kuppusamy Pillai to collect the rent and deposit the same in the Siru Kaala Sandhi Kattalai account. For which the revision petitioner is relying on the letter dated 20.06.2012 submitted by the said Chidhambaram, son of Kuppusamy Pillai. It is pertinent to state that the present 1st respondent K.C.Duraimurugan is the son of the said



C.R.P.(MD)No.1520 of 2022

Chidhambaram. In the said letter the said Chidambaram had stated that the land in S.No.257/2 admeasuring 300 Kuzli belongs to the Dharmachathiram and four generation of his family are doing agricultural activities in the said land. Presently, the situation is not conducive to carryon agricultural activities, moreover, water facility is not available. Hence, the entire land may be granted to him and he is ready and willing to pay Rs.20,00,000/-. The contents of the letter is extracted hereunder:

“நான் ஆவுடையார் கோவிலில் உள்ள தங்களுக்கு சொந்தமான தர்ம சத்திரத்திற்கு பாத்தியப்பட்ட ஆவுடையார்கோவில் கிராம புல எண்:257/2-ல் உள்ள சுமார் 300 குழி நிலத்தில் கடந்த நான்கு தலைமுறையாக விவசாயம் செய்து வருகிறோம். ஆதனால் தற்சமயம் மேற்படி நிலத்தை சரிவர விவசாயம் செய்ய சுற்றுகநிலை சரிவர இல்லை. போதுமான நீர்வரத்தும் இல்லை. எனவே அருள்கூர்ந்து மேற்படி 300 குழி நிலத்தை எனக்கு சொந்தமாக்கி தருமாறு வேண்டிக்கொள்கிறேன். அதற்கு ஈட்டுத் தொகையாக ரூ.20,00,000/- (ரூபாய் இருபது லட்சம் மட்டும்) அளித்துவிட சம்மதிக்கிறேன் என்று உறுதி கூறுகிறேன். மேலும் தங்களது நிபந்தனைகள் ஏதும் இருப்பின் அதற்கும் கட்டுப்படுவேன் என்று உறுதி கூறுகிறேன். “

The above letter prima facie would prove that the said Chidhambaram is only cultivating tenant and ancestrally the family is doing cultivation in the said land. But the 1st respondent had claimed himself as hereditary trustee but not even an iota of evidence is submitted to prove he is the hereditary trustee of the Katalai.



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The trust deed, statement of accounts, the meetings conducted by the trust etc. was not submitted in the Trust OP. Interestingly a Trust Deed dated 30.01.2018 is submitted before this Court and the same was not filed before the Court in Trust OP, hence the same ought to be treated as afterthought. Hence it is evident that the claim of the 1st respondent that the grandfather Muthukaruppa Pillai had established the Siru Kala Sandhi Trust is absolute false and lie. But they were in possession of the land as cultivating tenant. This finding is supported by the remark in the FLR filed by the 1st respondent themselves, wherein it is remarked as “anubavam by Kuppusamy Pillai son of Muthukaruppa Pillai”. The 1st respondent has clearly misrepresented himself as hereditary trustee and his rights as trustee of the Siru Kalai Sandhi Katalai is not supported by any documents. Therefore this Court is of the considered opinion that the present Trust OP is misleading and diverting from the real issue between the parties.

14. The next contention of the revision petitioner is that in the proceedings of the 2nd respondent dated 22.04.2017, it is held that notice are issued to several persons including the said Muthaiya Chettiar, Mahalingam, Sivavadivel, Vignesh, Rajagopal, Pushpalatha, and Muthuservai. Further, it is seen that some of them



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were granted patta by subdividing the S.No.257. Finally, the RDO, Aavudayarkovil had directed the petitioner and the respondent to approach the civil court and seek remedy. When the RDO has rightly directed the parties to approach the Civil Court, but the 1st respondent without filing suit to determine the issue who is the real trustee, had filed Trust OP to sell the property is unacceptable and consequently, the impugned order passed in Trust OP is liable to be set aside.

15. On perusing the SLR record, dated 27.06.1971 and the letter, dated 27.12.2016, of the 1st respondent to the relative of the revision petitioner and the proceeding of the 2nd respondent, dated 22.04.2017, it would clearly indicate that the 1st respondent ought to have impleaded the said Muthaiah Chettiar's family (infact he had impleaded them in the RDO proceeding) which is clear abuse of process of law. Therefore, the allegation that the 1st respondent had attempted to grab the land is acceptable. Further, he had impersonated himself as hereditary trustee of the said Siru Kaala Sandhi Trust. It is pertinent to state that the 1st respondent had not produced any Trust Deed to prove that there was a Trust. Simply by relying on the revenue records, especially FLR register of 1967, the 1st



C.R.P.(MD)No.1520 of 2022

respondent is claiming to be a Trustee of the said Siru Kaala Sandhi Trust, which is totally false. Besides this amount to grabbing the land.

16. Therefore this Court is considered opinion that the Judgment passed on the Trust OP, is an illegal order and the same is liable to be set aside and accordingly, the impugned order is set aside and the revision petition is allowed.

17. Any illegal transfers made pursuant to the impugned order shall be set aside forthwith. Any registration of sale deed also shall be cancelled forthwith. The 1st respondent and their men, legal heirs, legal representatives are permanently restrained from dealing with the property situated in S.No.257/2.

18. With the above said observations, the civil revision petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

10.12.2024

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



C.R.P.(MD)No.1520 of 2022

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To

1. Principal District Court, Pudukottai.
2. The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.1520 of 2022

S.SRIMATHY, J.

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C.R.P.(MD)No.1520 of 2022

10.12.2024