



S.T.A.No.6 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01 / 06 / 2026

PRONOUNCED ON : 17 / 07 / 2026

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS. JUSTICE K.GOVINDARAJAN
THILAKAVADI

S.T.A.No.6 of 2017 &
C.M.P.No.19213 of 2017

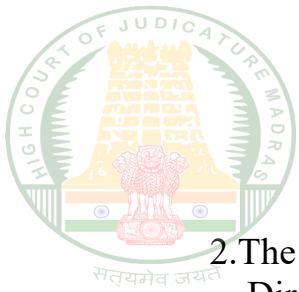
The Executive Officer/
Deputy Commissioner,
A/m.Subramaniaswamy Temple,
Marudhamalai,
Coimbatore District.

... Appellant

Vs.

1.V.R.Maragatham @ Maragathammal,
W/o.Ramasamy,
3/77, Bungalow Thottam,
Marudhamalai Road,
Vadavalli,
Coimbatore - 641 041.

Rep. by her Power Agent,
V.R.Ramalingam,
S/o.M.Ramasamy



S.T.A.No.6 of 2017

2.The Assistant Settlement Officer (South),
Directorate of Survey and Settlement,
Ezhilagam, Chepauk,
Chennai - 600 005.

... Respondents

Prayer: This Special Tribunal Appeal is filed under Section 30 of the Tamilnadu Minor Inams (Abolition and Conversion into Ryotwari), Act, 1963, to set aside the judgment and decree dated 10.02.2016 made in C.M.A.No.1 of 2015 passed by the learned Appellate Tribunal/Principal Sub Court, Coimbatore in remanding the matter by reversal of the order dated 30.09.1968 made in S.R.No.462/68/M.I.Act,/Coimbatore TK passed by the Settlement Tahsildar No.IV, Gobichettipalayam.

For Appellant : Mr.V.Srikanth

For Respondents : Mr.M.S.Krishnan
Senior Advocate
Assisted by Mr.R.Venkatesan &
Mr.Sam Jayaraj Houston
of M/s.Sarvabhauman Associates
for R1

Mr.M.Hemanth Kumar
Government Counsel for R2



S.T.A.No.6 of 2017

JUDGMENT

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P.VELMURUGAN, J.

The present appeal arises out of the judgment and decree dated 10.02.2016 passed by the learned Appellate Tribunal/Principal Sub Court, Coimbatore in C.M.A.No.1 of 2015, whereby the order of the Settlement Tahsildar No.IV, Gobichettipalayam dated 30.09.1968 made in S.R.No.462/68/M.I. Act was set aside and the matter was remanded for fresh consideration.

2. The appellant herein, namely, the Executive Officer/Deputy Commissioner, Arulmigu Subramaniaswamy Temple, Marudhamalai, Coimbatore District, was not a party to the proceedings before the Appellate Tribunal. Claiming that the subject property constitutes a service inam endowed for a religious and charitable purpose and that the impugned order directly affects the interests of the Temple, the appellant has preferred the present appeal.



S.T.A.No.6 of 2017

3. The subject property is an extent of 9.90 acres comprised in Survey

No.109, Vadavalli Village, Coimbatore Taluk. The property forms part of an Inam comprised in T.D.No.37, granted in the year 1863 in favour of one Kalidasan for the maintenance of a Thanneerpandal at Vadavalli. Following the abolition of minor inams under the provisions of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (hereinafter “the Act”), the said inam stood vested in the Government. Thereafter, the Settlement Tahsildar No.IV, Gobichettipalayam initiated suo motu proceedings in S.R.No.462 of 1968 under Section 11 of the Act for determination of rights and grant of ryotwari patta in respect of the subject lands.

4. During the course of the enquiry, Ramasamy, husband of V.R.Maragathammal, was examined as P.W.1 and Nanjappa Gounder was examined as P.W.2. The Village Karnam and the Settlement Inspector were examined as C.W.1 and C.W.2 respectively. Documentary evidence, including a lease deed dated 05.07.1894, the judgment in O.S.No.219 of 1908, extracts from the Inam 'B' Register and the Inam Fair Register, was also considered.

4/21



S.T.A.No.6 of 2017

WEB COPY

5. Upon consideration of the oral and documentary evidence available on record, the Settlement Tahsildar, by order dated 30.09.1968, held that the grant was a service connected with the maintenance of the Thanneerpandal at Vadavalli and consequently granted ryotwari patta under Sections 8(2)(ii) and 8(5) read with Section 21(7)(a) of the Act, subject to the condition that the service should continue. The said order remained in force for several decades. Thereafter, the first respondent, V.R.Maragathammal, preferred an appeal under Section 11(3) of the Act challenging the order dated 30.09.1968. Since the appeal had been presented after a substantial delay, an application was filed seeking condonation of the delay. Upon condonation of the delay, the appeal was taken on file as C.M.A.No.1 of 2015 on the file of the learned Appellate Tribunal/Principal Sub Court, Coimbatore.

6. Before the Appellate Tribunal, the principal contention advanced by the first respondent was that the order dated 30.09.1968 had been passed without notice to her and without affording her an opportunity of



S.T.A.No.6 of 2017

participating in the enquiry. It was further contended that the proceedings culminating in the order of the Settlement Tahsildar were liable to be set aside on the ground of violation of the principles of natural justice.

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7. The learned Appellate Tribunal, by judgment and decree dated 10.02.2016, accepted the said contention and held that the first respondent had not been afforded sufficient opportunity in the original proceedings. It was further recorded that the learned counsel appearing for the Settlement Tahsildar had also stated that there was no objection to the matter being remanded for fresh consideration. Consequently, the Tribunal set aside the order dated 30.09.1968 passed by the Settlement Tahsildar and remanded the matter to the competent authority for fresh enquiry after issuing notice to the parties concerned.

8. Aggrieved by the said judgment and decree of remand, the present appeal has been filed by the appellant Temple.



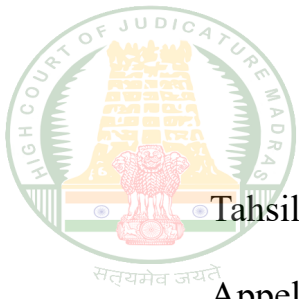
S.T.A.No.6 of 2017

9. Learned counsel appearing for the appellant submitted that the

order of remand passed by the learned Appellate Tribunal is wholly unsustainable both on facts and in law. According to the learned counsel, the Settlement Tahsildar No.IV, Gobichettipalayam, had initiated proceedings under Section 11 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, by following the procedure prescribed under the Act and the Rules framed thereunder. It was submitted that notices were issued, an enquiry was conducted and all relevant records were considered before the order dated 30.09.1968 in S.R. No.462/68 came to be passed.

10. The learned counsel further submitted that the sole ground on which the first respondent challenged the order dated 30.09.1968 was that she had not been served with notice in S.R.No.462/68. According to the learned counsel, the said contention is wholly unfounded and contrary to the records. It was pointed out that M.Ramasamy, the husband of the first respondent, was examined as P.W.1 during the enquiry proceedings, as could be seen from the order dated 30.09.1968 itself. The participation of P.W.1 in the enquiry clearly establishes that the first respondent and her family were aware of and had participated in the proceedings before the Settlement

7/21



S.T.A.No.6 of 2017

Tahsildar. Therefore, according to the learned counsel, the finding of the Appellate Tribunal that the first respondent had not been served with notice is contrary to the materials available on record.

11. The learned counsel further submitted that the appeal before the Appellate Tribunal had been filed nearly forty five years after the original order by filing I.A.No.337 of 2014 seeking condonation of a delay of 16,602 days. According to the learned counsel, the delay was condoned by order dated 19.12.2014 without assigning adequate reasons and without proper application of mind. It was contended that an order which had attained finality long ago ought not to have been reopened after such an extraordinary lapse of time.

12. The learned counsel further submitted that the subject property had been granted for providing a Thanneerpandal and for the performance of the charitable and religious services attached thereto. It was contended that the nature and character of the grant are borne out by the relevant revenue records. The learned counsel submitted that the Settlement Tahsildar, upon

8/21



S.T.A.No.6 of 2017

due consideration of the oral and documentary evidence, had rightly

concluded that the grant constituted a service inam and accordingly granted

ryotwari patta subject to the continued performance of the service.

According to the learned counsel, the first respondent had failed to establish

that the service attached to the grant had been performed. No material was

produced to show that the Thanneerpandal at Vadavalli had been maintained

during the period between 1968 and 2014. It was therefore contended that

the first respondent could not claim the benefits arising from the grant

without fulfilling the obligation attached thereto. The learned counsel further

submitted that the first respondent had alienated the property despite the

subsistence of the service condition and that such alienation could not confer

any valid right contrary to the terms of the grant. It was argued that, in terms

of Section 21(7)(a) of the Act, failure to perform the service disentitled the

service holder from continuing to hold the property.

13. The learned counsel further invited the attention of this Court to the representation dated 28.10.2011 submitted by the first respondent and contended that the contents thereof reveal a categorical admission on her part regarding the acts complained of and that she had merely attempted to

9/21

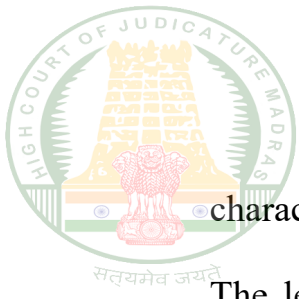


S.T.A.No.6 of 2017

justify her conduct. The learned counsel further submitted that the conduct of the first respondent had earlier been the subject matter of consideration in W.P.No.11981 of 2012 and that this Court, by order dated 17.07.2012, had made adverse observations regarding her conduct. It was contended that, while prosecuting C.M.A.No.1 of 2015 before the Appellate Tribunal, the first respondent failed to disclose the said order and the findings rendered therein. According to the learned counsel, the suppression of a material judicial order had the effect of misleading the Tribunal and vitiated the proceedings before it.

14. The learned counsel further submitted that the interests of the appellant Temple were not properly represented before the Appellate Tribunal. According to the learned counsel, neither the first respondent nor the official respondents had brought to the notice of the Tribunal the purpose for which the property had been granted, namely, for providing a Thanneerpandal and for the performance of the charitable service attached thereto. It was further submitted that the materials relating to the nature of the grant and the obligations arising therefrom were not properly placed before the Tribunal. Consequently, the Tribunal failed to consider the true

10/21



S.T.A.No.6 of 2017

character of the grant and the effect of the non-performance of the service.

The learned counsel also contended that the Appellate Tribunal remanded the matter merely because the learned counsel appearing for the official respondents had stated that they had no objection for such remand, without independently examining the merits of the case or the correctness of the order passed by the Settlement Tahsildar. Hence, the learned counsel prayed that the judgment and decree dated 10.02.2016 passed in C.M.A.No.1 of 2015 be set aside.

15. Per contra, the learned counsel appearing for the first respondent submitted that the first respondent was not afforded a reasonable opportunity to participate in the proceedings before the Settlement Tahsildar and that the order dated 30.09.1968 was passed without proper notice. It was further submitted that the learned Appellate Tribunal, upon finding that the principles of natural justice had not been complied with, rightly set aside the order of the Settlement Tahsildar and remanded the matter for fresh consideration. The learned counsel further submitted that the subject property was originally granted by the then Mysore Maharaja for the maintenance of a Thanneerpandal for the benefit of the general public, where

11/21



S.T.A.No.6 of 2017

drinking water, *neer mor*, *arisi kanji*, *kambu koozh*, *pazha charu*, and other refreshments were distributed to the public. According to the learned counsel, the grant was only a public charitable Thanneerpandal Inam and was not a religious or charitable endowment attached to or connected with any temple. It was therefore contended that the property does not constitute an HR&CE endowment and that the appellant Temple cannot claim any right or interest over the property. The learned counsel accordingly prayed for dismissal of the appeal.

16. Heard the learned counsel on either side and perused the materials available on record.

17. It is not in dispute that the Settlement Tahsildar No.IV, Gobichettipalayam initiated suo motu proceedings under Section 11 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, for determining the entitlement to ryotwari patta in respect of the subject property. It is also not in dispute that, after conducting a detailed enquiry, the Settlement Tahsildar, by order dated 30.09.1968, held that the

12/21



S.T.A.No.6 of 2017

grant was a service inam for the maintenance of a Thanneerpandal at Vadavalli and granted ryotwari patta under Sections 8(2)(ii) and 8(5) read with Section 21(7)(a) of the Act, subject to the condition that the service attached to the grant should continue to be performed.

18. The said order remained in force for several decades. Thereafter, the first respondent preferred an appeal under Section 11(3) of the Act after obtaining an order condoning the delay. The learned Appellate Tribunal set aside the order of the Settlement Tahsildar and remanded the matter for fresh consideration on the ground that the first respondent had not been served with notice and had not been afforded an opportunity to participate in the enquiry. The Tribunal also recorded the submission made on behalf of the official respondents that they had no objection to the matter being remanded. In these circumstances, the question that arises for consideration is whether the findings recorded by the learned Appellate Tribunal are supported by the materials on record and whether the order of remand can be sustained.

19. A reading of the order dated 30.09.1968 passed by the Settlement Tahsildar clearly shows that a detailed enquiry was conducted before the



S.T.A.No.6 of 2017

final order came to be passed. During the enquiry, M.Ramasamy, the husband of the first respondent, was examined as P.W.1 and his evidence has been specifically referred to in the order. He spoke about the possession and enjoyment of the property by the first respondent and her predecessors-in-title, relied upon the lease deed dated 05.07.1894 and the judgment in O.S.No.219 of 1908, and further stated that the Thanneerpandal attached to the grant was being maintained and that the service would continue to be performed. Apart from him, Nanjappa Gounder was examined as P.W.2. The Village Karnam and the Settlement Inspector were examined as C.W.1 and C.W.2 respectively. The Settlement Tahsildar also considered the Inam 'B' Register, the Inam Fair Register and the other relevant records before passing the final order.

20. The above materials clearly establish that oral evidence was recorded and documentary evidence was considered during the enquiry. The appearance and examination of the husband of the first respondent as P.W.1, who deposed in support of the claim of the first respondent and her family, clearly establish that the first respondent and her family were aware of and had participated in the proceedings before the Settlement Tahsildar. Despite

14/21

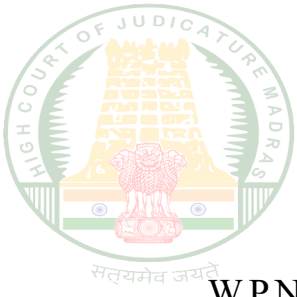


S.T.A.No.6 of 2017

these materials forming part of the original order itself, the learned Appellate

Tribunal concluded that the first respondent had not been given notice or an opportunity to participate in the enquiry. The impugned judgment does not indicate that the Tribunal considered the effect of the oral and documentary evidence referred to in the order of the Settlement Tahsildar before arriving at such a conclusion.

21 The learned Appellate Tribunal also failed to take note of the fact that the order of the Settlement Tahsildar had remained in force for nearly forty-six years before it was challenged. Though the delay in filing the appeal had been condoned, such an extraordinary delay required the Tribunal to carefully examine the records before interfering with an order that had remained in force for several decades. However, the impugned judgment does not show that the Tribunal independently considered the oral and documentary evidence or the findings recorded by the Settlement Tahsildar. It also does not consider that the ryotwari patta was granted subject to the condition that the service attached to the grant should continue to be performed.



S.T.A.No.6 of 2017

22. It is also relevant to note that the first respondent had earlier filed

W.P.No.11981 of 2012 before this Court in respect of the very same property. In the said writ petition, the first respondent admitted that she had alienated the property without obtaining the permission of the HR&CE Department and sought recognition of the said alienation by the Department. By order dated 17.07.2012, this Court dismissed the writ petition after considering the nature of the grant, the conditions attached to the ryotwari patta and the objections raised by the HR&CE Department. The issues considered in the said writ petition had a direct bearing on the controversy involved in C.M.A.No.1 of 2015. However, the said judgment was not brought to the notice of the learned Appellate Tribunal while deciding the Civil Miscellaneous Appeal.

23. It is also relevant to note that the stand taken by the first respondent before the learned Appellate Tribunal is different from the stand taken by her in the earlier writ proceedings. In the writ petition, the first respondent sought recognition and ratification of the sale from the HR&CE Department. However, before the learned Appellate Tribunal, it was contended that the property was not a religious or charitable endowment and

16/21



S.T.A.No.6 of 2017

that the appellant Temple had no right or interest over the property. The earlier writ proceedings and the stand taken by the first respondent therein were not brought to the notice of the learned Appellate Tribunal. Therefore, the Tribunal had no occasion to consider this aspect while deciding the appeal.

24. It is also relevant to note that the present appellant Temple was admittedly not impleaded as a party to the proceedings before the learned Appellate Tribunal. According to the appellant, the subject property is a service inam granted for the performance of a charitable service. The Civil Miscellaneous Appeal filed by the first respondent came to be decided without impleading the appellant Temple as a party. Consequently, the appellant did not have an opportunity to place the relevant materials and advance its case before the learned Appellate Tribunal, which necessitated the appellant to obtain leave of this Court and prefer the present appeal.

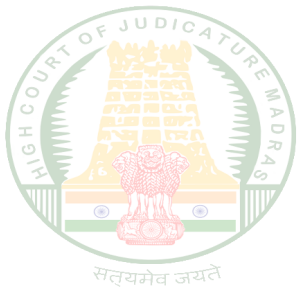
25. An order of remand should not be passed as a matter of course. Before setting aside an order and remanding the matter for fresh consideration, the appellate Court is required to independently examine the



S.T.A.No.6 of 2017

materials available on record and record reasons for disagreeing with the findings of the original authority. In the present case, the learned Appellate Tribunal has not independently considered the oral and documentary evidence, the findings recorded by the Settlement Tahsildar or the conditional nature of the ryotwari patta granted under the Act. Instead, the matter was remanded for fresh enquiry without assigning adequate reasons. Such an order cannot be sustained.

26. For all the above reasons, this Court is of the considered view that the learned Appellate Tribunal was not justified in setting aside the order dated 30.09.1968 passed by the Settlement Tahsildar. The finding that the first respondent had not been given notice or an opportunity to participate in the enquiry is not supported by the materials available on record. The learned Appellate Tribunal also proceeded without the benefit of considering the earlier judgment of this Court in W.P.No.11981 of 2012, which had a direct bearing on the issues involved in the present case. Consequently, the judgment and decree passed by the learned Appellate Tribunal are liable to be set aside.



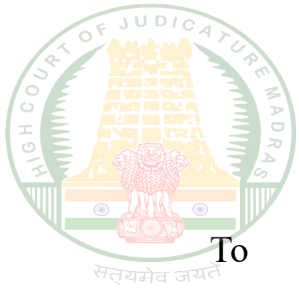
S.T.A.No.6 of 2017

WEB COPY 27. Accordingly, the judgment and decree dated 10.02.2016 passed by the learned Appellate Tribunal/Principal Sub Court, Coimbatore in C.M.A.No.1 of 2015 are set aside and the order dated 30.09.1968 passed by the Settlement Tahsildar No.IV, Gobichettipalayam in S.R.No.462/68/M.I. Act is restored. The appeal stands allowed. There shall be no order as to costs.

[P.V.J.] [K.G.T.J.,]
17 / 07 / 2026

Index:Yes
Speaking order
Internet:Yes
Neutral Citation:Yes

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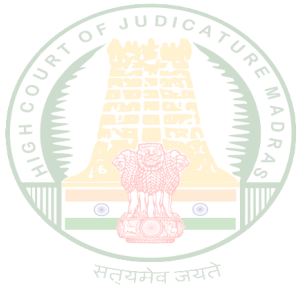


S.T.A.No.6 of 2017

To

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1. The Principal Sub Court, Coimbatore.
2. The Settlement Tahsildar No.IV, Gobichettipalayam.
3. The Executive Officer/Deputy Commissioner,
A/m.Subramaniaswamy Temple,
Marudhamalai,
Coimbatore District.
4. The Sub Assistant Registrar,
(Original Side)
Madras High Court,
Chennai.



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