

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.17025 of 2016

and W.M.P.Nos.14528 and 14529 of 2016

1.J.Padmavathy
2.J.Kaladevi
3.J.Ambikadevi

... Petitioners

vs.

1.The Inspector General of Registration,
Santhome High Road,
Pattinapakkam,
Chennai 600 028.

2.The Joint Sub Registrar-II,
Tiruppur.

3.The Executive Officer,
Arulmigu Visweswara Swamy &
Veeraragava Perumal Temples,
Easwaran Koil Street,
Tirupur - 641 604.

4.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Uttamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

5.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Coimbatore.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the entire records of the second respondent in its proceedings - pending document No.P55/2015 dated 1.10.2015 and

quash the same as arbitrary and illegal and further direct the respondents 1 and 2 herein to admit and register pending document No.P55/2015 dated 1.10.2015 executed by the second petitioner in favour of State Bank of Travancore and to admit and register other documents such as sale deeds, mortgage deed, etc. with respect to the petitioners' patta land comprised in Old S.F.No.95/1 having T.S.No.24/1/3/3, Block No.3 corresponding to the New T.S.No.99 measuring to an extent of 13623.042 sq.mts (3.3632 acre) in Block 7, Ward 33, Tiruppur Town, Tiruppur Taluk, Tiruppur District together with buildings thereon.

For Petitioners : Mr.V.P.Sengottuvel

For Respondents : Mrs.P.Rajalakshmi,
Govt. Advocate,
for R.1 and R.2
Mr.K.V.Dhanapalan,
Addl. Govt. Pleader, (HR & CE)
for R.3 to R.5

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioners have come up with the present writ petition, challenging the proceedings of the second respondent - pending document No.P55/2015 dated 1.10.2015 and further direct the respondents 1 and 2 herein to admit and register pending document No.P55/2015 dated 1.10.2015 executed by the second petitioner in favour of State Bank of Travancore and to admit and register other documents such as sale deeds, mortgage deed, etc. with respect to the petitioners' patta land comprised in Old S.F.No.95/1 having T.S.No.24/1/3/3, Block No.3 corresponding to the New T.S.No.99 measuring to an extent of 13623.042 sq.mts (3.3632 acre) in Block No.7, Ward No.33, Tiruppur Town, Tiruppur Taluk, Tiruppur District, together with buildings thereon.

3. The case of the petitioners, in brief, is as follows:-

(a) The dry land comprised in Old S.F.No.95/1 measuring to an extent of 1200 acres within specific boundaries out of 20.19 acres in Tiruppur Village, having T.S.No.24/1/3/3, situated at Tiruppur Town, Ward No.5, Palladam Taluk, Coimbatore District, originally belonged to one R.Kaliyappa Gounder, having purchased the same along with other properties on 11.12.1940 in Court auction in the civil suit in O.S.No.7 of 1937 on the file of District Court, Coimbatore. After his life time, his son K.Narayanasamy Gounder sold 12.00 acres of land to one K.R.Rayappa Gounder and his sons R.Ramasamy and minor R.Jaganathan under a sale deed dated 28.3.1946. In the family partition between the said R.Ramasamy

and R.Jaganathan, the land measuring to an extent of 5.18 acres came to be allotted to R.Jaganathan, the husband of the first petitioner and the father of petitioners 2 and 3.

(b) While so, the State of Tamil Nadu enacted Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. Thereafter, the Settlement Tahsildar-I, Gobichettipalayam initiated proceedings under the said Act for the lands comprised in Old S.F.No.95/1 measuring to an extent of 20.19 acres and granted Ryotwari Patta under Section 13 read with Section 8(2)(i)(b) of the Act in favour of P.Chinnasamy, R.Ramasamy, R.Jaganathan and the third respondent herein. Aggrieved over the same, the said R.Ramasamy and R.Jaganathan filed an appeal in C.M.A.No.4 of 1973 and the said appeal was allowed and was remanded back for fresh enquiry in the light of the observations contained in the said judgment. On remand, the Settlement Tahsildar, Coimbatore, in his order dated 25.11.1974, granted Ryotwari patta in respect of the land in T.S.No.24/1A9 in favour of the respective claimants.

(c) Pursuant to the said order, the said R.Ramasamy and R.Jaganathan continued to be in possession and enjoyment of the lands allotted to them and the Deputy Tahsildar, in his proceedings dated 15.4.1969, granted patta in their favour. While so, the said R.Jaganathan settled a part of land in favour of the second petitioner under settlement deed dated 1.11.2006, pursuant to which, the second petitioner has also got mutation of revenue records in her favour in respect of the said land. The said R.Jaganathan died on 7.3.2012 leaving behind the petitioners as his legal heirs and thereafter, patta No.1865 came to be issued in their names for the entire land comprised in T.S.No.M.7/99 measuring to an extent of 1.3616.4 Hec.

(d) While so, the second petitioner presented deposit of title deed document in favour of the State Bank of Travancore, Tiruppur Branch on 1.10.2015 before the second respondent and the same came to be registered and kept as pending document No.55/2015 on the ground that the second petitioner has to obtain no objection certificate from the fourth respondent. Hence, challenging the same, the petitioners have come up with the present writ petition.

4. Today, when the writ petition came up for consideration, learned counsel for the appearing petitioners produced a copy of the order of this Court dated 4.2.2015 made in W.P.No.29914 of 2014 (N.Shanmugasundaram Vs. The Inspector General of Registration, Chennai and others) concerning the very same issue, in which the respondents herein are parties. It has been held in the said decision as follows:-

' ' 3. It is submitted by the learned counsel appearing for the 4th respondent that a Civil Suit has

already been filed and the same is to be shortly numbered.

4. In any event, the 3rd respondent being Registering Authority, cannot refuse to accept the document for registration. If there is valid ground to refuse for registration, then the 3rd respondent should pass an order on the same and merely because a letter has been given by the 4th respondent cannot be a ground, even refusing to accept the document.

5. Accordingly, there will be a direction to the petitioner to present the document for registration before the 3rd respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 3rd respondent is directed to consider the same, after issuing notice to the petitioner and the 4th respondent and pass reasoned order on merits and in accordance with law, within a period of four weeks from the date on which, the document is presented. It is open to the petitioner as well as the 4th respondent to produce the documents/proof, if any, in support of their claim before the 3rd respondent.'

5. Considering the facts and circumstances of the case and also in the light of the order extracted above, this Court permits the petitioners to re-present the document for registration before the second respondent, along with a representation enclosing all the necessary documents and a copy of this order, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent is directed to conduct an enquiry by issuing notice to the petitioners as well as to the respondents 4 and 5 and other necessary parties, if any, and pass appropriate orders / take appropriate action, on merits and in accordance with law and also in the light of the order referred to above, within a period of eight weeks thereafter. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

sbi

To

1.The Inspector General of Registration,
Santhome High Road,
Pattinapakam,
Chennai 600 028.

2.The Joint Sub Registrar-II,
Tiruppur.

3.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Uttamar Gandhi Salai,
Nungambakkam,
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4.The Joint Commissioner,
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Coimbatore.

1 cc to Mr.V.p. Sengottuvel, Advocate, Sr. 27481

W.P.No.17025 of 2016

RSY (CO)
kk 18/5



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