

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.17026 of 2016

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

... Petitioners

vs.

1.The Inspector General of Registration,
Santhome High Road,
Pattinapakam,
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 mandamus directing the respondents 1 and 2 herein to admit and register documents such as sale deeds, mortgage deed, etc., with respect to the petitioners' patta land comprised in S.F.No.138/1, having T.S.No.L5/76 measuring to an extent of 1.4313.7 Hec. and S.f.No.138/2 having T.S.No.L5/77 measuring to an extent of 1.0006.1 Hec. in Block No.5, Ward L, Tiruppur Town, Tiruppur Taluk, Tiruppur

District bearing patta No.1835 together with buildings thereon without insisting on no objection certificate from the fourth respondent department.

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 for a mandamus, directing the respondents 1 and 2 herein to admit and register documents such as sale deeds, mortgage deed, etc., with respect to the petitioners' patta land comprised in S.F.No.138/1, having T.S.No.L5/76 measuring to an extent of 1.4313.7 Hec. and S.f.No.138/2 having T.S.No.L5/77 measuring to an extent of 1.0006.1 Hec. in Block No.5, Ward L, Tiruppur Town, Tiruppur Taluk, Tiruppur District bearing patta No.1835 together with buildings thereon without insisting on no objection certificate from the fourth respondent department.

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

(a) The dry land comprised in Old S.F.No.138/1 measuring to an extent of 4.08 acres and Old S.F.No.138/2 measuring to an extent of 2.80 acres situated at Tiruppur Town, 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 2.86 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. The said K.R.Rayappa Gounder filed a civil suit in O.s.No.107 of 1961 seeking partition and the said suit came to be decreed in terms of the compromise. As per the said decree, the land measuring to an extent of 4.08 acres in s.No.138/1 and 2.90 acres in S.No.138/2 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.138/2 and granted Ryotwari Patta under Section 13 read with Section 8(2)(i)(b) of the Act with respect to the land comprised in S.F.No.138/2 in favour of R.Jaganathan.

(c) Pursuant to the said order, the said R.Jaganathan continued to be in possession and enjoyment of the lands allotted to him and the Deputy Tahsildar, in his proceedings dated 24.10.1968, granted patta in his favour. 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 S.F.No.138/1.

(d) While so, the petitioners came to know that the third respondent temple is claiming Old S.F.No.138/1 and 138/2 as temple lands and the respondents 1 and 2, the registering authorities are not entertaining any documents pertaining to the said land. Hence, the petitioners made a representation to the fourth respondent on 27.10.2015 for issuance of no objection certificate and the same is still pending. Hence, left with no other alternative, the petitioners have come up with the present writ petition for the relief set out earlier.

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 temple 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.

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,
Chennai 600 034.

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

1 cc to Mr.V.P. Sengottuvel, Advocate, Sr. 27482

W.P.No.17026 of 2016

RSY (CO)
kk 18/5



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