

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.25526 of 2015

and

MP.Nos.1 and 2 of 2015

M/s.City Centre (Tirupur)  
Construction Pvt. Ltd.  
represented by its Director  
R.Arunachalam ... Petitioner

vs.

1.The Sub Registrar,  
Tirupur Joint,  
Sub Registration District,  
Tirupur District.

2.The Tahsildar,  
Tirupur South,  
Tirupur District.

3.The Executive Officer,  
Arulmighu Vishveshwarswamy  
and Veeraraghava Perumal Temple,  
Tirupur, Tirupur District.

.. Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus forbearing the third respondent temple from preventing the petitioner from dealing with their property situated at S.F.No.95/1, New T.S.Nos.128, 129 Block 7, Ward M at Mangalam Road, Tirupur Town, Tirupur District measuring an extent of 1.51 acres by way of registration or transfer of patta or obtaining planning permission/building permission from the concerned authorities.

For Petitioner : Mr.R.Subramanian for  
Mr.C.Jagadish

For R1 & R2 : Mr.V.Jayaprakash Narayanan, SGP

For R3 : Mr.V.P.K.Gowtham

## ORDER

The petitioner has come up with the present writ petition for a mandamus, forbearing the third respondent temple from preventing the petitioner to deal with their property situated at S.F.No.95/1, New T.S.Nos.128, 129 Block 7, Ward M at Mangalam Road, Tirupur Town, Tirupur District measuring to an extent of 1.51 acres by way of registration or transfer of patta or obtaining planning permission/building permission from the concerned authorities.

2. As per the averments made in the affidavit filed in support of this writ petition, the facts of the case are as follows:

(i) The petitioner company is the owner of the property situated in new T.S.Nos.128, 129, Block 7, Ward M at Mangalam Road, Tirupur Town, Tirupur District, measuring to an extent of 1.51 acres by virtue of a sale deed dated 22.03.2007.

(ii) Originally, the said property was jointly owned by one M/s.Lakshmi Cotton Company and M/s.Venkatalakshmi Textiles Pvt. Ltd. The petitioner's vendor purchased the said property in the years 1957 and 1964 respectively.

(iii) While so, the proceedings were initiated under Section 11 of the Minor Inams (Abolition and Conversions into Ryotwari) Act, 1963 to determine the persons, who are entitled for ryotwari patta in respect of S.No.95/1. Consequently, the Settlement Tahsildar, Gobichettipalayam determined the claims made by various owners of the property. Accordingly, an order was passed on 15.04.1969 granting ryotwari patta to the petitioner's vendor insofar as T.S.No.41 is concerned under section 8(2)(ii)(b) of the Act. Subsequently, the Tahsildar, Tirupur, by his proceedings dated 28.10.1969, fixed the fair rent. Pursuant to the same, the petitioner's vendor has paid the fair rent in installments and thereafter, patta was granted in their name. Subsequent to the purchase, patta has also been granted to the petitioner in respect of the property in question vide Patta Nos.5077 and 7026.

(vi) While so, the petitioner wanted to construct a commercial complex in the property, for which, they entered into an agreement dated 15.06.2015 with one Shanmugavel for a small portion of the property and presented the document to the first respondent for registration. At that time, the first respondent issued a check slip dated 15.06.2015 to the petitioner and returned the document stating that the third respondent temple has sent a letter, not to register any document pertaining to S.No.95/1.

(v) The third respondent temple has also given a similar direction to the second respondent viz., Tahsildar, Tirupur. Hence, the petitioner has to obtain no objection certificate from the third respondent for patta transfer also.

(vi) As per the order of the Settlement Tahsildar dated 15.04.1969 and the entry made in SLR register maintained in the Collector's office, Tirupur and also the information furnished by the Assistant Commissioner, HR & CE, Tirupur in his communication dated 22.10.2013, the third respondent temple was given ryotwari patta in respect of the property measuring to an extent of 20,979 sq.ft. in S.F.No.95/1 and the temple is the owner of only that extent of the land. Therefore, they cannot interfere with the activities of the petitioner in dealing with the property in question.

3. A counter affidavit has been filed by the first respondent interalia stating as follows:

(i) The Inspector General of Registration, Chennai issued a Circular in No.33/C1/2010 dated 15/09/2010, wherein, it has been stated that the ownership of the property should be proved beyond any doubt, otherwise, the registration of the document has to be refused. Further, the third respondent temple sent a communication in Na.Ka.No.61/1424 dated 19.01.2015 to the effect that the property in question was originally owned by Arulmighu Visweswara Swamy and Veeraragava Perumal Temple and hence, the respondents 1 and 2 are requested, not to register any document relating to the Survey numbers belonging to the temple.

(ii) As per Rule 162A of the Registration Rules, it is the duty of Registering Officer to refuse the document evidencing any transaction constituting an offence under any law or opposed to public policy. In this case, the petitioner has not produced no objection certificate from the Commissioner, Hindu Religious and Charitable Endowment department, Chennai. Without the production of No objection Certificate from the third respondent, the sale deed presented by the petitioner could not be registered by the first respondent.

4. Denying the averments made in the writ petition, the third respondent temple has filed a counter affidavit, wherein, it has been stated as follows:

(i) Neither the petitioner nor their vendor has any title over the property in question. Without any title or right, the petitioner cannot seek any privilege over the property in question.

(ii) The property in question is the Devadaya Inam land granted to the third respondent temple by the ancient rulers. From the date of grant, the third respondent is the absolute owner of the entire extent of the property in S.F.No.95/1 and not to an extent of 20,979sq.ft. as alleged by the petitioner.

(iii) Ryotwari patta under Inam proceedings does not confer any title to the property in question. The consideration amount as contemplated under section 8(2)(1)(b) of the Act has not been paid to the respondent temple. Further, the petitioner has not proved their title in respect of the property beyond any doubt.

(iv) The persons like that of the petitioner had made attempts to mutate the revenue records in their names without proper title and hence, the third respondent has addressed a communication to the second respondent not to transfer patta in respect of the temple lands. By stating so, the third respondent prayed for dismissal of this writ petition.

5. Heard the submissions made by all the parties and perused the documents placed before this court.

6. The relief sought for in this writ petition is to forbear the third respondent temple from preventing the petitioner to deal with their property situated at S.F.No.95/1, New T.S.Nos.128, 129 Block 7, Ward M, at Mangalam Road, Tirupur Town, Tirupur District measuring to an extent of 1.51 acres by way of registration or transfer of patta or obtaining planning permission/building permission from the concerned authorities. The third respondent temple has seriously opposed to grant such relief to the petitioner on the ground that the property in question belongs to them. It is the specific case of the first respondent that without obtaining no objection certificate from the third respondent, the sale deed presented by the petitioner could not be registered. In such circumstances, this Court is not inclined to grant the relief in favour of the petitioner.

7. However, considering the facts and circumstances of the case, without expressing any opinion with regard to the claim made by the petitioner, this Court permits the petitioner to make a fresh representation enclosing the copy of the necessary documents in support of their claim, along with a copy of this order to the first respondent within a period of two weeks from the date of receipt of a copy of this order. On making such representation, the first respondent is directed to consider the same by affording an opportunity of personal hearing to the petitioner as well as to all the necessary parties, if any and pass appropriate orders, on merits and in accordance with law and also in the light of the order dated

15.04.1969 passed by the Settlement Tahsildar, Gopichettipalayam and the order dated 22.10.2013 passed by the Assistant Commissioner, HR&CE department, Thirupur, within a period of six weeks thereafter.

8. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.  
rk

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Sub Registrar,  
Tirupur Joint,  
Sub Registration District,  
Tirupur District.

2.The Tahsildar,  
Tirupur South,  
Tirupur District.

3.The Executive Officer,  
Arulmighu Vishveshwarswamy  
and Veeraraghava Perumal Temple,  
Tirupur, Tirupur District.

+ 1 cc to Mr.C.Jagadish, Advocate Sr 24887

+ 1 cc to The Govt.Pleader, Sr 24541

NR II (CO)  
KR/27/4/16

W.P.No.25526 of 2015

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