

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Writ Petition No.4948 of 2017

K.V.Chalapathy @ Kanaka Venkatachalapathy ... Petitioner

vs.

1. The District Revenue Officer
cum Additional District Magistrate,
Tiruvallur,
Tiruvallur District.
 2. The Revenue Divisional Officer,
Tiruvallur now at Tiruttani,
Tiruvallur District.
 3. The Inspector,
Hindu Religious and Charitable
Endowment Department,
Formerly Fit Person
Arulmighu Vardanarayana Swamy Temple,
Pallipet, Tiruvallur District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari, calling for the records of the 1st respondent pertaining to the impugned notice in Na.Ka.No.1317/2017/A3, dated 15.02.2017 and quash the same.

For Petitioner : Mr.G.Jeremiah

For Respondents 1 & 2 : Mr.P.V.Selvakumar,
Additional Government Pleader

For 3rd Respondent : Mr.M.Maharaja,
Special Government Pleader

O R D E R

This Writ Petition has been filed challenging the notice dated 15.02.2017 issued by the 1st respondent vide Na.Ka.No.1317/2017/A3, calling upon the petitioner to appear for an enquiry.

2. According to the petitioner, he is the Hereditary Trustee of Arulmigu Vardanarayana Swamy Temple, Pallipet. He stated that the said Temple has properties of its own, which are under the purview of the HR & CE Department. His family has got ancestral properties to an extent of 4.44 acres, bearing old Patta No.913, presently comprised in S.Nos.107/4, 7 and 21, Thalavaypattadai Village, Pallipet. A portion of S.No.107/4 had been acquired by the Government and the petitioner's property now stands sub-divided as 107/4A2 and that the said land has been in possession and enjoyment of the petitioner's family for several decades. Further, revenue patta continues to stand in the name of the petitioner's father in respect of S.Nos.107/4, 7 and 21.

3. The case of the petitioner is that certain residents of their Village, claiming to be representatives of Vysya community and devotees of the Temple, filed a suit in O.S.No.302 of 1981 before the District Munsif Court, Tiruttani against the petitioner's father for a declaration that the plaintiff Temple is the absolute owner of the properties of the petitioner and for recovery of possession of the said suit properties. By a judgment dated 30.04.1993, the suit was dismissed upholding the petitioner's father's title of the suit property. Challenging the same, an appeal was filed in A.S.No.3 of 1994 on the file of the Sub-Court, Kanchipuram and the same got dismissed on 28.02.2002. Aggrieved by the dismissal of the same, a Second Appeal was filed before this Court in S.No.463 of 2003. By virtue of the judgments of the Lower Courts, the petitioner continues to be in possession and enjoyment of the subject property.

4. It is the further case of the petitioner that at the instigation of the plaintiffs in O.S.No.302 of 1981 during the UDR Scheme, the Temple's name was included in the individual patta of the petitioner's family. When the same came to the knowledge of the petitioner's father, he submitted an appeal to the 2nd respondent seeking deletion of the Temple's name, in view of the pendency of O.S.No.302 of 1981. The 2nd respondent, by an order dated 08.04.1986 directed correction in the entry and further directed that the records in respect of S.Nos.107/4, 7 and 21 be restored to its original position pending the decision of the competent Civil Court. Accordingly, necessary changes were effected in the revenue record.

5. Thereafter, the 3rd respondent preferred an appeal before the 1st respondent on 08.02.2014 against the order dated 08.04.1986 passed by the 2nd respondent, with an inordinate delay of 28 years. The 1st respondent entertained the appeal and issued notice dated 15.02.2017 calling upon the petitioner to

appear before him on 21.02.2017. The petitioner appeared before the 1st respondent and presented a detailed statement of objections, drawing the attention of the 1st respondent to the pendency of the Second Appeal before this Court.

6. The grievance of the petitioner is that the 1st respondent refused to accept the objections submitted by him and instead directed him to produce an order of stay from this Court in the Second Appeal, failing which, he would set aside the order of the 2nd respondent and posted the matter to 01.03.2017. Now, having no other alternative remedy, the petitioner is before this Court by way of the present Writ Petition.

7. Learned counsel for the petitioner submitted that the petitioner undertakes before this Court that he will not alienate any of the properties as contemplated in the notice dated 15.02.2017 and hence, he seeks to set aside the said notice.

8. Learned Special Government Pleader appearing for the 3rd respondent/Temple submitted that except the Patta, Adangal, Chitta and 'A' Register stand in the name of the Temple and that since the patta stands in his name, the petitioner has already sold certain properties. Therefore, the petitioner's objections were refused to be accepted, so as to avoid any further depletion of the Temple property. He further submitted that admittedly, the Second Appeal in S.A.No.463 of 2003 is pending and an order of stay has been granted therein. Therefore, as on date, the decree passed by the First Appellate Court has been stayed by this Court and the enquiry for patta transfer is posted tomorrow.

9. Heard the learned counsel on either side and perused the material documents available on record.

10. Taking into consideration the limited scope in this matter, as the proper authority is seized of the matter and that the enquiry is scheduled to be held on 01.03.2017, the petitioner shall appear for the enquiry on 01.03.2017 and apprise the details including the pendency of the Second Appeal. The authority concerned shall collect necessary papers, hear the parties and pass orders, after the result of the Second Appeal. The petitioner's undertaking before this Court that he will not alienate the subject property, is recorded. It is made clear that the petitioner shall not deviate from his undertaking, and if so, it will amount to contempt of the order of this Court.

This Writ Petition is ordered on the above terms. No costs.
Consequently, connected W.M.P.No.5178 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer
cum Additional District Magistrate,
Tiruvallur,
Tiruvallur District.
2. The Revenue Divisional Officer,
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Tiruvallur District.
3. The Inspector,
Hindu Religious and Charitable
Endowment Department,
Formerly Fit Person,
Arulmighu Vardanarayana Swamy Temple,
Pallipet, Tiruvallur District.

+1cc to Mr.Jeremiah, Advocate, S.R.No.12757
+1cc to the Government Pleader, S.R.No.13409

KJI (CO)
RS (21/03/2017)

Order in
W.P.No.4948 of 2017

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