

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.28178 of 2014
and
W.M.P.No.26066 of 2017

Sri Amerswara Swamy Temple
Amaravathy, Guntur District and also
for Sri Sadavarthy Choulthry
Amaravathy, Guntur District,
Andhra Pradesh,
Rep. by its Executive Officer
N.Srinivasa Reddy ... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
Revenue Department,
Fort St. George, Chennai-600 009.
2. The Special Commissioner and Commissioner
of Land Administration,
Chepauk, Chennai-600 005.
3. The Director of Survey and Land Records,
Government of Tamilnadu
Chepauk, Chennai-600 005.
4. The District Collector,
Kancheepuram District, Kancheepuram.
5. The District Revenue Officer,
Kancheepuram District, Kancheepuram.
6. The Revenue Divisional Officer,
Kancheepuram District, Chengalpet.
7. The Thasildar, Taluk Office, Chengalpet.
8. The Joint Commissioner (Land Reforms),
O/o. the Joint Commissioner of Land Reforms,
Villupuram, Villupuram District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, to direct the respondents 1 to 7 to dispose of the representations dated 07.10.2013 and 16.10.2013 for taking necessary steps to issue patta in favour of Sri Sadavari Choultry, Amaravathy, Guntur, Andhra Pradesh in respect of Choultry lands situate at Tahalmbur Village, Chengalpet Taluk, Kancheepuram District, which were classified as Anadheenam consequent upon the Estates Abolition Act, 1948.

For Petitioner : Mr.S.Udayakumar

For Respondents : Mr.Vijaya Narayan,
Advocate General,
assisted by Mr.M.K.Subramanian,
Government Pleader, and
Mr.Akhil Akbar Ali
Government Advocate

ORDER

The petitioner-Temple has come forward with this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 to 7 to dispose of the representations dated 07.10.2013 and 16.10.2013 for taking necessary steps to issue patta in favour of Sri Sadavari Choultry, Amaravathy, Guntur, Andhra Pradesh in respect of Choultry lands situate at Tahalmbur Village, Chengalpet Taluk, Kancheepuram District, which were classified as Anadheenam consequent upon the Estates Abolition Act, 1948.

2. The Executive Officer of the petitioner-Temple has sworn to the affidavit in support of the writ petition stating that the lands situated in No.33, Thalambur Village in Chengalpet Taluk, Kancheepuram District belong to Sri Sadavarthi Choultry, Amaravathy, Guntur District, Andhra Pradesh. The village in which the property in question exist is a Shrotriam Village taken over by the Government on 01.12.1951 and survey and settlement was completed and settlement Register was finalized and published in the year 1961. The settlement department issued pattas to several persons based on several documents and declared most of the lands for public purpose, such as, irrigation tanks, village sites, road etc. Mr.R.V.S.Bhanu Boopal succeeded as hereditary trustee after the death of his father and took possession of the land of the Trust. He applied to the Assistant Settlement Officer for the grant of Ryotwari patta under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act. The Assistant Settlement Officer had rejected his application for grant of patta, as time

barred. Hence, he presented a revision petition before the Board of Revenue (S.E) dated 25.01.1966. Since he claims right to both Varams (Melvaram and Kudivaram) of his lands, he can either appeal before the Tribunal against the order of the Assistant Settlement Officer or he can apply before the Revenue authorities. The hereditary trustee applied to the District Revenue Officer, Kancheepuram, who forwarded his petition for enquiry to the Thasildar, Chengalpet.

3. It is further stated by the petitioner that the property (ies) in question are governed by the Amaravathy Sadavarthi (Annadana) Choultry at Guntur District under the management of the petitioner-Temple. The hereditary trustee applied for grant of patta, which was recommended by the Tahsildhar, Chengalpet in 1969 itself. The Thasildhar, Chengalpet forwarded a detail report on 26.09.1969 through the Revenue Divisional Officer, Chengalpet to the District Revenue Officer and the land details were given in the said communication of the Tahsildhar. The hereditary trustee of Sri Sadavari Choultry, Amaravathy, Guntur, Andhra Pradesh had presented petition, dated 29.06.1970 for issuance of patta. Because of delay in granting patta, most of the lands were encroached by several persons and the Revenue officials have given patta. On 16.10.2013, the Chairman of the Board of Trustees of Sri Sadavarti Satram (Choultry) sent a detailed representation to the District Revenue Officer, Kancheepuram seeking for issuance of patta. The land(s) in question is donated for public purpose for feeding the pilgrims who are visiting the Choultry at Amaravathy.

4. It is further averred by the petitioner that they have also sent representations to the respondents-authorities on 11.04.2002, 28.03.2004, 02.10.2004, 18.10.2008, 07.10.2013 and 16.10.2013 for grant of Ryotwari patta. The Government is now stating that land(s) in question belong to the Government and the said land(s) are classified as "Anadheenam". Since the above said representations are still pending before the respondents-authorities, the petitioner-Temple has filed the writ petition for the relief stated supra.

5. The respondents have filed counter affidavit inter-alia stating that the hereditary trustee failed to apply for Ryotwari patta under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act. It is further stated that the application of the petitioner for Ryotwari patta is outside the scope of the said Act as per G.O.Ms.No.2502, Revenue Department, dated 08.02.1958. The petitioner's predecessor-in-title has not taken any follow up action on the favorable report of the Thasildar to get patta from the District Revenue Officer in the year 1969 itself. The petitioner has no legal right or title to question the assignments given by the Government for

the lands vested in them. The unclaimed lands during the Ryotwari settlement, vested with the Government and Ryotwari patta was granted to enable all the persons who are in continuous possession and enjoyment and fulfilled the conditions under the said Act to get Ryotwari patta outside the scope of the said Act. The petitioner-Temple should have moved Civil Court by filing suit to prove their title, possession and enjoyment of the property(ies) in question, before claiming patta. The petitioner failed to apply for grant of Ryotwari patta before the settlement authority within six months from the notified date and the time limit for applying for patta expired on 30.06.1975 based on G.O.Ms.No.589, Commercial Taxes and Religious Endowments Department, dated 14.05.1975. Hence, the respondents prayed for dismissal of the writ petition.

6. Learned Counsel for the petitioner submitted that the petitioner-Temple is having title to the property(ies) and that Ryotwari patta has got to be issued by the respondents. The petitioner-Temple made various representations on 11.04.2002, 28.03.2004, 02.10.2004, 18.10.2008, 07.10.2013 and 16.10.2013 to the respondents-authorities. The respondents were sleeping over the matter without issuing the Ryotwari patta and the authorities in the Government of Tamil Nadu have issued the pattas pertaining to some of the land owners and there is no reason as to why the respondents are refusing to issue Ryotwari patta to the petitioner-Temple.

7. Mr.Vijay Narayan, learned Advocate General, assisted by Mr.M.K.Subramanian, learned Government Pleader and Mr.Akhil Akbar Ali, learned Government Advocate appearing for the respondents submitted that a Writ Petition (Public Interest Litigation (PIL)) is pending before the High Court of Andhra Pradesh and Telangana in W.P.(PIL).No.116 of 2016, wherein the present writ petitioner is the fifth respondent therein and that auction is sought to be conducted by the sixth respondent in that Writ Petition, namely Sri Sadavarti Satram, represented by its Executive Officer, Sri Amareswaraswamy Temple, Amaravati, Guntur District, Andhra Pradesh, which is sought to be interfered with and that the public auction had to be held illegal and that the Government should take steps to protect the said land(s) belonging to the sixth respondent therein. The Andhra Pradesh High Court passed orders in that Writ Petition on 08.08.2017 directing the official-respondents therein to conduct the auction afresh prescribing the minimum bid amount and to give wide publicity in leading national dailies and thereafter to conduct the auction at the earliest, apart from directing the authorities concerned to inform the petitioner therein and the 12th respondent therein of the date on which the auction is scheduled to be held and permitting the parties to participate

in the auction. Subsequently, the matter was taken to the Apex Court and the Apex Court has passed the following order in the Petition for Special Leave to Appeal (C) No.23716 of 2017, dated 12.09.2017:

"Heard Mr.V.Giri, learned senior counsel for the petitioner and Mr.P.Sudhakar Reddy, learned counsel for the respondent No.1.

Having heard learned counsel for the parties, it is directed that both the petitioner and the respondent No.1, shall participate in the auction. If the respondent No.1 does not participate in the auction, Rs.10,00,00,000/- (Rupees ten crores only) from the amount that has been deposited before the High Court, shall stand forfeited. If he participates and gives lower bid than Rs.27,44,00,000/- (Rupees twenty-seven crores forty lakhs only) (sic), Rs.15,00,00,000/- (Rupees fifteen crores only) shall be forfeited. Needless to say, Rs.27,44,00,000/- (Rupees twenty seven crores forty lakhs only) (sic) shall be treated to be the offset price. Needless to say, all eligible bidders are entitled to participate in the public auction. If any condition precedent is required to participate in the auction, the petitioner shall be exonerated from the same as he has already complied with the said condition.

The Commissioner for Endowments, the respondent No.3 herein, is directed to supervise the auction. The Registrar General of the High Court of Judicature at Hyderabad for The State of Telangana and the State of Andhra Pradesh, is directed to intimate the same to the said authority so that he can do the needful.

Regard being had to the aforesaid directions, the period for submitting e-tender is extended till 15th September, 2017 and the auction shall take place on 18th September, 2017.

Let the matter be listed on 22nd September, 2017, on which day this Court shall be apprised of the result of the auction."

8. It is further submitted by the learned Advocate General that the auction has to be conducted pursuant to the e-tender, applying for which, was extended by the Apex Court till 15.09.2017 and the auction is scheduled to take place on

18.09.2017 as directed by the Apex Court. According to the learned Advocate General, the dispute with regard to title and other issues, have not been brought to the attention of the Andhra Pradesh High Court and the Supreme Court, and that the respondents herein came to know of the same only from the newspapers and that they are going to take effective steps to defend the matter before the Andhra Pradesh High Court and also the Supreme Court in the pending matters. Under the guise of representations, the writ petitioner-Temple in this case cannot indirectly seek for issuance of Ryotwari patta.

9. In reply, Mr.Udayakumar, learned counsel for the petitioner has not denied the averments of Mr.Vijay Narayan, learned Advocate General, but he however submitted that the tender notice contain the details with regard to the litigation.

10. Heard both sides and perused the materials available on record.

11. From the cause title in the said PIL pending before the Andhra Pradesh High Court, it is seen that there is no reference to the respondents in the present Writ Petition, and the present respondents are not parties to the said PIL pending before the Andhra Pradesh High Court.

12. As it is contended that there is a dispute with regard to the property(ies) and also with regard to the issuance of Ryotwari patta to the writ petitioner-Temple and that the issues need to be investigated in detail before the issuance of Ryotwari patta as prayed for by the petitioner-Temple, without delving into the merits of the matter, more particularly the fact that the matters are pending before the Andhra Pradesh High Court and the Supreme Court, this Court directs the fifth respondent-District Revenue Officer, Kancheepuram District, in the present Writ Petition to consider the request of the petitioner-Temple based on the representations, dated 11.04.2002, 28.03.2004, 02.10.2004, 18.10.2008, 07.10.2013 and 16.10.2013 and pass appropriate orders after affording an opportunity of hearing to the writ petitioner-Temple and any other party concerned in the matter and dispose of those representations, on merits and in accordance with law, on or before 30.11.2017.

13. It is made clear that this Court has not adverted to any of the averments with regard to the conduct of public auction. The parties are directed to inform the High Court of Andhra Pradesh and the Apex Court with regard to the litigation that is pending with regard to the property(ies) in question before the said Courts, so that finality can be arrived at in the pending matters.

14. The petitioner-Temple, represented by its Executive Officer, is directed to appear before the fifth respondent-DRO on 06.10.2017. Apart from the averments made in this Writ Petition, it is open for the writ petitioner-Temple to make further submissions before the fifth respondent-authority when they appear in person and in case the writ petitioner-Temple fails to appear on 06.10.2017, based on the available records, it is open for the fifth respondent to pass appropriate orders on the merits of the matter. The petitioner-Temple and the parties who are interested in the matter, cannot contend that they have no notice about the date of hearing before the fifth respondent, as this Court, in this Writ Petition, has specifically fixed the above date of hearing and their appearance before the fifth respondent-authority.

15. The observation touching the merits of the matter, if any, for the purpose of disposal of this Writ Petition, will not preclude the parties to put forth all their contentions and defence in the pending matters referred to in this order.

16. With the above observations and directions, the Writ Petition is disposed of. No costs. W.M.P. is closed.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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To:

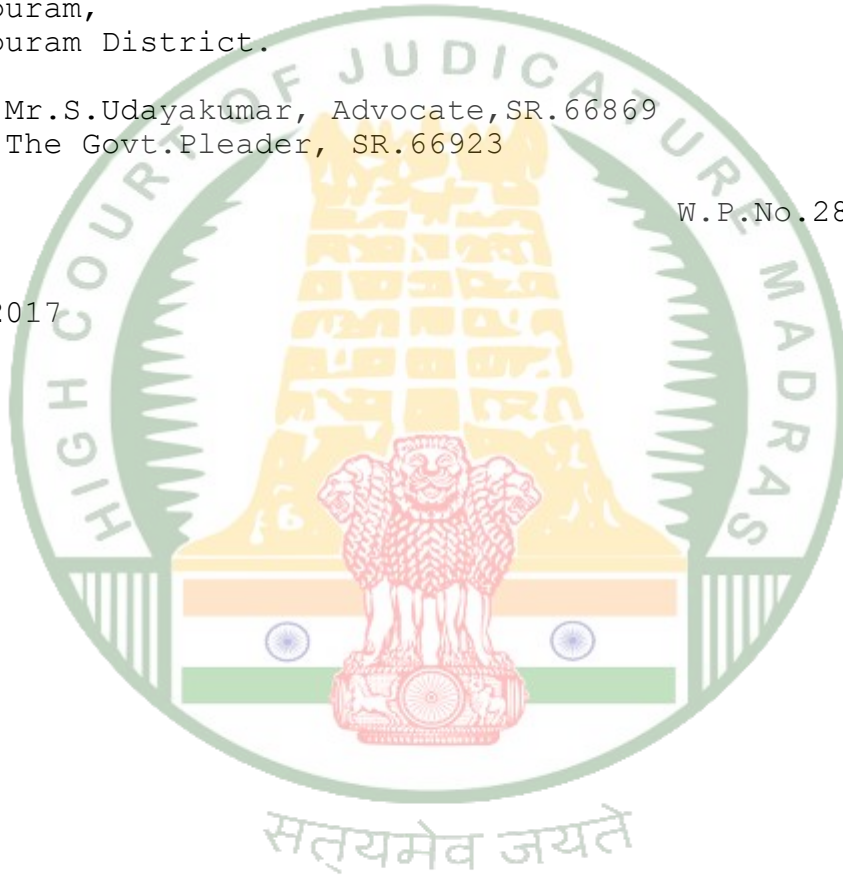
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Villupuram District.

+ 1 cc to Mr.S.Udayakumar, Advocate, SR.66869
+ 1 cc to The Govt.Pleader, SR.66923

W.P.No.28178 of 2014

SCD(CO)
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