

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7793 of 2004
and
W.P.M.P.No.9249/2004

K.Rajam

.. Petitioner

Vs.

1) The District Collector,
Tuticorin District.

2) District Registrar,
Administration, Tuticorin.

3) Sub Registrar, Tuticorin,
Keezhur.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order of the first respondent in Na.Mu.Ka/Na.Ka.4527/04 dated 15.12.2003 and quash the same and consequently direct the third respondent to register the sale deeds executed by the petitioner.

For Petitioner : Mr.T.S.Baskaran

For Respondents : Mr.Akhil Akbar Ali,
Government Advocate

ORDER

The petitioner has come forward with this Writ Petition seeking to quash the impugned order of the first respondent/ District Collector, Tuticorin District passed in Na.Mu.Ka/Na.Ka.4527/04, dated 15.12.2003 and for a consequential direction to the 3rd respondent to register the sale deeds executed by her.

2. According to the petitioner, in respect of the land measuring 247 acres 62 cents in Pulipanjakulam, Tuticorin Taluk, one Martin Ammal Machado claimed permanent occupancy rights and sought Ryotwari patta from the Revenue authorities. Sri Vaikundapathy Swamy Temple authorities have also claimed patta for the same extent of lands stating that the Temple had the grant of both Melvaram and Kudivaram and that its rights have been recognised by the Commissioner through the title deed vide TD 1139.

3. It is the case of the petitioner that the vast area of land measuring 247 acres 62 cents in Pulipanjakulam, Tuticorin Taluk, which is the subject matter of dispute, belongs not only to Sri Vaikundapathy Swamy Temple authorities, but also to a private party. The litigation between the Temple and the private land owners finally landed up in the Supreme Court and the Apex Court modified its order dated 13.12.1999 passed in Civil Appeal No.4448 of 1989 vide order dated 22.02.2001, by which, it held that the Temple would be entitled to 55 acres of land on the Northern side of the property situated on the West of the National Highway and directed to appoint an Advocate Commissioner to demarcate 55 acres of land and sell the remaining land through public auction.

4. Pursuant to the said order of the Apex Court, when the land in question was sought to be sold, the 1st respondent/District Collector passed the impugned order in Na.Mu.Ka/Na.Ka.4527/04, dated 15.12.2003, stating there is overlapping of lands and even the subject matter of the land which has been concluded as belonging to the petitioner, was also directed not to be registered by the Sub-Registrar. Challenging the aforesaid impugned order passed by the 1st respondent, the petitioner is before this Court.

5. Learned counsel for the petitioner submitted that at this distant point of time, several developments have taken place and pursuant to the directions of the Apex Court, one of the legal heirs of Martin Ammal viz., Joe Machado filed O.P.No.181 of 2001 before the Principal District Court, Tuticorin seeking appointment of an Advocate Commissioner to demarcate 55 acres of land as directed by the Supreme Court in the order passed in Civil Appeal No.4448 of 1989.

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

7. It is seen that the land measuring 55 acres earmarked as per the Supreme Court's direction in the said Civil Appeal No.4448 of 1989, which belongs to the Temple authorities, had already been auctioned by the Temple after identifying the land

and the same has been sold and registered. The composite order passed by the 1st respondent/District Collector preventing registration of the document is with regard to not only 55 acres of land belonging to the Government, but also with regard to the remaining 185.18 acres belonging to the joint family (private owners). Pursuant to the filing of C.R.P.(PD).No.2363 of 2002, dated 19.12.2003, this Court upheld the orders of the Principal District Judge, and hence, the order of the District Collector is no longer good in law.

8. From the pleadings and the contentions of the parties, it is clear that the extent of 185.18 acres of land belongs to the petitioner and the same can be sold in its entirety or in parts and the Sub-Registrar has to register the same. Hence, I find that the plea raised by the petitioner is fully justified and the impugned order dated 15.12.2003 passed by the 1st respondent is quashed, as the extent of property mentioned supra belongs to private parties and denying registration of the same is erroneous.

9. The Writ Petition is allowed and the authority concerned is directed to register the land belonging to the petitioner to an extent of 185.18 acres of land either as a whole or in parts, if any sale deed is produced for registration in accordance with law. No costs. Consequently, connected W.P.M.P.No.9249/2004 is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sts/aeb

To:

- 1) The District Collector,
Tuticorin District.
- 2) The District Registrar,
(Administration), Tuticorin.

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3) The Sub Registrar, Tuticorin,
Keezhur.

+1 cc to the Government Pleader sr 56659
+1 cc to Mr.T.S.Baskaran Advocate sr 49986

W.P.No.7793 of 2004

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