

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.02.2018

Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.Nos.1316 and 1317 of 2014

Kesavamoorthy

.. Appellant in both appeals/6th
Respondent in WP.13955/2010 &
5th Respondent in WP.28718 of 2010

Vs.

1.A.C.Chandrashekar

2.The District Collector
Krishnagiri District
Collectorate
Krishnagiri.

3.The District Revenue Officer
Krishnagiri District
Collectorate
Krishnagiri.

4.The Principal Secretary &
Commissioner of Land Administration
Chepauk
Chennai 600 005.

5.The Asst.Commissioner
Hindu Religious and Charitable
Endowments, Salem.

6.The Executive Officer
Arulmighu Anjeneyaswamy Temple
Mathigiri Town & Panchayat
HCF Post, Hosur Taluk
Krishnagiri District.

.. Respondents in W.A.1316/2014/
petitioner &
Respondents 1 to 5 in WP.13955 of 2010.

1.The Executive Officer
Arulmighu Anjeneyaswamy Temple
Mathigiri Town & Panchayat
HCF Post, Hosur Taluk
Krishnagiri District.

2.The Principal Secretary &
Commissioner of Land Administration
Chepauk
Chennai 600 005.

3.The District Collector,
Krishnagiri District
Collectorate
Krishnagiri.

4.The District Revenue Officer
Krishnagiri District
Collectorate
Krishnagiri.

5.The Tahsildar
Taluk Office

Hosur, Krishnagiri District. ... Respondents in W.A.1317/2014/
petitioner &
Respondents 1 to 4 in WP.28718 of 2010

Prayer : Writ Appeals filed under Clause 15 of Letters Patent to
set-aside the order dated 02.09.2014 made in W.P.Nos.13955 and
28718 of 2010, on the file of this Court.

PRAYER IN WP. Nos.13955 and 28718 of 2010:

Petition presented to this Court to

1) to issue a writ of Certiorarified mandamus, calling for
the records relating to the impugned order of the 3rd respondent
in D.Dis. K4/33127/2008 dt 31.3.2010 and quash the same
consequently direct the respondents to restore the lands in
S.No. 566 measuring 2.89 acres and S. No. 692 measuring 0.32
acres in Mathigir village and town panchayat, Krishnagiri
district for the benefit of deity of sri Anjaneyasami Temple at
Mathigiri village by appropriate legal steps(in WP.13955 OF
2010)

2) to issue a writ of Certiorari call for the records of
the 1st respondent herein impugned proceedings in
D.Dis.K4/33127/08, dt.31.3.2010 and quash the same (in WP.28718
of 2010)Respectively.

In W.A.1316/2014:

For Appellant : Mr.K.Govi Ganesan
For R1 : Mr.M.Venkatachalapathy
for Mr.T.Panchatsaram
For R2 to R4 : Ms.Ramya Revathy
Government Advocate
For R5 : Mr.M.Maharaja
Special Government Pleader (HR & CE)
For R6 : Mr.E.Vijay Anand
for Mr.P.Rajendiran

In W.A.1317/2014:

For Appellant : Mr.K.Govi Ganesan
For R1 : Mr.E.Vijay Anand
for Mr.P.Rajendiran
For R2 to R5 : Ms.Ramya Revathy
Government Advocate

C O M M O N J U D G M E N T

[Judgment of the Court was delivered by P.VELMURUGAN, J.]

These writ appeals are directed against the common order passed by the learned Single Judge on 02 September, 2014 in W.P.Nos.13955 and 28718 of 2010.

2 The facts in brief leading to the filing of these intra court appeals are as under:

2.1 The land in Survey No.566, having an extent of 2.89 acres and the land in Survey No.692, having an extent of 0.32 acres, originally belonged to Sri Anjaneyaswamy Temple, Mathigiri Village. The said village being an inam village, the above lands were taken over by the Government under the provisions of the Tamil Nadu Minor Inams (Abolition and Conversion in Ryotwari) Act, 1963 [hereinafter referred to as "the Act"] Thereafter, the Settlement Tahsildar No.I, Salem, by his proceedings dated 30 July, 1968, granted ryotwari patta in the name of Venkatachari, for the above lands as a service holder of the religious institution (Anjaneyaswamy Temple).

2.2 After the demise of the said Venkatachari, his son Kesavamoorthy, the appellant herein, inherited the service grant as well as the said lands. He gifted some extent of land to Panchayat for laying road. He further started alienating the property by way of executing a gift settlement deed dated 20

December, 2004 in favour of his daughter Kalpavalli, on the premise that the said lands belonged to him. Thereafter, fraudulent documents were created in respect of the said lands.

2.3 In the mean time, one Muthuraj, Ward Member of Mathigiri Village, filed a public interest litigation in W.P.No.2317 of 2008 before this Court. This Court, by order dated 29 January, 2008, directed that if the lands had been identified to be encroached by several persons, it can be brought to the notice of the Assistant Commissioner, Hindu Religious and Charitable Endowments Department, for taking appropriate action.

2.4 In this context, the Assistant Commissioner, HR & CE Department, Dharmapuri, vide his proceedings dated 17 March 2008, made complaints to the Sub Collector, Hosur that the said lands were registered in the names of six persons and in the name of panchayat and requested the Sub Collector to cancel the allotments made in their favour and register the lands in the name of the temple.

2.5 On the basis of the complaint received from the Assistant Commissioner, HR & CE Department and on the basis of the report of the Sub Collector, Hosur dated 23 April, 2008, the District Revenue Officer, Krishnagiri, passed an order on 30 September, 2008 holding that the lands belonging to the temple were wrongly registered in the name of the appellant.

2.6 Aggrieved by the same, the appellant filed a revision petition. The Principal Secretary and Commissioner of Land Administration, by order dated 31 March, 2010 set aside the order passed by the District Revenue Officer, Krishnagiri. Feeling aggrieved, the Trustee and Executive Officer of the temple filed the writ petitions in W.P.Nos.13955 and 28178 of 2010.

2.7 The learned Single Judge, by order dated 02 September, 2014, allowed the writ petitions. The said order is under challenge before us.

3 No doubt, the lands in S.Nos.566 and 692 are inam lands belonging to the temple in question and no one has any alienable right and title over the said properties. The inam lands are inalienable in nature, as they were granted only for rendering service. If the endowment is for a religious purpose, conduct of poojas in the temple and the maintenance of the temple are surely for public purpose and for better administration of the temple and the poojaris cannot alienate the property. In the present case, when the inam lands were given to the appellant's father with an obligation to utilise

the income from the properties for the poojas and upkeep of the temple, the alienation of the lands cannot be countenanced.

4 In this regard, it would be apposite to refer to Section 21 of the Act, which indicates that wherever complaints or objections are received against the service holder for non performance of service to the religious institution, the District Revenue Officer concerned can issue notice in the prescribed form and if it is found that there is any violation of the conditions, the Revenue Divisional Officer can cancel the patta issued under Section 8(2)(ii) of the Act to the service holder and transfer the patta in the name of the religious institution.

5 In the present case, when the lands belonging to the temple were given to the appellant's father only as a service holder of the religious institution, the act of the appellant in alienating the property is against the judgment of the Apex Court in Joint Commissioner, H.R. & C.E., Administration Department v. Jayaraman and others [(2006 (1) L.W. 306], wherein, it was held that in respect of the lands belonging to the temple governed by the H.R. & C.E. Act, no alienation is permissible and even under the settlement proceedings, the alienation of the temple property by third party cannot be approved, if the property had been dedicated for the purpose of the temple. In such view of the matter, we find no reason to interfere with the order passed by the learned Single Judge.

In the upshot, we dismiss the intra court appeals. No costs.

Sd/-
Assistant Registrar (CS-vi)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

gms

To

1.The District Collector, Krishnagiri District, Collectorate, Krishnagiri.

2.The District Revenue Officer, Krishnagiri District, Collectorate, Krishnagiri.

3.The Principal Secretary & Commissioner of Land Administration
Chepauk, Chennai 600 005.

4.The Asst. Commissioner, Hindu Religious and Charitable Endowments, Salem.

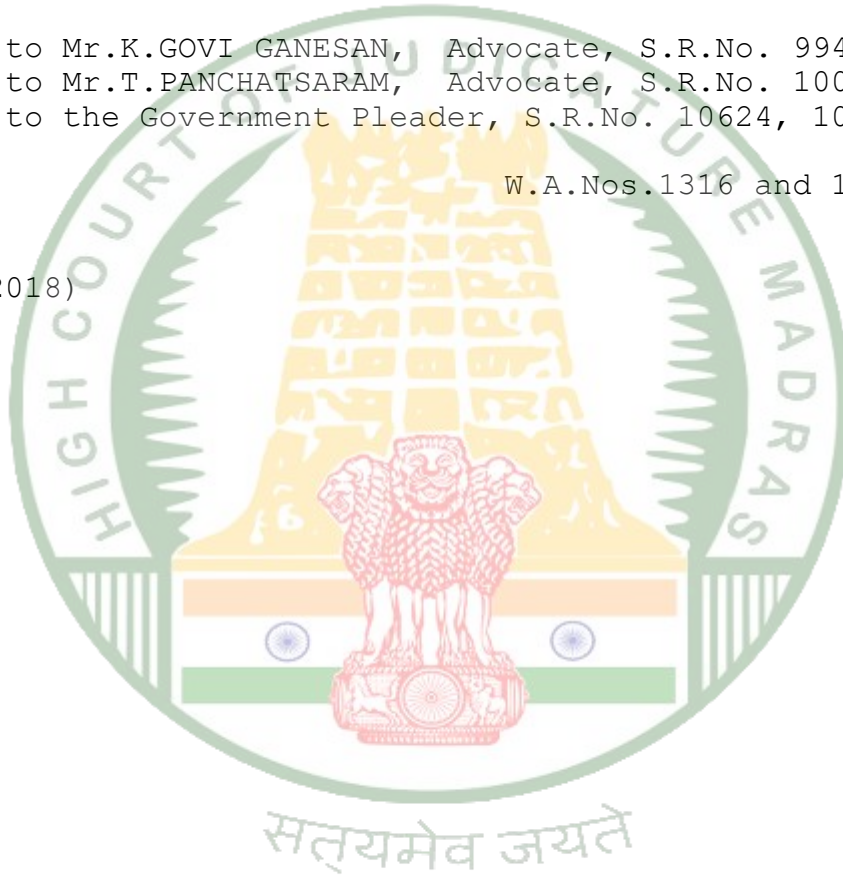
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HCF Post, Hosur Taluk
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6. The Tahsildar, Taluk Office,
hosur, Krishnagiri district.

+1cc to Mr.K.GОВI GANESAN, Advocate, S.R.No. 9946
+2cc to Mr.T.PANCHATSARAM, Advocate, S.R.No. 10001
+1cc to the Government Pleader, S.R.No. 10624, 10125

W.A.Nos.1316 and 1317 of 2014

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TR(26/03/2018)



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