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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2019

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.9291 of 2014

1.S.Muthukumaran

2.S.Munivel

3.G.Mohan

4.B.Santhakumar

5.M.Mani

... Petitioners

Vs.

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Revenue Department,
Fort St.George,
Chennai - 600 009.

2.The District Collector,
Thiruvallur District,
Thiruvallur.

3.The Settlement Tahsildar-III,
Branch Settlement Officer,
No.35, Basheer Sahib Street,
Chengalput,
Kancheepuram District.

4.The Tahsildar,
Gummudipoondi Taluk,
Thiruvallur District.

5.Arulmigu Egavalliamman Temple,
Rep. by its Trustee,
Gummudipoondi,
Thiruvallur District.

... Respondents



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a WRIT OF MANDAMUS, directing the respondent Nos.1 to 4 to consider the representation of the petitioners dated 27.12.2014 for cancellation of the Ryotwari Patta granted to the fifth respondent to the extent of the land which is in the occupation of the petitioners and pass orders for grant patta to the petitioners to the extent of the land in their possession and enjoyment in respect of Survey No.244/1, an extent of 0.91 cents at Old Gummudipoondi Village, Gummudipoondi Taluk, Thiruvallur District.

For Petitioner : Mr.S.Ayyathurai

For R1 to R4 : Mr.V.Shanmuga Sundar
Special Government Pleader

For R5 : Mrs.G.Sumithra

O R D E R

The petitioner has filed the Writ Petition praying to issue a WRIT OF MANDAMUS, directing the respondent Nos.1 to 4 to consider the representation of the petitioners dated 27.12.2014 for cancellation of the Ryotwari Patta granted to the fifth respondent to the extent of the land which is in the occupation of the petitioners and pass orders for grant patta to the petitioners extent of the land in their possession and enjoyment in respect of Survey No.244/1, an extent of 0.91 cents at Old Gummudipoondi Village, Gummudipoondi Taluk, Thiruvallur District.

2.The learned counsel for the petitioners submitted that the petitioners made a representation to the first respondent to cancel the Ryotwari Patta granted by the third respondent Special Tahsildar. The said representation is pending and no order has been passed.

3.The learned Special Government Pleader appearing for the respondent Nos.1 to 4 urged before this Court that the petitioners have been in possession of the property and therefore, the Ryotwari patta granted to the fifth respondent has been challenged before this Court.

4.The learned counsel appearing for the fifth respondent would submit that the aforesaid patta granted in favour of the fifth respondent is under the provision of Tamil Nadu Minor Inam Abolition Act. The said Ryotwari Patta has been granted by the



Settlement Officer. If the petitioners are aggrieved by the said granting of patta in favour of the fifth respondent, the remedy available to the petitioners, have to file a petition before the concerned authority. Therefore, the Government has no jurisdiction to decide the Ryotwari Patta, granted in favour of the Temple.

5.The learned Special Government Pleader would submit that under the Ryotwari Patta, the petitioners have their remedy before the concerned forum. Hence, the writ petition is liable to be dismissed.

6.One T.D.Rukku Reddiar has filed a Writ Petition in W.P.No.3424 of 2012 before this Court, directing the respondent to remove the encroachment in survey No.244/1, Gummidipoondi Village and Taluk belonging to Arulmigu Egavalliamman Temple. The said Writ Petition was dismissed by this Court on 21.11.2012, with a direction to agitate the same in the Civil Court. The aforesaid writ petitioner has filed an appeal in W.A.No.2206 of 2013 before this Court. By order dated 30.01.2018 in W.A.No.2206 of 2013, wherein this Court has observed that there is no question of directing the Hindu Religious and Charitable Endowment Department to take action against the respondents 4 to 10 at the instance of the appellant. In case, it is a temple property, it is always open to the concerned authority to take appropriate action in accordance with law.

7.In view of the aforesaid order, this Court in the light of the provisions of the Tamil Nadu Inam Abolition and Tamil Nadu Minor Inam (Abolition, Conversion) 1963, the relief prayed in the writ petition cannot be granted. In the order passed by the Settlement Officer, Tahsildar dated 29.09.1970, had informed that an appeal against the order lies to the Inams Abolitions Tribunal (Sub Court) Vellore, within three months from the date of communication of the order.

8.Therefore, in the light of the aforesaid facts and circumstances of the case, if the petitioners are aggrieved by the decision of the Settlement Tahsildar, for granting the Ryotwari Patta to the fifth respondent, the petitioners have to seek their remedy by filing an appeal under the provisions of the Tamil Nadu Minor Inam (Abolition, Conversion) Act, 1963 and therefore, the writ petition is not maintainable and the same cannot be entertained under Article 226 of the Constitution of India. Hence, this Court has no hesitation to dismiss the writ petition, with liberty to the petitioner to approach the concerned forum, if so, advised under the provisions of the Tamil Nadu Minor Inam Abolition Act.



9. Accordingly, this Writ Petition stands dismissed with the above liberty. However, there shall be no order as to costs.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
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Thiruvallur.
3. The Settlement Tahsildar-III,
Branch Settlement Officer,
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4. The Tahsildar,
Gummudipoondi Taluk, Thiruvallur District.
5. The Trustee,
Arulmigu Egavalliamman Temple,
Gummudipoondi, Thiruvallur District.

+1cc to Mr.S.Ayyathurai, Advocate Sr.39555
+1cc to M/s.G.Sumitra, Advocate Sr.39504
+1cc to the Government Pleader Sr.39901

W.P.No.9291 of 2014

br[co]
srg 22/08/2019