BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.12.2019
CORAM
THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
W.P.(MD)No.2256 of 2014
and
M.P.(MD)No.1 of 2014

Nagarathinam ... Petitioner
vs.

1.The District Revenue Officer,
Madurai District, Madurai.
2.S.Manickam
3.The Executive Officer / Thakkar,
Arulmighu Gurunathaswamy Thirukovil,
Malakottai, Thirumangalam Taluk,
Madurai District. ... Respondents
(R3 was impladed vide order of this Court in M.P(MD)No.2 of 2011, dated 06.03.2017)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the first respondent made in Na.Ka.No.93755/2010/G2, dated 23.12.2013 and quash the same.

For Petitioner	:Mr.T.Vadivelan
For R1	:M/S.B.Bhagavathi Government Advocate
For R2 and R3	:Mr.K.R.Lakshman

O R D E R

This Writ Petition is filed for issuing a Writ of Certiorari, to quash the impugned order passed by the first respondent, dated 23.12.2013.

2.The brief facts that are necessary for the disposal of this Writ Petition are as follows:

2.1.The petitioner claim patta for the land measuring to an extent of 0.67.50 Hectare equivalent to 1.67 acre in Melakottai Village, Thirumangalam Taluk, Madurai District. It is the case of the petitioner that the land was enjoyed by his fore-fathers from time immemorial by paying tax and that his possession before and after Inam Abolition Act, was recognised. It is also the case of the petitioner that his grandfather was the Poojari of Nadukottai Gurunathasamy Thirukovil and hence, patta was changed in the name of Gurunathasamy Temple Poojary Subba Naicker instead of Gurunathan Poojari @ Subba Naicker.

2.2.It is the specific case of the petitioner that in view of said inadvertent mistake while entering the name of petitioner's fore-fathers in the revenue records, the revenue records bear the name of temple at earlier point of time. The petitioner got the name changed by order of Revenue Divisional Officer, dated 01.11.2010. Thereafter, the Assistant Commissioner, HR & CE Department and the Trustee of Arulmighu Gurunathasamy Temple, Melakottai village filed a review petition before the District Revenue Officer. The District Revenue Officer allowed the review petition and set aside the order of Revenue Divisional Officer, dated 01.11.2010.

2.3.In the order of District Revenue Officer, the revenue records and settlement records, apart from Inam Fair Register, were relied upon. It has been specifically stated in the order of District Revenue Officer that the property, measuring an extent of 1.67 acre in S.No.108/1 in Melakottai Village was treated as minor inam and patta was given in the name of Gurunathasamy Temple, as inam land. Since ryotwari patta was given in favour of the temple to show the property, as a minor inam, as per the "A" register prepared after settlement, the first respondent, District Revenue Officer, held that the property belonged to the temple so as to utilise the income for the purpose of pooja and other services.

3.The claim by the petitioner for getting patta was rejected. Since the order is a speaking order, considering the documents relied upon by the temple authorities as well as the petitioner, this Court is unable to find any error or irregularity to interfere with the order of Revenue Divisional Officer. It is pertinent to mention that the Revenue Divisional Officer though had an occasion to deal with the issue, recorded a finding that no objection has been received from the HR & CE Department or the temple. From the proceedings, it is doubtful, whether notice was issued to the temple authorities or HR & CE Department, before passing the order. The HR & CE department was not cited as a party to the proceedings.

4.In the representation for change of patta to the Revenue Divisional Officer, the temple or HR & CE Department was not made as parties. In such circumstances, this Court is able to see that the petitioner has obtained the order from the Revenue Divisional Officer without impleading necessary parties.

5.Before this Court, the learned Counsel for the petitioner has produced certain documents. Some of the documents are notices issued to one Ramasamy Naicker indicating that proceedings were initiated under Tamil Nadu Survey and Boundaries Act, 1923. The learned Counsel for the petitioner submitted that the property in S.No.68/1 was recognised as property of petitioner's predecessor-in-interest. The contention of the petitioner cannot be accepted, in view of the nature of documents produced by the petitioner.

S.No.68/1, in Melakottai Village has been given under the column exempted boundary, whereas, the details of other survey numbers have been given under the separate table. It is also important to note that the petitioner was later asked to show cause why he should not be evicted from S.No.68/1, in a notice under Land Encroachment Act.

6.From the records, there is nothing to indicate that the petitioner was ever recognised as owner of the property. In other words, the property was treated as the Government land for invoking the provisions of Land Encroachment Act. Few kist receipts has been produced in the name of one Ramasamy Naicker, son of Subba Naicker. The kist receipts, which were issued in favour of one Ramasamy Naicker, show that the petitioner was assessed for penal charges and it is not a receipt for land tax, but, B-memo, as the lands were treated as poromboke.

7.The learned Counsel for the petitioner submitted that no record was produced by the temple to show that the land was enjoyed by the temple. Having regard to the findings of the first respondent that the land was treated always as a land belonging to the Temple, after the proceedings initiated under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. Once a land is taken over and ryotwari patta is granted under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, the ryotwari patta granted to an individual or temple is a document of title. *Prima facie*, this Court is satisfied that the temple has established its title and possession on the basis of revenue records. The order of first respondent is therefore, perfectly valid and this Court is unable to find any error or irregularity or perversity in the order. Hence, this Writ Petition is dismissed and the impugned order, passed by the first respondent, dated 23.12.2013, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

cmr

To

The District Revenue Officer,Madurai District, Madurai.

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-103386[F] dated 04/12/2019)

+1 CC to M/s.SPL GP (SR-103567[F] dated 05/12/2019)

+1 CC to M/s.T.VADIVELAN, Advocate (SR-103784[F] dated 06/12/2019)

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