IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 01.09.2020

Delivered on 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.2224/2019 & WMP.No.2478/2019

1.Kumaresh Gettamaneni
2.G.Jagannathan ..Petitioners/Petitioners

Versus

1. The Commissioner
   Hindu Religious & Charitable
   Endowment Department,
   Nungambakkam, Chennai 600 034.
2. The Assistant Commissioner
   Hindur Religious & Charitable
   Endowment Department
   Thiruvallur.
3. The Sub Registrar
   Ponneri 601 204.
4. S.B.Gandhi
5. The District Revenue Officer
   Thiruvallur District, Thiruvallur. ..Respondents/Respondents

**R5 impleaded vide order dated
04.04.2019 in WMP.No.10807/2019 in
WP.No.2224/2019.

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned letter/order sent/passed in letter bearing Number Na.Ka.No.1051/2011/A2 dated 07.01.2019 by the Assistant Commissioner, Hindu Religious and Charitable Endowment Department, Thiruvallur, the 2nd respondent herein to the 3rd respondent, herein, to quash the same and consequently, direct the Sub Registrar, Ponneri, the 3rd respondent herein not only to release the Sale Deeds already registered and kept pending before the said Office bearing Numbers P112/2017, P113/2017, P209/2018, P212/2018 and P213/2018 but also to register all the Documents in respect of the above referred land measuring 55 cents comprised in Old S.No.117/1A-part and presently bearing New S.No.117/1A1A2 at Old No.113, Thiruvengadapuram, Village, hamlet of New No.58, Thadaperumbakkam Group-I Revenue Village in Ponneri Taluk, Thiruvallur District in Ponneri Taluk, Thiruvallur District, Ponneri Sub Registration District, North Chennai Registration District.

For Petitioners:		Mr.R.Krishnaswamy
For RR 1 & 2	:	Mr.M.Karthikeyan, Spl.GP [HR&CE]
For R3	:	Mr.T.M.Pappiah, Spl.GP
For R4	:	Mr.S.Udhayakumar
For R5	:	Mr.S.N.Parthasarathi, GA

ORDER

(1) This writ petition has been filed challenging the impugned Letter dated 07.01.2019 issued by the 2nd respondent to the 3rd respondent directing the authority not to register any document that is submitted for registration with regard to the subject property.

(2) The case of the petitioners is that the subject property comprised in Old Survey No.117/1A, originally belonged to one Venu Naidu and the patta also stood in his name. He sold a portion of the property and retained nearly 55 cents. The said Venu Naidu died in the year 1999, leaving behind his wife, daughter and three sons. The property was sold in favour of the wife of the 2nd petitioner by a registered Sale Deed dated 11.12.2006. Patta was also issued in favour of the wife of the 2nd petitioner in Patta No.2522. That apart, the other Revenue Records like Chitta and Adangal, also stood in the name of the 2nd petitioner's wife.

(3) The 2nd petitioner's wife developed a house site and she executed a Deed of Settlement in favour of the 1st petitioner, who is her son. The petitioners wanted to deal with the property. However, they were informed that a letter has been received from the 2nd respondent, not to register any documents and therefore, the petitioners were not able to deal with the property and aggrieved by the same, the present writ petition has been filed before this Court.

(4) The learned counsel appearing for the petitioners submitted that the 4th respondent who has nothing to do with the property, seems to have given a complaint as if the property belongs to a temple and the 2nd respondent, even without satisfying with regard to the nature of the property, has mechanically issued a Letter to the 3rd respondent and stopped the petitioners from dealing with the property. The learned counsel further submitted that initially, the property was a Service Manyam [Thachan Manyam] and after the Minor Inam Proceedings were initiated under the Tamil Nadu Minor Inam [Abolition and Conversion into Ryotwari] Act, 1963, the character of the Inam lands was abolished and Ryotwari pattas were given. After the Ryotwari patta was issued, it stood in the name of Venu Naidu and necessary corrections were also carried out in the Revenue Records. Therefore, there is

absolutely no ground to claim that the property belongs to any temple. Hence, the learned counsel submitted that the impugned Letter dated 07.01.2019 issued by the 2nd respondent to the 3rd respondent, is liable to be interfered with by this Court.

(5) Per contra, Mr.M.Karthikeyan, learned Special Government Pleader [HR&CE] appearing on behalf of respondents 1 and 2 submitted that the property in question, is a Manyam land and the enquiry is pending before the District Revenue Officer [DRO] and an appeal has been filed before the Commissioner for Revenue Administration, against the patta issued for the said property and till final orders are passed, the petitioners should not deal with the property and create third party rights.

(6) Mr.S.Udhayakumar, learned counsel appearing on behalf of the 4th respondent submitted that the land in question is a Service Inam and the patta ought not to have been granted in favour of Venu Naidu. The learned counsel further submitted that the 4th respondent gave a complaint before the DRO, Tiruvallur, and requested the cancellation of patta and for restoring the Revenue Records to its original position. It was further submitted that the Revenue Officials also recommended for the cancellation of patta and the 3rd respondent was requested to stop the registration of the documents pertaining to the said property. Thereafter, the District Collector has passed an order, setting aside the order of the Tahsildar and has directed an enquiry by the DRO and also validated the Updating Revenue Registry [UDR] changes. Aggrieved by the same, an appeal has been filed before the Commissioner for Revenue Administration and the same is pending. The learned counsel, therefore, submitted that till final orders are passed by the Commissioner for Revenue Administration, the status quo must be maintained and no third party rights must be created.

(7) This Court has carefully considered the submissions made on either side and the materials available on record.

(8) A careful consideration of the Revenue Records shows that prior to the Minor Inam Abolition Act, S.No.117 was in the category of ''Thachan Manyam''. After the coming into force of the Act, Ryotwari patta was granted and the Updating Revenue Registry [UDR] shows that the patta has been granted in favour of Venu Naidu. Necessary correction has also been done in the Revenue Records. The said Venu Naidu and his family members have even mortgaged the property through a registered Mortgage Deed in the year 1978 and out of the total extent, 28 cents was also sold by Venu Naidu and he retained the remaining 55 cents. After his death, his legal heirs have sold the property in favour of the 2nd petitioner's wife. The patta was also transferred in the name of the wife of the 2nd petitioner. The Revenue Records, viz., Chitta and Adangal, also stand in the name of the 2nd petitioner's wife. The property was subsequently settled in favour of the 1st petitioner, who is her son.

(9) Even though it is claimed that the property belongs to a temple, there is not a scrap of paper to prove the same. When a specific question was put by this Court to the learned Special Government Pleader [HR&CE] appearing on behalf of respondents 1 and 2, it was informed that originally the property was classified as a ''Thachan Manyam''. Therefore, the very basis that the subject property belongs to a temple, is not substantiated with any records. It is merely an ipsi dixit of the 4th respondent.

(10) The District Collector, Tiruvallur, vide proceedings dated 27.04.2015, has in fact, quashed the order of the Tahsildar, Ponneri, wherein the Tahsildar had directed the 3rd respondent to stop the registration of the documents. The District Collector also went on to hold that the UDR registration in Survey No.117/1A and further transactions and patta issued by the Revenue Department, stands valid.

(11) In view of the above, the impugned Letter issued by the 2nd respondent to the 3rd respondent, not to entertain any documents presented by the petitioners, is illegal and it amounts to restraining the petitioners from dealing with their own property. Therefore, the impugned Letter of the 2nd respondent dated 07.01.2019 issued to the 3rd respondent, is hereby quashed. Unless and otherwise someone else establishes a title over the property in the manner known to law, the petitioners cannot be prohibited from dealing with the property. As a consequence, the documents submitted by the petitioners will have to be entertained by the 3rd respondent, if it is otherwise in order.

(12) In the result, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Commissioner
   Hindu Religious & Charitable
   Endowment Department,
   Nungambakkam, Chennai 600 034.

2. The Assistant Commissioner
   Hindur Religious & Charitable
   Endowment Department
   Thiruvallur.

3. The Sub Registrar
   Ponneri 601 204.

4. The District Revenue Officer
   Thiruvallur District, Thiruvallur.

+1cc to Mr.V.Ajay Khose, Advocate in SR.28856
+1cc to the Government Pleader in SR.29261 & 29152

Order in

WP.No.2224 of 2019

SR(CO)

RV(18/09/2020)