

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.29351 of 2013

A.Ramesh, Trustee,
Okkiam Thoraipakkam Vanniyakula Ksathriyar
Welfare Temple Development Trust,
Okkiam Thuraipakkam Village,
Tambaram Taluk, Chennai. .. Petitioner

Vs

1.The District Revenue Officer,
District Revenue Office, Kancheepuram.
2.T.T.K.Duraisingam .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the first respondent pertaining to his proceedings in Na.Ka.No.21404/2012/N3, dated 25.09.2013, and quash the same.

For Petitioner : Mr.G.Arul Murugan

For R1 : Mr.G.B.Rajesh, GA

For R2 : Mr.G.Ranganathan

ORDER

Heard Mr.G.Arul Murugan, learned counsel for the petitioner, Mr.G.B.Rajesh, learned Government Advocate for the first respondent, and Mr.G.Ranganathan, learned counsel for the second respondent.

2. The petitioner has filed this writ petition in the capacity of Trustee of Okkiam Thoraipakkam Vanniyakula Ksathriyar Welfare Temple Development Trust challenging the impugned notice dated 25.09.2013 directing the petitioner and the second respondent/Mr.T.T.K.Duraisingam to appear for an enquiry on 31.10.2013 with regard the claim made by the second respondent for grant of patta in respect of the land in Survey Nos.86/2B and 87/2A2, Okkiam Thuraipakkam Village, Solinganallur Taluk, Kanchipuram District.

3. Though the petitioner has questioned the notice calling upon him to appear for an enquiry, which is not normally entertained by this Court, on deeper consideration of the factual position, it is evidently clear that attempt of the second respondent is to grab the temple property. The earlier incumbent, namely, Mr.S.Sivarasu, then District Revenue Officer, Kanchipuram, had passed a detailed order dated 23.06.2010 in respect of the claim made by the second respondent for grant of patta in respect of the very same land and the claim was outrightly rejected.

4. That apart, the second respondent is an accused in a criminal case lodged by the Inspector General of Registration. Though FIR was quashed by an order passed in CrI.O.P.No.5942 of 2010, dated 10.11.2016, the same was set aside by the Hon'ble Supreme Court by order dated 11.08.2017 passed in S.L.P.(CrI.) No.1487 of 2017 holding that it is not a fit case for quashing the proceedings. At this juncture, it would be beneficial to refer to the entire order passed by the Hon'ble Supreme Court, which is extracted below:-

"1) Leave granted.

2) The present appeal is against a judgment dated 10.11.2016 of the High Court of Judicature at Madras by which F.I.R. No. 407/2007 against the Respondent Nos. 2 and 3 has been quashed. The High Court has held in para 19 that there is nothing to show that the petitioners, with dis-honest intention, got executed the Power of Attorney as well as sale deed in their favour, especially when there is not even a whisper as to their knowledge about the earlier sale deed in favour of the temple.

3) In our opinion, this statement is not correct in view of what is stated in the F.I.R. which reads as follows:-

"Now with a view to again grab the property we come to know that one Mr. T.T.K. Duraisingam son of Mr. A.Gothandaraman

colluding with one Mrs. Sumathi claiming to be the Power Agent of Dillibai, who was a party to all the proceedings earlier have created documents in Doc. No. 1465 of 2006 dated 09.03.2006 and Doc.No.1630 of 2006 dated 16.03.2006 by selling the entire 6.80 acres of land in favour of Mr. T.T.K. Duraisingam which is belonging to the temple Trust. When applied for certified copy of the above documents, we are informed by the Sub-Registrar, Neelangarai that the copies cannot be given as the documents have been referred for under valuation. Whereas the said Mr. T.T.K. Duraisingam relying on these created documents has now filed a case before District Munsiff Court, Alandur in O.S. No. 436 of 2006. Before the Court he has filed the documents attested by Mr. B. Selvaraj, Advocate, Notary Public & Commissioner of Oaths to have been verified with the originals.

Dillibai, Sumathi and T.T.K. Duraisingam have colluded together with the view to cheat the temple Trust and have created documents in their favour and have grabbed the property. The Sub-Registrar, Neelangarai, knowing well that the Document registered in Doc. No. 1465 of 2006 dated 09.03.2006 and Doc. No. 1630 of 2006 dated 16.03.2006 is opposed to public policy as it is a temple property have colluded with them and have allowed to register the sale deeds inspite of specific bar issued by Government Orders. Further we are even denied the certified copy of the Documents when the copy of the document has now been filed by T.T.K. Duraisingam in Court and has also been attested by Commissioner of Oaths to having been verified with original."

4) In this view of the matter, we set aside the judgment of the High Court as this was not a fit case for quashing.

5) The appeal is allowed accordingly."

5. Reading of the above order will clearly show that it is an attempt of the second respondent to grab the temple property. In fact, when the writ petition was entertained, an order of interim stay was granted on 29.10.2013 as the Court was

satisfied that the first respondent cannot review his own order by way of fresh proceedings.

6. What is disturbing that the conduct of the concerned District Revenue Officer, Kanchipuram / first respondent herein. This Court is informed that he is no longer as District Revenue Officer, Kanchipuram, and has been transferred and it is not clear as to where he is presently working, but, the learned Government Advocate submits that he is still in service. The Court is of the prima-facie view that the conduct of the concerned District Revenue Officer also needs to be probed as to whether any complexity between himself and the second respondent. However, this can be only an observation made by this Court, because, the concerned District Revenue Officer is not a party to the writ petition.

7. Learned Government Advocate produced before this Court a letter dated 17.02.2020 of the District Revenue Officer, Chennai Collector's Office, Chennai, stating that the records are not been consigned to his office. To be noted that the writ petition is of the year 2013 and therefore, the question of granting any adjournment at this juncture would not arise.

8. Be that as it may, the chain of events and various orders in the earlier proceedings and unsuccessful attempt of the second respondent before the Civil Court would clearly show that the second respondent is attempting to grab the temple property. Though the impugned proceeding appears to be an innocuous notice of hearing, there is a big background to it and the first respondent attempted to reopen the settled issue, which he is not entitled to do. Even assuming that the concerned District Revenue Officer pleads his innocence, the same cannot be outrightly accepted, because, before issuing notice of hearing, the first respondent was bound to verify the full facts and examine as to whether the claim made by the second respondent is sustainable and without doing so, if mechanically notice is issued for hearing, then it can be safely presumed that the first respondent is exercising his power for malafide reasons and for extraneous consideration.

9. In the light of the above, it is held that the impugned proceedings are wholly without jurisdiction and accordingly, the writ petition is allowed and the impugned proceedings are quashed and the first respondent department are perpetually enjoined from entertaining any application for

transfer of patta at the instance of the second respondent or any third party in respect of the land in question and the patta shall continue to remain in the name of the temple, which now appears to be under the control of the Superintendent of HR&CE Department. No Costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

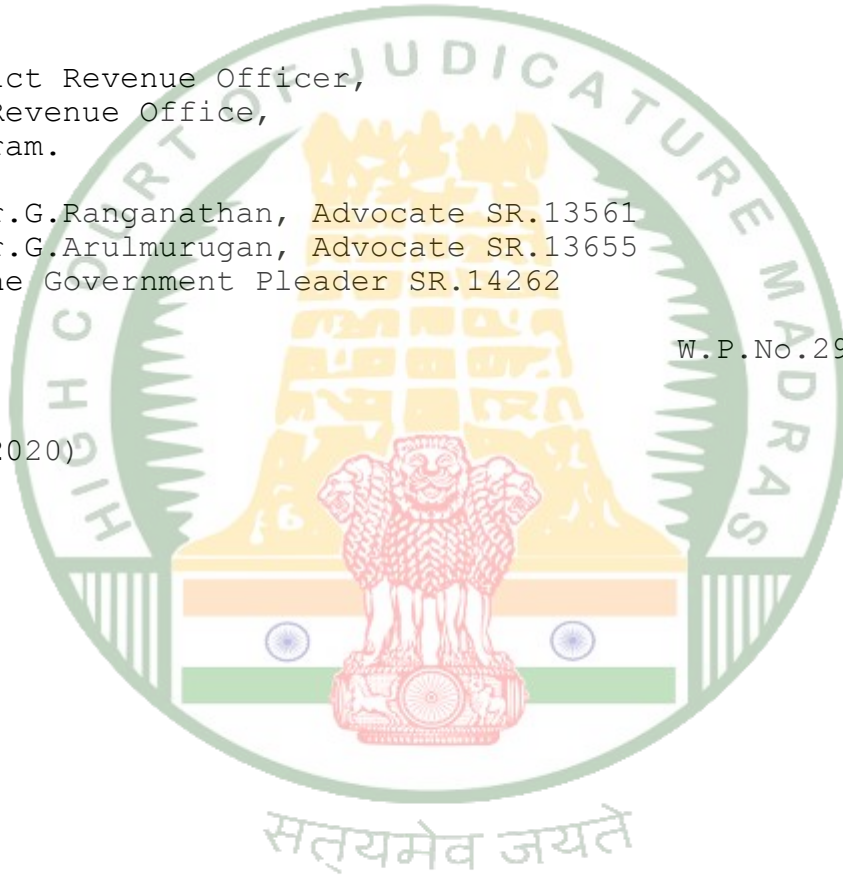
rkm
To

The District Revenue Officer,
District Revenue Office,
Kancheepuram.

+1cc to Mr.G.Ranganathan, Advocate SR.13561
+1cc to Mr.G.Arulmurugan, Advocate SR.13655
+1cc to the Government Pleader SR.14262

W.P.No.29351 of 2013

MR (CO)
CB(16/03/2020)



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