



WEB

Constitution of India and directing the Sub Registrar, Sulur Sub-Registrar's Office, Sulur Taluk, Coimbatore District to register the sale deed executed on 03.02.2009 in favour of the writ petitioner in respect of the land covered in S.No.405, Kannampalayam Village, Sulur Coimbatore District without insisting upon any No Objection Certificate.

2.Assailing the impugned order, learned counsel appearing for the appellant submitted that when the land in question covered in S.No.405, Kannampalayam Village, Sulur Coimbatore District originally belonged to the appellant's temple Arulmighu Thiruvengadanathaswamy and Vaidyanathaswamy Thirukoil by virtue of the order of the Settlement Tahsildar-II, Gobichettipalayam dated 20.07.1967 which clearly speaks that the appellant is entitled to Ryotwari patta for the said land bringing the land under Section 8(2)(ii) read with Section 21(3) of Madras Minor Inams (Abolition and Conversion into Ryotwari) Act 1963, without even impleading the appellant temple as one of the necessary parties, the first respondent, on the basis of the un-registered sale deed dated 02.02.2009 on the file of the second respondent, took out a petition before this Court invoking Article 226 of the Constitution of India seeking writ of mandamus. Continuing his argument, learned counsel appearing for the appellant pleaded that the land in question as mentioned above belongs to the appellant temple and at no point of time, any part of the land has been sold away or alienated or dispossessed by anyone having authority on behalf of the temple. While that being the factual position, on the basis of the un-registered sale deed dated 02.02.2009, the writ petitioner approached the second respondent for registration. However, the second respondent, Sub Registrar of Sulur Taluk, Coimbatore District rightly refused to register the land, entertaining serious doubt stating that the property belongs to the appellant. Aggrieved by the denial of registration by the second respondent Sub Registrar, the first respondent, claiming to be the purchaser of the land, has approached this Court seeking writ of mandamus. In support of his submission that the land in question belongs to the appellant, learned counsel appearing for the appellant, heavily relying on the order dated 20.07.1967 passed by the Settlement Tahsildar-II, Gobichettipalayam issued in favour of the appellant temple, submitted that the writ petition ought not to have been entertained without impleading the necessary parties namely, the appellant in the writ petition. He has also brought to our notice to docket orders dated 03.10.2019 and 04.11.2019 stating that despite repeated service of notice, the first respondent refused to appear before this Court. Learned counsel for the appellant further submitted that knowing pretty well that if the appellant is impleaded, they would be able to expose the weakness and defects in making out his case for issuing the order of mandamus by the learned Single Judge, the first respondent, with an ulterior motive, has chosen not to implead the appellant, who is the competent authority to be



impleaded as a party in the writ petition as the land in question belongs to the appellant.

3.Mr.V.Manoharan, learned Government Advocate appearing for the second respondent supported the case of the appellant on the ground that the land in question belonged to the appellant.

4.We are able to see the order of settlement dated 20.07.1967, which is extracted as under, for the sake of convenience:

'5....I, therefore, hold that the above claimants are entitled to Ryotwari Patta for these lands. In the circumstances, I allow Ryotwari Patta in favour of P.Ws. 1 and 2 above in respect of lands specified in the schedule below under Section 8(2)(ii) read with Section 21(3) of Madras Minor Inams (Abolition and Conversion into Ryotwari) Act 1963 subject to the following conditions:

1.The service holder shall subject to the provisions of sub-sections (3), (4), (6) and (7) of Section 21 be bound to continue to render the service after the appointed day.

2.The service holder shall have the option (a) to pay to the religious institution, the amount specified in sub-section 4 viz. Twenty times the difference between the fair rent in respect of such land determined by the Tahsildar, Tiruppur in accordance with the provisions contained in the schedule and the land revenue due on such land and in the event of such payment, the land shall be discharged from the condition of service.'

5.A mere perusal of the above clearly shows that the land belongs to the appellant. Therefore, the first respondent has no right whatsoever to approach this Court seeking for writ of mandamus directing the second respondent to register the above land, which belongs to the appellant, who has not even alienated or dis-possessed the said land to anyone at any point of time.

6.In the earlier hearings, there was no representation on behalf of the first respondent. Even today there is no representation on his behalf.

7.In view of the above submission made by the learned counsel for the second respondent and also going through the order of Settlement, we are of the considered opinion that when the land belongs to the appellant, the first respondent ought not to have approached this Court, without impleading the appellant as a party in the writ petition.



8. For the reasons mentioned above, the impugned order passed by the learned Single Judge is liable to be set aside and the same is set aside. Accordingly, the writ appeal stands allowed. Consequently, M.P. No.2 of 2011 stands closed. No costs.

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

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To

The Sub Registrar,
Sulur Sub-Registrar's Office,
Sulur Taluk,
Coimbatore District.

+1cc to Government Pleader SR.No.32588

W.A. No.1374 of 2011 and
M.P. No.2 of 2011

SRA (CO)
GMY (02/08/2021)