IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.30406 of 2008

1. Vengulakshmi
2. Muthulakshmi (Died)
3. Vengulakshmi
4. Yamuna (R5 of W.P.)
(P3 and P4 Brought on Record
as Lr's of the Deceased Second Petitioner
vide order dated 29.09.2021
made in W.M.P.No.21157 of 2021
in W.P.No.30406 of 2008) ... Petitioners

-Vs-

1. Tamil Nadu State represented by
Special Commissioner and Commissioner
of Revenue Administration,
Chepauk,
Chennai - 600005.

2. The District Revenue Officer and
District Addl. Presiding Officer,
Erode.

3. The Revenue Divisional Officer,
Dharapuram,
Erode.
4. Natarajan
5. Yamuna ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in Reference Rc.No.29285/2006 C1 dated 18.05.2007 on the file of the second respondent and quash the same and direct the respondents to restore the patta No.229 granted under Tamil Nadu Minor Inam (Abolition and Conversion) into Ryotwari Act 1963 in respect of the lands comprised in Survey Nos.11/4, 12/3, 35, 36/1, 36/2, 82/1, 83/1 and 83 situated at Molarapatti Village, Dharapuram

Taluk, Erode District of an extent of 15.21.5 hectares equivalent to 37.58 acres in favour of the petitioner and fifth respondent.

For Petitioners : Mr.RMD.Rajagopal for Mr.J.R.K.Bhavananantham and Mr.K.Boopalan

For R1 to R3 : Mr.P.Baladhandayutham Special Government Pleader

For R4 : Mr.N.Ponraj

ORDER

This Writ Petition has been filed for the issuance of Writ of Certiorarified Mandamus, to call for the records in Reference Rc.No.29285/2006 C1 dated 18.05.2007 on the file of the second respondent and quash the same and direct the respondents to restore the patta No.229 granted under Tamil Nadu Minor Inam (Abolition and Conversion) into Ryotwari Act 1963 in respect of the lands comprised in Survey Nos.11/4, 12/3, 35, 36/1, 2, 82/1, 83/1 and 84 situated at Molarapatti Village, Dharapuram Taluk, Erode District to an extent of 15.21.5 hectares equivalent to 37.58 acres in favour of the petitioner and fifth respondent.

2.The petitioners are the legal heirs of the Doraisamy Ayyangar. In pursuant to the application filed by their father, to the Hindu Religious and Charitable Endowment Board at Chennai, the learned Assistant Commissioner, Hindu Religious and Charitable Endowment Board, Dharapuram, passed order on 13.11.1944 holding that Sri Venkatesa Perumal Koil, Kallivalasu, Molarapatti Village, Pongalur Thoguthi was exempted under Section 11 and Section 8(5) of the Hindu Religious and Charitable Endowment Act, 1927 and said that the temple was not within the purview of Hindu Religious and Charitable Endowment Board. During his lifetime, their father applied for grant of Ryotwari Patta in respect of the land comprised in Survey No.42 under the Ryotwari Patta to an extent of 27.57 acres, in Survey No.227/2, to an extent of 5.11 acres, in Survey No.66/2 part to an extent of 4.68 ½ acres, in Survey No.99/1 to an extent of 0.62 cents, in Survey No.99/3 to an extent of 12.57 acres and in Survey No.223 to an extent of 12.72 acres in the name of the deity Sri Varadaraja Perumal Temple, Kallivalasu and service inam is in individual name as Poosari Doraisamy Ayyangar. The Settlement Tahsildar No.III, Erode, passed an order dated

12.09.1970 and granted patta in favour of their father. Thereafter, the petitioners are in possession and enjoyment of the same. However, the fourth respondent filed an application before the Tahsildar, raising objections against the grant of patta in favour of their father on the ground that the Ryotwari Patta should have been granted to the deity of Sri Varadaraja Perumal Temple, Kallivalasu, but not to the individual. After examining the documents, the third respondent passed an order that the petitioner's father was entitled for patta in the individual name also.

3.The fourth respondent has no locus to invoke the jurisdiction of the Revenue Authority nearly after 24 years to challenge the grant of patta in the name of their father. Therefore, it is a time barred one under the Tamil Nadu Minor Inam (Abolition and Conversion) into Ryotwari Act 1963. It cannot be reopened by the second respondent and it is not the competent authority constituted under the Tamil Nadu Minor Inam (Abolition and Conversion) into Ryotwari Act 1963, to entertain the revision filed by the fourth respondent. The second respondent ought to have considered the relevancy of provisions of Section 21 of the Tamil Nadu Minor Inam (Abolition and Conversion) into Ryotwari Act 1963. Without considering the same, the second respondent allowed the appeal filed by the fourth respondent by the impugned order dated 18.05.2007, reversing the order dated 07.03.2005.

4.Though the petitioners preferred revision before the first respondent as against the order passed by the second respondent, it was returned and directed to approach the competent Court of Law for remedy for the reason that by virtue of G.O.Ms.No.409/Revenue SS-1-2, dated 02.07.2008, since, the Government had withdrawn the provisions of second Revisional Powers from the Special Commissioner and Commissioner of Land Administration on transfer of Registry cases under Revenue Standing Order 31-8.

5.Mr.RMD.Rajagopal, the learned counsel for the petitioners would submit that the fourth respondent has no locus to invoke the jurisdiction of Revenue Authority after long lapse of 24 years, challenging the grant of patta in favour of the petitioners' father. It is also a time barred one under the Tamil Nadu Minor Inam (Abolition and Conversion) into Ryotwari Act, 1963. He vehemently contented that the second respondent is not the competent authority to take as appellate authority under the Tamil Nadu Minor Inam (Abolition and Conversion) into Ryotwari Act, 1963, to entertain the revision filed by the fourth respondent. The second respondent has no jurisdiction to interfere with the patta granted by the competent authority.

6.In support of his contentions, he relied upon the judgment of this Court in 2019-3-LW.103 in the case of "Sennimalai Gounder (Died) & others Vs. Additional District Magistrate & District Revenue Officer, Coimbatore, Office of the District Revenue Officer, Coimbatore and others".

7. The second respondent filed counter and revealed that the fourth respondent had filed a petition before the second respondent, alleging that before 2002, the name of the temple i.e. Arulmigu Venkatesa Perumal Temple was appeared in Patta No.229 to an extent of 15.21.5 hectares in S.F.No.11/4 etc., which were Devadaya Inam lands. The Tahsildar, Dharapuram by an order dated 09.09.2005, recommended to delete the name of the temple and allowed to continue in the name of the petitioners.

8.The Revenue Divisional Officer, Dharapuram, after conducting the enquiry on 13.12.2005, recorded the statements of the fourth respondent and the petitioners along with the Village Administrative Officer, Molarappatti Village, Dharapuram Taluk and on perusal of the revenue records passed an order dated 17.03.2006 to include the name of the temple i.e. Kallivalasu Arulmigu Venkatesa Perumal Kovil along with the name of the petitioners herein, who are the daughters of the said Doraisamy Ayyengar appeared in Patta No.229 in respect of the property comprised in S.F.Nos. 11/4, 12/3, 35, 36/1, 36/2, 82/1, 83/1 and 84 to an extent of 15.21.5 hectares. Aggrieved by the same, the petitioners filed review before the second respondent alleging that the third respondent is not the jurisdiction to pass orders in effecting the changes in the Village Revenue Records. On receipt of the same, the second respondent conducted an enquiry on 02.02.2007 and passed the order impugned in this Writ petition.

9.The learned counsel for the fourth respondent submitted that the petitioners also filed a suit for permanent injunction as against the fourth respondent herein in O.S.No.511 of 2004 on the file of the District Munsif Court, Dharapuram in respect of the very same property. The Trial Court held that the petitioners have no independent right except as Dharmakartha for the suit property and the fourth respondent is held to be a lessee of the suit property. Therefore, the petitioners have no independent right over the subject property and they are not entitled to claim any relief for permanent injunction. Further, held that the fourth respondent is a lessee to the subject property and dismissed the suit.

10.Heard, Mr.RMD.Rajagopal, learned counsel appearing for the petitioners, Mr.P.Baladhandayutham, learned Special Government Pleader appearing for the respondents 1 to 3 and Mr.N.Ponraj, learned counsel appearing for the fourth respondent.

11.The Hindu Religious and Charitable Endowment Board, as per Section 9(5) of the Hindu Religious and Charitable Endowment Act, 1927, by an order dated 13.11.1944 exempted the deity Sri Venkatesa Perumal Koil, Kallivalasu from the temple land. But during the enactments of the Madras Minor Inams (Abolition and Conversion) into Ryotwari Act, 1963, which applies to all Minor Inams in the State of Madras. The Assistant Settlement Officers were appointed under Section 5 of the said Act and having their own jurisdiction. The Settlement Tahsildar, by an order dated 12.09.1970 included the name of the temple i.e.Arulmigu Kallivalasu Venkatesa (Varadaraja) Perumal along with other pattadars. However, aggrieved by the same, the petitioners' father did not file any appeal to the Inam Tribunal.

12.The learned counsel for the petitioners relied upon the judgment of this Court in 2019-3-LW.103 in the case of "Sennimalai Gounder (Died) & others Vs. Additional District Magistrate & District Revenue Officer, Coimbatore, Office of the District Revenue Officer, Coimbatore and others".
and this Court held that the Sub-Collector, does not have jurisdiction under the Tamil Nadu Minor Inams Act to initiate the proceedings and cancel the Ryotwari pattas issued under the statute because the power and jurisdiction, in this regard, is expressly conferred on the Tribunal i.e. the designated Sub-Court concerned.

13.As stated supra, as against the order dated 12.09.1970, admittedly, the petitioners' father did not file any appeal to the tribunal. Therefore, the petitioners are not entitled for any claim in deleting the name of the deity from the Patta No.229. That apart, as per the Revenue Standing Order 116(1), the full exercise of the authority vested in the Collector by the regulations, and delegable by him to his Sub-Ordinate Officers, is left entirely to the Divisional Officer within his revenue division.

14.Therefore, the second respondent has got power to pass orders. Hence, the above judgment cited by the learned counsel for petitioners, is not helpful to the case on hand. In view of the Judgment passed in O.S.No.511 of 2004, dated 06.07.2012, filed by the petitioners as against the fourth respondent for permanent injunction in respect of the subject property is held as follows,

> "The plaintiffs have sought the relief of Permanent Injunction not to disturb with their peaceful possession and enjoyment of the suit properties. Under Issue Nos 2 and 3 it has been decided by this Court that the plaintiffs have no independent right except as Dharmakartha for the suit property and the defendant is held to be a lessee of the suit property. So, when it has been decided that the plaintiffs have no independent right in the suit properties they are not entitled to claim the relief of Permanent Injunction. Further as it is held that the defendant is a lessee to the suit properties, the claim of the plaintiffs for Permanent Injunction is hereby declined. Hence, the issue is answered accordingly"

15.In view of the above, this Court finds no infirmity or illegality in the order passed by the second respondent and the writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Mn

To

1. The Special Commissioner and Commissioner,
Revenue Administration,
State of Tamilnadu,
Chepauk, Chennai - 600 005.

2. The District Revenue Officer and
   District Addl. Presiding Officer,
   Erode.

3. The Revenue Divisional Officer,
   Dharapuram, Erode.

+1cc to Mr.JRK Bhavananantham, Advocate SR.No.66692
+1cc to Mr.N.Ponraj, , Advocate SR.No.65946
+1cc to the Government Pleader SR.No.66083

W.P.No.30406 of 2008

CA(CO)
GN(23/12/2021)