



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN
W.P.No.11338 of 2021

P.C.Sakunthala,
W/o. M.Chandra Mohan

... Petitioner

Vs.

1. The Inspector General of Registration,
Santhome High Road,
Pattinampakkam,
Chennai-600 0028.

2. The Joint Sub-Registrar - II,
Tiruppur.

3. The Executive Officer,
Arulmigu Visweswara Swamy Temple,
Tiruppur.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to quash the impugned refusal check slip issued by the 2nd respondent in Refusal No.RFL/2 Number Joint Sub-Registrar, Tiruppur -2/2021 dated 23.04.2021 and further direct the 2nd respondent to admit and register the Settlement deed to be executed by the petitioner herein in favour of her son C.Suresh Kumar with respect to land measuring an extent of 0.20 acre and 252 sq.ft. together with a shed thereon out of 13.24 acres comprised in old S.F.Nos.262, 263/A & 263/2 of Tiruppur village now in T.S.No. 99/1, Block No.11, Ward - G of Tiruppur Town.

For Petitioner : Mr.V.P.Sengotturvel

For Respondents: Mr.K.M.D.Muhilan,
Government Advocate for R1 & R2

Mrs.G.Sumitra for R3

O R D E R

(The case has been heard through video conference)

The Writ Petition has been filed challenging the order passed by the 2nd respondent refusing to register the settlement



deed on the ground that the 3rd respondent temple has raised objection for registering the document under Sec.22-A of Registration Act.

2. According to the petitioner, originally, lands are inam land. The petitioner's grandfather purchased the property in the year 1933 and subsequently, by an order dated 11.06.1968, the Settlement Tahsildar-II, Gobichettipalayam, has issued a ryotwari patta in favour of petitioner's grandfather under Sec.8 (2)(i)(b) of Madras Minor Inams (Abolition and Conversion into Ryotwari), Act, 1963 on payment of 20 times of difference between fair rent in respect of the said land. Thereafter, the petitioner's grandfather has also paid entire amount and the revenue authorities also issued patta. The petitioner is the daughter of original patta holder of A.K.Palanisamy, and in the family partition, the property was allotted to her, and she has become absolute owner of the same. Now, the petitioner wants to execute settlement deed in favour of her son and the same was produced before the 2nd respondent for registration. However, the 2nd respondent refused to register the same and issued a refusal check slip stating that the 3rd respondent raising objections regarding ryotwari patta granted to them. Challenging the same, the present writ petition has been filed by the petitioner.

3. Mr. V.P.Sengottuvel, learned counsel appearing for petitioner would submit that, ryotwari patta has been granted as early as 1968 in favour of petitioner's grandfather. Thereafter, as per the order, entire amount has been paid, Patta was also granted to him and he was in continuous possession and enjoyment of the property. Subsequently, the property in issue was allotted to the petitioner in a partition and she is in possession continuously. According to the petitioner, against the order passed by Assistant Settlement Officer dated 10.11.1968, the 3rd respondent did not file any appeal and thus, the order has become final. So far, the temple has also not filed any suit claiming title over the property. In the said circumstances, it is not open to the temple to raise the objections for registering settlement deed. The learned counsel would relying upon the judgment of Division Bench of this Court reported in 2017 (1) Writ Law Reporter in the matter of Sudha Ravikumar vs. The Special Commissioner and Commissioner, HR & CE, submitted that, if at all, any objection raised by the temple, the 2nd respondent would have issued a notice to the petitioner and said to have conducted enquiry. Without doing so, the 2nd respondent has mechanically rejected the same.

4. Mrs.G.Sumitra, learned counsel appearing for 3rd respondent would vehemently contend that, originally, it is a inam land and even though originally patta has been granted by the Assistant Settlement Officer, the petitioner did not pay the



amount as directed by the Settlement Tahsildar and the temple register does not contain any details regarding payment. Unless the amount as directed by the Settlement Tahsildar was paid, the petitioner's grandfather is not entitled to get patta. In the said circumstances, he cannot claim title over the property. She would also submit that since the property belongs to temple, they have rightly raised the objections under Sec.22-A of Registration Act. Considering his objections, the 2nd respondent has rightly passed an order refusing to register settlement deed and there is no infirmity in the order passed by 2nd respondent. Accordingly, this Writ Petition is liable to be dismissed.

5. Heard the rival submissions made by learned counsel appearing for petitioner, learned Government Advocate appearing for respondents 1 and 2 as well as learned counsel appearing for 3rd respondent and perused the records.

6. On perusal of records, it could be seen that on 10.11.1968, a ryotwari Patta has been granted in favour of one A.K.Palanisamy by the Assistant Settlement Officer under the Act 30 of 1963, who claims to be grandfather of the petitioner. Now, according to the petitioner, in a family partition, the property has been allotted to the petitioner and she is enjoying the same. It is not in dispute that, against the order passed by Assistant Settlement Officer, the temple did not file any appeal and thus, the order has become final. However, it is also settled law that, even though, ryotwari patta has been issued in favour of petitioner, it is always open to the temple to file a suit claiming title over the property. Admittedly, as on today, no suit has been filed by the temple. In the said circumstances, as on today, temple cannot resist the 2nd respondent to register the document stating that the property belongs to temple, but it is now submitted by the 3rd respondent that, pursuant to the order passed by the Settlement Officer, the land cost was not paid by the petitioner. However, considering the objections raised by learned counsel appearing for 3rd respondent temple, and as per the order passed by Division Bench of this Court, the 2nd respondent should conduct enquiry by affording reasonable opportunity to the petitioner.

7. Considering the materials placed on record, in the instant case, no opportunity was given to the petitioner and the 2nd respondent has unilaterally refusing to register the settlement deed. In the above circumstances, the impugned order passed by the 2nd respondent is in violation of principles of natural justice and the same is liable to be set aside. Thus, the impugned order passed by the 2nd respondent is set aside. However, the 2nd respondent Joint Sub-Registrar is directed to issue notice to the petitioner as well as 3rd respondent and conduct enquiry after giving opportunity to the petitioner for



raising their objections and directed to pass orders on merits and in accordance with law. The above exercise shall be completed within a period of eight weeks from the date of receipt of copy of this order. Accordingly, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Inspector General of Registration,
Santhome High Road,
Pattinampakkam,
Chennai-600 0028.
2. The Joint Sub-Registrar - II,
Tiruppur.
3. The Executive Officer,
Arulmigu Visweswara Swamy Temple,
Tiruppur.

+lcc to Mr.V.P.Sengotturvel, Advocate SR.No.31352

+lcc to Mrs.G.Sumitra, Advocate SR.No.31126

W.P.No.11338 of 2021

AK II(CO)

B.VC(05.08.2021)