



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.17097 of 2021

T.K.Mohamed Shagee

... Petitioner

vs.

1. The Sub Registrar,
Sub Registrar's Office,
Sulur - 641 402,
Coimbatore District.
2. The Commissioner of HR and CE,
Chennai.
3. The Executive Officer,
Arulmigu Thiruvankadanatha Perumal Arulmigu
Vaithianathaswamy Thirukkoil Temple,
Coimbatore.

... Respondents

(R2 and R3 suo motu impleaded vide
order dated 16.08.2021 made in W.P.No.17097/2021)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent herein to register the Sale Deed document dated 21.10.2020 pending before the respondent herein under pending document No.88 of 2020 forthwith and consequently release the same to the petitioner herein.

For Petitioner :	Mr.T.R.Rajagopalan (Senior Counsel) for Mr.Susindran
For R1 :	Mr.Yogesh Kannadasan Special Government Pleader
For R2 and R3 :	Mr.T.Chezhian Additional Government Pleader (HR and CE)



ORDER

This writ petition has been filed to issue a Writ of Mandamus, directing the 1st respondent herein to register the Sale Deed dated 21.10.2020 pending before the 1st respondent herein under pending Document No.88 of 2020 forthwith and consequently, to release the same to the petitioner herein.

2. The case of the petitioner is that the property comprised in S.No.21/2 ad-measuring to an extent of 6.37 acres situated at Kannampalayam Village, Palladam Taluk (Now Suler Taluk), Coimbatore District, owned by one Thirumoorthy and other sons of Perumal Naidu by virtue of Partition Deed dated 19.10.1932 under registered vide Document No.1922 of 1932 on the file of the Sub-Registrar, Suler Taluk. The said land was Inam Land and the Settlement Tahsildar-II, Gobichettipalayam, by his proceedings in SR.No.768/MI Act/Palladam Taluk/67 dated 20.07.1967 passed an order directing the Tahsildar, Palladam, to issue Ryotwari Patta to Thirumoorthy Naidu and his brothers under Section 21 (3) of Madras Minor Inam (Abolition and conversion into Ryotwari) Act, 1963. The said Thirumoorthy died on 09.07.1990. After his demise, his legal heirs sold the said property in favour of Mrs.M.Sivagami and Mrs.Kalaivani by the Sale Deed dated 30.06.2005 registered vide Document No.3926 of 2005.

3. Thereafter, on 22.09.2014 the said Mrs.M.Sivagami and Mrs.Kalaivani have sold the property in favour of one Mr.J.Saravanan registered vide Document No.9084/2014. Thereafter, the patta was also issued in favour of him in Patta No.2215. In turn, he sold the property in favour of the petitioner by the registered Sale Deed dated 21.10.2020 and the same was presented before the 1st respondent for registration. It stood pending in Pending Document No.88/2020. It was refused to register by the 1st respondent for the reason that the Tamil Nadu Hindu Religious and Charitable Endowments Department had given a letter dated 05.02.2013 objected the registration of the sale deed and by a letter dated 02.12.2020 in Na.Ka.No.403/2020 directed the petitioner to obtain no objection letter from the Tamil Nadu Hindu Religious and Charitable Endowments Department for registration of the petitioner's sale deed.

4. The learned Senior Counsel appearing for the petitioner submitted that when the petitioner's vendor presented the sale deed dated 22.09.2014 for registration and the same was duly registered vide Document No.9084/2014. Even on the date of registration, the alleged objection raised by the Tamil Nadu Hindu Religious and Charitable Endowments Department was pending



on the file of the 1st respondent. However, the same was registered and only the sale deed presented by the petitioner now is kept pending for the reason that the predecessors in title over the property, the title was provided with Ryotwari Patta for the subject land sought to be registered for sale by the Government Authority and the said patta still stands in the name of the petitioner's vendor. He also relied upon the judgment of the Hon'ble Division Bench of this Court reported in 2017 (3) CTC 135, which reads as follows:-

"Therefore in our considered view, once patta has been issued under either the Tamil Nadu Estate (Abolition and conversion into Ryotwari) Act, 1963 and the Tamil Nadu Minor Inams (Abolition and conversion into Ryotwari) Act, 1963, it is for the temple to establish its title before the Civil Court. The Registrar is bound to act on the basis of the Ryotwari patta issued by the authority concerned and he shall not refuse to register the said deeds. As we have already pointed out the remedy for the religious institution is to approach the Civil Court or appropriate remedy."

5. In view of the above, the Hon'ble Division Bench of this Court held that the 1st respondent ought to have registered the sale deed presented for registration in Pending Document No.88/2020 in view of the fact that the Ryotwari Patta was issued in favour of the petitioner's predecessors in title for the land sought to be registered under the said document.

6. While pending the writ petition, the 2nd and 3rd respondents were impleaded and the 3rd respondent filed counter affidavit dated 20.11.2021, stating that the subject property is exclusively belongs to the minor Deity of the 3rd respondent/Temple by way of 'Malaikurri Manibam', which was confirmed in the order dated 20.07.169 in S.R.No.768/NI Act/Palladam Taluk, issued by the Court of the Settlement Tahsildar, Gobichettipalayam. The Inam lands are granted with burden of service only. The said Manibathar or their successors have no legal right to sell the said Manibam property. It shall automatically come under the exclusive right of the minor Deity of the suit temple, if the said Manibathars failed to do the said Manibam work. If they had made any alienation on the said property, then the said sale proceedings shall become null and void and had no legal validity in it. Therefore, the Tamil Nadu Hindu Religious and Charitable Endowments Department raised objections even as early as on 05.02.2013 itself. Mere registration of the earlier sale deed dated 22.09.2014 does not take away the legal rights of the minor Deity of the suit temple.



7. Further, revealed that the subject property which was granted for the support of Thiruvankadanatha Swamy Temple of Sulur. Subsequently, after the enactment of the Tamil Nadu Minor Inams (Abolition and conversion into Ryotwari) Act, 1963 and as per the said Act, the Special Settlement Tahsildar, Gobichettipalayam was appointed to deal with the subject property. The Special Settlement Tahsildar, Gobichettipalayam, by his proceedings in S.R.No.768 of 1967, dated 20.07.1967 granted patta under Section 8(2)(ii) of the Ryotwari Section 21 (3) of the Minor Inams (Abolition and conversion into Ryotwari) Act, 1963 in favour of the Thirumurthy Naidu son of Perumal Naidu, to an extent of 13.63 acres comprised in S.F.Nos.21/1 and 21/2, Sulur Village and imposed condition that the service holders should enjoy the lands but to continue to do the service. Therefore, the condition patta had granted in favour of Thirumurthy for doing service for the said temple. Hence, the 3rd respondent/temple is the absolute owner of the property in S.F.Nos.21/1 and 21/2 in Sulur Village. As per Section 21(6)(b), if service holders fail to do service to the said temple, the property shall absolutely belongs to the Religious Institution.

8. In this regard, the Tahsildar had also called for objection on 21.09.2021, on the request made by the 3rd respondent/temple. Therefore, it is pending before the Tahsildar for adjudication. In fact, the petitioner's vendor purchased the subject property and his sale deed was duly registered vide Document No.9084/2014 on 22.09.2014 by the 1st respondent herein.

9. As held by the Hon'ble Division Bench of this Court in the judgment reported in 2017 (3) CTC 135, once patta has been issued under either Tamil Nadu Estate (Abolition and conversion into Ryotwari) Act, 1963 and the Tamil Nadu Minor Inams (Abolition and conversion into Ryotwari) Act, 1963, it is for the temple to establish its title before the Civil Court. The Registrar is bound to act on the basis of the Ryotwari Patta issued by the authority concerned and he shall not refuse to register the said deeds.

10. In view of the above, the 1st respondent is directed to register the sale deed which was presented for registration dated 21.10.2020 under Pending Document No.88 of 2020 and release the same to the petitioner. However, the 3rd respondent is at liberty to file a suit to establish his title over the property. The registration of the sale deed dated 21.10.2020 subject to the result of the suit, if any.



WEB COPY

11. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Sub Registrar,
Sub Registrar's Office,
Sulur - 641 402,
Coimbatore District.
2. The Commissioner of HR and CE,
Chennai.
3. The Executive Officer,
Arulmigu Thiruvankadanatha Perumal Arulmigu
Vaithianathaswamy Thirukkoil Temple,
Coimbatore.

+1cc to Mr.T.Susindran, Advocate, S.R.No.67115

+1cc to the Special Government Pleader (HR&CE), S.R.No.67627

+1cc to the Government Pleader, S.R.No.68281

W.P.No.17097 of 2021

AD(CO)
SU(12/01/2022)