

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 41268 of 2016 & 7026 of 2017
and W.M.P. Nos. 35241 & 35240 of 2016 and 7656 of 2017

A.Venkatasubramaniam Petitioner in W.P. No.41268 of 2016

S.Palanisamy Petitioner in W.P. No.7026 of 2017

Vs

1.State represented by

The Inspector General of Registration,
No.100, Santhome High Road,
Santhome, Chennai - 600 028.

2.The Sub Registrar,

Pollachi, Coimbatore District.

3.The Executive Officer,

A/m. Subramania Swamy Thirukoil,
Pollachi.

... Respondents in both the Writ Petitions

PRAYER in W.P. No.41268 of 2016 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus or any other appropriate Writ, Direction or Order in the nature of a Writ, to call for the entire records relating to the impugned order of the second respondent in his Check slip No.714 of 2016 dated 10.11.2016 and to quash the same and consequently direct the second respondent herein to entertain and to register the instruments, such as Sale Agreement, Sale Deed and any other instruments in respect of the lands comprised in the above Survey Nos.1/2A and 15A situated in A.Sangampalayam Village, Pollachi Taluk, Coimbatore District.

PRAYER in W.P. No.7026 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus or any other appropriate Writ,

Direction or Order in the nature of a Writ, to call for the entire records relating to the impugned order of the second respondent in his Check slip No.82 of 2017 dated 14.12.2017 and to quash the same and consequently direct the second respondent herein to entertain and to register the instruments, such as Sale Agreement, Sale Deed and any other instruments in respect of the lands comprised in the old S.F. No.15B2 and S.F. No.15B2/2A1, in Patta No.69 situated in A.Sangampalayam Village, Pollachi Taluk, Coimbatore District.

For Petitioner : Mr. K.Doraisamy
(in both Petitions)

For Respondents 1&2 : Mr. B.Kannan
Government Advocate
3 Ms. R.Meenal
(in both Petitions)

C O M M O N O R D E R

These Writ Petitions are filed challenging the order of Sub Registrar, Pollachi, Coimbatore District, in the Check Slip No.714 of 2016 dated 10.11.2016 and Check Slip No.82 of 2017 dated 14.02.2014, and to direct the second respondent herein to register the instruments namely the sale agreements or sale deeds or any other instruments in respect of lands comprised in the old S.F. No.15B2 and S.F. No.15B2/2A1, in Patta No.69 situated in A.Sangampalayam Village, Pollachi Taluk, Coimbatore District.

2. Brief facts that are necessary for the disposal of this Writ Petition are as follows.

The lands in Survey Nos.1/1, 1/2A and 15A, 15B2, 17/8 situated at A.Sangampalayam Village, Pollachi Taluk, Coimbatore District, appear to have been assigned in favour of One Kuppayan who was the then Poojari of Arulmigu Subramania Swami Thirukoil, Pollachi. It is stated in the accompanying affidavit filed in support of this Writ Petition that the said assignment by way of Jari man Patta was by the then District Collector of British Government in the year 1805. The Tamil Nadu Government enacted Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari Act) (hereinafter referred as "the Act") in 1963 and settlement proceedings were initiated. It appears that there was a dispute with regard to the title of the property. While the legal heir of Kuppayan claimed Ryotwari patta in respect of the lands, the third respondent temple also applied for Ryotwari patta in terms of the provisions of the Act. It is now admitted that the patta in favour of one Subbulakshmi Ammal who is the legal heir of Kuppayan was issued and that the settlement proceedings have

become final. Even thereafter, the temple filed a suit in O.S.No.187 of 1990, before the Sub Court, Udumalpet, against the said Subbulakshmi for declaration of title in respect of Ryotwari lands comprised in Survey Nos.1/1, 1/2A and 15A, 15B2, 17/8 situated at A.Sangampalayam Village, Pollachi Taluk, Coimbatore District. The suit claiming title over the property was dismissed and a further appeal was also dismissed in A.S. No.153 of 1999. Thereafter, the temple preferred S.A. No.2137 of 2001 and the second appeal was also dismissed on 21.12.2001. The temple thereafter preferred a Special Leave Petition before the Hon'ble Supreme Court and then the matter was remanded to this Court to decide the Second Appeal afresh. Thereafter, this Court heard the Second Appeal and dismissed the Second Appeal on 29.04.2015. The judgment of this Court in the Second Appeal was also confirmed by the Hon'ble Supreme Court by dismissing Special Leave Petition in S.L.P. No.6395 of 2016 on 18.07.2016.

3. The grievance of the petitioners is that by the impugned Check Slips the second respondent namely the Sub-Registrar refused to register the sale deed on the basis of letter addressed to the Sub Registrar by the third respondent temple. Challenging the impugned Check Slips, these two writ petitions are filed.

4. Though there is no impediment for allowing these Writ Petitions, the temple appears to have contested the Writ Petitions only on the ground that the review petition is pending as against the judgment and decree of this Court in S.A. No.2137 of 2001. It is not known as to how the review petition is maintainable after the dismissal of Special Leave Petition by Hon'ble Supreme court on merits. However, the fact that the said review petition was also dismissed by this Court is now admitted. It is seen that the review petition was preferred after a long delay of nearly two years. Ultimately, the order of this Court dated 17.09.2019, indicate that the review petition was dismissed on merits. In view of the dismissal of the review petition, the third respondent cannot claim title or right over the property of the petitioners and derive title or Ryotwari patta in preference to the petitioners. Hence, this Court has no hesitation to allow this Writ Petition.

5. Accordingly, these Writ Petitions are allowed and the impugned orders of the second respondent in Check Slip No.714 of 2016 dated 10.11.2016 and Check Slip No.82 of 2017 dated 14.02.2014, are hereby quashed. No costs. Connected miscellaneous petitions are closed.

The second respondent is directed to register the instrument if it is presented by the petitioners or any one claiming under them. In case, if the instrument presented by the petitioners is still pending, the second respondent is

directed to register the same and return the original instrument within a period of three weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

bkn

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Santhome, Chennai - 600 028.

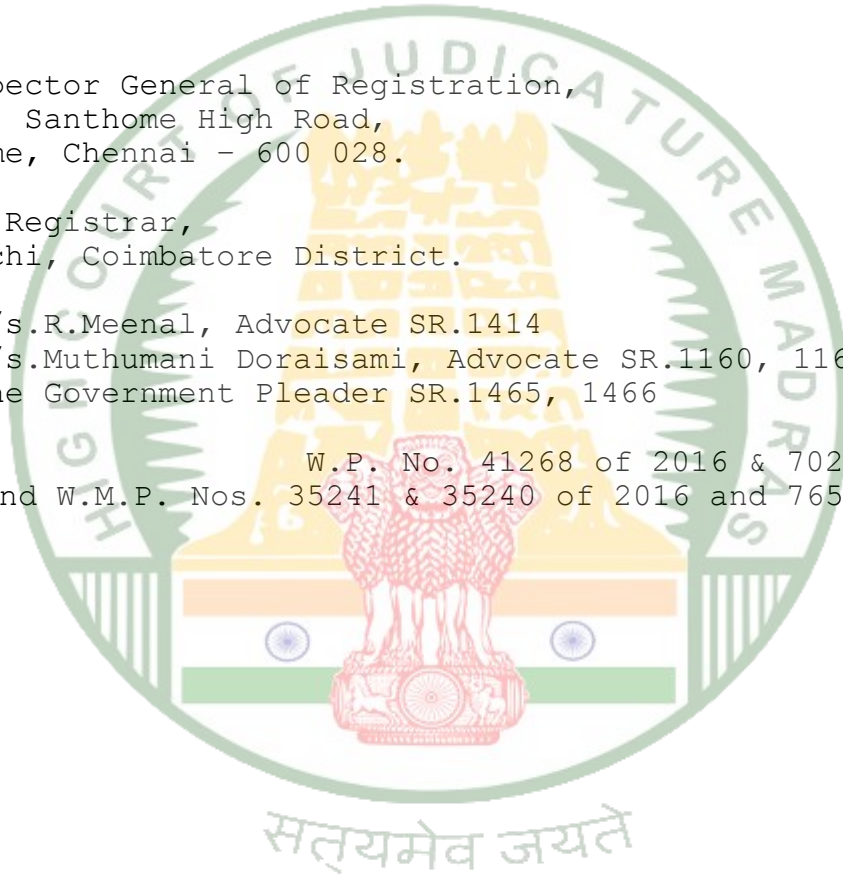
2.The Sub Registrar,
Pollachi, Coimbatore District.

+1cc to M/s.R.Meenal, Advocate SR.1414

+2cc to M/s.Muthumani Doraisami, Advocate SR.1160, 1161

+1cc to the Government Pleader SR.1465, 1466

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