



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.04.2021

Delivered on : 17.04.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.1240 of 2019

and C.M.P. (MD) No.10656 of 2019

Muthuchamy
S/o.Ponnusamy

... Appellant/Petitioner

Vs.

- 1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Board,
Virudhunagar District.
 - 2.The Executive Officer,
Hindu Religious and Charitable Endowments Board,
ArulmiguVettaivenkatesaperumal Temple,
Rajapalayam Taluk,
Virudhunagar District.
 - 3.The Sub Registrar,
Rajapalayam,
Virudhunagar District.
 - 4.The Tahsildar,
Rajapalayam Taluk,
Virudhunagar District.
 - 5.The Commissioner of Land (Administration),
Chennai.
- ... Respondents/Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)No.18916 of 2018, dated 19.03.2019.

Prayer in WP(MD)No.18916 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the proceedings in Na.Ka. 1616/2016/A2 dated 12.06.2017 on the file of the Joint Commissioner, Hindu Religions and Charitable Endowments Board, Virudhunagar District, the Respondent No.1 and quash the same.

For Appellants

: Mr.AR.L.Sundaresan
Senior Counsel
For Mr.I.Velpradeep and
Mr.P.Kottaisamy



For Respondents 1 and 2 : Mr.K.P.Narayanakumar
Special Government Pleader

For Respondent No.3 : Mr.K.Sathiya Singh
Additional Government Pleader

For Respondent Nos.4 and 5 : Mr.K.Mu.Muthu
Additional Government Pleader

* * * * *

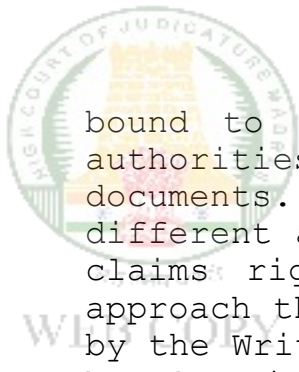
J U D G M E N T

(Judgment of the Court was delivered by T. S. SIVAGNANAM, J.)

This Writ Appeal has been filed by the Writ Petitioner, challenging the order dated 19.03.2019, passed in W.P.(MD) No.18916 of 2018, which was dismissed along with five other Writ Petitions. In the Writ Petition, the appellant challenged the order passed by the first respondent herein, the Assistant Commissioner, Hindu Religious and Charitable Endowments Board (HR & CE), Virudhunagar, dated 12.06.2017.

2.The impugned order in the Writ Petition is a communication sent by the first respondent to the fourth respondent/Tahsildar, Rajapalayam, by which, an objection was conveyed by the HR & CE Department stating that the subject lands were service Inam lands and it has been sold to private parties and the land belongs to the temple and therefore, the Tahsildar may not effect any mutation in the revenue records or cause sub-division of the survey numbers or record the same in the revenue records. The learned Single Judge by the impugned order allowed the Writ Petitions with certain observations and by following the judgment of the Hon'ble Division Bench in the case of **Sudha Ravi Kumar v. The Special Commissioner & Commissioner, H.R. & C.E. Department [2017 (3) CTC 135]**. Though the Writ Petitions were allowed, the appellant is aggrieved by the said order and has filed the present appeal.

3.Mr.AR.L.Sundaresan, learned Senior Counsel appearing for Mr.I.Velpradeep and Mr.P.Kottaisamy, learned counsel for the appellant sought for quashing the order passed by the first respondent as his case is different from the cases of the other writ petitioners and the learned Writ Court ought to have taken into consideration the judgment of the Hon'ble Division Bench in the case of **K.Sudha Ravi Kumar** (supra) in its entirety, more particularly, when the Hon'ble Division Bench of this Court in paragraph 23 of the order held that once patta has been issued under either the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 and the Tamil Nadu Minor Inams Estates (Abolition and Conversion into Ryotwari) Act, 1963, it is for the Temple to establish the title before the Civil Court and the Sub-Registrar is



bound to act on the basis of the Ryotwari Patta issued by the authorities concerned and he shall not refuse to register the documents. Therefore, it submitted that the case of the appellant is different as patta has been granted in his favour and if the Temple claims right over the property, then it is for the Temple to approach the Civil Court to establish its title and the order passed by the Writ Court, directing an enquiry in terms of the order passed by the Division Bench of this Court in **K.Sudha Ravi Kumar** (supra) case cannot be made applicable to the case of the appellant.

4.We have heard Mr.K.P.Narayanakumar, learned Special Government Pleader appearing for respondent Nos.1 and 2, Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for the third respondent and Mr.K.Mu.Muthu, learned Additional Government Pleader appearing for respondent Nos.4 and 5 on the above submissions.

5.The appellant would contend that the land purchased by him by sale deed dated 13.04.2003, registered as document No.1383/2003, on the file of the Sub-Registrar, Rajapalayam, is the land comprised in S.No.102/5D along with construction thereon, which is the property mentioned in Serial No.17 of the order dated 12.06.2017, impugned in the Writ Petition. It is further submitted that even in the said order in column No.6, name of the pattadar and patta number has been given as A.Velusamy and 12 others and patta No.1083. Therefore, it is submitted that in term of paragraph No.23 of the order in the case of **K.Sudha Ravi Kumar** (supra), it is for the first respondent Temple to approach the Civil Court and no enquiry can be conducted by the Tahsildar based upon the communication dated 12.06.2017.

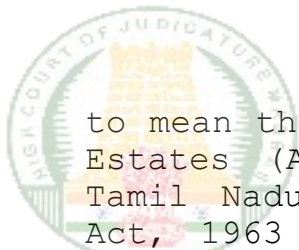
6.We have gone through the sale deed dated 16.04.2003, by which, the appellant has purchased the property. The document does not trace the title of the vendor, who is stated to be one Gurusamy S/o. Rengasamy Naicker, who has executed the document on behalf of himself and his minor son Manikandaprabhu along with his wife Mrs.Vijayalakshmi. The vendor has stated that they have obtained the property pursuant to deed of partition between the first vendor and his brother dated 25.04.2000, which is by way of registered document. Thus, we are unable to ascertain as to, who is the predecessor in title to the vendors of the appellant. That apart, the appellant has not been able to establish as to what is the name of Ryotwari pattadar, under whom he traces title to the property in question.

7.In order to appreciate the real controversy in the matter, we are required to read the communication dated 12.06.2017, impugned in the Writ Petition, in its entirety. It has been informed to the Tahsildar, Rajapalayam that the lands in question belongs to ArulmiguVettai Venkatdeswara Perumal Temple, Pudupalayam Village, Srivilliputhur Taluk, and it is being administered by the Assistant



Commissioner, HR & CE, pursuant to order dated 28.02.1978. The Temple is situated in S.No.102/11 and a Tank owned by the Temple is situated in S.No.102/9, measuring an extent of 5.83.0 Hectares. In order to ensure poojas are performed in the Temple without any interruption, as stated in the Settlement 'A' Register during the initial survey and during the time when Minor Inams were abolished, the lands comprised in S.Nos.102/1 to 102/13 were given as "service maniam". Subsequently, in the year 1985, during the updation of Revenue Records, the names of certain persons have been included in the patta, who are numbering 58. It is further stated that with respect to the land sub-divided as S.No.102/9, the Temple has been shown as pattadar bearing patta No.1098. Out of which, an extent of 0.81.0 Hectare has been purchased by one Beemaraja and he has obtained sub-division of the land as S.No.102/19A1A1 and patta No.107 has been issued in the name of Beemaraja. It is submitted that the entire extent of land, which has been shown as Serial Nos.1 to 58 of the communication dated 12.06.2018, are the lands owned by the Temple and they were given as service Inam lands for conducting Orders in the Temple and while the Inam Abolition Act was introduced, patta has been granted as service Inam lands. Further, it is stated that in terms of 4(1) of the HR & CE Act, 1951, the land which has been given as service Inams cannot be sold nor name transferred nor given as exchange nor it can be mortgaged for more than a period of five years and it cannot also be leased out to any third parties. In case, if the service Inamdar seeks to do any one or more of the above, he has to obtain prior approval of the Government. It is further stated that this service Inam was sold to Mr.Beemaraja in the year 1987 by the then Hereditary Trustee, which is illegal and against law and therefore, Mr.Beemaraja has no right over the said property, but he in turn sold it to several other persons and the name of 200 people have been entered in the patta Register and they are claiming to be in occupation of the land. Further, it is stated that appropriate steps have been taken for cancellation of the patta, which was illegally granted to several others by way of separate proceedings. However, in respect of the lands comprised in S.Nos.102/19A1A1, which was purchased by Mr.Beemaraja, he has sought permission to alter the tank bund and the first respondent requested the Tahsildar not to grant such permission because, the land belongs to the Temple. With these facts, the first respondent had addressed the Tahsildar that no request for sub-division of the lands comprised in S.No.102/1 to 102/13 may be entertained and no request for transfer of patta be accepted by the Tahsildar and not to permit Mr.Beemaraja to alter the tank bund, which tank is owned by the Temple.

8.As pointed out earlier, the appellant has miserably failed to establish a cogent link as to who were his predecessor in title and merely stating that patta has been granted would not be sufficient and going by such statement, we are not convinced to apply the direction contained in paragraph 23 of the order in **K.Sudha Ravi Kumar** (supra) case. In fact, the said direction has to be understood



to mean that if a patta has been issued under either the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 and the Tamil Nadu Minor Inams Estates (Abolition and Conversion into Ryotwari) Act, 1963, and if the Temple disputes the title of the pattadars, then the Temple has to establish title before Civil Court. Therefore, this dispute is between the genuine pattadar qua the Temple concerned. An additional typed set of papers has been filed enclosing copies of sale deeds dated 12.05.1983, 18.05.1983, 19.04.1985, 12.06.1990, 25.06.1992, 16.04.2003, 04.09.2003 and release deed dated 20.09.1999. Any amount of documents registered/created cannot confer tile, if the first transaction is a nullity. This is precisely the stand taken by the HR & CE Department.

9. In the instant case, the appellant appears to be a purchaser of a land, who might have purchased the land from a person, who usurped the temple lands illegally and probably Thiru.Beemaraja is the perpetrator of all these illegal activities. It is not clear as to why the HR & CE Department has not taken any steps to file appeal and has accepted the order passed in W.P.(MD) No.18916 of 2018, dated 19.03.1990. This observation is made going by the seriousness with which the communication, dated 12.06.2017, was sent by the first respondent to the Tahsildar. In any event, since the HR & CE Department or the Temple has not preferred any appeal against the impugned order passed in the Writ Petition, we can say nothing more on this.

10. Be that as it may, we are fully convinced that the appellant has not made out any case to bring their case within the parameters of the observations/directions issued in paragraph 23 of the order in **K. Sudha Ravi Kumar** (supra) case.

11. For the above reasons, the Writ Appeal fails and is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

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+1 CC to M/s.I.VELPRADEEP, Advocate (SR-16141[F] dated 17/04/2021)

+1 CC to M/s.SPL GP (SR-16474[F] dated 19/04/2021)

W.A. (MD)No.1240 of 2019
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