



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2021

CORAM

THE HON'BLE MR. JUSTICE M.SUNDAR

WEB COPY

W.P(MD) No.18797 of 2016
and W.M.P. (MD) Nos.13597 & 13598 of 2016

1.L.Viswalingam (Died)

2.Mrs.V.Sulochana

3.Mr.V.Jeyaraj

4.Mrs.R.Geetha

(Petitioners 2 to 4 substituted vide Court
order dated 13.03.2020 in W.M.P.(MD)
No.1561/2020)

... Petitioners

Vs.

1.The Commissioner,

Tamil Nadu Hindu Religious and
Charitable Endowments Board, Chennai.

2.The Assistant Commissioner,

Hindu Religious and Charitable
Endowments Department,
Dindigul District, Dindigul.

3.The District Registrar,

Dindigul District, Dindigul.

4.The Sub Registrar,

Chinnalapatti,
Dindigul District, Dindigul.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for records relating to the impugned proceedings of the 2nd respondent in Na.Ka.No.262/2008/A3 dated 23.02.2015, and quash the same as illegal and consequently direct the respondents 3 and 4 to register any document presented for registration in respect of the petitioner's property in Survey No.14/1A1, Ambadurai Village, Chinnalapatti, Aathoor Taluk, Dindigul District, within the time that may be stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Athiff
for M/s.Ajmal Associates (Law Firm)

For Respondents : Mr.S.R.A.Ramachandran,
Addl. Government Pleader.

**ORDER**

Temples which go by the name Arulmigu Sri Meenakshi Amman Temple and Sri Patrakaliamman Temple and situate in Ambadurai Village, Aathoor Taluk, Dindigul District' (hereinafter collectively 'said temple' for the sake of convenience and clarity) constitute the nucleus of the captioned main writ petition and 'lands comprised in Survey No.14/1A1 in the same Village, admeasuring 7 acres and 84 cents' (hereinafter 'said land' for the sake of convenience and clarity) belonging to the said temple and a dispute pertaining to the same is the central theme of the matter on hand.

2. Title dispute regarding said land between said temple and a private party (Chennamalan Chettiar) culminated in a second appeal in this Court vide S.A.No.168 of 1965 & C.M.P. therein being C.M.P.No.5859 of 1970 and a compromise decree dated 16.04.1970 came to be made in the same. This compromise decree has been placed before me and the same is as follows:

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Thursday, the twentieth day of April
One thousand nine hundred and seventy.

PRESENT;

The Honorable Mr. Justice Sankaranarayanan

Second Appeal No.168 of 1965 & C.M.P.No.5859/70.
Chennamalan Chettiar -- Appellant (and Respondent)
vs. -- Petitioner in C.M.P.No.5859/1970.

- vs. -

1) Sri Meenakshi Amman Temple and
Sri Patrakali Amman Temple,
Ambadurai Village through
its trustees:-
(a) A. Subramanian Chettiar
(b) N. Subramanian Pillai
(c) S. Chinnappa Chettiar
(d) A. Subramanian Pillai
(e) N. Subramanian Pillai

Respondents
(Plaintiffs and Defendants)
Respondents in C.M.P.
No.5859/70.

2) Chennamalan Chettiar (dead)

Appeal against the decree of the Court of the subordinate
Judge, Dindigul in Appeal Suit No.168 of 1965, preferred against
the decree of the Court of the District Judge of Dindigul in
Original Suit No.502 of 1961,
C.M.P.No.5859 of 1970.

petition praying that, the High Court will be pleased
to pass a decree in favor of the

DATE
Sd/-

Compromise Decree filed in the said S.A.No.168 of 1965.

REASONING:- This Second Appeal coming up for hearing
in the presence of M/s. S.G. Rajan and S.K. Selvaraj, advocates
for the appellant and Petitioner in C.M.P.No.5859/70 and of
Mr. S. Aranganathan, advocate for the first Respondent, in
both and the first Respondent in both being dead, and the appellant
and the first Respondent (through its trustees (a, b, c & d) (Trusted
No.2 being dead) having entered into a compromise between
themselves (and it being stated in the memorandum of compromise
that the parties have settled their dispute and have
agreed to abide by the proceedings of the Court of the
District Judge, Dindigul in Appeal Suit No.168 of 1965 and made in the proceedings



Page No.2.

K.Dis.34234/69, dated 26-8-1970, and their respective Advocates having filed C.M.P.No.2899 of 1970 requesting the Court to pass a decree on terms of the said Memo of Compromise duly signed by the Appellant and the 1st Respondent.

Page : 2.

AMPE :

Corr.:

(trustees 1,3,4 & 5) as well as by the Advocates on either side, upon perusing the grounds of Appeal, the Judgments and the decrees of the Lower Appellate Court and Court of First Instance and the material papers in the suit and the Memo of Compromise filed herewith this Court doth record the said Memorandum of Compromise, the Original of which is annexed herewith and doth order and decree in terms of the said Compromise as follows:-

(1) That the appellant (2nd defendant) having paid Rs.12040-00(Rupees Twelve thousand and forty) to the first respondent-Temple (Plaintiff), he shall be entitled to take with absolute rights ~~three~~ three acres and forty four cents on Southern side of Survey No.14, being Inam punja land in Ambathurai Village, Dindigul Taluk and particularly described in the schedule hereunder:

(2) that the appellant along with Chennasallan Chettiar, Annamalai Chettiar, Palaniswami Chettiar and Doraiappa Chettiar shall give jointly or severally, free of cost an extent of 10 cents out of the total extent

Page : 3

AMPE :

Corr.:

of 7 acres 84 cents in S.No.14 adjoining the road leading to Devangar High School at Chinnalapatti Village, Dindigul Taluk to the first respondent-temple for its use:

(3) that both the parties in this Second Appeal shall not lay any claim or right between each other in respect of the suit land; and

(4) that each party shall bear their respective costs in this Second Appeal.



WEB COPY

Page No.3.
(SCHEDULE - DESCRIPTION OF THE PROPERTY)

Madurai District, Dindigul Taluk, Ananthapur Village
Tana Panja Land Survey No.14 - Total extent 7 acres 34 cents
out of 11.5 acres is situate on the South Eastern side North of
Devanga High School Road, South of Ananthapur Temple's property,
East of Bonniawandi Soil Road, West of Ananthapur Temple's Soil.

TERMS OF COMPROMISE

The parties hereto have settled their disputes and
have compromised in terms of the proceedings of the Commissioner,
Hindu Religious and Charitable Endowments (H.R.C.E.) No. 34,
Page : 4 AMPS : Court :
K.M.D., 34274/69, dated 10-3-1970. It is therefore prayed and has
been made in his proceedings that the following terms made in the
compromise be recorded in the Second Appeal and a decree may be
passed in terms thereof:-

1. The appellant has paid a sum of Rs.12,040/- (Twelve
thousand and forty only) in lieu of the 1st Respondent
giving up its right over three acres and forty-four cents on
southern side of Survey No.14 being Tana Panja Land in Ananthapur
Village, Dindigul Taluk and particularly described in the schedule
hereunder, to the first respondent-temple.

2. The first Respondent-temple agrees to give up the
schedule mentioned lands in favour of the appellant and the
appellant is entitled to take the same with absolute rights.

3. The appellant along with Chennamallan Chettiar,
Ananthapur Chettiar, Palaniyandi Chettiar and Peraiyappa Chettiar
have agreed to give jointly or severally give free of cost an
extent of 10 cents out of the total extent of 7.84 acres in

Page : 5. AMPS : Court :

S.No.14 adjoining the road leading to Devanga High School
at Chinnampatti Village, Dindigul Taluk as to the first
respondent temple for its use.

4. The parties to the above appeal shall not lay
any claim or right between each other in respect of the suit
land.

5. Each party will bear their respective costs.

(Sd.) R.G. Rajan,
10-4-1970,
Counsel for appellant.

(Sd.) R. Arunagirinathan,
Counsel for respondents.

(Sd.) Chennamallan Chettiar
(in Person)
Appellant.



WEB COPY

Page No.4.

(Ed.) A. Palanisami Chettiar
(in Tamil)

(Ed.) P. Chinnathand. Chinnathand.
(in Tamil)

(Ed.) K. Venkatasubramanian
(Ed.) Ranganatha Raju
(in Tamil)

Independent Counsel, Sri
Sankarshi Arava Temple and
Sri Sankarshi Arava Temple,
Kanchipuram.

(Ed.) S. Venkatasubramanian,
11-1-1970.
Official Reference.

6th & last Page
Words : 990.
AMPS Copy.

De/- x x x x x, 17-10-70
Dept. of Copyists.

/true copy/

INDEX

S.L. No.160 of 1965
and
S.L. No.585 of 1970.

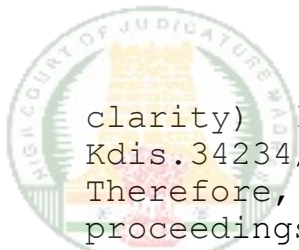
IN THE HIGH COURT OF JUDICATURE AT
MADRAS.

S.L. No.5291 of 1970.

Application made 17-1-1970.
Application returned.....19
Application represented.....19
Stamps called for 27-5-1970.
Stamps deposited..... 1-7-1970.
Addl. stamps called for.....19
Addl. stamps deposited.....19
Copy ready 12-10-1970.
Copy delivered 12-10-1970.
Signature, 12-10-70.

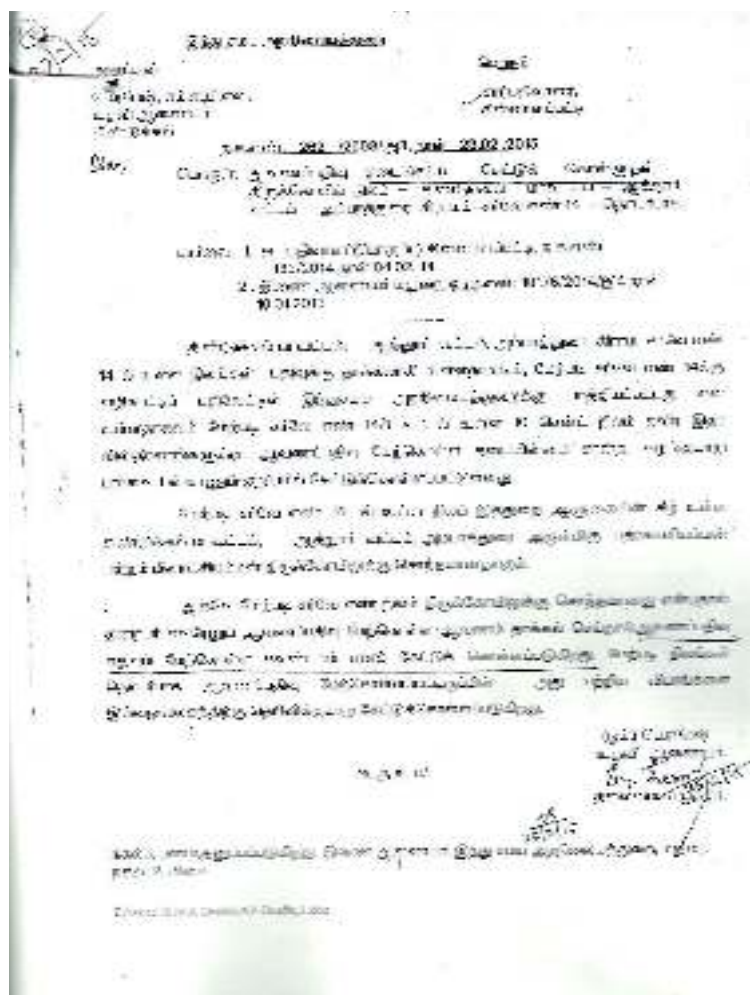
3. Learned counsel for writ petitioner submits that writ petitioners' father one L.Viswalingam was purchaser of said land from aforementioned third party in and by a registered sale deed dated 07.11.1993, registered on the file of jurisdictional registration office.

4. Before I proceed further, I deem it appropriate to record two points that are noticed in the aforementioned compromise decree. One point is, the schedule says 3 acres and 44 cents from and out of a total extent of 7 acres and 84 cents but clause 3 of the compromise decree talks about 10 cents from and out of 7 acres and 84 cents being given to said temple. The second aspect noticed in the compromise decree is it talks about proceedings of Commissioner of 'Tamil Nadu Hindu Religious and Charitable Endowments Department' of 'Tamil Nadu Hindu Religious and Charitable Endowments Department' for the sake of convenience and

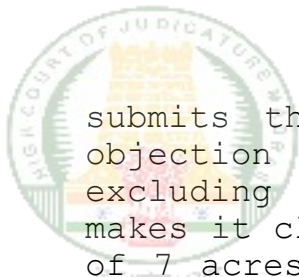


clarity) being proceedings dated 16.03.1970 bearing reference Kdis.34234/69 in pursuance of which, the compromise has been made. Therefore, this proceeding has to necessarily be construed as proceedings under Section 43 of 'The Tamil Nadu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959)' {hereinafter 'TN HR & CE Act' for the sake of convenience and clarity}. To be noted, Section 43 talks about 'sanction for compromise of legal proceedings'.

5. I now proceed further with the issue on hand. Pursuant to a request from the jurisdictional registering authority, the second respondent (Assistant Commissioner of TN HR&CE Dept.) has sent 'a communication dated 23.02.2015 bearing reference Na.Ka.No.262/2008/A3' (hereinafter 'impugned communication' for convenience and clarity) and a scanned reproduction of the same is as follows:



6. Captioned main writ petition has been filled assailing the aforementioned impugned communication. The sheet anchor submission is while the compromise decree makes it clear that the said temple is entitled to 10 cents from and out of 7 acres and 84 cents in said land, the impugned communication not only reads otherwise but it states the converse is learned counsel's say. Learned counsel



submits that the impugned communication says that there will be objection for registration for 7 acres and 84 cents except / excluding 10 cents. A careful perusal of the compromise decree makes it clear that said temple is entitled to 10 cents from and out of 7 acres and 84 cents qua said land and therefore the objection will be restricted to 10 cents from and out of 7 acres and 84 cents i.e., said land (as per the compromise decree referred to supra). Learned State Counsel on instructions, affirms this position, affirms that decree is operating and said temple is entitled to 10 cents only. This by itself downs the curtains on the captioned writ petition.

7. The sequitur is, the impugned communication is quashed / set aside giving a further directive to the second respondent to re-send the communication afresh making it clear that objection of said temple is restricted to 10 cents from and out of 7 acres and 84 cents in said land. This communication shall be resent by the second respondent within a fortnight from today i.e., on or before 15.12.2021 and the fourth respondent thereafter can proceed further in accordance with law if any document is presented.

8. Captioned Writ Petition is allowed on the above terms. Consequently, connected writ miscellaneous petitions are also closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

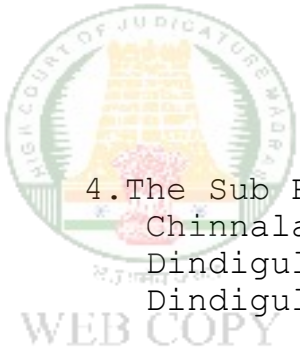
vsm

To

1.The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowments Board,
Chennai.

2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Dindigul District,
Dindigul.

3.The District Registrar,
Dindigul District,
Dindigul.



4.The Sub Registrar,
Chinnalapatti,
Dindigul District,
Dindigul.

+1 CC to M/s.SPL GP (SR-36971[F] dated 02/12/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-37103[F] dated
02/12/2021)

W.P (MD) No.18797 of 2016
and
W.M.P. (MD) Nos.13597 & 13598 of 2016
01.12.2021

SK (CO)
TR (13.12.2021) 8P 7C