



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

and

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.A. (MD)No.343 of 2013

and

W.M.P (MD)No.1 of 2013

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The Executive Officer,
Arulmigu Nachiyar (Andal) Temple,
Srivilliputtur,
Virudhunagar District.

... Appellant / 3rd Respondent

Vs.

1. C.Jawahar Abbasamy

2. J.Rajeswari

3. Geethalakshmi

4. Ambika

... Respondents 1 to 4 /
Petitioners

5. The Inspector General of Registration,
Santhome High Road,
Chennai.

6. The Sub-Registrar,
Karivalamvandanallur,
Tirunelveli,
Tirunelveli District.

...Respondents 5 & 6 /
Respondents 1 & 2

PRAYER: The Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order passed by this Court in W.P.(MD) No.5244 of 2011.dated 19.02.2013.

Prayer in WP(MD). 5244/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus or such other Writ, order or direction in the nature of Writ by calling for the records relating to the order of the 2nd respondent dated 10/07/2009 in ref. nil, informed to the petitioners and quash the same and further direct the 2nd respondent to register the documents relating to the petitioner s land in Survey Nos.887/3A,3B,4A,4B,885,886,883/1,883/2, situated in Karivalamvantha Nallur Villae, Sankarankovil Taluk, Tirunelveli District. (Prayer amended vide Court order dt.01/08/2012 in



For Appellant : Mr.M.P.Senthil
For Respondents : Mr.S.Natarajan
(R1 to R4)
For Respondents : Mr.R.Suresh Kumar
(R5 and R6) Government Advocate

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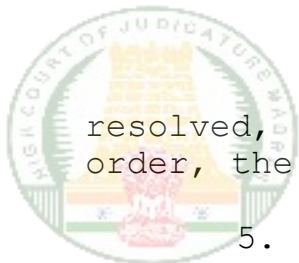
JUDGMENT**(Judgment of this Court was made by V.BHARATHIDASAN, J.)**

The Writ Appeal has been filed against the order passed by the Learned Single Judge of this Court in W.P(MD)No.5244 of 2011, dated 19.02.2013.

2. The writ petition has been filed by the respondents 2 to 5 herein, challenging the order passed by the Sub-Registrar, the 6th respondent herein, refusing to register the sale deed executed by the petitioners, on the ground that there is a title dispute between the appellant herein and the writ petitioners and the temple has filed objection for registering the documents.

3. The case of the writ petitioners is that the land in dispute originally belongs to one Alagar Iyengar, who said to have executed the settlement deed on 23.10.1911, making arrangements to perform 'Unjal Urchavakattalai' for 'Arulmigu Nachiyar (Andal) Temple', at Srivilliputhur. After his death, the legal heirs succeeded the estate and they have performing the 'Kattalai' continuously. The writ petitioners said to have purchased the property from the legal heirs of the Ramanuja Iyengar, who inherited the property from Alagar Iyengar, in the year 1990. According to the writ petitioners, after purchase, they continue to perform the 'Kattalai' and the property never vested with the temple. Subsequently, the writ petitioners deposited a lumpsum amount with the appellant herein for performing the 'Kattalai' and based on that, a rythwari patta was also issued to the petitioners, under Section 21 of Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, (30 of 1963). Still the patta stands in the name of the petitioners and it was not cancelled.

4. Subsequently, the appellant temple filed an application, seeking enhancement of the amount fixed in lieu of the 'Kattalai', and on the application filed by the temple, the amount was enhanced by the Revenue Divisional Officer, the writ petitioners have also deposited the amount. Thereafter, the temple said to have filed a Suit in O.S.No.310 of 2008, on the file of Principal District Munsif Court, Sankarankoil, to set aside the sale deed made in favour of the writ petitioners. At the time of filing the writ petition, the suit was pending. In the meantime, the writ petitioners want to alienate the property and also executed the sale deed, in favour of 3rd parties and also submitted the same before the 6th respondent / Sub Registrar, but the Sub-Registrar refused to register the document stating that an objection has been raised by the temple and



resolved, the document cannot be registered. Challenging that order, the writ petition has been filed.

5. The learned Single Judge, after hearing the parties elaborately, allowed the writ petition holding that the patta granted in favour of the petitioners have not been cancelled and merely because a civil suit is pending, the Sub-Registrar cannot refuse to register the document. Now, challenging the above said order, the present Writ Appeal has been filed.

6. Mr.M.P.Senthil, the learned counsel appearing for the appellant fairly submitted that now the civil suit filed by the temple in O.S.No.310 of 2008, has been dismissed by the learned Principal District Munsif Judge, Sankarankoil, and challenging the same, the temple have also filed an Appeal before the Sub-Court, Sankarankoil with a delay and the appeal is yet to be numbered, and the condone delay application is pending. He further submitted that the property has been settled in favour of the temple by the original owner, for performing the 'Kattalai' and an endowment created in favour of the temple, the legal heirs of the original settlor cannot alienate the property. Hence, the very alienation made in favour of the writ petitioners is null and void. That apart, since the title dispute is pending between the parties, under Section 22-A of the Registration Act, the temple has raised objections and considering the objections, the Sub Registrar refused to register the document and it is perfectly in order, but the learned Judge, without considering the same, allowed the writ petition.

7. Mr.S.Natarajan, the learned counsel appearing for the writ petitioners / respondents would contend that after purchasing the property, the petitioners made a lumpsum amount for performing the 'Kattalai' and it was also accepted by the temple. Based on that, a rythwari patta was granted in favour of the petitioners, under Act 30 of 1963, that patta sofar not cancelled. That apart, the temple, after accepting the amount, not being satisfied with the quantum, filed an application before the Revenue Divisional Officer and on their application, the Revenue Divisional Officer enhanced the amount and that was also deposited by the petitioners. Hence, the interest of the temple to conduct the 'Kattalai' has been secured. That apart, now the suit filed by the Temple was also dismissed pending the writ appeal. In the above circumstances, the temple cannot raise any objections under Section 22-A of the Registration Act. The learned Judge has also considering the entire circumstances allowed the writ petition and therefore, prayed for dismissal of the writ appeal.

8. We have also heard Mr.Sureshkumar, learned Standing Counsel appearing for the official respondents.



9. The writ petitioners purchased the property in the year 1990 from the legal heirs of the original owner. Further, the temple also accepted a lumpsum amount towards performing 'Kattalai' from the writ petitioners. After accepting the amount, not being satisfied with the quantum filed an application before the Revenue Divisional Officer and on their application, the Revenue Divisional Officer enhanced the amount and that was also deposited by the petitioners. Now, based on that, rythwari patta was also granted in favour of the writ petitioners under Act 30 of 1963. So far, the patta has not been cancelled by the competent authority. That apart, now it is stated that the suit filed by the temple to set aside the sale made in favour of the writ petitioners was also dismissed, and an appeal was filed by the appellant against that judgment and decree. In those circumstances, until the suit is decreed in favour of the petitioners, setting aside the sale deed made in favour of the writ petitioners, the temple cannot claim any right over the property and they cannot object the registration of any documents. The learned Single Judge, considering the entire materials rightly allowed the writ petition and we find no infirmity in the order passed by the learned Single Judge. Hence, we find no merit in the Writ Appeal and the same is liable to be dismissed.

10. It is needless to state that any alienation made pending the suit, it is governed by Section 52 of Transfer of Property Act. In the event of temple succeeded in the appeal and get a decree in their favour, temple interest will be protected under Section 52 of Transfer of Properties Act. Considering the fact that an appeal is pending against the dismissal of the suit filed by the appellant temple, appellate Court is directed to consider the appeal on its own merits, without reference to any of the findings made in the Writ Appeal and decide the issues independently,

11. In the result, the Writ Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mpk

To

1. The Inspector General of Registration,
Santhome High Road,
Chennai.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The Sub-Registrar,
Karivalamvandanallur,
Tirunelveli, Tirunelveli District.

+1 CC to M/s.SPL GP (SR-28195[F] dated 06/09/2021)

+1 CC to M/s.S.NATARAJAN, Advocate (SR-28235[F] dated 06/09/2021)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-28275[F] dated 06/09/2021)

W.A. (MD) No.343 of 2013
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SR(CO)

KB(16.09.2021) 5P 6C