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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13317 of 2011

And

M.P.No.1 of 2011

T.Chockalingam

...Petitioner

Vs.

1. The Commissioner of Land Administration,
Chepauk, Chennai - 5.

2. The District Revenue Officer,
Karur.

3. The Revenue Divisional Officer,
Karur.

4. The Special Tahsildar,
Land Revenue (Natham)
Karur.

5. The Tahsildar (Revenue)
Karur.

6.Sundaramurthy Gurukkal

7.Saravana Bhava Gurukkal

8.Sivaraj Gurukkal

9.Balamurugan Gurukkal

10.Bhaskar Gurukkal

11.Joint Commissioner

Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai - 34.

(R11 impleaded vide order dated

28.09.2021 made in MP.2/2011 and

MP.1/2013 in WP.13317/2011 by SMSJ)

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in his proceeding dated 01.10.2010 passed in D.Dis.K3/RP16/ 04(12217/04) and quash the same.



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For Petitioner : Mr.Krishna Prasad
for M/s.Sarvabhauman Associates

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader R1 to R5
M/s.J.Anandhavalli for R6 to R10
Mr.K.Karthikeyan for R11
Government Advocate (HR & CE)

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the first respondent in his proceeding dated 01.10.2010 passed in D.Dis.K3/RP16/ 04(12217/04) and to quash the same.

2.The case of the petitioner is that the lands comprised in S.F.No.234/C admeasuring an extent of 2.08 acres in Kadhaparai Village, Karur Taluk situated around Sri Balasubramania Swamy Temple,Vennamalai was originally classified as Natham Poramboke. During the year 1991, the Special Tahsildar (Natham) vide proceedings dated 08.01.1991 re-classified the lands as 'Arulmighu Vennamalai Balasubramaniya Swamy Temple Poramboke' and sub-divided the same into S.F.Nos.234/1 to 234/15.

3.The further case of the petitioner is that the Commissioner, Hindu Religious and Charitable Endowments Department, vide Circular dated 31.07.1991 directed all the Temple Authorities to get patta in respect of the poramboke lands in the name of the Temple which are in their possession and enjoyment. Thereafter, the respondents 6 to 10 made representation to the fourth respondent on 23.04.2002 for issuance of house site patta in their names.

4.The further case of the petitioner is that the District Surveyor submitted a report on 26.04.2002 sub-dividing the property into S.Nos.234/1A to 234/1F and on the basis of the report, the fourth respondent issued patta to the respondents 6 to 10. Aggrieved by the same, the petitioner filed revision before the third respondent. The third respondent set aside the order of the fourth respondent. Hence, respondents 6 to 10 filed revision before the second respondent. The second respondent set aside the sub-division of the property, however, confirmed grant of patta to the respondents 6 to 10. Hence, the petitioner preferred appeal before the first respondent. The first respondent vide order dated 01.10.2010 confirmed the order passed by the second respondent with slight modification that the prefix of the word Archagars in the patta shall be deleted. Challenging the same, the petitioner has filed this writ



petition.

5.The learned counsel appearing for the petitioner submitted that during the year 1991, the Special Tahsildar (Natham) vide proceedings dated 08.01.1991 re-classified the lands as 'Arulmighu Vennamalai Balasubramaniya Swamy Temple Poramboke'. When such classification is still in force, the revenue Officials have no power to grant patta in favour of respondents 6 to 10. Hence, the third respondent rightly set aside the order passed by the fourth respondent. However, respondents 1 and 2 modified the order of the third respondent and confirmed the patta granted in favour of respondents 6 to 10, which is not sustainable one.

6.The learned Special Government Pleader submitted that Natham Settlement was introduced only in respect of S.F.No.234/C which was classified as Natham, however, the Special Tahsildar, Natham Settlement Scheme had unjustly treated the whole extent of 2.08 Acres as Kovil Poramboke. He failed to note that the land under dispute has been classified as Natham (House Site) which is meant for dwelling purpose of public. Hence the impugned order is perfectly in order and warrants no interference.

7.The learned counsel appearing for the respondents 6 to 10 submitted that the respondents 6 to 10 are in possession and enjoyment of the property even prior to grant of patta and are in continuous possession of the same. She further submitted that patta in respect of the subject property has been granted to several other persons and that has not been challenged by the petitioner, however, the petitioner is challenging the patta granted in favour of respondents 6 to 10 alone. She further submitted that the order passed by the first respondent is perfectly in order and warrants no interference.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.Respondents 6 to 10 claim that they are in possession and enjoyment of the subject property even prior to grant of patta and are in continuous possession of the same. The fact remains that the lands comprised in S.F.No.234/C admeasuring an extent of 2.08 acres in Kadhaparai Village, Karur Taluk situated around Sri Balasubramania Swamy Temple, Vennamalai was originally classified as Natham. During the year 1991, the Special Tahsildar (Natham) vide proceedings dated 08.01.1991 re-classified the lands as 'Arulmighu Vennamalai Balasubramaniya Swamy Temple Poramboke' and sub-divided the same into S.F.Nos.234/1 to 234/15 and the said classification is still in force.



10. When the land has been classified as Temple Poramboke, the revenue Officials have no power to grant patta in favour of individuals. If at all the respondents 6 to 10 are in possession of the property even prior to 1991, their grievances have to be ventilated before the competent Civil Forum and not before the revenue Officials.

11. As per Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, the property endowed to any Temple can be alienated only by the competent Authority after obtaining permission from the Commissioner of the Hindu Religious and Charitable Endowments Department. Without obtaining any from the Hindu Religious and Charitable Endowments Department, the revenue Officials granting patta in favour of the respondents 6 to 10 is not sustainable one. Hence, the impugned order passed by the first respondent dated 01.10.2010 is liable to be set aside.

12. In view of all the above, this Court issues the following directions:

(i) The impugned order passed by the first respondent dated 01.10.2010 is hereby set aside.

(ii) The order passed by the third respondent dated 02.12.2002 is restored.

(iii) The fourth respondent is directed to cancel the pattas issued to all the persons after the year 1991, in respect of the lands comprised in S.F.No.234/C admeasuring an extent of 2.08 acres in Kadhaparai Village, Karur Taluk (which were sub-divided into S.F.Nos.234/1 to 234/15 during the year 1991), after issuing notice to all the persons concerned.

(iv) Since the respondents 6 to 10 claim that they are in possession of the subject property even prior to the year 1991, they are granted liberty to work out their remedy before the appropriate Forum.

(v) The possession of the respondents 6 to 10 shall not be disturbed till they render service to Arulmighu Vennamalai Balasubramaniya Swamy Temple.

13. With the above directions, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

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Sub Assistant Registrar

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To

1. The Commissioner of Land Administration,
Chepauk, Chennai - 5.

2. The District Revenue Officer,
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3. The Revenue Divisional Officer,
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5. The Tahsildar (Revenue)
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6. The Joint Commissioner
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai - 34.

+1cc to Mr.Sarvabhauman Associates, Advocate, S.R.No.22637

+1cc to M/s.G.Sumitra, Advocate, S.R.No.22641

+1cc to the Government Pleader, S.R.No.23412

W.P.No.13317 of 2011
And
M.P.No.1 of 2011

MT (CO)
RGA (28/04/2022)