IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.19833 and 19918 of 2013
and MP.Nos.1, 1 and 2 of 2013

Manoharan ... Petitioner
in W.P.No.19833 of 2013

.Vs.

1.State Rep.by District Revenue Officer
Office of the District Revenue Office
Collector Office Compound, Erode.

2.The Commissioner
Hindu Religious and Charitable Endowments Office
No.119, Uthamar Gandhi Salai
Nungambakkam Main Road, Chennai-34.

3.The Assistant Commissioner
Hindu Religious and Charitable Endowments Office
Erode.

4.The Fit Persons/Executive Officer
Arulmigu Kariyakaliamman Thirukoil
Mylampadi, Bhavani Taluk
Erode District. ... Respondents
in W.P.No.19833 of 2013

Prayer in W.P.No.19833 of 2013 **:** Writ Petition under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records pertinent to the proceedings of the 1st respondent Vide Na. Ka. 26254/2012 **ஒன**3 dated 14.12.2012 and quash the same.

Venkkidusamy ... Petitioner
in W.P.No.19918 of 2013

.Vs.

1.State Rep.by District Revenue Officer
Office of the District Revenue Office
Collector Office Compound, Erode.

2.The Commissioner
Hindu Religious and Charitable Endowments Office
No.119, Uthamar Gandhi Salai
Nungambakkam Main Road, Chennai-34.

3.The Assistant Commissioner
Hindu Religious and Charitable Endowments Office
Erode.

4.The Fit Persons/Executive Officer
Arulmigu Kariyakaliamman Thirukoil
Pattalur, Andiyur Taluk
Office at Arilmigu Chokkannatha Swamy Thirukoil
Amma Pet, Andiyur Taluk, Erode District. ... Respondents
in W.P.No.19918 of 2013

Prayer in W.P.No.19918 of 2013 **:** Writ Petition under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records pertinent to the proceedings of the 1st respondent Vide Na. Ka. 35175/2012 **ஒஎ**3 dated 7.1.2013 and quash the same.

For Petitioner : Mr.S.Sivakumar
(In Both WPs)

For Respondents : Mr.C.Sathish
(In Both WPs) Government Advocate
for R1

Mr.S.Yashwanth
Additional Government Pleader for R2 & R3

Mr.B.Harikrishna
for M/s.R.Devaprasad
for R4

COMMON ORDER

The issue involved in both the writ petitions are common and hence they are taken up together, heard and disposed of through this common order.

2.The petitioners have challenged the proceedings of the 1st respondent dated 14.12.2012 and 07.01.2013 respectively. The case of the petitioners is that their ancestors were acting as poojaris at Kariyakalliamman Temple and their family members are continuing to perform pooja. In the year 1967, the Settlement Tahsildar through order dated 12.11.1967 and 29.08.1967 respectively issued patta under Act 30 of 1963 under Section 8(2)(ii) of the Act, in the name of the Temple represented by its hereditary poojaris.

3.Even after the demise of the original poojari, their family was continuing to perform the pooja in the above said Temple and they were also cultivating the lands belonging to the Temple and they earn their livelihood from the income derived from the cultivation. Thereafter, UDR patta came to be issued by the 1st respondent in the name of Veera Pandaram in W.P.No.19833/2013 and in the name of Mari Pandaram, Sengaga Pandaram, Kali Pandaram, Senbaga Pandaram, Sadaiya Pandaram, Arumugam, Rama Pandaram, seven members in W.P.No.19918 of 2013. On issuance of the patta, the legal heirs of the patta holders were in possession and enjoyment of the property and also were performing the poojas in the above said Temple.

4.The further case of the petitioners is that the 4th respondent submitted an application before the 1st respondent seeking for the transfer of patta in the name of the Temple. The grievance of the petitioners is that the 1st respondent through the impugned proceedings dated 14.12.2012 and 07.01.2013 respectively cancelled the patta that stood in the name of the individuals and the same was substituted with the name of the Temple. Aggrieved by the same, the present writ petitions have been filed before this Court.

5.The 4th respondent has filed a counter affidavit in both the writ petitions.

6.The relevant portions in the counter affidavit filed in W.P.No.19833 of 2013, are extracted hereunder:

> "4. I submit that in Inam Fair Register, T.D.No.130 is relating to Kariyakalliamman temple and the Inam is Devadayam and it has been granted for the support of Pagoda of Kariyakalliamman at Mylampadi. Under the column particulars regarding present owners in the Inam Fair Register, it is entered as Mylampadi-Kariyakalliamman, PoojariMuthukumaran, age 40 and under column 21, it is entered "to be confirmed permanently to the Pagoda so long as it is well kept up and subject to the existing jodi" and column 22 shows "confirmed" on 25th May 1963. It is further submitted that in the Inam Fair Register it is seen from T.D.No.130 that the lands stood in the name of the Pagoda in Fasli 1212. In the extract of Inam Fair Register, T.D.No.131 is relating to Vigneshwaran and Mariamman temple. The said Inam is also Devadayam granted for the support of

the said two temples. Under the column particulars regarding present owner, it is entered "Mylampadi 1.Vigneshwaran 2. Mariamman, Poojari Gurunatha Pandaram age 30 years". Under the column 21 it is entered "to be confirmed permanently to the Pagodas so long as they are well kept up subject to the existing jodi or Rupees 2.3.7". The column 22 shows "confirmed" on 25th May 1963. Thus as per the Inam Fair Register the lands stood in the name of three temples of the two Pagodas in Fasli 1212 and the grants were made by Karter King of Mysore permanently to the temples so long as they are well kept up. The said grants were not personal grants to the alleged ancestors of the Petitioner or Poojaris and burdened with Pooja service to the temple. The said Inam comprised of both warams and the beneficiaries were only the three temples. The said grants have been recognized and confirmed by the then British Government in 1893 and Inam title deed was also issued for the same. Later the Settlement Officer under The Madras Minor Inams (Abolition and Conversion into Rytowari) Act, 1963 granted patta under Section 8(2)(ii) in the name of temple confirming the ownership of temple over the land by order dated 12.11.1967 bearing S.R.No.126 & 127/67/M.I.Act/Bhavani Taluk. In the said proceedings one Veera Pandaram contested in favour of the temple against Claimants, claiming right over the temple land based on sale deeds executed by Poojaris of the temple. The Settlement Officer ordered in favour of the temple only in respect of lands comprised in Old Survey No.704, New Survey No.488-18.24 acres and Old Survey No.548, New Survey No.71-24.86 acres in Mylampadi Village. Subsequently the patta under the UDR scheme was issued in the name of temple. The computerized patta bearing No.1346 was issued stating Mylampadi Kariyakalliamman paramparai Poojaris Veera Pandaram. Since it was a mistake mentioning of Veera Pandaram in the computer patta, the Fourth Respondent filed Appeal Petition No.1422 of 2012 dated 19.07.2012 to the First Respondent to remove the name of Veera Pandaram. The First Respondent after issuing notice and after proper enquiry issued order dated 14.12.2012 bearing Na.Ka.26254/2012/UOO3 deleting in the name of Veera Pandaram and issued in favour of the temple. Pursuant to it computerized patta in Adangal and Chitta was issued in the name of the temple.

5. I submit that one Veera Pandaram was appointed as trustee in 1943 by the H.R & C.E Department for a period of five years. The said Veera Pandaram neither claimed as Hereditary Trustee nor the Department appointed him as "Hereditary Trustee". The said Veera Pandaram had initiated resumption proceedings before the Revenue Divisional Officer, Gopichettipalayam to recover the properties of Kariyakalliamman temple pursuant to the H.R. & C.E Department order dated 17.03.1943. The said resumption proceedings were initiated pursuant to the requested dated 08.03.1957 by the Assistant Commissioner H.R. & C.E. Department. The Revenue Divisional Officer passed order dated 09.07.1960 in the resumption proceedings in the favour of the temple. The said order of the Revenue Divisional Officer was confirmed by the Collector of Coimbatore in his reference No.48704/60/C7. I submit that Kandasamy Reddiar and others filed suits bearing O.S.No.95 of 1961 and O.S.No.120 of 1961, on the file of Sub-Court, Erode, against H.R. & C.E. Department, Veera Pandaram and others, challenging the order of Revenue Divisional Officer and confirmed by the Collector of Coimbatore. Both the suits were disposed by common judgment dated 29.11.1962. The said judgment was confirmed by High Court, Madras in appeal bearing

A.S.No.24 of 1963 in judgment dated 30.10.1969. In the said proceedings Veera Pandaram and others had not claimed any Hereditary Trusteeship to the temple or asserted any title over the temple properties."

7.The relevant portions in the counter affidavit filed in W.P.No.19918 of 2013, are extracted hereunder:

"4. I submit that then Mysore Maharaja had granted lands comprised in Survey No.146 as DevadayamInam vide T.D.No.188 for the Fourth Respondent temple to carry out everyday Pooja and maintenance permanently for the temple. In the Inam Fair Register, the said Inam was referred to in Column No.16 to 22 and referred to as Pogoda that is A/M.Kariya Kalliamman Thirukoil at Pattalur. Later the settlement officer under Section 8(2)(ii) of the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act 1963 issued patta in favour of the temple for the said land vide order dated 29.08.1967 bearing S.R.No.72/MI Act/Bhavani Taluk/67. In the said proceedings then Poojaris for the time being namely Mari Pandaram, son of KuppaPandaram, Semba Pandaram, son of KuppaPandaram, Semba Pandaram, son of KalliPandaram, Semba Pandaram, son of KuppaPandaram, SadayaPandaram, Arumugam, Rama Pandaram, sons of Pacha Pandaram represented the temple and were issued with the copies of the order to them. The said Poojaris were also examined as witnesses PW1 to PW7 and admitted that the temple owns both the warams in the Inam land. Later when the patta was issued under UDR scheme the temple was shown as the owner of the said property. When the revenue records were computerized the Patta No.1087 was issued in respect of said property in the name of Mari Pandaram and six others. The said Mari Pandaram and six others were the Poojaris of the temple who represented the temple before the settlement officer for issuance of Ryotwari patta. Since the computerized patta was issued in the name of Mari Pandaram and others leaving out the name of the temple, the Fourth Respondent filed appeal dated 05.10.2012 to the First Respondent to rectify the mistake made in the computerized patta. One Sundra Murthy and Padmanaban, public in the locality had also filed similar petitions for rectifying the mistake in the computerized patta before the First Respondent. The First Respondent after issuing notice and on perusing the records passed an order dated 07.01.2013 bearing No.Na.Ka.35175/2012/UO03. The First Respondent is empowered to pass such orders as per G.O.No.385, Revenue (Public - 3), Department, dated 17.08.2004. In and by the said order the First Respondent found that the said Mari Pandaram and six others were only temporally Poojaris, representing the temple, the Ryotwari patta was issued in the name of the temple and therefore the temple is the owner of the property and entitled to hold patta in its name for the said property. Pursuant to the said order Patta No.1087 was issued in the name of the temple and also Chitta and Adangal.

5. It is pertinent to state that the Ryotwari Patta was issued by the settlement officer in the name of the temple for the said property based on the DevadayamInam granted by the Mysore Maharaja and reflected in the Inam Fair Register. The Poojaris and their legal heirs have no right or claim over the said land owned by the temple. If the said Poojaris had any grievance over the Ryotwari patta issued in the name of the temple, then they should have challenged the same in a manner known to law. The Poojaris having failed to do so, their legal

heirs cannot claim ownership over the property. The Petitioner cannot take advantage of the mistake made in the computerized patta and cannot claim ownership over the property based on mistake done by the revenue authority while issuing computerized patta."

8.Heard Mr.S.Sivakumar, learned counsel for the petitioner, Mr.C.Sathish, Government Advocate for R1, Mr.S.Yashwanth, learned Additional Government Pleader for R2 & R3 and Mr.B.Harikrishna, learned counsel for R4

9.This Court has carefully considered the submissions made on either side and the materials available on record.

10.The main contention that was raised by the learned counsel for the petitioners is that the 1st respondent does not have the power or jurisdiction to cancell the existing patta and to transfer the same based on the application submitted by the 4th respondent. According to the learned counsel for the petitioners, the 4th respondent ought to have approached the Tribunal under the provisions of the Act and sought for Ryotwari patta and such jurisdiction cannot be exercised by the 1st respondent. The learned counsel for the petitioners also placed reliance upon Section 21 of the Act 30 of 1963 and submitted that it is always left open to the service holder to exercise their option by paying the amount specified therein and continue to preform their function as a poojari and thereby, the patta can be granted in the name of the individual poojari. According to the learned counsel for the petitioners, this option was exercised by the hereditary poojari and hence, the UDR patta was granted in favour of the hereditary poojari. If the name of the hereditary poojari is removed by the 1st respondent in the UDR patta, the respondents will proceed to evict the petitioners from the property. In view of the same, the learned counsel for the petitioners seeks for the interference with the impugned proceedings of the 1st respondent.

11.Per contra, the learned counsel for the 4th respondent submitted that even as per the proceedings of the Settlement Tahsildar, the patta was issued under Act 30 of 1963 under Section 8(2)(ii) of the Act and assuming that the petitioners are poojaris in the Temple, they do not have any right to get the UDR patta in their individual name by completely removing the name of the Temple from the records. The learned counsel submitted that this was taken into consideration by the 1st respondent and the 1st respondent has rightly passed the order to incorporate the name of the Temple in the patta and hence, it was contented that the same does not require the interference of this Court.

12.The lands in question were originally a Devadayam Inam and it was granted for the maintenance of the Temple. The Settlement Tahsildar while exercising his jurisdiction under Act 30 of 1963 came to a categoric conclusion that the inam comprised of both warams and consequently the patta was issued under Section 8(2)(ii) in the name of the Temple through proceedings dated 12.11.1967 and 29.07.1967 respectively. Even while granting the patta, the names of the poojaris was incorporated only as representing the Temple and the patta was not granted in their individual names.

13.It is not known as to how a patta was subsequently granted in the individual names of the poojaris by completely removing the name of the Temple. Even though, the learned counsel for the petitioners submitted that the poojaris exercised their option under Section 21(3) of the Act, there are no averments in the affidavit to that effect and there are absolutely no materials filed before this Court. Therefore, this Court cannot go on an assumption that an option was exercised and only thereafter, the patta was issued in the name of the individual poojaris.

14.Insofar as the power and jurisdiction of the 1st respondent is concerned, the same is traceable to G.O.Ms.No.385, dated 17.08.2004 and it is the 1st respondent, who has to consider applications submitted for cancellation or modification of UDR patta. It is under these circumstances, the 1st respondent found that the patta was issued in the name of the individual poojaris by removing the name of the Temple and this fatal mistake was corrected/rectified through the impugned proceedings dated 14.12.2012 and 07.01.2013. The 1st respondent had taken note of the proceedings of the Settlement Tahsildar, wherein, the patta was granted in favour of the Temple under Act 30 of 1963. The 1st respondent had also taken note of the patent error that was committed subsequently by issuing the UDR patta in the name of individuals which runs contrary to the earlier proceedings of the Settlement Tahsildar. This apparent error was corrected by the 1st respondent through the impugned proceedings and the 1st respondent has rightly directed the name of the Temple to be incorporated in the patta. Accordingly, the correction was undertaken and the name of the individuals were removed and the patta now stands in the name of the Temple.

15.In the considered view of this Court, the petitioners cannot be allowed to take advantage of a mistake committed by the authority in granting patta in individual names. Such grant of patta in individual names is completely baseless and unsustainable since it virtually amounts to taking away the right of the Temple over the property. A revenue authority cannot take away the rights vested in the Temple under the relevant enactment and once it comes to the notice of the authority, necessary correction has to be carried out in the revenue records. This is what has actually happened in the present case and the 1st respondent had realised the grave mistake that was committed after receiving the application submitted by the 4th respondent. This Court does not find any illegality or infirmity in the impugned proceedings issued by the 1st respondent and there are absolutely no grounds to interfere with the same.

16.In view of the above discussion, this Court does not find any merits in these writ petitions. In the result, both the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

06.07.2022

KP
Internet: Yes
Index: Yes/No

To

1. District Revenue Officer
   Office of the District Revenue Office
   Collector Office Compound
   Erode.

2. The Commissioner
   Hindu Religious and Charitable Endowments Office
   No.119, Uthamar Gandhi Salai
   Nungambakkam Main Road
   Chennai-34.

3. The Assistant Commissioner
   Hindu Religious and Charitable Endowments Office
   Erode.

4. The Fit Persons/Executive Officer
   Arulmigu Kariyakaliamman Thirukoil
   Pattalur, Andiyur Taluk
   Office at Arilmigu Chokkannatha Swamy Thirukoil
   Amma Pet, Andiyur Taluk
   Erode District.

N.ANAND VENKATESH. J.,

KP

W.P.Nos.19833 and 19918 of 2013

06.07.2022