

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.30687 of 2012
and
M.P. Nos.1 to 4 of 2022

P.Kandasamy (Deceased)
2. Mohambal ...Petitioners
(P2 substituted as LRS of deceased
sole Petitioner vide order 14.03.2022
made in W.M.P. No. 5881/2022 in W.P. 30687/2012)

Versus

1. Government of Tamil Nadu,
Rep. By its Revenue Secretary,
Fort St. George,
Chennai - 600 009.

2. The Commissioner,
(Hindu Religious & Charitable Endowment),
Nungambakkam High Road,
Chennai.

3. The District Collector,
Tirupur.

4. The District Revenue Officer,
Tirupur.

5. The Tahsildar,
(Settlement),
Erode.

6. The Asst. Commissioner,
(Hindu Religious & Charitable Endowment),
Tirupur.

7. Ullur Mukuntapuriamman and
Arasamarathadi Vinayagar Temple,
Rep. By its Executive Officer, ...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for the records of the 4th respondent made in Na.Ka.No.12142/2011/J7 dated 19.1.2012 and quash the same as non-est in the eye of law and direct the respondents 1 to 7 to confirm the perpetual title of the petitioner in respect of the property comprised in S. No.175/4 and 177/4 at Sarkar Periapalayam, Avinashi Taluk, Tirupur District after deleting the deity name called as Ullur Mukuntapuriamman and Arasamarathadi Vinayagar temple of Sarkarperiapalayam, Avinashi Taluk, Tirupur District.

For Petitioners : Mr.P.R. Balasubramanian
For Respondents : Mr.R. Vigneswaran, Government Advocate
for R1, 3, 4 and 5.

ORDER

This writ petition has been filed to quash the order of the 4th respondent in Na.Ka.No.12142/2011/J7 dated 19.1.2012 and further directing the respondents 1 to 7 to confirm the perpetual title of the petitioner in respect of the property comprised in S. No.175/4 and 177/4 at Sarkar Periapalayam, Avinashi Taluk, Tirupur District after deleting the deity name called as Ullur Mukuntapuriamman and Arasamarathadi Vinayagar temple of Sarkarperiapalayam, Avinashi Taluk, Tirupur District.

2. It is the case of the petitioners that the disputed land in T.D. No.764, Devadayam, 156, Sarkarperiapalayam, Erode, Coimbatore are unenfranchised Minor Inam granted for the support of the pagodas of Ullur Mukuntapuriamman and Arasamarattadi Vinayakan at Agraharaperiapalayam, Erode Taluk and the said grant was confirmed and notified on 15.02.1965 under Section 1(5) of Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. Since, no application was received for the grant of ryotwari patta, as prescribed under the Act, 'suomoto' action was taken by the Settlement Tahsildar IV, Erode under Section 11 of the Act. Thereafter, due notices in the above regard were published and two witnesses on the side of the petitioners were examined as P.W.-1 and P.W.-2 viz., Periapalani Pandaram and Chinna Palani Pandaram. Further, it is averred that as S. Nos.175 and 177 of the said lands have been in enjoyment and possession of the aforesaid witnesses for the services rendered by them to the said temple, the Settlement Tahsildar, Erode passed orders and allowed the patta in the name of Sri Mukuntapuriamman and Arasamarattadi Vinayakan at

Sarkarperiapalayam. While so, it appears that subsequently the petitioners therein agitated the issue and claimed their right individually before the authorities concerned and the 4th respondent has rejected the request of seeking Ryotwari patta and passed the impugned order. Challenging the same, this writ petition has been filed by the original petitioner. Pending writ petition, the original petitioner died and his legal heir has been impleaded as the 2nd petitioner.

3. Learned counsel for the petitioner submitted that the impugned order passed by the 4th respondent is without application of mind, as he failed to appreciate the scope and object of the Act. He further submitted that the 4th respondent has failed to consider the order of the Settlement Tahsildar, dated 10.09.1970 in proper perspective. It is his contention that the 2nd respondent / HR & CE Department has not filed any appeal / revision, and when that be the position, the order of the Settlement Tahsildar has reached finality, which was also not taken note of by the 4th respondent. On instructions, he further submits that though the petitioner prayed for a larger relief in this writ petition, now, the petitioner restricts her prayer to the extent that insofar as the services rendered by the original petitioner to Sri Mukuntapuriamman and Arasamarattadi Vinayakan at Sarkarperiapalayam, with regard to entitlement of possession alone, and she is not inclined to claim title over the property. Hence, he seeks for issuance of appropriate directions in the above aspect.

4. Per contra, Mr.R.Vigneswaran, learned Government Advocate appearing for respondents 1, 3, 4 and 5 submits that the 4th respondent has considered all the aforesaid aspects and thereafter only passed the order, which is impugned herein. Hence, he vehemently opposes the contentions raised by the petitioner and prays for dismissal of this writ petition.

5. Heard the learned counsel on both sides and perused the materials placed on record.

6. Though very many grounds have been raised with regard to conferment of title on the petitioners, however, in view of the limited relief sought for by the petitioner at the time of hearing, this Court, without interfering the impugned order and without going into the merits of the case, is inclined to direct the petitioner to submit appropriate application along with a copy of this order before the authorities concerned, within a period of two weeks from the date of receipt of a copy of this order. On such submission of application by the petitioner, the

authorities shall consider the same and grant the relief to the extent of entitling the original petitioner with the enjoyment of the property so long as the petitioner is the service provider of Sri Mukuntapuriamman and Arasamarattadi Vinayakan at Sarkarperiapalayam. However, it is made clear the petitioner is not entitled to alienate or claim any title over the property, which is already vested with Sri Mukuntapuriamman and Arasamarattadi Vinayakan at Sarkarperiapalayam, as per the proceedings of the Settlement Officer supra.

7. This writ petition is disposed of with the aforesaid observations and directions. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi2

To

1. The Revenue Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2. The Commissioner,
(Hindu Religious & Charitable
Endowment),
Nungambakkam High Road,
Chennai.

3. The District Collector,
Tirupur.

4. The District Revenue Officer,
Tirupur.

5. The Tahsildar,
(Settlement),
Erode.

6. The Asst. Commissioner,
(Hindu Religious & Charitable
Endowment),
Tirupur.

+1 CC to Mr.P.R. Balasubramanian, Advocate sr 29045
+1 CC to The Government Pleader sr 29786, 30467.

W.P. No.30687 of 2012

RGN(CO)
SP(30/05/2022)