



Dated: 15/12/2022

C O R A M

THE HONOURABLE Mr.JUSTICE N. SATHISH KUMAR

V. Muthusamy ... Petitioner

$$V_S$$

1. The Commissioner
Hindu Religious and Charitable Endowment Department
Nungambakkam
Chennai 600 034.
2. The Assistant Commissioner
Hindu Religious and Charitable Endowment Department
Coimbatore 641 018.
3. The Executive Officer
A/m. Thiruvenkada Natha Perumal
A/m Vaidyanatha Swamy Thirukovil
Sulur
Coimbatore.
4. The Sub-Registrar
Sulur
Coimbatore.



W.P.No.11013 of 2022

PRAYER: Petition filed under Article 226 of the Constitution of India

praying for the issuance of a writ of certiorarified mandamus to call for the records from the file of the first respondent made in Ref.No.O.Mu.75564/2021/M2 dated 2/11/2021 and quash the same and directing the first respondent to issue No Objection Certificate to register a document in S.No.167/1 to an extent of 1.34 acers and 167/3 to an extent of 5.30 acers in Kalangal Village, Suler Taluk, Coimbatore District.

For Petitioner ... Mr.K. Balaji

For respondents ... Mr.N.R.R.Arun Natarajan
Special Government Pleader
(HR & CE)

ORDER

This writ petition has been filed to quash the order, dated 2/11/2021, passed by the first respondent and direct the first respondent to issue No Objection Certificate to register a document, in S.No.167/1 to an extent of 1.34 acers and 167/3 to an extent of 5.30 acers in Kalangal Village, Suler Taluk, Coimbatore District.

2. The case of the petitioner is that the property bearing S.Nos.167/1 to an extent of 1.34 acers and 167/3 to an extent of 5.30 acers in Kalangal



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Village, Sulur Taluk, Coimbatore District was originally belonged to Mr.S.V.Venkatasubramani and Mr.S.V.Seetharaman. The said property has been allotted to them under Minor Inam Abolition, in the year 1967. Subsequently, the said property has been sold to Mr.Srinivasan by a registered sale deed, dated 7/12/1967, vide Doc.No.23/1967 and he sold the said property to and in favour of the father of the petitioner Mr.Venkidusamy Naidu, by a registered Sale Deed, dated 5/4/1974 as Doc.No.468/1974, at SRO, Sulur.

3. Pursuant to the registration, Tahsildar of Palladam has granted patta in the name of the petitioner and since his father died intestate leaving behind his wife, son and pre-deceased son's wife and children as his legal heirs. After the demise of the father, the petitioner along with his mother and family members had partitioned the said property and other properties by a registered Partition Deed dated 13/5/1993 as Document No.1554 of 1993 at S.R.O, Sulur, in which the said property had been allotted to the petitioner as Schedule "C" property and patta has been transferred in the name of the petitioner.



4. The Tahsidlar of Sulur has issued No Objection Certificate dated 10/1/2012 stating that the said lands belong to the petitioner and the property is not a poramboke land and not subject to land acquisition. When the petitioner had approached the fourth respondent to obtain loan, the petitioner came to know that the third respondent has given objection to the Sub-Registrar, Sulur, fourth respondent not to register the documents in S.Nos.167/1 to an extent of 1.34 acers and 167/3 to an extent of 5.30 acers in Kalangal Village, Sulur Taluk, Coimbatore District. Hence the petitioner had submitted a representation to the Commissioner of HR & CE to issue No Objection Certificate. But the first respondent, vide order, dated 2/11/2021, rejected the application of the petitioner, stating that the property is Devadaya Inam land. Since issuance of Ryotwari patta is different from title of the property, Civil Court is competent to decide the title of the property. Being aggrieved, the petitioner has come forward with the instant writ petition praying for the relief as stated therein.

5. Heard Mr.K.Balaji, learned counsel for the petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR & CE) for the respondents.



6. The learned counsel appearing for the petitioner submitted that patta has been granted under Section 8 (2) (i) (b) of the Act. Thereafter, the petitioner was in continuous possession and enjoyment of the lands. Now, the learned counsel appearing for the petitioner submitted that he has other documents to prove the possession and therefore, the matter may be remitted back to the Commissioner to decide the issue, once again.

7. Learned Special Government Pleader appearing for the respondents submitted that the property is Devadaya Inam land and patta has been granted subject to the condition that they should render service to the temple and the conditions rendered was not complied by the petitioner. Therefore, the Commissioner cannot decide the title. If at all the petitioner wants to establish his right, he has to approach the Civil Court. Therefore, opposed the writ petition.

8. I have perused the materials available on record.

9. The petitioner claims title on the subject property only on the basis of the proceedings of the Settlement Tahsildar, passed on 19/8/1967. A perusal of the above order, particularly, in paragraph 2, reveals the fact that



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P.W.1 has been examined, wherein, he had deposed that he is one of the hereditary service holders, viz., for uttering vedas in the pagoda of Vaidhyanathaeswarasamy temple located at Sulur and also the successors in title and that he is rendering the service i.e., Vedaparayanam to the above temple and enjoying the lands in S.No.167/1 (1-34) and 167/3(5-30) of Kalangal Village, along with his brothers.

10. perusal of the same, patta has been granted subject to certain conditions, viz.,

(i). Service holder shall subject to the provisions of sub-Sections (3) (4) (6) and (7) of Section 21 be bound to continue to render the service after the appointed day.

(ii). The service holder shall have the option (a) to pay to the religious institution the amount specified in sub-Section (4) viz., twenty times the difference between the fair rent in respect of such determined by the Tahsildar, Tiruppur, in accordance with the provisions contained in the scheduled and the land revenue due on such land and (b) in the event of such payment, the land shall be discharged from the conditions of service.



11. It is relevant to extract Section 8 of the Tamil Nadu Minor Inams (Abolition & Conversion into Ryotwari) Act, 1963:-

“Grant of ryotwari pattas – (1) Subject to the provisions of sub-section (2), every person who is lawfully entitled to the Kudivaram is an inam land immediately before the appointed day whether such person is an inamdar or not shall, with effect on and from the appointed day, be entitled to ryotwari patta in respect of that land.

(2). Notwithstanding anything contained in sub-Section (1), in the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) and in the Tamil Nadu (Transferred Territory) Incorporated and Unincorporated Devaswoms Act, 1959, (Tamil Nadu Act 30 of 1959), the following provisions shall apply in a case of lands in an iruvaram minor inam granted for the support or maintenance of a religious institution or for the performance of a charity or service connected



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therewith or of any other religious charity.

(i). where the land has been transferred by way of sale and the transferee or his heir, assignee, legal representative or person deriving rights through him had been in exclusive possession of such land -

(a) for a continuous period of sixty years immediately before the 1st day of April, 1960, such person shall, with effect on and from the appointed day, be entitled to a ryotwari patta in respect of that land;

(b) for a continuous period of twelve years immediately before the 1st day of April, 1960, such person shall, with effect on and from the appointed day, be entitled to a ryotwari patta if he pays as consideration to the Government in such manner and in such number of instalments as may be prescribed an amount equal to twenty times the difference between the fair rent in respect of such land determined in accordance with the provisions contained in the Schedule and the land revenue due



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on such land;

(ii) in the case of any other land, the institution or the individual rendering service shall, with effect on and from the appointed day, be entitled to a ryotwari patta in respect of that land.

12. A bare perusal of the above, makes it clear that once the patta is granted, subject to certain conditions, without complying the conditions, the petitioner cannot claim absolute title.

13. Learned Special Government Pleader relying on the decision of (2017) 3 CTC – 135 (SUDHA RAVI KUMAR AND ANOTHER Vs. 1. THE SPECIAL COMMISSIONER AND COMMISSIONER, HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS DEPARTMENT, CHENNAI 34 AND 2 OTHERS), submitted that ryotwari patta issued to the ryot concerned is the final adjudication relating to the title for the property. The final adjudication regarding the title to the property can be had only before a Civil Court. At the time of registration of the deed, if any objection is made by the religious institution under Section 22 A of the Act, the registering authority shall issue notice, affording opportunity to the parties. If



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the Civil Court is satisfied that the land belongs to the religious institution, he shall refuse to register such deed.

14. Paragraph 26, of the above said judgment, reads as follows:-

“In view of the above discussions, all the writ petitions are allowed and the impugned orders are set aside with the following directions:

(i). The registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to the objector/religious institution, hold summary enquiry, hear the parties and then either register or refuse to register the document by passing an order having regard to the relevant facts as indicated above.

(ii). If the registering authority, refuses to register any document by accepting the objections raised under Section 22 A of the Registration Act,



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the aggrieved may file a statutory appeal under the Act.

(iii). If the objections raised under Section 22 A of the Act by the religious Institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the Civil Court for declaration of of the title and for other consequential reliefs.

(iv). If the registering authority refuses to register the document acting on the objections raised by a religious institution under Section 22 A of the Registration Act, the parties to the deed will be at liberty to straight away approach the Civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.



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(v). We further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22 A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered.

15. In view of the above, this Court is of the view that merely because some transaction took place earlier in the temple land, the petitioner cannot claim title. This finding is recorded only for the purpose of this writ petition. Accordingly, this writ petition is dismissed. However, if the petitioner still wants to establish his title with necessary documents, he is at liberty to establish the same, by filing a suit before the Civil Court. No costs. Consequently, the connected Miscellaneous Petition is closed.



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Index : Yes / No

Internet: Yes

Speaking/non speaking order

mvs.

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N. SATHISH KUMAR, J
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