BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
ORDER RESERVED ON : 20.06.2022
ORDER PRONOUNCED ON : 23 .06.2022
CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR
W.P.(MD).No.4731 of 2011
and
MP(MD).No. 1 of 2011

Arulmigu Koodal Alagar Temple
Madurai through its Assistant Commissioner
Executive Officer
Madurai -1 ...Petitioner

Vs

1.The District Collector
Madrai Collector's Officer
Madurai

2.The District Revenue Officer
Madurai Collector's Office
Madurai

3.The Revenue Divisional Officer
Madurai Collector's Office
Madurai

4.The Tahsildar
Madurai South Taluk
Madurai Collector's Office
Madurai

5.D.Ramanathan

6.D.Jeyaprakash

7.V.Balakrishnan

8.V.Periyakaruppan ....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records in Na.Ka.19400/09/G-2 dated 18.01.2011 on the file of the second respondent and quash the same as illegal, ultravires and against the principles of natural justice.

For Petitioner : Mr.S.Manohar
For R1 to R4 : Mr.P.Thambidurai
Government Advocate
For R5 to F8 : No Appearance

ORDER

The writ petition has been filed challenging the order passed by the second respondent confirming the order of the third respondent under which the Patta standing in the name of the writ petitioner temple was directed to be mutated in the name of the private respondents namely Respondents 5 to 8.

2. The learned counsel appearing for the petitioner temple had contended that Survey Nos.89/3 and 89/4 in Chinthamani Village, Madurai originally belonged to the ancestor of the private respondents. They have executed a registered document in Document No.727/1923 dated 19.02.1923 creating an endowment in favour of Govardhanagiri Urchava Arakattalai to be performed in the petitioner temple. Under the said document, apart from the disputed survey numbers, other survey numbers were also endowed. Based upon the said registered deed, Patta was standing in the name of the petitioner temple. The private respondents have approached the third respondent herein by an application dated 19.05.2008 requesting him to transfer the Patta in their names. Even in their applications, the private respondents have categorically admitted that the disputed survey numbers are endowed for Govardhanagiri Urchava Arakattalai of the petitioner temple. However, the third respondent herein proceeded to direct mutation of revenue records in favour of the private respondents on the ground that it is only an endowed property and it does not belong to the temple.

3.The learned counsel for the petitioner had further contended that the temple had filed a review petition before the second respondent herein. The second respondent has simply confirmed the order passed by the third respondent without any independent appreciation of the grounds raised by the petitioner temple. The learned counsel had further contended that a reading of the document dated 19.02.1923 will clearly indicate that there is a complete dedication of the disputed survey numbers for Govardhanagiri Arakattalai in favour of the temple. Therefore, Patta standing in the name of the temple was not erroneous and it should have been sustained. Due to mutation in favour of the private respondents, there is every likelihood of it being alienated thereby effecting the endowment in favour of the petitioner temple. He had further contended that there is no title dispute when the private respondents themselves have admitted about the endowment in favour of the petitioner temple in the application filed before the third respondent. Hence, he prayed that the order passed by the respondents 2 and 3 may be set aside and Patta may be restored in favour of the petitioner temple.

4. Though private respondents namely respondents 5 to 8 have been served, they have neither appeared in person nor engaged a counsel to represent them.

5. I have carefully considered the submissions made on the side of the petitioner.

6.There is no dispute that Survey Nos. 89/3 and 89/4 in Chinthamani Village have been endowed in favour of Govardhanagiri Arakattalai for the petitioner temple under a registered document in Document No.727/1923 dated 19.02.1923 by the ancestor in title of the private respondents. The private respondents have also admitted the same in their application filed before the third respondent seeking mutation of Patta in their favour. Hence, it is evident that the above said survey numbers are endowed in favour of the petitioner temple.

7.Respondents 2 and 3 without properly appreciating the endowed nature of Survey Nos.89/3 and 89/4, have arrived at a finding that despite endowment in favour of the petitioner temple, property would continue to be the private property of the private respondents. Once a property is completely dedicated in favour of specific endowment namely Govardhanagiri Arakattalai in favour of the temple, the revenue records should mandatorily reflect either the name of the endowment or the name of the temple in whose favour such an endowment has been created. In the present case, the respondents 2 and 3 have chosen to completely delete the name of the petitioner temple and directed mutation of revenue records in the independent name of the private respondents namely respondents 5 to 8. This will only result in creating encumbrance over the endowed property by the private respondents without obtaining any permission under Section 34 of HR & CE Act.

8. When a specific endowment has been created in favour of a temple for conducting a festival, the revenue authorities will not have any jurisdiction whatsoever to entertain an application for mutation of revenue records. Hence, I find that the order of the respondents 2 and 3 herein directing the mutation of the revenue records in favour of the private respondents is not legally sustainable and it is liable to be set aside. Accordingly, it is set aside. The revenue authorities are directed to restore the patta in the name of the petitioner temple.

9.In view of the above direction, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Cs-I)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

msa

To

1.The District Collector
Madrai Collector's Officer
Madurai

2.The District Revenue Officer
Madurai Collector's Office
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3.The Revenue Divisional Officer
Madurai Collector's Office
Madurai

4.The Tahsildar
Madurai South Taluk
Madurai Collector's Office
Madurai

+1 CC to M/s.S. MANOHAR, Advocate (SR-27892[F] dated 24/06/2022)

+1 CC to M/s.SPL.GP (SR-27986[F] dated 24/06/2022)

W.P.(MD).No.4731 of 2011
and
MP(MD).No. 1 of 2011
23.06.2022

SRK(CO)
KB(29.06.2022) 4P 7C