



W.P.(MD)No.16829 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

**W.P.(MD)No.16829 of 2012
and
M.P.(MD)Nos.2 and 3 of 2012**

1. B.Shanthi
2. S.Dhanapackiyam ... Petitioners

Vs.

1. The Assistant Commissioner,
The Hindu Religious and Charitable Endowments Department,
Pudukkottai.
2. The Executive Officer (Additional Incharge),
Pudukkottai Temples,
Pudukkottai.
3. The Sub Registrar,
Viralimalai,
Pudukkottai District. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the orders passed by the 1st Respondent in Na.Ka. No.4086/2011 A2 dated 06.01.2012 and the 2nd Respondent in Na.Ka.



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No.1/2012/J dated 13.01.2012 and also by the 3rd Respondent in Na.Ka. No.95/2012 dated 12.04.2012 and quash the same and consequently directing the 3rd Respondent herein to entertain the sale deeds as and when presented for registration by the Petitioners in respect of Survey No.120 situated in Vadugapatty Village, Viralimalai Sub District and Union, Illupur Taluk, Pudukkottai District and register and return the same.

For Petitioners : Mr.G.Sridharan
For Respondents : Mr.P.Subbaraj
Spl. Govt. Pleader for R1 and R3
Mr.G.Mathavan for R2

O R D E R

This Writ Petition has been filed to call for the records pertaining to the orders passed by the 1st Respondent in Na.Ka.No.4086/2011 A2 dated 06.01.2012 and the 2nd Respondent in Na.Ka.No.1/2012/J dated 13.01.2012 and also by the 3rd Respondent in Na.Ka.No.95/2012 dated 12.04.2012, quash the same and consequently direct the 3rd Respondent herein to entertain the sale deeds as and when presented for registration by the Petitioners in respect of Survey No.120 situated in Vadugapatty Village, Viralimalai Sub District and Union, Illupur Taluk, Pudukkottai District and register and return the same.



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2. It is the case of the Petitioners that one Mohan and Soosai Manickam are the power agents of the Petitioners herein. The punja lands in Survey No.120 admeasuring 7 Acres 12 Cents and Survey No.140 admeasuring 8 Acres 70 Cents situated in Vadugapatty Village Panchayat, Kulathoor Taluk, Pudukkottai District were originally granted to one Nalaliah Muthaliyar under Service Inam for the purpose of rendering 'Nadaswaram' service to the 2nd Respondent Temple and thereby rights were created over the said property. Right from the date of grant, the said Nalaliah Muthaliyar was in continuous possession and enjoyment of the above said lands and the same was recognized by the 2nd Respondent herein as well as the Settlement Authorities which would be evident from the Settlement Register maintained by the Revenue Authorities. In the meanwhile, the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (hereinafter referred to as 'the Act') came into force and the land in question stood vested with the Government free from all encumbrances. Importantly, Section 21 of the Act provides that where a service holder is entitled to a Ryotwari Patta under Section 8 of the Act in respect of any land, he shall have the option to pay to the religious



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institutions an amount specified under sub section (4) of Section 21, on such payment, the land shall be discharged from the condition of service. Such option is required to be exercised as provided under Section 21(3)(ii) of the Act. In terms of Section 21 of the Act, the said Nalaliah Muthaliyar made an application to the Fair Rent Tahsildar (Minor Inams), Lalgudi to pay the amount to be determined by the Authorities. An enquiry was conducted by the said Fair Rent Tahsildar (Minor Inams), Lalgudi, fixing a sum of Rs.14,877/-. As against the said order, the said Nallaiah Muthaliyar preferred an appeal before the Assistant Collector, Pudukkottai. The Assistant Collector, Pudukkottai, vide his proceedings reduced the quantum from Rs.14,877/- to Rs.12,470.40 paise/-. On payment of the entire amount fixed by the Assistant Collector, Pudukkottai District by the said Nalaliah Muthaliyar, the above lands were discharged from the condition of service and it was submitted that he became the absolute owner of the above said lands / property. As a matter of fact, after the death of the said Nalaliah Muthaliyar, the patta with respect to Survey No.120 in Vadugapatty Village stood transferred in the name of his wife Sundarathammal.



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3. It is submitted that once the patta has been issued either under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1963 or the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, it is for the Temple to establish its title before the Civil Court. The Registering Authorities has refused to register the title deeds in view of certain objections raised by the second Respondent herein. The learned counsel for the Petitioners relied on the judgment of the Hon'ble Division Bench of this Court in the case of ***Sudha Ravi Kumar and another vs. The Special Commissioner and Commissioner Hindu Religious and Charitable Endowments Department, Chennai – 34 and others*** reported in ***(2017) 4 MLJ 445*** and the relevant paragraphs are extracted hereunder:

“ 23. Therefore, in our considered view, once patta has been issued under either the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 and the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 it is for the temple to establish its title before the Civil Court. The registrar is bound to act on the basis of the ryotwari patta issued by the authority concerned and he shall not refuse to register the said deeds. As we have already pointed out the remedy for the religious institution is to approach



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the civil court for appropriate remedy.

24. But this observation of ours shall not be construed that it is our conclusion that ryotwari patta issued to the ryot concerned is the final adjudication relating to the title for the property. We wish to clarify that the final adjudication regarding the title to the property can be had only before a Civil Court. We only say that 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 afford opportunity to the parties, apply his mind and only from the materials available before him, if he is satisfied that the land belongs to the religious institution or given or endowed to the religious institution, then, he shall refuse to register such deed.

25. 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, 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 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 straightaway approach the Civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.

(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.”

4. Following the same, this Court is of the view that the Registering Authority shall issue notice to all interested parties and after



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affording opportunity to the parties to produce all relevant documents and on considering the same, the Registering Authority shall examine and decide the matter keeping in mind the guidelines issued by the Hon'ble Division Bench of this Court. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No
Speaking Order : Yes / No

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MOHAMMED SHAFFIQ, J.

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