



W.P(MD).No.3222 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 27.10.2022

ORDER PRONOUNCED ON : 31.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.3222 of 2013

and MP(MD).Nos. 1 & 2 of 2013

1.Church of Swedish Mission
Through its President and Dean
M.Ayyavu (died)

2. A.David @ Kannan
S/o.Late.Ayyavu
Church of Swedish Mission
Through its President and Dean
Pattukottai, No.45
Colony Naduvikottai
Pattukkottai, Thanjavur District

....Petitioner

(2nd petitioner is substituted vide Court order dated 27.09.2022)

Vs

1.The District Revenue Officer
Ramanathapuram District

2.The Revenue Divisional Officer
Paramakudi Taluk
Ramanathapuram District

3.The Thasildhar
Paramakudi

4.Tamil Evangelical Lutheran Church
Through its Secretary
Melapudur, Trichy Town
Trichy District

....Respondents



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Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 1st respondent dated 26.11.2012 in proceedings Pa.Mu.No.B5-57042-2012, quash the same as the same is arbitrary, ultravires, contrary to the principles of natural justice and audi alteram partem.

For Petitioner : Mr.A.C.Asaithambi

For R1 to R3 : Mr.B.Saravanan
Additional Government Pleader

For R4 : Mr.P.Arun Jeyatram

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein under which the patta standing in the name of the writ petitioner was transferred in the name of the fourth respondent herein.

2.According to the learned Counsel for the petitioner, the property in dispute belongs to the Church of Swedish Mission. The said Church of Swedish Mission was dissolved and it got merged with Kremmer Sandegran Foundation on 26.05.1957. Hence, all the properties of Church of Swedish Mission were inherited by the said Kremmer Sandegran Foundation and the patta was granted in favour of the writ petitioner. However, the fourth respondent herein alleging that erroneously patta has been granted in favour of the writ petitioner during UDR proceedings, he had approached the first respondent. The first respondent by his impugned order dated 26.11.2012 has



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held that during UDR proceedings, patta has been erroneously granted in favour of the writ petitioner and he has cancelled the same and directed the said revenue authorities to transfer the patta in the name of the fourth respondent. The present writ petition has been filed challenging the said order.

3. According to the learned counsel for the writ petitioner, it is an admitted fact that the property in dispute originally belonged to the Church of Swedish Mission and it got merged with Kremmer Sandegran Foundation on 26.05.1957. The fourth respondent herein is claiming that the Church of Swedish Mission has sold the property in favour of the fourth respondent herein by a document dated 10.05.1962. He had further contended that once the Church of Swedish Mission had got merged with Kremmer Sandegran Foundation, thereafter, the Field Secretary of the said dissolved Church of Swedish Mission will not have any power to alienate the property in favour of the fourth respondent herein. Therefore, according to the learned counsel for the petitioner, rightly patta was granted during UDR proceedings as C.M.S High School Management. However, erroneously relying upon a document dated 10.05.1962, the first respondent has mutated the patta in favour of the fourth respondent. Hence, the present writ petition.

4. Per contra, the learned counsel appearing for the fourth respondent had contended that there is no document whatsoever to establish that the



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Church of Swedish Mission was dissolved and it got merged with Kremmer Sandegran Foundation on 26.05.1957. The Church of Swedish Mission has sold the property in dispute, under a registered Document dated 10.05.1962 in favour of the fourth respondent. From the said date onwards, the fourth respondent is in management and administration of the property. The fourth respondent is running a School in the name and style of TELC Primary School and TELC Middle School in the property. Hence, the contention of the petitioner is that he is in possession and enjoyment of the same and the patta should be restored in the name of Church of Swedish Mission is not legally sustainable. He had further contended that relying upon the registered sale deed in favour of the fourth respondent herein, the present impugned order has been passed. In case, if the petitioner is aggrieved over the sale deed in favour of the fourth respondent dated 10.05.1962, it is for him to challenge the same before the appropriate forum. Hence, he prayed for dismissal of the writ petition.

5.I have considered the submissions made on either side and perused the materials available on record.

6.It is not in dispute that the property in dispute was originally owned by the Church of Swedish Mission. According to the petitioner, Church of Swedish Mission was dissolved and it got merged with Kremmer Sandegran



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Foundation on 26.05.1957. However, no records have been placed before this Court with regard to the said dissolution or merger of the same with Kremmer Sandegran Foundation. On the other hand, the fourth respondent has produced the registered sale deed dated 10.05.1962 executed by the field secretary of Church of Swedish Mission in favour of the fourth respondent herein. The document Dated 10.05.1962 clearly indicates that the property in dispute has been transferred in favour of the fourth respondent herein. The fourth respondent has further contended that during UDR proceedings erroneously the patta was transferred in the name of the C.M.S High School Management referring to the Church of Swedish Mission High School.

7. According to the fourth respondent, the Church of Swedish Mission is not running any School in the disputed property. In fact the fourth respondent is running two aided School in the disputed property. The fourth respondent has produced the correspondence between the fourth respondent and the District Elementary Education Officer, Ramnad dated 11.11.2016 to indicate that two Schools are functioning in the said premises under the name and style of TELC Primary School and TELC Middle School. The fourth respondent has also produced proceedings of the Director of Elementary Education dated 20.11.2017 indicating that the said Schools are under the management of the fourth respondent herein. Hence, the title deeds as well as



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the records of the Educational authorities clearly indicate that the fourth respondent is in management and administration of the said Schools in the disputed property.

8.The main contention of the petitioner is that after merger, the Field Secretary of Church of Swedish Mission will not have any authority to execute a registered sale deed in favour of the fourth respondent on 10.05.1962. This issue cannot be decided either by the Revenue Authorities or by this Court under Article 226 of Constitution of India. In case, if the petitioner is aggrieved by the said sale deed, he should have approached the competent Civil Court challenging the said sale deed. However so far, no legal action has been initiated on the side of the writ petitioner.

9.The contention of the writ petitioner is that that they are running the School in the name and style of CSM has also been falsified by production of document of the fourth respondent. When the fourth respondent is running two Schools in the disputed property, patta cannot be transferred in the name of the writ petitioner.

10.When the petitioner himself claims that the Church of Swedish Mission has been dissolved and it got merged with Kremmer Sandegran Foundation, it is not known how the present writ petition has been filed by



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the Church of Swedish Mission represented by its President. The first respondent herein has gone through the registered document in favour of the fourth respondent herein and has arrived at a finding that during UDR proceedings, erroneously patta has been transferred in the name of C.M.S. High School management. Hence, I do not find any illegality or infirmity in the order passed by the first respondent herein. The writ petition is devoid of merits.

11.In view of the above said facts, this writ petition stands dismissed.
No costs. Consequently, connected miscellaneous petitions are closed.

31.10.2022

Internet : Yes/No
Index : Yes/No
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To

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Ramanathapuram District

2.The Revenue Divisional Officer
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Ramanathapuram District

3.The Thasildhar
Paramakudi



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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