BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.03.2022
CORAM
THE HONOURABLE MR. JUSTICE C.SARAVANAN
Writ Petition (MD) No.21077 of 2019
and
W.M.P.(MD) No.17706 of 2019

1.R.Udhayakumar (Oor Gounder)
2.T.S.Thirumalai (Thalavai Gounder)
3.P.Raju (Nattuk Gounder) .. Petitioners

Versus

1.The District Collector,
Dindigul District.

2.The District Revenue Officer,
Dindigul District.

3.The Revenue Divisional Officer,
Dindigul District.

4.The Tahsildar, Natham Taluk,
Dindigul District.

5.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Madurai.

6.The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Dindigul.

7.The Executive Officer,
Arulmigu Thirumogur Kalamega Perumal Temple,
Madurai,
As incharge Kailasanathar Temple,
Natham.
8.C.Saravanamuthu
9.S.Ajithkumar
10.M.Suruli
11.Tamilvannan
12.Murugan
13.R.Chinnamuthu
14.Kalaiarasan
15.M.Ganesan
16.Senthil
17.K.Chandramuthu
18.K.Muthuraj
19.K.Lala Krishnan

20.Thangavel
21.Rajiv Gandhi
22.Murugan
23.V.Durai
24.V.Dhanagncheyan
25.S.Selvam
26.K.Suruli
27.Kannan
28.S.Poosaithurai
29.K.Mani .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents 5 and 6 to appoint a fit person or an adhoc committee for management of the Arulmigu Mahalakshmi Amman Temple, Sendurai, Natham Taluk, Dindigul District, till a proper scheme is framed/suitable trustee is appointed and further direct suitable action to be taken against the respondents 8 and 9 with respect to the sale of the temple lands by them and to secure the properties in S.No.345/1A, 345/1B, 345/1C, 346/2 and 353/2 of Senthurai Village, Natham Taluk, Dindigul District, from the private respondents and also for further directions to respondents 1 to 4 to further restore the revenue records of the properties in the name of the Arulmighu Mahalakshmi Amman Temple, Senthurai, within a stipulated time in accordance with law.

For Petitioners	:	Mr.H.Lakshmi Shankar
For R1 to R6	:	Mr.P.Subbaraj Special Government Pleader
For R8 and R9	:	Mr.R.G.Shankar Ganesh
For R7 and R10 to R29	:	No Appearance

ORDER

This Writ Petition has been filed to direct the respondents 5 and 6 to appoint a fit person or an *ad hoc* committee for management of the Arulmigu Mahalakshmi Amman Temple, Sendurai, Natham Taluk, Dindigul District, till a proper scheme is framed/suitable trustee is appointed and further direct suitable action to be taken against the respondents 8 and 9 with respect to the sale of the temple lands by them and to secure the properties in S.Nos.345/1A, 345/1B, 345/1C, 346/2 and 353/2 of Senthurai Village, Natham Taluk, Dindigul District, from the private respondents and for a further direction to respondents 1 to 4 to restore the revenue records of the properties in the name of the Arulmighu Mahalakshmi Amman Temple, Senthurai, within a stipulated time in accordance with law.

2.The dispute pertains to a Temple called ''Arulmigu Mahalakshmi Amman Temple''. Earlier, the eighth respondent's father namely, Chinnamuthu Gounder was officiating the rituals in the Temple as Poosari. The eighth respondent's father died on 26.12.2013. It appears that the eighth respondent sent an application for being appointed as Hereditary Trustee after the demise of his father. By order dated 15.03.2016, the Joint Commissioner, Madurai, rejected the application filed by the eighth respondent. However, during the interregnum, the eighth respondent obtained release deed from his siblings by treating the property of the said Temple as the personal property of the family and thereby, conveying the properties to him. The eighth respondent has thereafter executed a Gift Deed in favour of the ninth respondent, namely, S.Ajithkumar, who is none other than the son of the eighth respondent. The petitioner has thus filed the present Writ Petition.

3.The Writ Petition is opposed by the respondents 8 and 9 stating that the eighth respondent is no longer a Trustee and that the wife of the eighth respondent namely, S.Rasathi has been appointed as a Hereditary Trustee on 16.09.2020. It is therefore submitted that the Writ Petition filed for a Mandamus is without any merit.

4.It is further submitted that earlier, the seventh respondent was appointed as a Fit Person. Since the wife of the eighth respondent has been appointed as a Hereditary Trustee, the requirement of appointing another Fit Person does not arise. As far as transfer and cancellation of the Patta and the revenue records regarding the release deed in favour of the eighth respondent and the consequential gift deed gifting the Temple property in favour of the ninth respondent are concerned, it is submitted that there is a dispute that the property belongs to the Temple. It is submitted that the property is indeed the family property and therefore, it was released in favour of the eighth respondent by his siblings after the death of his father on 26.12.2013 and that there was no impediment for the eighth respondent to gift the property to the ninth respondent. That apart, it is submitted that the second petitioner namely, T.S.Thirumalai had earlier filed W.P.(MD)No.3269 of 2017 before this Court for a somewhat identical prayer to direct the Commissioner, Joint Commissioner and the Assistant Commissioner to take appropriate action against the respondents 11 and 12 therein namely, respondents 8 and 9 herein, for allegedly creating fraudulent documents and for transferring the property and to remove the encroachments on the property of the Temple, comprised in S.Nos.345/1A, 345/1B, 345/1C, 346/2 and 353/2, [20 shops] situated at Sendurai Village, Natham Taluk, Dindigul District. It is submitted that the said Writ Petition was disposed of by this Court, vide order dated 27.07.2017, noting the fact that the District Revenue Officer was seized of the matter.

5.The learned Special Government Pleader for the official respondents 1 and 6 has informed that steps have been taken for cancelling the Patta granted in favour of the eighth respondent and the consequential Patta granted in favour of the ninth respondent.

6.The learned counsel for the petitioners interjected and submitted that the fact that no action has been taken since 2019 and the fact that the delinquent's wife has been appointed as a Hereditary Trustee on 16.09.2020 by the fifth respondent Joint Commissioner shows that there is a complicity on the part of the fifth respondent and the interest of the Temple was being sacrificed.

7.The learned counsel for the petitioners has also drawn the attention of this Court to several rental agreements signed by the eighth respondent's father namely, Chinnamuthu Gounder, wherein the shops of the Temple were leased out to various tenants in his capacity as Poosari and not a Hereditary Trustee. It is submitted that there was no hereditary Trustee and only Poosari was there in the Temple and therefore, the attempt of the family of Late.Chinnamuthu Gounder to corner the wealth of the Temple is illegal and liable to be interfered.

8.The learned counsel for the petitioners further submits that all transfers of the Temple property are void in terms of Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as ''the H.R. & C.E. Act''] and therefore, submits that this Court has ample power to declare the release deed and the gift deed, dated 20.02.2014 and 23.09.2015, respectively, are illegal.

9.The learned counsel for the petitioners has also drawn the attention of this Court to Section 22-A of the Registration Act, 1908. It is submitted that there was a specific bar under Section 22-A of the Registration Act for registration of the release deed and the gift deed.

10.The learned counsel for the petitioners has also drawn the attention of this Court to the extract from the Adangal and Chitta to establish that the property which was the subject matter of the release deed dated 20.02.2014 and the subsequent gift deed dated 23.09.2015 in favour of the respondents 8 and 9 respectively, were the property of the Temple and not the individual property of Late.Chinamuthu Gounder.

11.I have considered the arguments advanced by the learned counsel for the petitioners, the learned Special Government Pleader for the respondents 1 to 6 and the learned counsel for the respondents 8 and 9 and also considered the provisions of the H.R. & C.E. Act, particularly, Section 34 of the Act and Section 22-A of the Registration Act.

12.*Prima facie*, it appears that the eighth respondent has abused his position, after the death of Chinnamuthu Gounder, by getting a release deed executed in his favour from his siblings by making it seem as the properties belonged to his family and the family members had no objection to release their interest in the property in favour of the eighth respondent. The eighth respondent in turn has executed a gift deed on 23.09.2015 in favour of of his son namely, the ninth respondent herein. The fact that the family of Late. Chinnamuthu Gounder has cornered the Temple property should have been given sufficient identification to the official respondents to ensure that the wife of the eighth respondent should not have been appointed as a Hereditary Trustee to abuse the Temple and the Temple property. Further, there are no records to show that Late.Chinnamuthu Gounder was the Hereditary Trustee of the Temple to appoint the wife of the eighth respondent as a Hereditary Trustee under Section 54(1) of the H.R. & C.E. Act.

13.The seventh respondent, who was appointed as Executive Officer has also not discharged his function as was warranted and expected of him. The Revenue Authorities namely, the Tahsildar and the Revenue Divisional Officer are also taking sweet will time to cancel the Patta issued to the respondents 8 and 9. The H.R. & C.E. Department has also not shown any inclination to protect the interest of the Temple property.

14.Considering the above, I am inclined to dispose of this Writ Petition, by directing the H.R. & C.E. Department to take immediate steps to appoint a Fit Person, who will take charge of the Temple and administer the same. This exercise shall be carried out by the Officers of the H.R. & C.E. Department within a period of 30 days from the date of receipt of a copy of this order. The third respondent - Revenue Divisional Officer is directed to take steps for cancelling the Patta granted in favour of the eighth respondent and the subsequent changes in the Patta in favour of the ninth respondent. The Officials of the H.R. & C.E. Department are directed to take steps for cancelling the release deed and the consequential gift deed dated 20.02.2014 and 23.09.2015, respectively, as null and void in accordance with law. Needless to state the respondents 8 and 9 shall be given adequate opportunity to defend themselves in the above proceedings.

15.This Writ Petition is disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Dindigul District.

2.The District Revenue Officer,
Dindigul District.

3.The Revenue Divisional Officer,
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4.The Tahsildar,
Natham Taluk,
Dindigul District.

5.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Madurai.

6.The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Dindigul.

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-13119[F] dated 21/03/2022)

+1 CC to M/s.SPL GP (SR-13206[F] dated 21/03/2022)

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