BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 22.07.2022

ORDER PRONOUNCED ON : 09.09.2022

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).Nos.390,2062 and 14710 of 2014**
**and**
**MP(MD).Nos.2,2 and 3 of 2014**
**and**
**W.M.P(MD)No.16593 of 2017**

**W.P(MD)No.390 of 2014:**

1.K.Subramanian

2.G.Vijayalakshmi Ammal

3.M.Sridhar

4.M.Thayaar ... Petitioners

Vs.

1.Fit Person,
Alagarsingampatti,
Thanneer Pandhal Charity cum Executive Officer,
Arulmigu Soundraraja Perumal Thirukovil,
Thadikombu,
Dindigul.

2.The District Revenue Officer,
Collectorate,
Dindigul District. ..... Respondents

**PRAYER:** This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the second respondent dated 25.11.2013 passed in Na.Ka.No.38231-1/2012/A4 and quash the same.

| | |
|---|---|
| For Petitioners | : Mr.K.S.Vamsidhar |
| For R1 | : Mr.M.Muthugeethayan |
| For R2 | : Mr.D.Sasikumar<br>Additional Government Pleader |

**W.P(MD)No.2062 of 2014:**

1.Subramanian

2.Tamilarasi

3.Subramani (Died)

4.S.Anbuselvi

5.Deepa

6.Hariharasudhan ... Petitioners

(P4 to P6 are substituted vide Court order, dated 22.07.2022 in W.M.P(MD)No.14284 of 2018)

Vs.

1.The District Revenue Officer,
Dindigul District,
Dindigul.

2.The Executive Officer cum Thakkar,
Arulmigu Soundraraja Perumal Thirukovil,
Thadikombu and Alagarsingampatti Thannerpanthal
Charitable Trust,
Chettinaickenpatti, Dindigul.

3.The Tahsildar,
Dindigul,

4.The Joint Sub-Registrar-II,
Dindigul. ..... Respondents

**PRAYER:** This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records and proceedings relating to the impugned order dated 25.11.2013 in Na.Ka.No. 38231- II/2012/A4 of the first respondent and quash the same

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| For P1 & P2 | : Mr.K.Suresh |
| For P4 & P5 | : Mr.A.V.Rajasekaran |
| For R1,R3 & R4 | : Mr.D.Sasikumar<br>Additional Government Pleader |
| For R2 | : Mr.M.Muthugeethayan |

**W.P(MD)No.14710 of 2014:**

Fit Person/Thakkar
Alagarsingampatti Thanneer Pandhal
Charity cum Executive Officer,
Arulmigu Soundraraja Perumal Thirukovil,
Thadikombu,
Dindigul District. ... Petitioner

Vs.

1.The District Revenue Officer,
Collectorate,
Dindigul District.

2.The Tahsildar,
Dindigul.

3.S.Vijayan

4.Balasubramanian

5.P.Tamilarasi

6.Shanmuganathan

7.Sivarajarathinam

8.Sivasubramanian

9.Sivashanmugarajan

10.Subramani

11.Anbalagan

12.Santhanakaruppammal

13.Indira Gandhi

14.Rathinam ..... Respondents

**PRAYER:** This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent pertaining to its order in Na.Ka.No.38231-II/2012/B4, dated 25.11.2013 in so far as directing the petitioner to file appeal as against the judgment and decree passed in O.S.No.412 of 2004, before the competent Court and quash the same and consequently direct the first respondent herein to issue a direction to the second respondent herein to change the patta in the name of the petitoner's institution.

| | |
|---|---|
| For Petitioner | : Mr.M.Muthugeethayan |
| For R1 & R2 | : Mr.D.Sasikumar<br>Additional Government Pleader |
| For R4 & R5 | : Mr.K.Suresh |
| For R3,R6 - R14 | : No Appearance |

## COMMON ORDER

All the three writ petitions have been filed challenging an order passed by the District Revenue Officer, Dindigul on 25.11.2013.

2. W.P(MD)No.14710 of 2014 has been filed by the fit person of Alagar Singampatti Thanneer Pandal Charity challenging that portion of the order, under which the District Revenue Officer had refused to entertain an appeal, despite arriving at various findings in favour of the fit person of the said Charity.

3. W.P(MD)Nos.390 and 2062 of 2014 have been filed by the purchasers of the property challenging that portion of the order, under which District Revenue Officer had directed the fit person of Alagar Singampatti Thanneer Pandal Charity to file an appeal as against the judgment and decree

in O.S.No.412 of 2004 on the file of the Additional District Munsif Court II, Dindigul, dated 14.12.2006. The further direction issued by the District Revenue Officer to stop registration of all the documents and to maintain status quo with regard to patta till the disposal of the proposed appeal is also challenged by the purchasers.

**4. The contentions of the fit person of Alagar Singampatti Thanneer Pandal Charity in W.P(MD)No.14710 of 2014 are as follows:**

(i) Survey No.408 measuring 19 acres is a minor inam covered in T.D.No.889 and it was granted for the support of Alagar Singampatti Thanneer Pandal situated in Chettinayakkanpatti Village. The inam land was notified and taken over by the Government under Tamil Nadu Act 30 of 1963 on 15.02.1965.

(ii) After abolition of minor inam, the Settlement Tahsildar conducted a detailed enquiry and granted ryotwari patta for Survey No.408 for an extent of 19 acres in favour of Alagar Singampatti Thanneer Pandal under Section 8 (2) (ii) of the said Act r/w Section 11 (2) of the Act through the managers of the said Thanneer Pandal by his order, dated 14.11.1968.

(iii) The managers of the said Thanneer Pandal are the descendants of the original service holders and they continued to render service regularly and they were in possession of the land by their hereditary right. The said Thanneer Pandal was connected with the festivals of Arulmigu Soundararaja Perumal Temple, Thadicombu. Hence, it is a religious endowment as defined under Section 6 (17) of Hindu Religious and Charitable Endowments (hereinafter referred as HR & CE) Act.

(iv) The order, dated 14.11.1968 passed by the Settlement Tahsildar was challenged by some third parties before the Minor Inam Abolition Tribunal (Sub Court), Madurai in C.M.A.No.594 of 1969. The Tribunal had confirmed the order on 31.03.1970. Hence, the lands being a service inam and a religious endowment is completely under the control of HR & CE department.

(v) The managers without obtaining any prior permission from HR & CE department, had alienated the said properties. Hence, the Executive Officer of the temple had filed O.S.No.412 of 2004 on the file of Additional District Munsif Court II, Dindigul for the relief of declaration that the property belonged to the temple and for recovery of possession from the defendants. The trial Court had dismissed the suit on the ground that the temple has not produced any document to establish their title over the said property. Only after the disposal of the suit, it was discovered that the property belonged to a religious endowment by name, Alagar Singampatti Thanneer Pandal. Hence, no appeal was filed as against the said judgment.

(vi) The HR & CE department had appointed the Executive Officer of Arulmigu Soundararaja Perumal Temple, Thadicombu as fit person of Alagar Singampatti Thanneer Pandal by an order, dated 10.06.2011 as contemplated under Section 49 of the HR & CE Act.

(vii) After appointment as fit person, on verification, the petitioner came to know that during settlement proceedings and during UDR proceedings, the properties stood in the name of Thanner Pandal represented by its managers. Thereafter, subdivisions have taken place. After the introduction of UDR scheme, the name of Thanner Panthal was deleted and the revenue records reflected the names of the individuals, who had purchased the property. Patta has also been issued in the name of the individuals, after deleting the name of Alagar Singampatti Thanneer Pandal Charity.

(viii) Since these defects were found out during the UDR proceedings, the petitioner had approached the District Revenue Officer, Dindigul to rectify the said defects. The petitioner had requested for cancellation of the subdivisions and restoration of patta in the name of the fit person of the Thanneer Pandal Charity.

(ix) The District Revenue Officer, Dindigul after hearing all the parties, had passed the impugned order on 25.11.2013, under which he has given all the findings in favour of the fit person, but refused to entertain the appeal only on the ground that the judgment and decree in O.S.No.412 of 2004 stands in the way and hence, he does not have any jurisdiction to entertain the appeal. This portion of the order is challenged by the fit person in W.P(MD)No.14710 of 2014.

**5. The contentions of the petitioners in W.P(MD)Nos.390 and 2062 of 2014 are as follows:**

(i) The property in dispute originally was the absolute property of one Ramasamy Iyer, who had dealt with the same under two registered lease deeds on 22.02.1923 and 24.01.1936. After the demise of the said Ramasamy Iyer, it devolved upon his sons, Lakshmana Iyyer, Subramania Iyer and Anna

Iyer. They had partitioned the said property by way of a registered partion deed, dated 24.06.1964.

(ii) A patta was granted by the Settlement Tahsildar under Act 30 of 1963 in favour of the managers of Thanneer Pandal. The said order of the Settlement Tahsildar was also confirmed by the appellate tribunal in C.M.A.No.594 of 1969 by an order, dated 31.03.1970.

(iii) The petitioners have further contended that there is no reference about any religious endowment either in the order of the Settlement Tahsildar, dated 14.11.1968 or in the order passed by the Inam Abolition Tribunal in C.M.A.No.594 of 1969. The said orders do not reflect that the Thanneer Pandal had any connection with any religious function or festival of Arulmigu Soundararaja Perumal temple, Thadicombu.

(iv) The settlement patta granted by the Tahsildar on 14.11.1968 does not reflect about any religious institution connected with the Thanneer Pandal nor it reflected about any festival days connected with a temple. The Thanneer Pandal is a secular charitable activity, which was not connected with any temple whatsoever. Hence, the contention of the HR & CE department that it is a religious endowment, has no basis whatsoever.

(v) The said issue of religious endowment was also raised before the learned Additional District Munsif in O.S.No.412 of 2004. The learned District Munsif in paragraph 12 of his judgment, has categorically found that is not a Hindu religious endowment in view of the fact that the Thanneer Pandal is to be used by all the general public.

(vi) The Executive Officer of Arulmigu Soundararaja Perumal temple had filed O.S.No.412 of 2004 with similar contentions and he was unsuccessful. After the judgment in the said suit on 14.12.2006, the same Executive Officer got himself appointed as the fit person of the Alaagar Singampatti Thanneer Pandal Charity and had approached the District Revenue Officer for transfer of patta in favour of the said Thanneer Pandal. Hence, the District Revenue Officer had rightly rejected the request of the fit person to entertain the appeal in view of the judgment in O.S.No.412 of 2004.

(vii) The petitioners have further contended that after dismissing the appeal, the District Revenue Officer ought not to have passed an order of status quo, directing the revenue officials not to transfer patta. He should not have passed an order, directing the Sub Registrar, not to register any document till an appeal is filed by the fit person as against the judgment and decree in O.S.No.412 of 2004. Once the first respondent finds that the appeal is not maintainable, thereafter, he cannot pass orders banning registration of documents or transfer of patta and the same is without any jurisdiction. Hence, he prayed for allowing the writ petition to the extent of the order of status quo passed by the District Revenue Officer.

6. I have carefully considered the submissions made on either side and perused the documents.

7. There is no dispute that a patta was granted in favour of the vendors of the petitioners in W.P(MD)Nos.390 and 2062 of 2014 by the Settlement Tahsildar II, Madurai on 14.11.1968. A perusal of the said order indicates that the order has been passed under Section 11 of the Tamil Nadu Act 30 of 1963. A Patta has been granted under Section 8(2) (ii) of the said Act in favour of Alagar Singampatti Thanneer Pandal. The said patta has neither been challenged by the managers nor by the Soundararaja Perumal Temple, Thadicombu. Some third parties have filed C.M.A.No.594 of 1969 before Inam Abolition Tribunal, Madurai and the same has also been dismissed.

8. A perusal of the order of the Settlement Tahsildar II, dated 14.11.1968 does not reflect that the said Thanneer Pandal Charity has connected with any religious institution or connected with any festival of a religious institution.

9. Our High Court in a judgment reported in ***1977 TLNJ 250 (G.Viswalingam Pillai Vs. The Secretary, Commercial Taxes and Religious Endowments, Madras)*** has held that Water pandal Charity cannot be said to be a “Hindu” charitable endowment as a person not belonging to Hindu religion can also be a beneficiary. This Court has further held that the benefit of this water pandal is not confined to the persons professing Hindu religion. Therefore, this object of the Trust is for the benefit of the entire public irrespective of the religion to which one belongs. On the basis of the above said findings, this Court held that Water Pandal is not a Hindu religious and charitable endowment. In the present case, the fit person has not placed any record to establish the connection between the Water Pandal and Arulmigu Soundararaja Perumal Temple, ThadiCombu.

10. The Executive Officer of Arulmigu Soundararaja Perumal Temple had raised the contention of the Thanneer Pandal in O.S.No.412 of 2004 also.

The Executive Officer has been appointed as the fit person of the Thanneer Panaal after the judgment in O.S.No.412 of 2004. Now, under a different capacity, the same Executive Officer of the temple is making a claim over the properties and has approached the revenue authorities for restoring the patta, now in the name of the Thanneer Pandal. When the Settlement Tahsildar's order does not reflect anything about the religious endowment as contemplated under Section 6 (17) of the HR & CE Act, it is not known how a fit person was appointed under Section 49 of the HR & CE Act for Alagar Singampatti Thanneer Pandal.

11. Paragraph 7 of the impugned order clearly indicates that before and after the UDR proceedings, patta was standing only in the name of Thanneer Pandal represented by its managers. Thereafter, when alienations were made by the managers, subdivisions have been effected and separate pattas have been issued in the name of the individuals. Only when a mistake has crept in during the UDR proceedings, the District Revenue Officer will have exclusive jurisdiction to entertain applications to rectify the defect as contemplated under G.O.Ms.No.385 Revenue (Public-3), dated 17.08.2004. But, in the present case, even as per the impugned order, the patta was standing in the name of the Thanneer Pandal prior to UDR proceedings and

after UDR proceedings. Hence, there is no question of error or mistake creeping during the UDR proceedings, warranting the interference of the District Revenue Officer, Dindigul. Hence, the District Revenue Officer, Dindigul will not have any jurisdiction, whatsoever to entertain an application filed on the side of the fit person directly and pass an order of status quo.

12. When the Civil Court has categorically held in O.S.No.412 of 2004 that Arulmigu Soundararaja Perumal Temple, Thadicombu has not established its title over the disputed property, the Executive Officer of the same temple after getting appointed himself as fit person of Alaagar Singampatti Thanneer Pandal had approached the District Revenue Officer, Dindigul for restoration of patta in favour of Thanneer Pandal. When a Civil Court has passed a judgment and decree, the revenue authorities are bound by the same. The District Revenue Officer, Dindigul had erred in ignoring the said Civil Court decree and entertaining the so called appeal on merits.

13. Even assuming that the District Revenue Officer had got jurisdiction to entertain an appeal, either he can allow the appeal or reject the appeal or modify the orders passed by the original authorities. But, in the

present case, after dismissing the appeal on the ground of no jurisdiction, the District Revenue Officer has proceeded to pass an order of status quo, directing not to transfer any patta or not to register any document in relation to the disputed survey numbers. Whether District Revenue Officer is exercising his jurisdiction under G.O.Ms.No.385, dated 17.08.2004 or under Tamil Nadu Patta Passbook Act, he has no jurisdiction whatsoever to issue directions to the registration authorities, not to register any documents. Once an authority finds that he has no jurisdiction to entertain an appeal, he cannot pass further orders, granting status quo with regard to transfer of pattas in future.

14. The Executive Officer of Arulmigu Soundararaja Perumal temple, Thadicombu has not chosen to file an appeal as against the judgment and decree in O.S.No.412 of 2004 for more than 15 years. Since no appeal has been preferred by the Executive Officer of the temple for the past 15 years, the order of status quo granted by District Revenue Officer, Dindigul is for an indefinite period, especially, when the observations are made that till the disposal of the dispute before the Civil Court, the registration and the mutation of records have to be kept in abeyance.

15. The District Revenue Officer, Dindigul has exceeded his jurisdiction in offering comments that judgment in O.S.No.412 of 2004 has been obtained by suppression of material facts. In the said suit, the present fit person was the plaintiff in the capacity as Executive Officer of Arulmigu Soundararaja Perumal Temple, Thadicombu. The said Executive Officer has also placed before the Court that the property belongs to Alagar Singampatti Thanneer Pandal. Only after considering all these aspects, the Civil Court has dismissed the suit filed by the temple.

16. The learned counsel for the fit person has contended that the temple was under the wrong impression that the disputed property belongs to the temple and only on a later point of time, it was discovered that the property belongs to Thanneer Pandal. This submission is not acceptable in view of the fact that the fit person in his different capacity as Executive Officer of the temple, had pleaded before the Civil Court that the property belongs to Thanneer Pandal and the same has also been considered in paragraph no.12 of the Civil Court judgment. Therefore, it is clear that the Executive Officer of the temple, who was not successful in getting a decree for declaration of title and recovery of possession, had taken a different avatar as fit person of the Thanneer pandal and approached the District Revenue Officer, Dindigul

for restoration of patta, at least in the name of Thanneer Pandal, if not in the name of the temple. Therefore, the order impugned in the writ petition to the extent that the District Revenue Officer has refused to entertain the appeal is legally sustainable for all the reasons stated supra.

17. In view of the above said facts, the writ petition filed by the fit person in W.P(MD)No.14710 of 2014 stands dismissed. W.P(MD)Nos.390 and 2062 of 2014, challenging an order of status quo granted in Paragraph No.16 of the impugned order are hereby allowed. Paragraph No.16 of the order of District Revenue Officer, dated 25.11.2013 is set aside, but the rest of the order is confirmed.

18. In view of the above said discussions, W.P(MD)No.14710 of 2014 is dismissed and W.P(MD)Nos.390 and 2062 of 2014 are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

**09.09.2022**

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Internet : Yes/No
Index : Yes/No

To

1.The District Revenue Officer,
Collectorate,
Dindigul District.

2.The Tahsildar,
Dindigul,

3.The Joint Sub-Registrar-II,
Dindigul.

**R.VIJAYAKUMAR, J.**

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Pre-delivery order made in

W.P.(MD).Nos.390,2062 and 14710 of 2014

09.09.2022