



S.T.A.No.3 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.08.2023

PRONOUNCED ON : 13.10.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

Special Tribunal Appeal No.3 of 2008

P. Kandasamy

... Appellant / Claimant

Versus

1. The Assistant Settlement Officer,
Dharapuram.
2. The Deputy Commissioner,
Hindu Religious and Charitable
Endowments Department,
Coimbatore.
3. Mr. Nachimuthu Gounder
Trustee
Arulmigu Visweswara Swamy Visalakshmi
Amman Subramanyaswamy Koil,
Nallur, Vijayapuram Post,
Tirupur.
4. The Executive Officer,
Arulmigu Visweswara Swamy Visalakshi
Amman Subramanyaswamy Koil,
Nallur, Vijayapuram Post,
Tirupur.

... Respondents/Respondents



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The Appeal filed under Section 30 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) (Act 30 of 1963) against the order dated 16.11.2006 made in C.M.A.No.66 of 1998 on the file of the Minor Inams Tribunal / Principal Subordinate Judge, Coimbatore, confirming the order in S.R. No.3 of 1994, dated 29.05.1998, passed by the Settlement Officer, Dharapuram.

For Appellant : Mr. S. Anand
For R1 & R2 : Mr. M. R. Gokul Krishnan,
Additional Government Pleader
For R3 : No appearance
For R4 : Mr. K. Ashok Kumar (No appearance)

JUDGMENT

[The Judgment of the Court was delivered by K. RAJASEKAR,J.,]

This Appeal has been filed under Section 30 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) (Act 30 of 1963) challenging the order of the Settlement Tahsildar No.II, Gobichettipalayam, dated 07.10.1968 which was confirmed by the learned Minor Inams Tribunal in C.M.A.No.66 of 1998 (Minor Inams Tribunal, Principal Sub Judge, Coimbatore).

2. The appellant herein is the claimant in the settlement proceedings.



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3. The minor inam lands under pattayam in D.D.No.34, Devadayam, situated in Nallur Village of Tirupur Taluk, Coimbatore District, taken up for settlement proceedings as per the Tamil Nadu Minor Inam Abolition and Conversion into Ryotwari, Act 30 of 1963 (herein after referred as Act 30 of 1963). The lands were taken over by the Government on 15.02.1965. Prior to taken over, lands in S.No.63, 71/3 and 487/1 of Nallur Village were un-enfranchised Devadayam minor inam granted for playing “Maddalam” in the Pagoda of Visweswaraswamy Temple at Nallur, confirmed in D.D.No.34, so long the performance of service continues. After taken over of lands, there was no petition for seeking Ryotwari patta received by the Settlement Officer. Hence, the Settlement Tahsildar, Land Revenue, Gobichettipalayam, initiated *suo motu* enquiry and issued notices under Section 11 of the Act 30 of 1963 to the Tahsildar No.II, Gobichettipalayam, and others including Karuppa Gounder (Grand father of claimant herein) as per the proceedings in S.R.No.650/68/Minor Inams/Palladam Taluk/dated 07.10.1968. After due enquiry, a patta was issued in favour of Arumighu Visweswaraswamy Visalakshmiamman Subramaniaswamy Tirukoil, Nallur, Tirupur, for the lands in Survey No.63 of Nallur Village.



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4. Aggrieved over the issuance of patta in favour of the Temple, In the year 1993, the claimant-Mr. P. Kandasamy, preferred an appeal before the Minor Inams Appellate Tribunal, Principal Sub Court, Coimbatore, seeking patta in his favour to the extent of 3.10 acres in Survey No.63.

5. After due enquiry, the Tribunal has remanded the claim of appellant to Settlement Officer with direction to conduct fresh enquiry, after giving opportunity to the appellant herein. The Settlement Officer once again conducted enquiry and dismissed the claim of the Claimant/Appellant herein. Though appeal in C.M.A.No.66 of 1998 was heard by Minor Inam Appellate Tribunal, same was dismissed on 16.11.2006, confirming the order of the Settlement Officer, rejecting the contention of the claimant. Aggrieved over the same, this Special Tribunal Appeal is filed before this Court by the claimant.

6. The case of the Appellant/Claimant is that his grandfather namely Chinnappan @ Karuppa Goundar had purchased 5.91 acres of land from Survey No.63 of Nallur Village, Palladam Taluk, Tiruppur Sub



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Registration District, Coimbatore District, as per the Sale deed dated 12.01.1932 – Ex.P1 from one Sakkara Goundar. Chinnappan @ Karuppa Goundar having two sons namely Ramasamy Goundar and Ponnappa Goundar. After the death of Chinnappan @ Karuppa Goundar, sons have entered into a Partition Deed, dated 20.12.1982, whereby, 'B' Schedule property to the extent of 3.10 acres was allotted to the claimant's father viz., Ponnappa Goundar. His father has paid tax for the Fasali Year i.e., 1395, 1396, 1398 and 1401.

7. During the first Settlement Proceedings, held in the year 1968, his grandfather namely Chinnappan @ Karuppa Goundar had participated and since he was not able to produce any Deed or documentary evidence, the patta was issued in favour of the Temple, whose favour minor Inam was granted earlier.

8. After the matter was remanded to Settlement Officer in the year 1993, the appellant was able to produce various documents before the Settlement Officer. He was also ready to pay the consideration for the said land as per Section 8 (2) of Act 30 of 1963 and prays to cancel the patta issued in favour of the Temple.



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9. The case of the Temple is as follows:

The total extent of Survey No.63 of Nallur Village is 11.82 acres and the Patta No.356 was also issued in favour of Temple, after due enquiry in the year 1968. The Inams Register also produced during enquiry and possession of Temple also confirmed. The entire land is in possession and enjoyment of the Temple and opposed to grant Ryotwari Patta in favour of the other third parties.

10. During enquiry held under Section 11 of the Act 30 of 1963, the Settlement Officer has examined the Village Administrative Officer of the concerned Village and it is revealed in his evidence that, total extent of Survey No.63 of Nallur Village is 11.82 acres belongs to the Temple. The tax was regularly paid by the Temple for the lands and there is no entry relating to the claim made by the claimant or his grandfather viz., Chinnappan @ Karuppa Goundar to the extent of 3.10 acres, in any official records. The land has not been encroached by any person and the claimant is not having any right over the said land.



11. Before the Settlement Officer, on the side of the claimant,

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Ex.P2-Sale deed, dated 12.01.1932 was produced. This exhibit has been considered by the Settlement Officer. He has specifically recorded in the order impugned that in the Sale deed, 5.91 acres have been sold, but it has not contain any boundaries on four sides. The Settlement Officer has held that there is no clear evidence to show, which part of the land in Survey No.63 was in possession and enjoyment of the claimant's ancestors. During the original enquiry, one Angappan, son of Chinnayan of Nallur Village had produced yet another Sale deed No.560/1964, claimed ownership of portion of land and applied for Ryotwari Patta. In the Schedule of property, it is recorded that Survey No.63, 5.91 acres without boundaries sold to Anagppan. Based on the above facts, the Settlement Officer has held that, the vendors of Chinnappan @ Karuppa Goundar i.e., the grandfather of the claimant, the vendors of Angappan have commonly enjoyed the property and the property in their possession was not static. There is no evidence to show that which part of the land under enjoyment, hence, the claimant has failed to prove his possession of the lands and his claim was rejected.

12. For better appreciation of the appeal, the relevant provision of the Act 30 of 1963 is extracted below:



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Chapter III:

“8. Grant of ryotwari pattas.-

(1) Subject to the provisions of sub-section (2), every person who is lawfully entitled to the kudivaram in an inam land immediately before the appointed day whether such person is an inamdar or not shall, with effect on and from the appointed day, be entitled to ryotwari patta in respect of that hand.

(2) Notwithstanding anything contained in sub-section (1) in the [Tamil Nadu] Hindu Religious and Charitable Endowments Act, 1959 [Tamil Nadu] Act 22 of 1959), [and in the [Tamil Nadu] (Transferred Territory)] Incorporated and Unincorporated Devaswoms Act, 1959 [Tamil Nadu] Act 30 of 1959), the following provisions shall apply in the case of lands in an iruvaram minor inam granted for the support or maintenance of a religious institutions or for the performance of a charity or service connected therewith or of any other religious charity -

(i) where the land has been transferred by way of sale and the transferee or his heir, assignee, legal representative or person deriving rights through him had been in exclusive possession a such land -



(a) for a continuous period of sixty years immediately before the 1st day of April 1960, such person shall, with effect on and from the appointed day, be entitled to a ryotwari patta in respect of that land;

(b) for a continuous period of twelve years immediately before the 1st day of April 1960, such person shall, with effect on and from the appointed day, be entitled to a ryotwari patta if he pays as consideration to the Government in such manner and in such number of instalments as may be prescribed an amount equal to twenty times the difference between the fair rent in respect of such land determined in accordance with the provisions contained in the Schedule and the land revenue due on such land;

(ii) in the case of any other land, the institution or the individual rendering service shall, with effect on and from the appointed day, be entitled to a ryotwari patta in respect of that land.”

“44. Presumption in the case of service Inam.-

In proceedings under this Act relating to any inam granted for the benefit of any religious, educational or charitable institution or granted to any individual for rendering service to a religious, educational or



charitable institution or for the purpose of rendering any other service, it shall be presumed, unless the contrary is proved, that the inam consists not merely of a grant of the melavaram in the land, but also the kudivaram therein.”

13. In this case, originally, the grant of Minor Inam was given in favour of Arulmighu Visweswaraswamy Visalakshiamman Subramaniaswamy Thirukoil, as per D. D. No.34, in which, Survey No.63 is part of the Inam, to the extent of 11.82 acres. Immediately, after the settlement proceedings were initiated by the Settlement Tahsildar, as per Section 11 of the Act, the grandfather of the claimant was served with notice for the enquiry and he had appeared and failed to produce any document to show the possession, hence, the Ryotwari Patta was granted in favour of the Temple. Since the appellant's grandfather had not satisfied the conditions stipulated under Section 8 (2) (b) of the Act, Patta was not granted in his favour.

14. Before the Settlement Officer, after remand, on behalf of the claimant, several exhibits marked. Ex.P2-Sale deed, dated 23.12.1932 and Ex.P4-Partition Deed, dated 20.12.1982 were relied on by the claimant



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to show that his grandfather has purchased the property and subsequently, it has been partitioned between his father and his paternal uncle. This was considered by the Settlement Officer, and he rejected these documents and rejected the claim of the claimant.

15. In Ex.P2-Sale deed, dated 23.12.1932, it is stated that his grandfather i.e., Chinnappan @ Karuppa Goundar has purchased 5.91 acres of land in Survey No.63 but it does not contain boundaries. During settlement proceedings, yet another application was presented by one Angappan, son of Chinnayan, seeking patta for 5.91 acres of Ryotwari land in very same survey number, based on the Sale deed, dated 19.03.1964. Both the documents contain no boundaries and there is no proper description of the property which was in possession and enjoyment of the vendors.

16. As far as Ex.P4-Partition Deed is concerned, it's a subsequent document came into existence in the year 1982. As per Section 8(2) (b) of the Act, the crucial date for fixing 12 years period of enjoyment is, 12 years before the 1st April 1960. Hence, the document which came into existence i.e., Ex.P4, after the settlement proceedings could not be received



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as evidence for the purpose of deciding the eligibility or for issuance of patta. The other documents which are relied on by the claimant are the Kist Tax Receipts and those documents are also came into existence subsequently, and there is no documents to show that they are in possession of the property, for the continuous possession of 12 years prior to 1st April 1960.

17. The claimant who is claiming Ryotwari Patta must prove that he has satisfied the condition that he is in exclusive possession of such land either for the continuous period of 60 years immediately, before the 1st day of April 1960 or he was in exclusive possession of such land for a continuous period of 12 years immediately before the 1st day of April 1960, and ready to pay consideration to the Government, in the manner prescribed under Section 8 (2) (b) of the Act 30 of 1963.

18. In this case, eventhough a Sale deed-Ex.P2 was produced before the Settlement Officer, no documents relating to possession or evidence to show that he was in exclusive possession of specified property, placed on record. In this case, based on the two Sale deeds, two different persons have claimed Patta and in both the Title Deeds, there is no specific



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portion described proving exclusive possession of the claimant's predecessor in title or his ancestors. Even if the Sale deed is found to be valid, the proof of exclusive possession has not been established by the Claimant/Appellant herein. Before the Settlement Officer in the original enquiry, Inam Fair Register was also marked, which shows that, the lands in question were granted for playing “Maddalam” in the pagoda of Temple at Nallur, and grant was confirmed by Inam Commissioner. In the absence of any proof to show that exclusive possession, the claimant herein is not entitled to claim that they were entitled for Ryotwari Patta.

19. Section 44 of Act 30 of 1963, is also in favour of the Temple to raise presumption that unless the contrary is proved, the Inam made in favour of Temple shall consist of melvaram as well as kudiwaram. As per the Division Bench Judgment of this Court reported in ***Munusamy Goundar vs. Arulmighu Varadharaja Perumal Temple [1997 (2) MLJ 340]***, in paragraph No.6 held that the person claiming any right over the lands in which Inam is granted in favour of religious institution, has to prove that, the Temple has parted with its right. In this Case no evidences produced to show that the Temple has parted with any of the right. The Inamdar/the Temple is not a party to the Ex.P2-Sale deed, which was only relevant



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document relied on by the claimant, and the same is not binding on the Temple to show that the Inamdars has lost their right to claim patta in their favour.

20. During second enquiry also, the Settlement Officer has followed the procedure of issuing public notices and individual notice to all interested parties as required under the rules. The oral evidence was let in by the claimant and also court witnesses were examined by the Settlement Officer. Admittedly, in this case, the Inam has been granted for the benefit of Temple and the claimant herein seeking patta, on the ground that they have purchased the lands, there is no evidence to show that the Temple has collected either the revenue or rent from the vendors of the claimant's grandfather or to the vendors ancestors or given any consent for the sale of the Inam land or parted with their rights in favour of any person. As discussed above, this Court is of the view that the rejection of claim of issuance of Ryotwari Patta by the Settlement Officer and confirmed by the Minor Inams Tribunal is in order and this Court finds no ground to interfere with the same. Hence, the appeal fails and the same is liable to be dismissed.



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21. In the result, the Special Tribunal Appeal is dismissed. The

Order passed by the Settlement Officer, Dharapuram in S.R. No.3 of 1994, dated 29.05.1998, which was confirmed by the Judgment and Decree passed by the Minor Inams Tribunal/Principal Subordinate Judge, Coimbatore, in C.M.A.No.66 of 1998, dated 16.11.2006, is hereby confirmed. No costs.

(S.V.N.,J.) (K.R.S.,J.)
13.10.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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To:

1. The Assistant Settlement Officer, Dharapuram.
2. The Deputy Commissioner,
Hindu Religious and Charitable
Endowments Department,
Coimbatore.
3. The Principal Subordinate Judge,
Minor Inams Tribunal, Coimbatore.
4. The Settlement Officer, Dharapuram.
5. The Section Officer, V.R.Section,
High Court, Madras.



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S.VAIDYANATHAN

and

K.RAJASEKAR

ssi

Pre-delivery Judgment made in
S.T.A.No.3 of 2008

13.10.2023