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WP No.23877 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-08-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.23877 of 2023

K.S.Eswaramoorthi

... Petitioner

Vs.

- 1.The Sub Registrar,
Office of the Joint-II Sub Registrar,
Tiruppur,
Tiruppur District.
- 2.The Executive Officer,
Arulmigu Visweshwaraswamy and
Veeraragavaperumal Temple,
Tiruppur,
Tiruppur District.
- 3.The Commissioner,
Hindu Religious and Charitable Endowments,
Uthamar Gandhi Road,
Thousand Lights West,
Nungambakkam,
Chennai-600 034.



4. The District Collector,
Tiruppur District,
Tiruppur.
[R-4 suo motu impleaded vide
order of Court dated 14.08.2023 made
in WP 23877 of 2023]

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to accept and register the Sale Deed Application No.TP/144709630/2023 dated 02.03.2023 in respect of vacant land measuring an extent of 20 cents in S.No.145, TS No.23/1B, Ward No.60, Tiruppur Municipal Town, Tiruppur Taluk, within the Sub-Registration District of the first respondent (Joint-II Sub Registrar) and Registration District of Tiruppur.

For Petitioner : Ms.Y.Kavitha for
M/s.PVS Giridhar Associates.

For Respondents-1 and 4 : Mr.C.Jayaprakash,
Government Advocate.

For Respondents-2 and 3 : Mr.N.R.R.Arun Natarajan,
Special Government Pleader
[HR&CE]



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ORDER

The relief sought for in the present writ petition is to direct the first respondent to accept and register the Sale Deed Application No.TP/144709630/2023 dated 02.03.2023 in respect of vacant land measuring an extent of 20 cents in S.No.145, TS No.23/1B, Ward No.60, Tiruppur Municipal Town, Tiruppur Taluk, within the Sub-Registration District of the first respondent (Joint-II Sub Registrar) and Registration District of Tiruppur.

2. The petitioner states that he is the absolute owner of the subject property as described in the present writ petition. The petitioner presented the Sale Deed for registration before the first respondent-Sub Registrar. The first respondent-Sub Registrar refused to receive the said document. Therefore, the petitioner is constrained to move the present writ petition.



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3. The learned counsel for the petitioner mainly contended that the first respondent-Sub Registrar has not even received the document presented by the petitioner for registration. Such an act of the first respondent-Sub Registrar, is in violation of the provisions of the Registration Act, 1908. It is the duty mandated on the first respondent-Sub Registrar to receive the document and if it is not registrable, then the first respondent-Sub Registrar has to issue an order of refusal as per the procedure contemplated. Thus, the petitioner is constrained to move the present writ petition, seeking a direction to receive the document and to register the same in accordance with provisions of the Registration Act, 1908.

4. The learned counsel for the petitioner further contended that the petitioner derived title from and out of the Partition Deed of the year 1951 and in the year 1968 Ryotwari patta was granted in favour of the person, who is claiming ownership in respect of the subject property. Subsequently, the petitioner executed the document in the year 1983.



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5. It is contended that the title is not in dispute in the present writ petition. The petitioner presented the Sale Deed for registration, which was not received by the first respondent-Sub Registrar. Therefore, a direction is to be issued to that extent.

6. The learned Special Government Pleader, appearing on behalf of the respondents 2 and 3, objected the contentions raised on behalf of the petitioner by stating that the subject property belongs to the temple, which was endowed and given for the purpose of performing services and pujas to the Tiruppur Veeraraghava Perumal Temple. The document No.1022 of 1951 unambiguously stipulates that the property endowed for the purpose of performing services in Veeraraghava Perumal Temple at Tiruppur and power of alienation has not been provided to the Pujaris. The Pujaris performing services during the year 1951, illegally executed the Partition Deed in between their own family members and attempted to grab the property belonging to the temple. Based on the Partition Deed, subsequent Sale Deed of the year 1983 was executed and the temple



property was alienated to some other third parties.

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7. Pertinently, the Court of Settlement Tahsildar, Gopichettipalayam adjudicated the issues with reference to Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. The order of the Settlement Officer dated 17.09.1968 reveals that S.No.145 in Tiruppur Village is an unenfranchised Devadayam Minor Inam land granted for rendering “Thiruvallu Uliam’ in the pagoda of Veeraraghava Perumal at Tiruppur and confirmed in T.D.No.158, so long the performance of the service is continued”.

8. The said order further states that “Muthukrishna Ayyangar, S/o.Thirumalaisamy Ayyangar, Tiruppur was examined as PW-1. He deposed that he is one of the hereditary service holders and also the successors-in-title rendering 'Thiruvallu Uliam' in the pagoda of Veeraraghava Perumal at Tiruppur and that he is in possession and enjoyment of S.No.145 measuring 11-34 acres of Tiruppur Village along with his younger brother, Varadharaja Ayyangar.



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9. The land in question is a Devadayam Minor Inam land, granted for rendering 'Thiruvallu Uliam' in the pagoda of Veeraraghava Perumal, located at Tiruppur, as evidenced from the entries in Columns 16-22 of the Extract of the Inam Fair Register (Exhibit C-1). The evidence shows that PW-1 and his brother, Varadharaja Ayyangar, are the hereditary service holders rendering the said Uliam and also to the successors-in-title and they are in an uninterrupted possession and enjoyment of the said land. The above grant was made with burden of service in favour of Narayana Ayyangar and it is therefore, treated as a service in favour of evidence Ayyangar and it is, therefore, treated as a service tenure granted. The evidence also shows that no portion of the said land is set apart or is used for any communal purposes. No other claims or objections were received. Therefore, the Court of Settlement Tahsildar determined that the persons noted in Schedule below are entitled to Ryotwari patta in respect of the land specified therein and allowed it accordingly under Section 11 read with Section 8 (2) (ii) and 21 (3) of Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, subject to the following conditions:-



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“The service holders shall subject to the provisions contained in sub section (3) of Section 21 be bound to continue to render the service after the appointed day. They shall have the option either to pay the Religious Institution the amount specified in sub section (4) viz., twenty times of difference between the fair rent in respect of such land as determined by the Tahsildar, Tiruppur, in accordance with the provisions of the said Act and the land revenue due on such land, and in such payment of the land shall notwithstanding anything contained in sub-section (7), be discharged from the condition of the service; or (b) to hold the land and continue to render service subject to the provisions contained in sub-sections (1), (2), (6) and (7) Section 21. The option referred to in Clause (i) of sub section (3) of Section 21 shall be exercised within a period of six months from the date of receipt of the order.”

10. The learned Special Government Pleader, appearing on behalf of the respondents 2 and 3, brought to the notice of this Court that as



per the order of the Settlement Tahsildar, the Pujaris, who were performing the services, have not paid any amount as stipulated in the order and therefore, the subject property remains with the temple and hence, the claim of the petitioner is untenable.

11. Even as per the Re-survey Number and Resettlement Register of the Village, which is now produced before this Court by the learned Special Government Pleader, appearing on behalf of the respondents 2 and 3, the entries made therein reveal that Arulmighu Visweshwaraswamy and Veeraraghava Perumal Temples (Thiruvilakku service renderer for the time being Mutha Mudali).

12. The property was alienated in the year 1983. The third parties and the persons, who purchased the property in the year 1983 further alienated and thereby deprived the Deity from utilising and enjoying the property for the purpose of Temple Services.

13. Relying on the above document, the learned Special Government Pleader, appearing on behalf of the respondents 2 and 3,



reiterated that the property is to be resumed by the order of the District Collector under Section 41 of the Hindu Religious and Charitable Endowments Act, 1959 and the Executive Officer of the temple, as early as on 22.11.2014, had given an objection letter to the Sub Registrar's Office at Tiruppur not to register any document in respect of the temple properties and the property details along with the Survey Number has also been stated in the said objection letter dated 22.11.2014.

14. The learned counsel for the petitioner further contended that the petitioner is holding Ryotwari patta, which was granted in the year 1968. Therefore, the subsequent document executed in the year 1983, is in accordance with law and there is no infirmity as such.

15. The learned counsel for the petitioner relied on the Division Bench judgment of this Court dated 05.04.2017 in a batch of writ petitions in WP Nos.30589 of 2013, wherein in paragraph-23 of the said judgment, the Hon'ble Division Bench of this Court made an observation that “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 Sale Deed”.

16. With reference to the above judgment of the Hon'ble Division Bench of this Court, question arises whether the Ryotwari patta was granted in consonance with the provisions of the Act. When the Ryotwari Patta itself is doubtful and questioned, then the observations made by the Hon'ble Division Bench of this Court in the judgment, cited supra, cannot be applied. In respect of the said principles, the facts and circumstances of each case, is to be considered for the purpose of application of the judgment.

17. In the present case, even the Settlement Tahsildar, while adjudicating the issues under the provisions of the Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, made a finding that the Pujaris,



who were performing their services for a long time by way of enjoyment of the subject property, shall pay the Religious Institution, the amount specified in sub section (4) which shall be twenty times the difference between the fair rent in respect of such land as determined by the Tahsildar, Tiruppur in accordance with the provisions contained in the Schedule and the land revenue due on such land and such payment of the land shall notwithstanding anything contained in sub-section (7), be discharged from the conditions of service.

18. In the present case, there is no material evidence available on record to establish that the conditions of service were discharged pursuant to the provisions of the Inam Abolition Act. It is for the petitioner to establish that the conditions of services were discharged in compliance with the orders passed by the Settlement Tahsildar on 17.09.1968.

19. The Settlement Tahsildar passed orders on 17.09.1968. If at all the Pujaris, during the relevant point of time, were discharged from the conditions of service as stipulated in the order of Settlement of Tahsildar, the same would have been mentioned in the document subsequently



executed in the year 1983.

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20. After the order of Settlement Tahsildar, the first document registered was of the year 1983 and in the said document, there is no mentioning or details about the discharge of conditions of service as per the Settlement Tahsildar's order and therefore, this Court is of the considered opinion that the Hon'ble Division Bench judgment of this Court, cited supra, relied on by the learned counsel for the petitioner, is of no avail as far as the facts of the present case is concerned.

21. The over all consideration of facts and circumstances would reveal that the Temple Authorities have raised an objection not to register any document vide letter dated 22.11.2014. The petitioner, even if presented the document, the same cannot be registered in view of Section 22-A of the Registration Act. Under Section 22-A of the Registration Act, 1908, if there is any objection in respect of the temple land by the Temple Authorities, the Sub Registrar is empowered to refuse the said document for registration. The document presented by the petitioner cannot be registered, since the subject property is an objectionable property, belonging to the



temple and in this regard, the petitioner if aggrieved has to approach the Competent Authorities or the Civil Court of Law, as the case may be.

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22. The Commissioner, HR&CE Department is directed to initiate all appropriate actions for the purpose of resumption of land through adjudication under Section 41 of the HR&CE Act. The said exercise is directed to be completed within a period of four months from the date of receipt of a copy of this order.

23. In this regard, the District Collector is a necessary party under Section 41 of the HR&CE Act and accordingly, the District Collector, Tiruppur District, Tiruppur is suo motu impleaded as the fourth respondent in the present writ petition for the purpose of adjudication of the issues in the manner known to law. The learned Government Advocate takes notice on behalf of the fourth respondent-District Collector.



24. Accordingly, the present writ petition stands disposed of.

However, there shall be no order as to costs.

14-08-2023

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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**Note: Registry is directed to make necessary amendments
in the writ petition.**



To

1. The Sub Registrar,
Office of the Joint-II Sub Registrar,
Tiruppur,
Tiruppur District.
2. The Executive Officer,
Arulmigu Visweshwaraswamy and
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S.M.SUBRAMANIAM, J.

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