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W.P.No.24408 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24408 of 2023

Palanisamy

... Petitioner

Vs.

1.The Sub-Registrar,
Office of the Sub-Registrar,
Palladam, Tiruppur District.

2.Executive Officer,
Arulmigu Muthukumarasamy Temple,
Palladam,
Tiruppur District.

3.The Commissioner,
The Hindu Religious and Charitable Endowments (HR&CE),
Uthamar Gandhi Road, Thousand Lights West,
Nungambakkam, Chennai – 600 034.

4.The District Collector,
Tiruppur District,
Tiruppur.

... Respondents

[R-4 suo motu impleaded vide order of Court
dated 18.08.2023 made in WP.No.24408 of 2023]

Prayer: Writ Petition filed under Article 226 of the Constitution of India for
issuance of a Writ of Mandamus, directing the respondents to accept and



register the Sale Deed Application No.TP/144843329/2023 dated 04.03.2023 in respect of vacant site No.341, in Kuppanna Chettiyar Nagar comprised at S.Nos.566/1, 566/2, 564/2 and 564/1 in Madhapur Village, Pongalur Panchayat Union, Palladum Taluk situated within the sub-registration District of Palladam and Registration District of Tiruppur.

For Petitioner	: Mrs.Y.Kavitha For M/s.PVS Giridhar Associates
For R1	: Mr.C.Jayaprakash Government Advocate
For R2	: N.R.R.Arun Natarajan Special Government Pleader [For H.R.&.C.E.]

ORDER

The relief sought for in the present writ petition is to direct the respondents to accept and register the Sale Deed Application No.TP/144843329/2023 dated 04.03.2023 in respect of vacant site No.341, in Kuppanna Chettiyar Nagar comprised at S.Nos.566/1, 566/2, 564/2 and 564/1 in Madhapur Village, Pongalur Panchayat Union, Palladum Taluk situated within the sub-registration District of Palladam 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 1st respondent / Sub Registrar. The 1st respondent / Sub Registrar refused to receive the said document. Therefore, the petitioner is constrained to move the present writ petition.

3. The learned counsel for the petitioner mainly contended that the 1st respondent / Sub Registrar has not even received the document presented by the petitioner for registration. Such an act of the 1st respondent / Sub Registrar, is in violation of the provisions of the Registration Act, 1908. It is the duty mandated on the 1st respondent / Sub Registrar to receive the document and if it is not registrable, then the 1st respondent / Sub Registrar has to issue an order of refusal as per the procedures 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 through sale deeds from and out of the Ryotwari patta,



which was granted in favour of several persons. Subsequently, the petitioner developed the above lands into residential plot layout viz. Great Kuppana Nagar and had executed several sale deeds and gift deeds.

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 1st respondent / Sub Registrar. Therefore, a direction is to be issued to that extent.

6. The learned 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 Arulmigu Muthukumarasamy Temple.

7. Pertinently, the Court of Settlement Tahsildar, Gopichettipalayam after conducting an enquiry with reference to Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 allotted the lands to various persons. The orders of the Settlement Officer dated 28.08.1968, 10.09.1968 and



22.09.1968 reveals that S.No.564/1, 566/1 and 564/2 respectively in Madhapur Village is an unenfranchised Devadayam Minor Inam land granted for playing on Titti in the pagoda of Muthukumara Swamy at Madhapur and for rendering Thiruvalagdu Tamil in the pogoda of Veeraagava Perumal at Tiruppur and confirmed in T.D.Nos.477, 726 so long the performance of the service is continued”.

8. The said orders further states that Muthammal daughter Meenakshi Ammal, Madapur was examined as PW-1. She deposed that she is one of the hereditary service holders and also the successors-in-title to 'Titti Uliam' in the pagoda of Muthu Kumaraswamy Temple at Madhapur and that she is in possession and enjoyment of S.No.564/1 of Madhapur Village measuring 13.75 acres. In respect of S.No.566/1, one Mr.Domodarasamy Naidu son of Senna Krishnama Naidu was examined as PW-2. He deposed that he represents his father, and the S.No.566/1 measuring 0.95 cent was purchased by his father as per document No.329/1950 dated 11.04.1950 and that is now exclusively owned and enjoyed by his father and in respect of S.No.564/2, one Mr.Muthusamy Gounder son of Karuppa Gounder, Thoddampatti was examined as PW-2. He deposed that his father owns and enjoys an extent of



4.68 ½ acres in S.No.564/2 measuring 18.74 acres having been purchased as document No.1208/1952 dated 14.08.1952.

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9. The Court of Settlement Tahsildar determined the persons 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:-

1. *The service-holder 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.*
2. *She shall have the option:*
 - a) *either to pay the religious institution the amount specified in sub-section (4) viz., twenty times the difference between the fair-rent in respect of such land as determined by Tahsildar, Tiruppur, in accordance with the provisions of the said Act, and the land revenue due on such land, and on such payment the land shall*



notwithstanding anything contained in sub-section (7) be discharged from the condition of service.”

10. The learned Government Advocate, 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 orders and therefore, the subject properties remains with the temple and hence, the claim of the petitioner is untenable.

11. The properties were alienated in the year 1968. The third parties and the persons, who purchased the properties in the year 1975 further alienated and thereby deprived the Deity from utilising and enjoying the properties for the purpose of Temple Services.

12. Relying on the above documents, the learned Government Advocate, appearing on behalf of the respondents 2 and 3, reiterated that the properties are 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 Numbers have also been stated in the said objection letter.

13. 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 1975, 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 W.P.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”.

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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 conducting an enquiry 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 28.08.1968, 10.09.1968 and 22.09.1968.

19. The Settlement Tahsildar passed orders on 28.08.1968, 10.09.1968 and 22.09.1968. 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 1975.

20. After the order of Settlement Tahsildar, the first document registered was of the year 1975 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 documents. 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, Hindu Religious and Charitable Endowments Department is directed to initiate all appropriate actions for the purpose of resumption of land through adjudication under Section 41 of the Hindu Religious and Charitable Endowments Act. The said exercise is directed to be completed within a period of four (4) 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 Hindu Religious and Charitable Endowments Act and accordingly, the District Collector, Tiruppur District, Tiruppur is suo motu impleaded as the 4th 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 4th respondent-District Collector.



24. Accordingly, the present Writ Petition stands disposed of.

However, there shall be no order as to costs.

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18.08.2023

Jeni

Index:Yes

Speaking order

Neutral Citation:Yes

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

To

- 1.The Sub-Registrar,
Office of the Sub-Registrar,
Palladam, Tiruppur District.
- 2.Executive Officer,
Arulmigu Muthukumarasamy Temple,
Palladam,
Tiruppur District.
- 3.The Commissioner,
The Hindu Religious and Charitable Endowments (HR&CE),
Uthamar Gandhi Road, Thousand Lights West,
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- 4.The District Collector,
Tiruppur District,
Tiruppur.



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S.M.SUBRAMANIAM, J.

Veda/Jeni

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