IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13475 of 2023

Arulmighu Pongaluramman @
Kandiamman @ Neelakandiamman Thirukoil,
Through its devotee, M.P.Ramasamy, aged 68 years
S/o. Late Periyasamy Gounder,
Door No.5/359, Thundukadu Thottom,
Malayampalayam, Ganapathipalayam Post,
Veerapondi – 641 605, Palladam Taluk,
Tiruppur District. ... Petitioner

Vs

1.The Commissioner,
Land Administration Department,
2nd Floor, Ezhilagam,
Chepauk, Chennai – 600 005.

2.The Revenue Divisional Officer/
Sub-Divisional Magistrate & Sub-Collector,
Tiruppur District, Kumaran Road,
Valipalayam, Tiruppur – 641 601.

3.The Tahsildar,
Palladam Taluk,
Tiruppur District.

4.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Department,

First Floor, Tiruppur Marketing Committee Complex,
Palladam Road, Tiruppur District.

5.M/s.VIP Grand Propertiess,
Rep/-by its Partner, E.Kandhasami.
S/o. Elayappa Gounder,
No.32, Mariyamman Nagar,
Appamasamuthiram Post, Attur Taluk,
Thanmanguipalayam, Salem District.

6.M.Manoharan

7.R.Dharmalingam

8.P.Ilamurugan ... Respondents

[R6 to R8 impleaded vide order dated 14.06.2023 made in WMP.No.16723/2023 in WP.No.13475/2023]

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd respondent herein to dispose of the Statutory Appeal pending in file No.5099/2022/A2 within a fixed time frame, in compliance with the circular issued by the 1st respondent in Ref.No.K3/27160/2008 dated 12.03.2018.

For Petitioner	: Mr.P.M.Duraiswamy
For R1 to R3	: Mr.T.Arunkumar, Additional Government Pleader.
For R4	: Mr.K.Karthikeyan, Government Advocate (H.R.&.C.E)
For R5	: Mr.N.Manokaran for Mr.M.Guruprasad.

For R6 to R8 : Mr.Sam Jayaraj Houston
for M/s.Sarvabhauman Associates.

ORDER

The writ on hand has been instituted to direct the 2nd respondent to dispose of the statutory appeal pending in file No.5099/2022/A2 in compliance with the circular issued by the 1st respondent in Ref.No.K3/27160/2008 dated 12.03.2018.

2. The petitioner is Arulmighu Pongaluramman @ Kandiamman @ Neelakandiamman Thirukoil. It is a private temple and has fallen under the purview of the Hindu Religious and Charitable Endowment Act. The petitioner temple claims title from the subject property described in the present writ petition. The petitioner relied on the Title Deed granted to the Manager of the Arulmighu Pongaluramman by the Inam Commissioner on 25.12.1863. The Inam Commissioner confirmed the Inam in favour of the petitioner temple and to his successors tax-free, to be held without interference so long as the conditions of ground are duly fulfilled that it was a conditional Inam granted in favour of the petitioner temple by the Inam

Commissioner in the year 1863.

3. Relying on the said document, the learned Counsel for the petitioner states that the subsequent transfer of property is fraudulent and invalid. *Per Contra,* the learned counsel appearing on behalf of the 5th respondent made a submission that the respondent derived title from the year 1943 onwards through the Sale Deed executed vide Document No.1068 of 1943 dated 05.05.1943. The Settlement Tahsildar also passed an order in favour of the purchaser of the subject property in the year 1943. The 5th respondent has further proceeded by relying on the subsequent documents executed while transferring the property to either persons.

4. However, the order of the Settlement Tahsildar was disputed by the petitioner on the ground that they are not parties to the proceedings. The Civil Miscellaneous Appeal was dismissed and it is stated that the petition filed to restore the Civil Miscellaneous appeal is pending.

5. Beyond the above facts, a Civil suit has been instituted between the parties in O.S.No.187 of 2022 on the file of the I Additional District Court at

Tiruppur. It is a contractual suit instituted between the parties, wherein the respective parties have to establish their Civil Rights in respect of the subject property. During the pendency of the Civil Suit, it is not preferable to entertain any application by Revenue Authorities under the provisions of the Patta Passbook Act, 1983.

6. The learned counsel for the 5th respondent made a submission that the Patta was granted in their favour, pursuant to the directions issued by the High Court in writ proceedings.

7. May that as it be, subsequently Civil Suit was instituted between the parties for the purpose of establishing their Civil rights. Patta would not confer any title on the persons. Therefore, the parties have to establish their rights through documents and evidences before the Civil Court of law in a suit instituted. No party can take undue advantage of the revenue proceedings during the pendency of the suit which would cause prejudice to either of the parties. Under the provisions of the Patta Passbook Act, filing an application for grant of Patta, cancellation of Patta or to mutate the revenue records during the pendency of the Civil suits would result in anomalous situation.

The Revenue Authorities were already instructed by the Government not to entertain application for grant of Patta or cancellation of Patta during the pendency of the Civil Suit through a circular dated 12.03.2018.

8. Section 3 of the Tamil Nadu Patta Pass Book Act, 1983 stipulates that the Tahsildar shall issue patta pass book to every owner in respect of the land owned by him, on an application made by him in this behalf. Therefore, it is a pre-condition to establish ownership for submitting an application. If the ownership is in dispute, then an application is not entertained.

9. This being the scope of the Patta Pass Book Act, the Revenue Authorities are not empowered to adjudicate the issues under the provisions of the Patta Pass Book Act during the pendency of the Civil Suit between the parties.

10. In view of the facts and circumstances, all the revenue proceedings including the impugned order passed by the Revenue Authorities for grant of Patta or cancellation of Patta or otherwise are kept in abeyance. Till such time, the Civil disputes are resolved between the parties. After disposal of the

Civil suit and on reaching finality, either of the parties are at liberty to submit an application under the Patta Pass Book Act for grant of Patta or cancellation of Patta or to mutate the revenue records as the case may be.

11. With the above directions, the Writ Petition stands disposed of. No costs.

13.09.2023

veda/jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

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Land Administration Department,
2nd Floor, Ezhilagam,
Chepauk, Chennai – 600 005.

2.The Revenue Divisional Officer/
Sub-Divisional Magistrate & Sub-Collector,
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3.The Tahsildar,
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4.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Department,
First Floor, Tiruppur Marketing Committee Complex,

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S.M.SUBRAMANIAM, J.

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