



S.T.A. No. 2 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.08.2023

PRONOUNCED ON : 19.10.2023

CORAM

**THE HON'BLE MR. JUSTICE S. VAIDYANATHAN
AND
THE HON'BLE MR. JUSTICE K. RAJASEKAR**

**Special Tribunal Appeal No.2 of 2018
and
C.M.P.No.15643 of 2018**

Sri Palamalai Ranganathaswamy Temple,
Rep. by its the Fit Person,
Sri Karana Vinayakar Temple,
Matyhampalayam,
Coimbatore Taluk

... Appellant /4th respondent

Versus

1. R. Venkatachalam (Died)
2. The Asst. Settlement Officer
Office of the Commissioner and Director of Survey and Settlement,
Chepauk, Chennai - 600 005.
3. The Revenue Divisional Officer,
Coimbatore.
4. The Asst. Commissioner,
Hindu Religious and Charitable Endowment,
Administration Department,
Coimbatore - 18.
5. Mrs. Senthilvadivu



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6. Mrs. Radha

7. Mrs. Bhoopathi

... Respondents/Respondents

[R5 to R7 brought on record Lrs of the deceased 1st respondent viz., R.Venkatachalam vide order, dated 29.09.2022 made in C.M.P.No.20602/2019]

This Appeal has been filed under Section 30 (1) of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) (Act 30 of 1963) against the Order and Decreetal order dated 04.01.2017 made in C.M.A. No. 103 of 2004 on the file of the Principal Subordinate Court, Coimbatore.

For Appellant : Mr. R. Rajesh Vivekananthan

For R1 : Died

For R2 to R4 : Mr. M. R. Gokul Krishnan,
Additional Government Pleader

For R5 to R6 : K. K. Sivashanmugam

C.R.P. No. 164 of 2019

and

C.M.P. No. 19002 of 2019

Sri Palamalai Ranganathaswamy Temple,
Rep. by its the Fit Person,
Sri Karana Vinayakar Temple,
Matyhampalayam,
Coimbatore Taluk

... Petitioner/4th respondent

Versus

1. R. Venkatachalam (Died)

... 1st respondent/Petitioner



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2. The Asst. Settlement Officer
Office of the Commissioner and Director of Survey and Settlement,
Chenpauk, Chennai - 600 005.
3. The Revenue Divisional Officer,
Coimbatore.
4. The Asst. Commissioner,
Hindu Religious and Charitable Endowment,
Administration Department,
Coimbatore - 18. ... Respondents/Respondents

This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the Order and Decreetal order dated 04.01.2017 made in I.A. No. 546 of 2013 in C.M.A. No. 103 of 2004 on the file of the Principal Subordinate Court, Coimbatore.

For Petitioner : Mr. R. Rajesh Vivekananthan
For R1 : Died
For R2 to R4 : Mr. M. R. Gokul Krishnan,
Additional Government Pleader

COMMON JUDGMENT

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

This Appeal has been filed challenging the Judgment and Decree in C.M.A. No. 103 of 2004, dated 04.01.2017 passed by the Minor Inams Tribunal/ Principal Subordinate Judge, Coimbatore, wherein, the Order of



the Settlement Tashildar No.IV, Gobichettipalayam, dated 30.09.1968 in S.R. No.692/68/M.I. Act, Coimbatore Taluk, dated 30.09.1968 was set aside, and consequently directing the Settlement Tashildar to consider the matter afresh.

2. The appellant herein is the Inamdar of the Subject land in the Settlement Proceedings.

3. The Minor inam lands under pattayam in T.D.No.78, Devadayam, situated in 21, Pannimadai Village of 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 16.02.1965. Prior to taken over, lands in S.No.20 of Pannimadai Village were un-enfranchised Iruwaram Devadayam minor inam granted and confirmed permanently in the year 1863 for the support of Pagoda of Palamalai Ranganathaswamy Temple at Pannimadai, so long as it is well kept up. After taken over of lands, there was no petition for seeking Ryotwari patta received by the Settlement Officer. Hence, the Settlement Tashildar, Land Revenue, Gobichettipalayam, initiated *suo motu* enquiry



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and issued service of notices under Section 11 of the Act 30 of 1963 to the Tashildar No.IV in the prescribed manner as required by the rules framed under the act as per the proceedings in S.R. No.692/68/M.I.Act, Coimbatore Taluk, dated 30.09.1968. After due enquiry, a patta was issued in favour of Palamalai Ranganathaswamy Temple, Pannimadai, Coimbatore, inamdhar for the lands in Survey No.20 of Pannimadai Village.

4. Aggrieved over the issuance of patta in favour of the Temple, in the year 2004, after lapse of 36 years, the first respondent herein - Mr. R. Venkatachalam (Died) preferred an appeal before the Minor Inams Appellate Tribunal, Principal Subordinate Judge, Coimbatore, seeking patta in his favour to the extent of 0.64 hectares in Survey No.20.

5. After due enquiry, the Tribunal has allowed the appeal and the matter was remanded back to the Settlement Tashildar for fresh disposal. Aggrieved over the same, this Special Tribunal Appeal has been filed by the Temple, before this Court.

6. The case of the first respondent herein is that the first respondent is the absolute title owner of the land in survey No.20/2 in



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Pannimadai village to the extent of 0.64 hectares. It is his ancestral property inherited from his father. In this regard, patta was also issued u/s.3 of the Patta Passbook Act, 1986 in favour of the first respondent. He was not aware about the settlement proceedings and the order passed thereon, only now, he came to know about the settlement patta issued in favour of the Temple, hence, prays to set aside the patta issued in favour of the Temple and prays to issue patta in his name.

7. The Order passed by the Settlement Tashildar, dated 13.09.1968 is not valid since, it is not a Inam land. The Palamalai Rangasamy Temple is the kuladeivam of appellant's family and no public worship the same. The appellant's family performs poojas from the period of their fore-fathers and no public fund is used, so far no person were appointed by HR & CE department, hence, prays to set aside the order of the Settlement Tashildar. The first respondent also filed I.A. 546 of 2013 u/o 27 rule 47 to produce additional evidence in the appeal, and the same was also allowed by the Inam Appellate Tribunal.

8. The case of the appellant Temple is as follows:

8.1. The Civil Miscellaneous Appeal in C.M.A.No.103 of



2004 before the Tribunal has been filed belatedly after 32 years, hence, the appeal filed by the first respondent has to be dismissed in *limini*.

8.2 The father of the first respondent namely Rangasamy Konar was also participated in the enquiry and he requested the Settlement Tashildar to issue patta in favour of the Temple after recognizing him and his cousin brother as Trustees of Temple. Only after due enquiry, the order has been passed by the Settlement Tashildar granting patta in favour of the Temple after recognizing the Ranagasamy Konar, i.e., father of the first respondent and this was not considered by the Minor Inam Tribunal, hence, the order passed by the Tribunal is liable to be set aside.

8.3 The Tribunal has also remanded the matter without considering the scope of order 41 Rule 23 to 26A of CPC and in this case, on the face of the record, it is established that the appeal filed by the first respondent was not maintainable on the ground of limitation. The documents relied by the first respondent could not be received as documents by the Minor Inam Tribunal since all those documents came into existence from the year 1976. Even though, the partition deed dated 19.10.1956 and sale deed dated 12.08.1962 was relied on by the first respondent which is



not binding on the Temple, hence, prays to set aside the order passed by the Minor Inam Tribunal and to confirm the award of the Settlement Tashildar.

The other respondents were only formal parties in the appeal.

We have considered the submissions of both sides and perused the records:

9. Before the Settlement Tashildar, the father of the first respondent herein i.e., Ranagasamy Konar as P.W.1 appeared and gave evidence to the effect that the total extent of 5.03 hectares of dry land in survey No.20 & 24 of the T.D. of the Minor Inam. His ancestors were used to do poojas for the Temple and the same is continued by Rangasamy Konar and his cousin brother Palaniappan Konar. They are the hereditary poojaries of the Temple, he is in possession and enjoyment of 1.54 acres and he has purchased another 0.62 acre of land as per the Sale Deed dated 14.08.1962. His cousin brother Palaniappan Konar is in possession and enjoyment of 1.86 acres and they used the income derived from those lands for the purpose of doing poojas to the Temple. Similarly, the P.W.2- Palaniappan Konar, who is the cousin brother of P.W.1 was also deposed and he claimed that he was in possession of 1.6 acres of land in Survey No.20 and the same was considered by the Settlement Tashildar. The Inam



'B' Register was also marked as Ex.C.1. and the Settlement Inspector named Gopi was also examined as C.W.2 and Inam Fair Register was marked as Ex.C.2.

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

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 land.

(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



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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.”



Section 11-(3) of the Act, provides limitation period for filing

appeal against the order passed by the Settlement Officer and it reads as follows:

“(3) Against a decision of the Assistant Settlement Officer under sub-section (2), the Government may, within one year from the date of the decision, and any person aggrieved by such decision may, within three months of the said date, appeal to the Tribunal:

Provided that the Tribunal may, in its discretion, allow further time not exceeding two months for the filing of any such appeal:

Provided further that the Tribunal may, in its discretion, entertain an appeal by the Government at any time if it appears to the Tribunal that the decision of the Assistant Settlement Officer was vitiated by fraud or by mistake of fact.”

12. As per the Inam Fair register marked in Ex.C.2, the lands were granted and confirmed permanently in 1963 for the support of the Temple so long as it is well kept up. The Settlement Tashildar has held that since the Temple has been granted both varams and even though, the P.W.1 and P.W.2 has given the evidence that the property were sold by their fore fathers long ago among the relatives. Since, the Inam Fair Register shows that Inam lands granted in favour of Temple and original grant was made



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for the up keep of the Temple as per section 8(2) (ii) of the Act of 30/1963, the patta has to be given only in the name of Temple and others were not entitled to get patta and rejected the claim. The award of the Settlement Tashildar shows that after hearing the father of the first respondent herein, the final award granting patta in favour of the Temple was passed. It was not challenged by the father of the first respondent and now, the first respondent contest that the copy of the order was not served neither to his father nor to any person. He came to know about the settlement of patta issued in favour of the Temple only recently and immediately, he has filed copy application and obtained the copy of the award and filed this appeal. This has been disputed by the other contesting parties.

13. This Court also called for the original records to find out whether the copy of the award was served on the parties or not. On perusal of the record, it shows that immediately after passing of the award, the copies were dispatched to the claimant including the father of the first respondent. Subsequently, as Trustees of the Temple both Rangasamy Konar and Palaniappan Konar, who have performed the poojas to the Temple have received the copy of the patta, consequent to the order passed by the Settlement Tashildar. This record clearly reveals the fact that, even



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though the patta was issued in the name of Temple and the Temple was represented by both (1) father of the first respondent and (2) cousin brother of Rangasamy Konar. The record shows that the copies were sent to all the respondents and that consequent to the passing of the order, Form-8 was also issued granting patta in favour of the Temple represented by the Rangasamy Konar and Palaniappan Konar.

14. On perusal of the evidence of the P.W.1, it also shows that he sought for issuance of patta in the name of the Temple representing him as one of the trustee and he has also promised to continue the performance of pooja to the Temple. Similarly, the P.W.2, Palaniappan Koonar has also given the same statement requesting the patta in favour of the Temple and he has given an undertaking also to look after the Temple. This evidence and the records clearly shows that the Settlement Tashildar has taken note of the evidence made by Rangasamy Konar (father of the first respondent) and his cousin brother Palaniappan Konar and as per their request patta is granted in favour of the Temple. Now, as legal heir of the trustee, the first respondent can only seek right in the administration of the Temple and he is not entitled to claim any right over the property of the Temple as if he has inherited the ownership of lands. It is also to be noted that the evidence of



P.W.1 and P.W.2 refers to various sale transactions entered between the family members and nowhere it is stated that the Inam dhar is also a party to those documents and bare perusal of the Partition Deed and sale deed shows that the Temple is not a party to those Deeds.

15. 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 were produced to show that the Temple has parted with any of the right. The Inamdar/the Temple is not a party to the Sale Deed or Partition Deed, which were relevant 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.

16. This Court is of the view that since the father of the first



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respondent and cousin brother of his father were aware about the issuance of patta in the year 1968 in favour of the Temple and they had not chosen to challenge the same, they have accepted the issuance of patta in favour of Temple and the same is binding on them. The first respondent who is claiming the ancestral right through his father is not entitled to challenge the patta after the limitation period and he cannot content that he is not aware of the issuance of the patta after 36 years. His contention that the appeal is maintainable and he came to know about the issuance of patta only in the year 2004 is not valid and the appeal filed by him is barred by limitation.

17. In view of the discussion made above, the appeal filed by the first respondent is not only barred by limitation but also he is estopped from claiming any right since his father has not challenged the issuance of patta in favour of the Temple. The above factual aspects have not been considered by the Minor Inam Tribunal and it has not adverted into the facts of the case and proceeded that, 17 additional documents were produced and it requires re-consideration of the case of the claimant. This Court is of the view that same is not permissible since the Title Deeds/ documents relied on by the respondents is not binding on the Temple. Some of the documents came into existence from 1976 onwards, and they are not at all



relevant to decide the settlement proceedings held in the year 1968. Hence, permitting the first respondent to adduce additional evidence is unnecessary and the order passed in I.A. No. 546 of 2013, dated 04.01.2017 is liable to be set aside. Similarly, the Tribunal has also failed to consider the evidence of P.W.1 and P.W.2 who have categorically sought for issuance of patta only in the favour of the Temple after declaring them as Temple trustees. Hence, this Court is of the view that the order passed by the Tribunal is liable to be set aside and the order of the Settlement Tashildar is valid and there is no infirmity in it.

18. In the result,

(1) The Special Tribunal Appeal is allowed. The Judgment and Decree passed by the Minor Inams Tribunal/ Principal Subordinate Judge, Coimbatore, in C.M.A. No. 103 of 2004, dated 04.01.2017 is hereby set aside and the Order passed by the Settlement Tashildar No.IV, Gobichettipalayam, in S.R. No.692/68/M.I. Act, Coimbatore Taluk, dated 30.09.1968 is hereby confirmed.

(2) The Civil Revision Petition is allowed. The Judgment and Decree passed in I.A. No.546 of 2013 in C.M.A No.103 of 2004, dated



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04.01.2017 is hereby set aside.

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(3) The appellant herein is entitled for costs.

(4) Consequently, connected miscellaneous petitions stands closed.

(S.V.N.,J.) (K.R.S.,J.)
19.10.2023

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

1. The Asst. Settlement Officer
Office of the Commissioner and Director of Survey and Settlement,
Chenpauk, Chennai - 600 005.
2. The Revenue Divisional Officer,
Coimbatore.
3. The Asst. Commissioner,
Hindu Religious and Charitable Endowment,
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4. The Section Officer,
V.R.Section,
High Court, Madras.



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S.VAIDYANATHAN

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Pre-delivery Judgment made in
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