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W.P.No.27453



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27453 of 2023

Gwaldas Karnani

... Petitioner

Vs.

1.The District Collector,
Office of the Collectorate,
Chennai.

2.The Revenue Divisional Officer,
South Chennai Revenue Division,
Anna Salai, Guindy,
Chennai – 32.

3.The Tahsildar,
Mylapore – Triplicane,
Chennai – 4.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to dispose of the appeal of the petitioner dated 07.10.2022.

For Petitioner

: Mr.S.Vijayakumar, Senior Counsel
for Mr.A.V.Balusamy

For R1 to R3

: Mr.E.Sundaram, Government Advocate

For R4 & R5

: Mr.N.R.R.Arun Natarajan,
Special Government Pleader (HR & CE)



ORDER

The Writ on hand has been instituted directing the 2nd respondent to dispose of the appeal filed by the petitioner on 07.10.2020.

2. The petitioner states that he is the owner of the land and building at No.154, Pycrofts Road, Royapettah, Chennai – 14. His family is in possession ever since his Grandfather, Late.Shri.Baijinath Karnani had bought the subject property by registered Document No.2381 of 1909. Patta was issued in the name of the Grandfather of the writ petitioner, who in turn sold certain shops and purchased a share of land from his brother's son of the same property, which was also registered.

3. The petitioner submitted an application for grant of patta, which was rejected by the Tahsildar, Mylapore, by proceedings dated 25.08.2022 mainly on the ground that the subject land stands in the name of Arulmigu Thiruvatteeswarar Swamy Devasthanam. Patta originally granted in favour of the persons based on the order of the Settlement Officer was reversed and again it was re-entered in the name of the Temple. Somehow, Patta has been granted subsequently. Whether any manipulations of revenue records or fraud, if any, is to be enquired into. The Temple filed a Writ Petition in W.P.No.7649 of 2002



and the Writ Petition was disposed of on 04.12.2009 against the Temple. Thus, the Writ Appeal in W.A.No.660 of 2010 was filed by the Temple. It is brought to the notice of this Court that the Hon'ble Division Bench of this Court had heard the matter and reserved orders.

4. The learned Special Government Pleader made a submission that the Hindu Religious and Charitable Endowments Department is not a party to the Writ Appeal. The Hindu Religious and Charitable Endowments Department being the administrative controller of the Temples across the State of Tamil Nadu under the provisions of the Hindu Religious and Charitable Endowments Act, they will be in a position to place all the records relating to the Temple properties and protect the interest of the property belonging to the Temple.

5. The learned Special Government Pleader made a submission that steps will be taken to implead the Hindu Religious and Charitable Endowments Department as party in the Writ Appeal. However, it is for the Department to initiate all appropriate actions to protect the interest of the Temple properties.

6. The learned Senior Counsel appearing on behalf of the petitioner mainly contended that right from the year 2009, the property is a patta land and



several persons had already been issued with patta.

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7. No doubt, the patta initially granted was cancelled and restored in the name of the Temple and subsequently, patta was granted in the name of private persons. However, the subject matter is pending before the Hon'ble Division Bench of this Court in W.A.No.660 of 2010.

8. The Tahsildar had rejected the application submitted by the writ petitioner for grant of patta mainly on the ground that the Writ Appeal filed by the Temple is pending before the High Court of Madras.

9. The learned Special Government Pleader based on the written instructions from the Temple Authorities made a submission that the subject lands to the larger extent was granted to the Temple by way of Inam on 01.11.1734 and 10.08.1787.

10. At the time of conducting the re-survey of the lands in Chennai, a larger extent of land including the subject property has been stated as the properties belonging to the Temple and the Temple leased out the properties and collected land rent from the occupants.



11. Certain persons approached the Settlement Tahsildar, who in turn passed an order in favour of the private individuals. Pertinently, the Temple Trustees during the relevant point of time had remained *ex-parte* before the Settlement Officer and not represented the case of the Temple. Therefore, there was a collusion or fraud for the purpose of obtaining order from the Settlement Officer during the relevant point of time. The Temple Authorities filed an appeal before the Tribunal, who had passed an order cancelling the patta granted in the name of the lease holders. Consequently, the patta was transferred in the name of the Temple.

12. Challenging the said order, the Temple filed an appeal before the Commissioner of Land Administration in R.P.No.12 of 1995 and against the said order, the Writ Petition was filed and presently the Writ Appeal in W.A.No.660 of 2010 is pending before this Court.

13. Cursory reading of the facts would reveal that there are doubtful circumstances in the matter of grant of patta in favour of individual persons. The Temple could establish that the subject lands to the larger extent was a Inam land, stood in the name of the Temple and the Settlement Officer passed an



ex-parte granting patta and the said *ex-parte* order was cancelled by the Tribunal. Challenging the said order, Revision Petition was filed before the Commissioner of Land Administration and subsequently, Writ Petition and Writ Appeal before the High Court.

14. Mere possession would not confer any title. Long possession also would not provide any right to claim title. Title in respect of the immovable property is to be traced out based on the documents and evidences available on record. It is for the parties to establish their title based on the documents and evidences before the competent Civil Court of law. As far as the claim of the Temple is concerned, the authorities competent are empowered to initiate appropriate action under the provisions of the Hindu Religious and Charitable Endowments Act.

15. In respect of the Temple properties, even registration cannot be entertained in view of Section 22-A of the Registration Act, 1908.

16. There is a growing trend of grabbing the property belonging to the Religious Institutions one way or other by manipulating the records or otherwise. Such practices are to be thwarted by initiating consistent action by



the Temple Authorities in co-ordination with the officials of the Hindu Religious and Charitable Endowments Department.

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17. Act contemplates that the Temple properties are to be protected and utilized for the benefit of the Temple. Any inaction, lapses, negligence or derelictions of duty on the part of the Temple Authorities / officials of the Hindu Religious and Charitable Endowments Department are to be viewed seriously. All appropriate actions under the Rules are to be initiated, if any such lapses, negligence, derelictions of duty are identified.

18. In the present case, lands to a larger extent was given to the Temple as Inam. The Temple has not maintained the property properly and allowed the encroachers at the initial stage. Thereafter, such persons made an attempt to legalize their possession. The systematic grabbing of lands in our country is a growing trend and such grabbing of valuable lands are made with the connivance of the bureaucrats and the politicians.

19. Even in the present case, a simple prayer has been sought for to dispose of the appeal. Curiously, the petitioner has not impleaded either the Temple or the Hindu Religious and Charitable Endowments Department.



20. Though the writ petitioner is a party / respondent in W.P.No.7649 of 2002 and W.A.No.660 of 2010, both the proceedings are in not even mentioned in the affidavit filed in support of the present Writ Petition.

21. The practice of filing the Writ Petition without impleading the necessary parties and without mentioning the pendency of Writ Appeal is directly in violation of the Writ Rules issued by the High Court. It is pertinent to note that any such orders obtained without impleading the necessary parties cannot have the binding effect in respect of the Temple Authorities / the Hindu Religious and Charitable Endowments Department.

22. Writ Petitions are filed merely seeking a prayer to dispose of the representation / appeal filed by them. By obtaining an order to consider the representation or appeal, the litigants are attempting to achieve their goals in an indirect manner. Such orders, if issued without considering the issues, would pave way for corrupt activities in the Government Departments. The order of the High Court to direct the authorities to consider the representation has been utilized as a tool for creating a file in the Government Department and on opening the file, the litigants are attempting to indulge in corrupt activities by achieving their goal in an indirect / illegal manner.



23. Therefore, mere direction to consider the representation would do no service to the cause of justice. The litigants will back again to the High Court by filing another Writ Petition.

24. The practice in this regard is to be deprecated. Necessary parties are to be impleaded and pending litigations are to be stated. Then alone the Court will be in a position to adjudicate the issues on merits and in accordance with law.

25. In the present case, neither the Temple nor the Hindu Religious and Charitable Endowments Department have been impleaded as a party / respondents. On suspicion, this Court had called the Special Government Pleader, Hindu Religious and Charitable Endowments Department to get instructions and inform the Court. Now the facts informed would be sufficient to form an opinion that the Temple hold right over the larger extent of the property and in this regard, Writ Appeal is pending before the Hon'ble Division Bench of this Court. Even in the Writ Appeal, the Hindu Religious and Charitable Endowments Department has not been impleaded as party / respondent. Hindu Religious and Charitable Endowments Department plays a pivotal role in protecting the properties belonging to the Temple.



26. The learned Special Government Pleader now made a submission that steps will be taken to implead the Hindu Religious and Charitable Endowments Department for the purpose of placing the facts and documents before the Hon'ble Division Bench.

27. In view of the facts and circumstances, this Court do not find any infirmity in respect of the order passed by the Tahsildar, Mylapore Taluk in proceedings dated 25.08.2022 and now the matter is sub-judiced before the Hon'ble Division Bench of this Court and considering the appeal would not arise at all.

28. The Arulmigu Thiruvatteeswarar Swamy Devasthanam, represented by the Executive Officer, Triplicane, Chennai – 5 and the Commissioner, Hindu Religious and Charitable Endowments Department, Nungambakkam, Chennai – 34 have been *suo-motu* impleaded as respondent for the purpose of initiating all further actions to protect the Temple properties. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader, Special Government Pleader (HR & CE Department) takes notice on behalf of the impleaded respondents.



29. Accordingly, the Writ Petition stands dismissed. No costs.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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- 5.The Commissioner,
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S.M.SUBRAMANIAM, J.

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