



W.A.No.3547 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:28.08.2023

Delivered on: 20.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.3547 of 2019

and

C.M.P. No.22788 of 2019

Church of South India Trust Association,
Tiruchirapalli Thanjavur Diocesan Council,
represented by its Power of Attorney,
Diocesan Treasurer,
Rev. Sureshkumar,
now represented by S. Rajendran,
Diocesan Treasurer,
Puthur, Tiruchirapalli – 620 017.

.. Appellant

Vs.

1. The State of Tamil Nadu
represented by its Secretary to Government,
Revenue Department,
Fort St. George, Chennai-600 009.

2. The Special Commissioner cum Commissioner
of Land Administration,,
Chennai-600 005.

3. The District Collector,
Perambalur District, Perambalur – 621 212.

.. Respondents



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Prayer:- Appeal filed under Clause 15 of Letter Patent praying to set aside the order passed by this Court in W.P.No.30229 of 2004 dated 16.08.2019.

For Appellant : Mr. A. Mohamed Ismail.

For Respondents : Mr. S. Silambanan, Additional Advocate General, assisted by Mr. U.M. Ravichandran, Special Government Pleader [for R1 to R3]

JUDGMENT

(Judgment of the Court was made by P.B.BALAJI,J.)

The unsuccessful Writ petitioner is the appellant before us.

2. The appellant sought for issuance of a Writ of Certiorari to quash G.O. No.414 dated 07.09.2004 contending that the Society by name “Propogation Society” functioning in India, working amongst the depressed sections of people in old Perambalur Taluk and Jeyankondam and nearby places and that considering the good work of the society, the then British Crown granted a permanent lease to the said society under a registered deed dated 21.07.1903. It is further contended by the petitioner that the said society had constructed houses for families belonging to the Irula community and also a school building in the lands that were leased to them. The patta was also granted to the said society and ever since, the lands have been in the possession and enjoyment of the said society.



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Subsequently, in the year 1960, the said Society transferred all its assets to the appellant and thereafter the appellant has been carrying out various laudable objects utilizing the lease lands also. While so, on 20.12.1990, the Government of Tamilnadu, Revenue Department issued a communication to the petitioner stating that the settlement was made by mistake and the property was not used for the intended purpose of lease and that the Writ petitioner had also sublet some portions of the land. Alleging the same, the appellant was asked to show cause as to why the lands should not be resumed. According to the appellant, during the UDR survey in the year 1984, the Government had issued Patta to the appellant and more than Rs.2 Crores has been invested by the appellant for construction of buildings like Schools, hostals etc., Though the appellant gave its objections / explanation, the same was not considered and on 07.09.2004, the impugned G.O. came to be passed. Further, contending that the lease was perpetual and did not even contain a provision for cancellation, the respondents were not entitled to initiate any proceedings, especially after 1984, UDR Survey settlement patta being granted to the appellant.



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3. The respondents filed a counter affidavit before the Writ Court justifying the impugned G.O. for the reasons that neither the petitioner nor the Society had utilized the lands leased to them and further portions of the subject lands also been sub leased. According to the respondents, they have right to resume lands and in so far the Patta issued under 1984 UDR Settlement Scheme, the same having been obtained under the false pretext, it was invalid. The claims of perpetual lease were also denied.

4. The Writ Court, after considering the rival submissions of the respective counsel for the parties before it, dismissed the Writ petition, holding that though the lease was executed in the year 1903, the lands were not utilized fully and resumption was ordered only on the ground of violation of lease conditions.

5. This Writ appeal has been filed challenging the order of the Writ Court on the grounds that pursuant to enquiry, after a survey under UDR Scheme, patta was granted by the Government of Tamilnadu in favour of the appellant and thereafter the appellant spent huge sums of money for construction of schools, hostels and also to provide amenities to the Settlement Colonies of Irula Community numbering 300 and more; No



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proper enquiry was held before passing order of resumption; the ownership was with the appellant pursuant to the UDR patta being granted in the year 1984; the action of the respondents in summarily deciding to cancel the lease is in violation of principles of natural justice and for all these grounds, the appellant sought for the appeal being allowed.

6. We have heard Mr. A. Mohamed Ismail, learned counsel for the appellant and Mr. S. Silambanan, Additional Advocate General, assisted by Mr. U.M. Ravichandran, Special Government Pleader for the respondents 1 to 3. We have perused the records placed before us and also the order of the Writ Court.

7. Though the appellant has raised several grounds in the Memorandum of Writ appeal, the main contention of the appellant is that when the Government had granted Patta to the appellant in 1984, it was not open to the Government to subsequently contend that the Patta was erroneously granted and that, the order of resumption was passed without any due enquiry which had clearly violated the constitutional rights of the appellant.



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8. Per contra, the learned Additional Advocate General would state that though a registered lease was granted in favour of the Society wayback in 1903, it was found that the Society had not used the lands for the purpose of rehabilitation of Panchamar families. A Show Cause Notice was issued to the appellant and after considering the objections put forth by the appellant, inspection was also carried out which revealed that the appellant had subleased major portion of the lands. The Commissioner of Land Registration has also recommended for resumption of the lands from the appellant. A second Show Cause Notice was also issued on 20.05.1993, to which, the appellant also replied by putting forth various submissions with a request to the Government to allow the appellant to continue to be in possession. The Government, after calling for a report from the District Collector, Tiruchirappalli, taking note of the recommendations of the Commissioner of Land Registration, the District Revenue Officer concerned and the District Collector, proceeded to pass the impugned G.O.(Ms.) No.414 dated 07.09.2004 in and by which 226.34 acres of land, out of 310.15 acres was ordered to be resumed. The learned Additional Advocate General also contended that under Revenue Standing Orders, the Government has a power to resume lands when the conditions



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are violated.

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9. The respondents have filed a counter affidavit before us, where it is stated that out of 310.15 acres leased to the appellant, only 65.80 have been used for the leased purposes and approximately 153 acres have been sub leased and 7.75 acres have been encroached. They have also stated in the said counter affidavit that the District Revenue Officer, Trichirappalli District conducted a proper enquiry on 07.12.1992 and the appellant's representative also participated and submitted documents in support of the appellant's case. That apart, the District Revenue Officer, personally visited the lands on 20.01.1993 and all the authorities have applied their mind independently, before the impugned order came to be passed. The learned Additional Advocate General placed the decision of the Hon'ble Supreme Court in *Civil Appeal Nos.5117-5118 of 2021 reported in The State of Kerala & Ors vs. M/s. Joseph & Company* dated 03.09.2021. In the said decision, the Hon'ble Supreme Court has held that ***“when public largesse is bestowed on certain terms and conditions, by way of a lease deed, then such terms and conditions are to be strictly adhered to”***.



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10. It is an admitted fact that under the original lease, the predecessor in the interest of the appellant was granted lease and under the said lease, the lessee was obliged to divide the lands into small parts of 5 acres each and allow such plots to be occupied by Panchamar families and to help such families build houses on such plots, at the cost of the Society. It is now shown that only about 65 acres have been utilized for the said purpose and no steps have been taken in respect of the major and remaining portion of lands to an extent of approximately 250 acres.

11. In so far as the contention of the counsel for the appellant that the lease is permanent in nature and it is not open to the respondents to take any steps, we are unable to see any merit in the said contention. On a perusal of the indenture dated 21.07.1903, it is seen that the lease was only for a term of one year initially and thereafter from year to year until the lease was determined by either party, giving notice to the other party in writing. Therefore there is absolutely no basis in the said argument advanced by the learned counsel for the appellant that the lease is permanent in nature.



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12. With regard to the other submission regarding the UDR patta being issued to the appellant and therefore the title vested with the appellant and no coercive steps can be initiated by the respondents, we are unable to see how the appellant obtained the patta when admittedly he claims under only the Society which was granted a lease in the year 1903. Unfortunately, the appellant blows hot and cold. At one breath, he claims that he is claiming under a lessee in whose favour, there is a permanent lease and in an another breath, he claims title under UDR Patta. There is absolutely no merit in the other submission made by the counsel for the appellant that by application of the law adverse possession, the appellant has become the owner of the subject lands. The appellant has taken mutually destructive pleas before the Writ Court and as a result, has run the risk of inviting an order dismissal at the hands of the Writ Court. Mere issuance of Patta in favour of the appellant will not clothe the appellant with any right, interest or title to the subject lands.

13. The Writ Court, has elaborately discussed the submissions put forth before it and ultimately, in and by a well reasoned order rejected all the contentions of the appellant and dismissed the Writ petition. The Writ Court has also found that there is no violation of principles of natural



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justice and the appellant was given a fair opportunity before the impugned order came to be passed.

14. Therefore, we do not find any infirmity in the findings arrived at by the Writ Court. Consequently, there is no warrant to interfere with the order of the learned Single Judge.

15. In fine, the Writ appeal stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(D.K.K.J) & (P.B.B.J)

20.09.2023

Internet : Yes

Index: Yes/No

Neutral Citation: Yes/No

mjs

To

The State of Tamil Nadu
represented by its Secretary to Government,
Revenue Department,
Fort St. George, Chennai-600 009.

2. The Special Commissioner cum Commissioner
of Land Administration,,
Chennai-600 005.

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D.KRISHNAKUMAR, J.,
and
P.B.BALAJI, J.

(mjs)

Pre-delivery judgment in
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and
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