



W.P.(MD)No.1396 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.1396 of 2020

and

W.M.P.(MD).No.1129 of 2020

Ramachandran

... Petitioner

Vs

1.The Special Officer / District Revenue Officer,
(Temple Lands),
Hindu Religious and Charitable Endowments,
Ellis Nagar,
Madurai-625 016.

2.The Inspector,
Arulmiku Kurunadha Swami Temple, Errampatti,
Solavandhan Office,
Solavandhan, Vadipatti Taluk,
Madurai District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order vide office proceedings in Na.Ka.No.A/19/2019, dated 27.09.2019 on the file of the first respondent office and quash the same.



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For Petitioner : Mr.R.Karunanidhi

For R-1 & R-2 : Mr.N.Ramesh Arumugam,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent in Na.Ka.No.A/19/2019, dated 27.09.2019.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing on behalf of the respondents.

3. The case of the petitioner is that he purchased the subject agricultural property through a registered sale deed, dated 13.12.2012 measuring an extent of 1 Hectare and 64 Ares, situated at Errampatti Village, Madurai District from one Krishnan. Thereafter, the petitioner claims to be in possession and enjoyment of the property and patta was also standing in the name of the vendor of the petitioner in Patta No.671. The further case of the petitioner is that the first respondent issued an enquiry notice on 24.09.2019 and directed the petitioner to appear for an



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enquiry on 27.09.2019. The petitioner on receipt of the notice appeared before the first respondent with available documents. The first respondent issued the impugned proceedings, dated 27.09.2019, thereby, patta with respect to the subject property was directed to be transferred to the name of Arulmigu Kurunadha Swami Temple. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. The main ground that was urged by the learned counsel for the petitioner is that the entire proceedings were conducted in a hasty manner by the first respondent without affording sufficient opportunity to the petitioner. Therefore, the learned counsel contended that the impugned proceedings of the first respondent suffers from violation of principles of natural justice.

5. The learned counsel for the petitioner submitted that the title to the property is traceable to the vendor of the petitioner in whose name, the patta was granted in Patta No.671. That apart, it was contended that the substantial right of the petitioner is involved and it cannot be decided in such a hasty manner by the first respondent. Therefore, the



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learned counsel for the petitioner sought for the remand of the case back to the file of the first respondent.

6. Per contra, learned Government Advocate appearing on behalf of the respondents submitted that the ryotwari patta was issued for the subject property in favour of the Temple by the proceedings, dated 08.03.1968 under Section 8 (ii) of the Act 30 of 1963. The learned counsel submitted that this property cannot be dealt with and if any encumbrance is created, the same will not bind the Temple. It was further contended that even if the property was dealt with, it can be done only after getting necessary permission from the Commissioner under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Therefore, it was contended that the patta that was given in favour of the vendor of the petitioner is illegal and no title had passed on to the petitioner by virtue of the sale deed, dated 13.12.2012 and hence, the learned counsel sought for dismissal of this Writ Petition.

7. This Court has carefully considered the submissions made on either side and the materials available on record.



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9. The above judgments can be squarely applied to the facts of the present case. In the instant case, ryotwari patta was already issued in favour of the Temple through proceedings of the settlement Tahsildar, dated 08.03.1968 under Act 30 of 1963 and this proceeding has become final. In view of the same, the transactions that had taken place between the private parties in utter disregard to the ryotwari patta granted in favour of the Temple, will not bind the Temple. That apart, even if this property is to be dealt with, permission must be taken from the Commissioner under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. In view of the same, even if the matter is remanded back to the file of the first respondent, the result that will be arrived at by the first respondent will be the same. The scope of Melvaram and Kudivaram Rights was dealt with in detail by the Division Bench of this Court in the case of **Kandasamy Vs., Sri Ranganathaswamy** reported in **2023-2-LW 317**. Therefore, useless formality theory will apply to the facts of the present case and no useful purpose will be served in remanding the matter back to the first respondent with a direction to provide opportunity to the petitioner since the first respondent will once again reach the very same result.



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10. In view of the above discussion, the contention made by the learned counsel for the petitioner requesting this Court to remand the matter back to the file of the first respondent is un-sustainable. The first respondent has already made it clear in the impugned proceedings, dated 27.09.2019, that the petitioner will have to work out his remedy only before the competent Civil Court. Therefore, the petitioner can only avail the remedy before the Civil Court. In fact, the only remedy that is available to the petitioner, since a patta has already been granted in favour of the Temple is a Civil Court which is not barred from dealing with the title to the property in spite of the patta being granted under the Act. Useful reference can be made to the Judgment of this Court in the case of *Venkataramana and others Vs. N.Munuswamy Naidu and Others* reported in **2010 (4) CTC 640**.

11. In view of the same, this Court does not find any ground to interfere with the impugned proceedings issued by the first respondent in Na.Ka.No.A/19/2019, dated 27.09.2019 and accordingly, this Writ Petition stands dismissed. It is left open to the petitioner to work out his



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remedy before the competent Civil Court in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no

tsg

To

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(Temple Lands),
Hindu Religious and Charitable Endowments,
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Madurai-625 016.

2.The Inspector,
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N.ANAND VENKATESH, J.



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