



W.P.(MD) No.6167 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.6167 of 2023

and

W.M.P(MD) Nos.5881 and 5882 of 2023

1.V.Shiva Varatharajan

2.S.Madhu Malar

Represented Power Agent of the
petitioners No.1 and 2
R.Varatharajan
S/o.V.Raju

... Petitioners

Vs.

1.The Joint Commissioner/Executive Officer,
Arulmigu Meenakshi Sunthareshvara Thirukovil,
Madurai -625 001.

2.The Sub Registrar (District Registrar Grade),
Sub Registrar Office,
Arasaradi,
Madurai-625 016.

... Respondents



W.P.(MD) No.6167 of 2023

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the impugned Circular issued by the first respondent to the second respondent in Na.Ka.No.5580/07/E1 dated 31.05.2017 in respect of Serial No.3, T.D.No.474, Survey No.81/2 an extent of 0.92 and quash the same as devoid of merits and for other such reliefs, within the period as stipulated by this Court.

For Petitioners : Mr.A.Haja Mohideen

For Respondents : Mr.VR.Shanmuganathan

ORDER

This writ petition has been filed for issuance of writ of certiorari to call for the records of the impugned circular issued by the first respondent to the second respondent in Na.Ka.No.5580/07/E1, dated 31.05.2017 in respect of serial No.3, T.D.No.474, Survey No.81/2, an extent of 0.92 cents and quash the same as devoid of merits and for other such reliefs, within the period as stipulated by this Court.



W.P.(MD) No.6167 of 2023

WEB COPY

2. It is the case of the petitioners that they are the owners of the properties comprised in Survey No.81/2, which is the subject matter of the present writ petition. It is their further case that they had purchased the same under the registered sale deed dated 18.01.2016 from one S.Charles Samson Udhyakumar and two others for a total sale consideration of Rs.1,45,00,000/- . The petitioners had obtained a loan repayable in equated monthly instalments, which instalments are being paid and the loan has been discharged on 09.01.2023. The petitioners would submit that they purchased the properties only after obtaining a legal opinion and being satisfied with the title of the respondents.

3. The petitioners would submit that they had decided to develop the lands and had been negotiating with the private parties and other banks, at which point in time, they came to discreetly learn that the registration of the lands in this survey had been stopped as there was a correspondence from the first respondent that the property belonged to the temple. The petitioners have also obtained the circular dated 31.05.2017, which is the subject matter of this writ petition. The



W.P.(MD) No.6167 of 2023

WEB COPY

petitioners would further submit that the respondent temple cannot claim title to the property, since in the the proceedings initiated by the Settlement Tahsildar in C.M.A.No.176/68 right of the petitioners' predecessor in title to 92 cents in Survey No.81/2 had been confirmed and in the order, it is clearly stated that the respondent temple had no right to this property. Therefore, the impugned circular has to definitely be quashed, since the first respondent without having any right, title or interest to the properties, by issuing this memo effectively stalled the further registration thereby placing a fetter on the rightful owners of the property.

4. Though the respondents had taken time to file counter and the matter was listed today finally for counter, no counter has been filed nor the respondents had produced any documents to prove their title to the property.

5. Heard the learned counsel appearing on either side.



W.P.(MD) No.6167 of 2023

WEB COPY

6. In the order of the Settlement Tahsildar in C.M.A.No.176/68, which had been filed at the behest of the first respondent Temple, the following order is passed:-

“ In the circumstances and in exercise of powers confirmed on me as per G.O.P.401, dated 15.02.65, I direct the issue of patta in respect laid in S.No.81/2 (0.92 wet) in favour of I respondent Dhenushkodia Pillai, S/o. Sankaramoorthia Pillai and for S.No. 142/1(0.58 acres) in favour Perumal Thevar, S/o.Payandi Thevar under Section 11(2) and with Section 8(2)(i)(b) of the Act 30/63 subject to the payment of consideration to be signed by the Tahsildar Madurai (South) Taluk”

7. It is also seen from a reading of the legal opinion given as early as on 22.09.1978 by the Advocate and Government Pleader at Madurai pursuant to the orders of the Settlement Officer, that the compensation has been deposited by the respondent therein on 27.09.1972. This fact has also acknowledged by the Tahsildar, Madurai South Taluk in his reference dated 01.12.1972. Therefore, on the payment of the amount as per the order of the Settlement Tahsildar, the property became the



W.P.(MD) No.6167 of 2023

absolute property of the petitioners' predecessor in title and it was clearly held that the first respondent temple was not the owner of the property in question.

8. Therefore, in the light of the above, the impugned notification is nothing, but an attempt to make claim over a land which does not belong to the temple and in respect of which, an earlier claim made by the first respondent temple had been rejected. Accordingly, this Writ Petition is allowed and the impugned circular issued by the first respondent to the second respondent in Na.Ka.No.5580/07/E1, dated 31.05.2017, is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

14.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
cp



WEB COPY



W.P.(MD) No.6167 of 2023



WEB COPY



W.P.(MD) No.6167 of 2023

P.T.ASHA, J.

cp

W.P.(MD) No.6167 of 2023

Dated: 14.06.2023