



W.P(MD)No.9533 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9533 of 2019

and

W.M.P.(MD)Nos.7504 & 7505 of 2019

The Executive Officer / Fit Person
Arulmigu Kathandamman Temple,
Kalappanpatty, Usilampatty Taluk,
Having Office at Anjaneyar Temple,
Simmakkal,
Madurai-625 001.

... Petitioner

Vs.

1.The District Collector,
Madurai Collector's Officer,
Madurai.

2.The District Revenue Officer,
Madurai Collector's Office,
Madurai.

3.M.Periyapandi (died)
P.Perumayee
(This Court vide order dated 19.09.2023
substituted P.Perumayee as 3rd respondent
in the place of M.Periyapandi)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in Na.Ka.No.3493 / 2015 / G-5 dated 19/11/2014 on the file of the 2nd respondent and quash the same as illegal, ultravires and against the principles of natural justice.



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For Petitioner : Mr.S.Manohar

For Respondents : Mr.D.Gandhiraj
Special Government Pleader for R1 & R2

: Ms.W.Pamelin for R3

ORDER

Heard the learned counsel on either side.

2. The petitioner is the executive officer / fit person of Arulmighu Kathandamman temple, Kalappanpatty. The petitioner challenges the order dated 19.11.2014 passed by the District Revenue Officer, Madurai mutating patta in favour of the third respondent after deleting the name of the petitioner temple in the revenue record in respect of the petition mentioned property.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The learned Special Government Pleader appearing for the official respondents submitted that the impugned order is a well reasoned and that it does not call for interference.

5. The learned counsel appearing for the contesting private respondent strongly submitted that even prior to UDR, the name of the third respondent's father was reflected and that the District Revenue Officer, Madurai had only



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rectified the error that took place during UDR. She pointed out that the family of the third respondent had been dealing with the property for more than a century and that therefore, the impugned order does not warrant interference.

6. I carefully considered the rival contentions and went through the materials on record.

7. It is seen that the resettlement register of the village clearly mentions the petition mentioned property comprised in Survey No.73/5 as inam land. Therefore, it was the subject matter of the settlement proceedings under Tamil Nadu Act 30 of 1963. Copy of the inam settlement proceedings dated 03.07.1969 has been enclosed in the typed set of papers. The learned counsel for the third respondent would cast doubt on the said proceedings. Be that as it may, what has been filed before me indicates that the settlement tahsildar was satisfied that there was a iruvaram minor inam granted in support of the Kathandamman temple and he decided that the said temple represented by the trustee was entitled to ryotwari patta under Section 8(2)(ii) of the Act. Section 46 of the Tamil Nadu Act 30 of 1963 reads as follows:-

46. Finality of orders passed under this Act (1) Any order passed by any officer, the Government or other authority or any decision of the Tribunal or the Special Appellate Tribunal under this Act in respect of matters to be determined for the purposes of this Act shall, subject only to any appeal or revision provided under this Act, be final.

(2) No such order or decision shall be liable to be questioned in any Court of law.



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That is why, probably the subsequent revenue entries indicated that the property is in the name of the temple represented by its trustee. So long as the settlement proceedings hold good, the third respondent cannot claim any overriding right. The first respondent did not take into account the order passed by the settlement authority.

8. In this view of the matter, the order impugned in the writ petition is set aside. It is well settled that even though there is a finality clause set out in the statute, an interested party can always move the jurisdictional civil court for declaration of their preexisting right. I grant liberty to the third respondent to establish her claim before the jurisdictional civil Court within a period of twelve weeks from the date of receipt of a copy of this order. The third respondent shall not be disturbed in the meanwhile. The rights of the parties will abide by the order to be passed by the jurisdictional civil court. The writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

19.09.2023

Index : Yes / No
Internet : Yes/ No
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To

- 1.The District Collector,
Madurai Collector's Officer,
Madurai.
- 2.The District Revenue Officer,
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G.R.SWAMINATHAN, J.

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