**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 18 .12.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**WP(MD)Nos.16586, 16587, 16590 and 16591 of 2014**
**and**
**MP(MD)Nos.1,1,1,1 and 2 of 2014**

**WP(MD)Nos.16586 and 16587 of 2014**

S.Rajeswari ... Petitioner in WP(MD)No.16586 of 2014

S.Bhuvaneswari ... Petitioner in WP(MD)No.16587 of 2014

Vs

The Joint Commissioner,
Hindu Religious and
Charitable Endowments Department,
Pichandarkovil,Tiruchirappalli.
... Respondent in WP(MD)Nos.16586 & 16587 of 2014

COMMON PRAYER: Writ Petitions in WP(MD)Nos.16586 & 16587 of 2014 are filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records relating to the impugned order passed by the respondent in his proceedings in Na.Ka.No.5297/2013/A3, dated 08.08.2014 and quash the same as illegal and without jurisdiction.

For petitioners : Mr.B.Saravanan,
Senior Counsel
for Mr.K.Suresh
For Respondent : Mr.Veera Kathiravan
Additional Advocate General
Assisted by Mr.P.Subburaj,
Special Government Pleader
inWP(MD)Nos.16586 & 16587 of 2014

**WP(MD)Nos.16590 and 16591 of 2014**

S.Rajeswari ... Petitioner
in WP(MD)No.16590 of 2014

S.Bhuvaneswari ... Petitioner
in WP(MD)No.16591 of 2014

Vs

1.The District Revenue Officer,
Karur District,
Karur.

2.The Joint Commissioner,
Hindu Religious and
Charitable Endowments Department,
Pichandarkovil, Tiruchirappalli.

3.The Assistant Commissioner,
Hindu Religious and
Charitable Endowments Department,
Nearby Nirmala Hospital,
Karur – 639001. ... Respondents in
WP(MD)Nos.16590 & 16591 of 2014

COMMON PRAYER: Writ Petitions in WP(MD)Nos.16590 & 16591 of 2014 are filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records relating to the impugned proceedings on the file of the 1st respondent in his proceedings in Na.Ka.C3/19820/2014, dated 02.07.2014 and quash the same as illegal and without jurisdiction.

For petitioners : Mr.B.Saravanan,
Senior Counsel
for Mr.K.Suresh
For Respondents : Mr.Veera Kathiravan
Additional Advocate General
Assisted by Mr.P.Subburaj,
Special Government Pleader
in WP(MD)Nos.16590 & 16591 of 2014

**COMMON ORDER**

The petitioners are the hereditary trustees of Arulmigu Venkata Ramana Swami Temple situated in Manmagalam Village, Karur District. This temple is a public temple under the control of the Tamil Nadu Hindu Religious and Charitable Endowments Department and administrated by the hereditary trustees.

2.The hereditary trustees were suspended as per Section 53(2) of the Hindu Religious and Charitable Endowments Act [herein will be referred to as 'the Act'] that they have acted as against interest of the religious institution by selling the temple lands in Survey Nos.193/2A and 306/2B2. As against the order of suspension, the writ petitions in WP(MD)Nos.16586 and 16587 of

2014 have been filed by the trustees and as against the notice issued by the District Revenue Officer, Karur in the revision petition filed by the Hindu Religious and Charitable Endowments Department, the writ petitions in WP(MD)Nos.16590 and 16591 of 2014 have been filed. Since the petitioners are the trustees of Sri Venkata Ramana Swami Thirukoil, all these writ petitions are disposed by this common order.

3.The case of the petitioners is that the lands in S.Nos.193/2 and 306/2B2 of Manmangalam Village, Karur were originally granted to one Lingaiyan by the King Chera in appreciation of his services to Sri Venkata Ramana Swami Thirukovil, Manmangalam Village, Karur District. The petitioners are the descendants of the said Lingaiyan through their father Subramaniam Iyer. The Sub-Collector, Karur after conducting enquiry by providing an opportunity to the HR and CE Department has passed an order granting patta in the name of these petitioners being hereditary trustees, by his proceedings dated 02.02.2010. With the strength of that patta, the petitioners have sold the property and the patta has not been cancelled so far. For having sold the property based on the patta granted by the competent authority, namely, the Revenue Divisional Officer, Karur, the Joint Commissioner, HR and CE Department, has placed these petitioners under suspension. Until the patta granted by the Sub-Collector, Karur is set aside in the manner known to law, the Department is not justified in suspending the petitioners as the holders trustees.

4.As per Section 12 of the Patta Pass Book Act, 1983, any person aggrieved over the order of the Revenue Authority is entitled to file an appeal within a period of thirty days from the date of receipt of a copy of the order. The Joint Commissioner, HR and CE Department / the 2nd respondent herein is a party to the proceedings of the RDO, Karur dated 02.02.2010. However the appeal was filed after a period of two years, which was mechanically entertained by the District Revenue Officer, Karur and notice has been issued to the petitioners. When the Statute prescribes the time limit the District Revenue Officer is not having powers to entertain the revision petition beyond the statutory period and therefore, the notice issued by the District Revenue Officer in the revision petitions filed by the HR and CE Department is without jurisdiction that it is beyond the limitation and therefore, the impugned notices issued by the DRO, which is the subject matter in WP(MD)Nos.16590 and 16591 of 2014 are liable to be set aside.

5.The learned Senior Counsel appearing for the petitioners submits that insofar as the writ petitions in WP(MD)Nos.16590 and 16591 of 2014 are concerned, the petitioners were granted with Ryotwari patta by the Sub-Collector, Karur vide proceedings dated 02.02.2010 in Ni.Mu.A2/7076/2006, by putting on notice the contesting respondent and by following the principles of natural justice. Since then the patta stood in their names. This patta was issued based on the relevant government orders, which extend the benefits for those, who had not availed the benefits under the Act 30 of 1963 and therefore, they are entitled to deal with the property. In the order dated 02.02.2010 itself it is specifically mentioned that the appeal shall be filed within a period of 30 days to the DRO by the aggrieved party, whereas the Department has not preferred the appeal within the stipulated period of 30 days. The impugned notice sent by the DRO in the appeal filed by the Assistant Commissioner, HR and CE, as against the order of the Sub-Collector, dated 02.02.2010 is without jurisdiction and he ought not to have entertained the appeal.

6.The learned Senior Counsel further submits that insofar as the writ petitions in WP(MD)Nos.16586 and 16587 of 2014 are concerned, based on the the order of the Sub-Collector dated 02.02.2010 they dealt with the property which stood in their name for which the Department initiated action by appointing fit person and by suspending the petitioners from their hereditary trusteeship. They were suspended that they sold a temple property but it is not correct, the property is their ancestral property, patta now stand in their name and they sold the property based on the patta granted in their favour.

7.In response, the learned Additional Advocate General appearing for the respondents submits that the property in S.F.Nos.193 and 306 for an extent of 9.63 and 14.77 acres belong to Sri Venkata Ramanaswamy temple, Manmangalam. By the proceedings of the Settlement Tahsildar III (SE), Trichy in Case No.1508 of 1967, dated 16.06.1967, patta was granted in favour of the deity during the settlement proceedings under Section 8(2) (ii) of the Act 30 of 1963 and the property stands in the name of the deity Sri Venkata Ramanasamy, Manmangalam. As per the Inam Fair Register (IFR) dated 09.03.1963 in TD NO.358, the land classified as Service Inam Devathayam land and stands in the name of Venkata Perumal Pakoda and in the name of the worshipper Lingaiyan. The petitioners claim to be the daughters of one Subramaniam Iyer, the legal heir of the said Lingaiyan and they claim that the land was granted to the individual Lingaiyan. The petitioners approached the Revenue Divisional Officer, who is not competent to decide the issue and patta in the name of the petitioners and sold the same to one Poosari Rasammal through a registered document No.1567/2010 before the Sub-Registrar, Karur on 16.07.2020. The petitioner and his predecessors in title can only claim as a permissible occupiers and cannot have right over the property and in as much as it is a service inam the right is vested with the temple. The person holding the possession will be entitled to continue to be in possession as long as he renders his service and when such person transfers the property, the transfer is illegal and accordingly action was taken against the petitioners, the trustees, who sold the temple properties.

8.The learned Additional Advocate General by referring to the provisions under Section 41 of the Act submits that the exchange, gift, sale or mortgage of any inam land, unless confirmed or recognised by the Government is null and void and the petitioners have fraudulently obtained the patta from the Sub-Collector and has also sold the temple property to a 3rd party with this patta within a period of three months from the date of receipt of the patta.

9.The learned Additional Advocate General has also relied on the earlier orders of the RDO in Oo.Mu.No.5504/2003, dated 03.08.2006, wherein the request of these petitioners for grant of patta for the subject lands in S.Nos.193/2 and 306/2B2 were rejected by RDO, considering the settlement patta issued in the name of the temple. This order dated 03.08.2006 was challenged by these writ petitioners in WP(MD)No.7874 of 2006, wherein a stand has been taken by the petitioners that the they are seeking patta not in their individual names, but in the name of the temple represented by its trustees and therefore, they requested to set aside the order and to consider the case of these petitioners afresh. Accordingly the earlier order of the RDO dated 03.08.2006 was set aside by this Court and the matter was remanded back for fresh consideration. However before the Sub-Collector, they have insisted for patta in their individual names and the Sub-Collector without considering the settlement patta issued in the year 1963, has granted patta in favour of these petitioners without setting aside the earlier order of patta in the name of the deity and taking advantage of this fraudulent patta, the petitioners have also sold the property to a third party and therefore, necessary actions were taken as against these petitioners under Section 53(2)(c) of the Act and they were suspended.

10.This Court considered the rival submissions made on either side and also perused the materials placed on record.

11.The subject lands in S.Nos.193/2 and 306/2B2 of Manmangalam village were settled in the name of the temple viz., Sri Venkata Ramana Swamy Thirukoil by the Settlement Officer, Tiruchirappalli in his proceedings dated

16.06.1967 under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963. The relevant portion of the Inam Register dated 16.06.1967 is extracted as under :

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|---|---|---|
| 1 | Case No | 1508/67 |
| 2 | Description of the minor inam with T.D.No., if any | Devadayam T.D.No.358 Sri Venkataramaswami temple, Manmangalam |
| 3 | S.F.No. and sub division | 193, 306 |
| 4 | Classification | --- |
| 5 | Extent | 9.63, 14.77 |
| 6 | Boundaries | --- |
| 7 | Description of service owner agent in cases u/s 8 | --- |
| 8 | Name of the person to whom patta is allowed | Sri Venkataramaswami temple by hereditary trustee Subramania Iyer, S/O.Sama Iyer |
| 9 | Section of Madras Act, 30/63 under which patta to be granted | 8(2)(ii) |
| 10 | Decision | Subramania Iyer, S/o. Sama Iyer is the trustee and service holder. He produces H.R & C.E Board's 1018 Dt.7-4-45 and No.125 of 1943, Patta u/s 8(2)(ii) allowed in the name of deity. |

Sd/-K.R.Srinivasan,
Settlement Tahsildar, III(S.E), Tiruchi.”

12.The petitioners are the legal heirs of one Subramaniam Iyer, then service holder and trustee of the said temple. The petitioners have made a request to the RDO, Karur for grant of Ryotwari patta on 06.10.2003 for the lands in S.No.306/2B2 to an extent of 9 Acres 61 cents and for the lands in S.No.193/2 to an extent of 8 Acres and 61 cents and also filed a writ petition before this Court in WP(MD)No.4846 of 2006 for a mandamus to consider their representations within a stipulated time. This Court by order dated 22.02.2006 disposed of the writ petition with a direction to the RDO, Karur to consider the application of these petitioners on its merits and in accordance with law, within a period of four weeks. The RDO, Karur in Oo.Mu.5504 of 2003 dated 03.08.2006 has rejected the request of this petitioner, considering the settlement proceedings standing in the name of the temple. This order of the RDO, Karur in Oo.Mu.5504 of 2003, dated 03.08.2006 was challenged before this Court in WP(MD)No.7874 of 2006 that the RDO, Karur has passed the order without conducting enquiry. In the writ petition in WP(MD) No.7874 of 2006 the petitioners have taken a specific stand as under:

> *"4.Mr.V.R.Shanmuganathan, learned Counsel for the petitioners would further submit that the impugned order has been passed without properly construing the scope of the application made by the petitioner. It is further submitted by <u>the learned Counsel for the petitioners that the petitioners did not seek for any patta in their individual name, but in the name of</u>*

> *the temple represented by them as its trustee. Therefore, the learned Counsel would have clearly explained all the facts and such an order would not have been passed."*

13. In view of the above stand taken by the petitioners, this Court allowed the said writ petition by setting aside the order of the RDO, dated 03.08.2006 and remanded the matter back to the RDO for fresh consideration and for providing opportunity. However, the Sub Collector, Karur has passed orders in Ni.Mu.No.A2/7076/2006, dated 02.02.2010 to issue Ryotwari patta in favour of these petitioners. The Joint Commissioner has contested the proceedings and has also referred to the orders passed by the Settlement Officer dated 16.06.1967, without considering the same, the RDO, Karur has passed an order to issue Ryotwari patta that it is outside the scope of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 and on the recommendation of the Tahsildar. The RDO has treated the orders of this Court in WP(MD)No.7874 of 2006 dated 17.09.2009 as a permission granted to him to pass this order on the issue which was settled in the year 1967. As against this order, the 2$^{nd}$ respondent / the Joint Commissioner, HR and CE Department has preferred a revision before the DRO, Karur after two years and the DRO, Karur has issued notice in Na.Ka.No.C3/19820/2014 dated 02.07.2014, calling upon these petitioners for enquiry on and same has challenged in WP(MD)Nos.

16590 and 1691 of 2014. In the mean time, the petitioners taking advantage of the orders of the RDO have sold the property of the temple, in favour of one Rajammal on 16.07.2010, projecting this property as their ancestral property. The sale deed dated 16.07.2010 in document No.1567 of 2010 has also been placed before this Court, wherein the petitioners have projected the property in S.Nos.193/2 and 306/2B2 as their ancestral properties and have executed the sale deed. Since the petitioners have sold the temple property, the Joint Commissioner has initiated action as against these petitioners as per Section 53(2) of the Act. As against the order passed under Section 53(2) of the Act, the petitioners are having an appeal remedy under Section 53 (5) of the Act and therefore, the writ petitions in *WP(MD)Nos.16590 and 16591 of 2014, challenging the order of suspension are disposed* of with liberty to these petitioners to file an appeal before the Commissioner, HR and CE Department, within a period of four weeks from the date of receipt of a copy of this order. In the event if any appeal is filed the Commissioner shall entertain the same and take a decision on its merits with a period of six months.

14.Insofar as the writ petitions in WP(MD)Nos.16586 and 16587 of 2014 filed challenging the notice issued by the District Revenue Officer are concerned, the main contention of the petitioners is that the DRO without jurisdiction has entertained the revision, filed beyond the period of limitation. It is to be noted that the order challenged before the DRO is an order passed by the RDO without any jurisdiction. The patta on the subject properties was granted in favour of the temple during the settlement proceedings holding that S.Nos.193/2 and 306/2B2 are Service Inam Devasthayam Land. The ancestor of the petitioners have not questioned the same and it has become final. The RDO is not the competent authority to revise the order passed by the Settlement Officer in the Inam Proceedings and this order passed by the RDO is without any authority and without jurisdiction and is liable to be set aside.

15. The earlier request of the petitioners for grant of patta before the RDO was duly considered and rejected on 03.08.2006. However, the petitioners have projected that they are seeking patta only as a trustee in the name of the temple and has obtained an order from this Court in WP(MD)No.7874 of 2006, but has projected otherwise before the Sub-Collector, Karur. The Sub-Collector, Karur has also mechanically passed this order, as if this Court has granted powers to him to pass an order on this issue. The order passed by the Sub-Collector is without jurisdiction and therefore, it is *non-est* in law.

16.The subject properties in S.No.306/2B2 and 193/2 of Manmagalam Village, Karur District, were already declared as Devathayam land and patta was issued u/s.8(2)(ii) of the Act 30 of 1963 by the Settlement Thasildar, Trichy, in the year 1967 and from then, the patta stands in the name of the deity. If anybody is aggrieved by the order of the Settlement Officer, they ought to have challenged it within the prescribed period before the Tribunal / Board of Revenue.

17.The order dated 16.06.1967 granting patta in the name of the deity was not challenged by the petitioner's father, Subramania Iyer, then Hereditary Trustee and it became final. The issue which was settled by the Settlement Officer cannot be questioned by a Revenue Divisional Officer and he is not competent to hold the proceedings. The Revenue Divisional Officer, Karur, has rightly rejected the request of this petitioner for grant of patta on 03.08.2006 in Oo.Mu.5506/03. In the writ petition filed challenging this order of the Revenue Divisional Officer, the petitioner has obtained an order of remand back with an averment that they are seeking patta not in their individual name, but only as a Trustee of the Temple, however, the Revenue Divisional Officer, Karur, has passed the order dated 03.08.2006 without providing opportunity to the petitioners. Based on this stand taken by the petitioners, this Court has remanded the matter for fresh consideration.

18.This order passed by this Court in WP(MD)7874 of 2006 was taken advantage by the Revenue Divisional Officer to pass an order granting patta in favour of the petitioners. The patta was granted without setting aside the orders of the Settlement Officer. As stated, the Revenue Divisional Officer is not the competent authority to set aside the orders of the Settlement Officer. Though these legal grounds have been discussed in the earlier proceedings of the Revenue Divisional Officer, dated 03.08.2006, the subsequent Revenue Divisional Officer has passed the order on 02.02.2010.

19.The Joint Commissioner, HR & CE has also participated in the proceedings of the Revenue Divisional Officer and has also placed these materials by way of written objections. Without any discussion and without assigning any reasons, the Revenue Divisional Officer has passed an order in a mechanical manner on 02.02.2010 directing the Tahsildar to issue Ryothwari patta in favour of these petitioners. Accordingly, patta was issued and within few months, the petitioners have alienated the property in favour of one Poosari Rasammal. In the sale deed dated 16.07.2010, they have projected as if it is their ancestral property. The Joint Commissioner, who contested the proceedings before the Revenue Divisional Officer, has deliberately failed to file the appeal in time. Taking advantage of that, the notice issued by the District Revenue

Officer was challenged by way of a writ petition in the year 2014 and the issue is kept pending for the past nine years without any adjudication.

20.The Hon'ble Supreme Court in A.A.Gopalakrishnan Vs. Cochin Devaswom Board and Ors., reported in (2007) 7 SCC 482, has held as follows:

> *"10. The properties of deities, temples and Devaswom Boards, require to be protected and safeguarded by their Trustees/Archaks/ Sebaits/employees. Instances are many where persons entrusted with the duty of managing and safeguarding the properties of temples, deities and Devaswom Boards have usurped and misappropriated such properties by setting up false claims of ownership or tenancy, or adverse possession. This is possible only with the passive or active collusion of the concerned authorities. Such acts of 'fences eating the crops' should be dealt with sternly. The Government, members or trustees of Boards/Trusts, and devotees should be vigilant to prevent any such usurpation or encroachment. It is also the duty of courts to protect and safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation."*

21.Since the deity is a minor, the Court is having a role to protect the property of the deity on parens patria jurisdiction. The Doctorine of parens patria jurisdiction evolve from Charanlal Sahu's case.

22.Following the ratio laid down by the Hon'ble Supreme Court in A.A.Gopalan's case, this Court in WP.20237/2021, dated 22.09.2021, has held as follows:

> *"d) The temple lands vest in the idol, idol being of minor status in law, this Court is guardian. In other words, this Court is parens patriae and this principle was reiterated by Hon-ble Supreme Court in A.A.Gopalakrishnan case [A.A.Gopalakrishnan Vs. Cochin Devaswom Board and Ors., reported in (2007) 7 SCC 482] wherein Hon-ble Supreme Court held that it is the duty of the Courts to protect and safeguard the properties of religious and charitable institutions. Therefore, in my parens patriae capacity i.e., parens patriae capacity of this Court and custodia legis qua temple properties that vest in idol in minor status, I deem it appropriate to say that the prayer which on first blush came across as innocuous, cannot be acceded to."*

23.Though the Joint Commissioner was a party to the proceedings before the Revenue Divisional Officer, Karur, in his order dated 02.02.2010, he has not preferred the appeal in time before the District Revenue Officer. It is not known whether the Joint Commissioner has facilitated the petitioners to execute the sale deed in the meantime or inadvertently he failed to file the appeal. Taking advantage of this delay, the writ petition has been filed questioning the competence of the District Revenue Officer to issue notice on the appeal filed after the statutory period, when the Revenue Divisional Officer has passed an order without any jurisdiction.

24.Considering the manner in which the Revenue Divisional Officer has passed an order without any jurisdiction, this Court, assuming parens patria jurisdiction, suo-motu review the order of the Revenue Divisional Officer dated 02.02.2010 and quash the same inasmuch as it is passed without any jurisdiction and non-est in the eye of law.

25.Accordingly, WP(MD)Nos.16590 and 16591 of 2014 are disposed of with liberty to the petitioners to file appeal u/s.53(5) of the Act within a period of four weeks from the date of receipt of a copy of this order. WP(MD)Nos.16586 and 16587 of 2014 are disposed of by setting aside the order of the Revenue Divisional Officer dated 02.02.2010 that it was passed without any jurisdiction and without any authority. No costs. Consequently connected miscellaneous petitions are closed.

18.12.2023

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

dsk

To

1.The District Revenue Officer,
Karur District,
Karur.

2.The Joint Commissioner,
Hindu Religious and
Charitable Endowments Department,
Pichandarkovil,
Tiruchirappalli.

3.The Assistant Commissioner,
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Nearby Nirmala Hospital,
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**B.PUGALENDHI, J.**

**dsk**

**WP(MD) Nos.16586, 16587, 16590 and 16591 of 2014**

**18.12.2023**