BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.20344 of 2015
and
M.P(MD)No.1 of 2015

R.Sankaranarayanan ... Petitioner

Vs

1.The District Revenue Officer,
Thirunelveli,
Thirunelveli District.

2.The Revenue Divisional Officer,
Thirunelveli,
Thirunelveli District.

3.The Tahsildar,
Sankarankovil,
Thirunelveli District.

4.The Deputy Commissioner /
Executive Officer,
A/M.Sankaranarayanar Swamy Temple.
Sankarankovil,
Thirunelveli District.
(R.4 is impleaded vide order of this Court dated 01.08.2023 in W.M.P(MD)No.20344 of 2017) ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in Ka2-37353-2014 dated 20.10.2015 and quash the same and consequently direct the first respondent to correct the Up Dating Register (UDR) on the basis of the parent revenue records and petitioner's representation dated 08.09.2015.

For Petitioner : Mr.J.Balameenakshi

For Respondents : Mr.S.RA.Ramachandran
Additional Government Pleader
for R.1 to R.3

Mr.V.R.Shanmuganathan for R.4

ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Additional Government Pleader appearing for the official respondents and the learned Standing Counsel appearing for the impleaded Temple.

2. The petition mentioned lands are standing in the names of the petitioner's father Rathina Pothi Pattar and paternal aunt R.Meenakshi Ammal. The petitioner applied to the District Revenue Officer, Tirunelveli for substituting his name in the revenue record. The District Revenue Officer,

Tirunelveli called for reports from the Tahsildar, Sankarankovil and Revenue Divisional Officer, Tirunelveli. The said two authorities submitted recommendatory proposal in favour of the petitioner. Yet by the impugned order dated 20.10.2015, the District Revenue Officer, Tirunelveli rejected the petitioner's request. Challenging the same, the writ petition came to be filed.

3. The learned counsel appearing for the writ 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 grand relief as prayed for.

4. The learned Additional Government Pleader appearing for the official respondents submitted that the impugned order does not call for interference.

5. The learned Standing Counsel appearing for the Temple pointed out that the lands are service inam lands. Since the petitioner is not rendering any service, the temple authorities are proposing to resume the same. He also would point out that the petitioner had been restrained from alienating the petition mentioned property. When the petitioner filed W.P(MD)No.13702 of 2011 for directing the registering authority to register the sale deed executed by him, it was allowed by a learned Judge of this Court vide order dated

28.08.2012. Challenging the same, the fourth respondent herein filed W.A(MD)No.985 of 2012. The writ appeal was allowed and the order of the learned single Judge was set aside on 08.06.2023. The Hon'ble Division Bench took note of the fact that the registering authority had been injuncted permanently from registering any deed of conveyance in respect of the petition mentioned property. The learned Standing Counsel therefore called upon to sustain the impugned order and dismiss the writ petition.

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

7. Let me clarify the limited scope of this writ petition. The issue is not whether the petitioner can sell the petition mentioned property or whether the temple authority can resume the lands on the ground of nonperformance of the obligation attached to service inam. The only issue that calls for consideration is whether the petitioner's name can be entered in the revenue record.

8. At present, the revenue record reflects the names of his father and paternal aunt. When they are no more, the petitioner will obviously step into their shoes. The District Revenue Officer, Tirunelveli in my view did not pose the right question. He went beyond the scope of the request made by the writ

petitioner. On this sole ground, the order impugned in this writ petition is set aside. The name of the petitioner will be entered as pattadhar in the place of his father and paternal aunt. This mutation shall be done by the Tahsildar, Sankarankovil within a period of eight weeks from the date of receipt of a copy of this order. I clarify again that the petitioner cannot take advantage of this order to effect alienation. So long as W.A(MD)No.985 of 2012 is holding the field, the petition mentioned property cannot be alienated or encumbered by the writ petitioner in any manner. The fourth respondent also is at liberty to initiate the proceedings for resumption of the lands in the manner known to law. The defenses of the petitioner in such resumption proceedings are left open.

9. With this clarification, this writ petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

17.08.2023

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

To

1.The District Revenue Officer,
Thirunelveli,
Thirunelveli District.

G.R.SWAMINATHAN, J.

MGA

2.The Revenue Divisional Officer,
Thirunelveli,
Thirunelveli District.

3.The Tahsildar,
Sankarankovil,
Thirunelveli District.

4.The Deputy Commissioner /
Executive Officer,
A/M.Sankaranarayanar Swamy Temple.
Sankarankovil,
Thirunelveli District.

W.P(MD)No.20344 of 2015
and
M.P(MD)No.1 of 2015

17.08.2023