



W.P.(MD)No.45 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.45 of 2016

and

M.P.Nos.55 and 56 of 2016

G.Pandi

... Petitioner

versus

1. The Executive Officer/Joint
Commissioner,
Arulmigu Dhandayudhapani Swamy
Temple Administration,
Palani,
Dindigul District.
(cause title amended vide order
dated 04.02.2016 in WMP(MD)No.
2268 of 2016)

2. The District Revenue Officer,
Theni District,
Theni.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Certiorari, to call for the records
relating to the impugned public auction/tender notice issued by the 1st



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respondent in his proceedings Na.Ka.No.1768/2013/C7 dated 16.12.2015 published in Dailythanthi Newspaper on 20.12.2015 and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.B.Saravanan
Senior Counsel
for Mr.D.Kirubakaran
For R1 : Mr.K.Govindarajan
For R2 : Mr.T.Vilavankothai,
Additional Govt. Pleader

ORDER

This writ petition is filed challenging the public auction/tender notice issued by the 1st respondent in his proceedings Na.Ka.No. 1768/2013/C7 dated 16.12.2015 published in Dailythanthi Newspaper on 20.12.2015.

2. The first respondent has issued the impugned public auction/tender notice with regard to the property in Survey No.818 to an extent of 6.92 acres, Vadakarai Village, Periyakulam Taluk, Theni District, for auction in respect of harvesting rights over the trees



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standing in the land for a period up to 31.06.2018 from the date of grant of permission. Challenging the same, the petitioner has preferred this writ petition.

3. The petitioner claims that the land in Survey No.818 originally belonged to Gurusamy Pillai, S/o. Marutha Pillai and he executed a registered Will on 16.12.1906 that the above mentioned landed property should be in possession of one Thengai Perumal Pillai, who was none other than the son-in-law of the said Gurusamy Pillai on condition that he shall conduct Pooja to Lord Mottaiyandi. The petitioner claims that his father Gurusamy Pillai, Thangavelu Pillai and Sappani Pillai are the legal heirs of Thengai Perumal Pillai and they have entered into a registered partition deed on 06.05.1958 and accordingly, the land in Survey No.818 has been allotted to Gurusamy Pillai, the father of the petitioner herein and from the year 1958, they are in continuous possession and enjoyment of the property and they have also raised various trees including Mango, Tamarind and Jack



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Fruit and also harvested the same. While so, the first respondent, taking advantage of the wrong entry made in the name of the first respondent Temple during UDR proceedings, has issued the impugned auction notice with regard to the harvesting right over the trees standing in the land in Survey No.818. Therefore, the present writ petition has been filed.

4. The learned Senior Counsel appearing for the petitioner submits that the petitioner's father is in continuous possession of the land pursuant to the partition deed 06.05.1958. Originally, the land belonged to one Gurusamy Pillai, s/o. Marutha Pillai, ancestor of the petitioner and he has also executed a registered Will on certain condition that the income from the landed property has to be utilized for the purpose of Temple and therefore, the petitioner is entitled to be in possession of the property. However, during UDR entry, certain mistake has been committed and patta has been issued in the name of the first respondent Temple. After knowing the same, the petitioner



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has also filed necessary application before the second respondent, namely, District Revenue Officer, Theni, to change the patta for Survey No.818. On the direction of the second respondent, the Tashildar and the Revenue Divisional Officer, Periyakulam, have inspected the property and also filed their report on 08.10.2014 in favour of the petitioner that patta which stands in the name of the Temple has to be cancelled and patta has to be issued in favour of the petitioner. However, the second respondent has not passed any final order. In the meantime, the first respondent, taking advantage of the patta stands in their name, proceeded with the auction notice for harvesting right over the trees standing in the land in Survey No.818. Therefore, the tender notification is liable to be quashed.

5. The first respondent has filed a counter affidavit, wherein, it has been stated as follows:

There is no mentioning of S.No.818 in the parent document, namely, the Will dated 16.12.1906 as alleged



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by the petitioner in para 3 of the affidavit. Without having proper tracing of title, through self-styled partition deeds, the petitioner herein is attempting to gain a valuable large extent of property against the temple. At no point of time, the revenue records for S.No.818 reflex the name of the petitioner's family members. Similarly, the petitioner is not having proper title in respect of S.No.1165/1 and 1165/2 of Vadakarai Village. Admittedly, the District Revenue Officer, Theni, has not passed any final order in favour of the petitioner till today. The alleged report of the Revenue Divisional Officer referred in para-7 of the affidavit does not have any legal sanctity and the same was also prepared behind the back of the temple administration. Hence, the petitioner cannot improve his case based on Revenue Divisional Officer's report. The respondent temple, to augment its revenue, has brought the property for the



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public auction and the petitioner instead of proving his title before the appropriate Civil Forum, had filed the present writ petition challenging the public auction notification.

6. In addition to the counter affidavit, the learned counsel for the first respondent has also submitted that by filing the present writ petition, the petitioner is protracting the enquiry before second respondent, namely, the District Revenue Officer, Theni and unauthorisedly enjoying the property.

7. This Court considered the rival submissions made and perused the materials available on record.

8. The petitioner claims that he is the owner of the property in Survey No.818, however, patta has wrongly been entered in the name of the first respondent Temple. The petitioner has also filed a petition



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before the second respondent, namely, the District Revenue Officer, Theni, for changing the patta. The first respondent is taking a specific stand that the Survey No.818 is not mentioned in the Will dated 16.12.1906. The petitioner has also placed the Will dated 16.12.1906 before this Court. However, this Court is not in a position to find out the Survey No.818 in the Will dated 16.12.1906. This Court, in the writ jurisdiction, is not inclined to entertain the dispute between the petitioner and the first respondent on the title of the property.

9. Since the petitioner has already filed a petition for changing the patta before the second respondent, namely, District Revenue Officer, Theni, he can work out his remedy before the second respondent/the District Revenue Officer, Theni or before the competent Civil Court, by filing a civil suit.

10. The petitioner as well as the first respondent claim that in view of the pendency of this writ petition, the second respondent/the



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District Revenue Officer, Theni, has not passed any order on the application pending before him.

11. In view of the above, this writ petition is disposed of with a direction to the second respondent/the District Revenue Officer, Theni District, to conduct an enquiry by affording an opportunity to the petitioner and the first respondent Temple, take a decision afresh and pass orders, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

13.02.2023

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NCC : Yes / No.

Index : Yes / No.

Internet: Yes / No.



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B.PUGALENDHI, J.

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To

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Palani, Dindigul District.
2. The District Revenue Officer,
Theni District.

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