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W.P.Nos.20342 of 2009 and 12646 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.Nos.20342 of 2009 and 12646 of 2014
and M.P.Nos.2 of 2009 and 1 of 2014**

W.P.No.20342 of 2009

R.Eswaran

... Petitioner

Vs.

- 1.The Special Commissioner and
Director of Survey and Settlement,
Survey House, Chepauk,
Chennai-600 005.
- 2.The District Collector,
Coimbatore District,
Coimbatore-18.
- 3.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai, Chennai-600 034.
- 4.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Coimbatore.



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5.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Coimbatore.

6.The Revenue Divisional Officer,
Tirupur.

7.The District Revenue Officer,
Coimbatore.

....Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the entire records of the respondent No.6 in the proceedings bearing Reference No.Na.Ka.2711/03/A2 including the order dated 09.09.2004 canceling the Ryotwari Patta issued in favour of the grand father of the petitioner and quash the same and further, forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property being the lands of an extent of 19.72 acres comprised in Survey Nos.83, 85 and 242 of Annur Village, which after sub-division under UDR are comprised in Survey Nos.83/1, 83/3, 85/1, 85/3 and 242.

W.P.No.12646 of 2014

R.Eswaran

... Petitioner

Vs.



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- 1.The Secretary to Government,
Revenue Department,
State of Tamil Nadu,
Fort St.George,
Chennai-600 009.
- 2.The Commissioner for Land Administration,
Government of Tamil Nadu,
Chepauk, Chennai-600 005.
- 3.The District Collector,
Coimbatore District,
Coimbatore-18.
- 4.The Revenue Divisional Officer,
Tirupur.
- 5.The Revenue Divisional Officer,
Coimbatore.
- 6.The District Revenue Officer,
Coimbatore.
- 7.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Chennai-600 034.
- 8.The Fit Person and Executive Officer,
Periyamma Chinnamma Temple,
Sathi Road, Annur,
Coimbatore District.



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9.The Chief Engineer,
Public Works Department,
Coimbatore.

10.The Tahsildar,
Annur,
Coimbatore District.

....Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to forbear the respondents from in any way alienating, dealing with or effecting construction in any portion of the lands of a total extent of 19.72 acres comprised in Survey Nos.83, 85 and 242 and presently comprised in Survey Nos.83/1, 83/3, 85/1, 85/3 and 242 of Annur Village and Taluk, Coimbatore District, for the purpose of formation of a Taluk Office or for any other purpose, till adjudication on the cancellation of the Settlement Patta dated 17.12.1966 by the fourth respondent on 09.09.2004 is rendered in W.P.No.20342 of 2009.

For Petitioner : Mr.V.G.Suresh Kumar
in both petitions

For Respondents : Mr.V.Veluchamy
in W.P.No.12646 : Additional Government Pleader
of 2014 for R1, R6, R9 and R10
Mr.NRR.Arun Natarajan
Special Government Pleader
for R7
Mr.E.Ganesh for R8



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For Respondents :
in W.P.No.20342
of 2014

Mr.V.Veluchamy
Additional Government Pleader
for R1, R2, R6 and R7
Mr.NRR.Arun Natarajan
Special Government Pleader
for R3 to R5

COMMON ORDER

The Writ Petition in W.P.No.20342 of 2009 has been filed challenging the proceedings dated 09.09.2004 issued by the respondent No.6 cancelling ryotwari patta issued in favour of the grand father of the petitioner and for a consequential direction to forbear the respondents from interfering with peaceful possession and enjoyment of the petitioner in the property in Survey Nos.83, 85 and 242 of Annur Village, which after sub-division under UDR are comprised in Survey Nos.83/1, 83/3, 85/1, 85/3 and 242.

2. The petitioner claims that the agricultural lands comprised in Survey Nos.83, 85 and 242 of Annur Village which after sub-division under UDR are comprised in Survey Nos.83/1, 83/3, 85/1, 85/3 and



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Survey No.242 of a total extent of 19.72 acres are Devadayam or Pagoda inam lands and that the said lands were granted to his forefathers on 25.04.1863 by the Inam Commissioner on behalf of the Governor-in-Counsel of Madras. The said lands were given as inam for rendering service in the Temples known as Periya Amman and Chinna Amman Temples in Annur Village. The lands were originally given to his forefather, Subba Pandaram.

3. After the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 came into force, the Settlement Tahsildar appointed under the Act conducted detailed enquiry and issued Settlement Patta in favour of the legal heirs of the original grantees, Subba Pandaram and Ranga Pandaram, his father and the other legal heirs. Their names were also entered in the revenue records such as Chitta and Adangal etc., They had also been paying kist to the Government. The petitioner further states that after the lifetime of his father and his brothers, the petitioner and his cousins are in absolute possession and enjoyment of the property. It is also



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pointed out that the Patta Pass Books were issued in the year 1974 in favour of his father and his two brothers in respect of the subject lands.

4. While so, in the year 2000, some third party has given a petition to the Sub-Collector, Tirupur, requesting him to cancel the Patta issued in favour of his father and his brothers and the same was rejected by the Sub-Collector, stating that the Patta had been issued by the Settlement Tahsildar and thereafter, the fifth respondent had filed a petition before the respondent No.7 in the form of an appeal requesting him to set aside the order and consequently, cancel the patta and issue a Patta in favour of the Temple. In the said appeal, the respondent No.7 appears to have passed an order remanding the matter back for fresh enquiry. On remand, the respondent No.6 passed an order cancelling the patta issued in favour of the petitioner's father. The said order was passed on 09.09.2004 which is under challenge in W.P.No.20342 of 2009.



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5. In the meantime, a proposal was moved to acquire a portion of the said property for construction of a Taluk office. Aggrieved by the said proposal, the petitioner preferred W.P.No.26584 of 2013 for a Mandamus not to acquire the said lands, after pointing out the grant of Ryotwari Patta and the said writ petition was disposed of on 25.09.2013 stating that the petitioner is entitled to be heard if any action for acquisition is initiated and held that a prohibitory order against the respondent cannot be granted. Aggrieved by the same, the petitioner preferred a writ appeal in W.A.No.170 of 2014 which was dismissed with liberty to challenge any action if initiated in accordance with law before the appropriate Forum.

6. In the meanwhile, the Revenue Department started construction of the building for Taluk Office on the subject land. On enquiry, the petitioner was informed that action was initiated to sell the subject lands to the Revenue Department for construction of Taluk Office/Quarters and that the concerned Authorities decided to proceed under Section 34 of HR & CE Act and the Joint Commissioner has forwarded a proposal to the above



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effect to the respondent No.7 herein. Aggrieved by the action of the respondent Nos.7 and 8, the petitioner has filed a writ petition in W.P.No.12646 of 2014, to forbear the respondents from in any way alienating or dealing with the properties or effecting construction in any portion of the lands as stated supra.

7. The learned counsel appearing for the petitioner submitted that the petitioner, by virtue of Ryotwari patta granted in favour of his forefathers, is in possession and enjoyment of the property and he is an interested person and before passing the proceedings dated 09.09.2024 by the respondent No.6, no opportunity was given to the petitioner and though the petitioner filed RTI Query, he did not receive any reply in that regard. Moreover, when the writ petition filed by the petitioner in W.P.No.20343 of 2009 seeking a writ of Certiorari, to quash the order dated 09.09.2004 is still pending, wherein an order of status quo was also granted, the subsequent proceedings initiated by the respondent Nos.7 and 8 against the petitioner is untenable.



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8. The learned Additional Government Pleader appearing on behalf of the respondents submitted that the lands comprised in Survey Nos.83/1, 83/3, 85/1, 85/3 and 242 measuring to an extent of 17.67 cents belonging to Chinna Amman and Periya Amman, Annur Village were taken illegally by the legal heirs of one Ranga Pandaram, namely, R.Dhandapani and R.Eswaran/petitioner herein, being the hereditary Trustees of the said Temple and the patta has been illegally transferred in their names. In this regard, the proceedings were initiated by the Joint Commissioner, HR & CE in Na.Ka.No.126/2004/2/A1 dated 04.01.2010 and subsequently, the Hereditary Trustees were removed from their Trusteeship. The enquiry has also been initiated against Dhandapani and the petitioner herein. Six charges were framed against them vide proceedings dated 04.10.2024 and they have also been elaborately discussed. Hence, the petitioner has no right to challenge the order of the sixth respondent dated 09.09.2004 and subsequent action of the construction of the Taluk Office. Hence, he prays for dismissal of these writ petitions.



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9. Heard the learned counsel appearing for the appellant and the learned Additional Government Pleader appearing for the respondent Nos.1 to 6 and the learned counsel appearing for the respondent No.7.

10. The petitioner claims that the agricultural lands comprised in Survey Nos.83, 85 and 242 of Annur Village which after sub-division under UDR are comprised in Survey Nos.83/1, 83/3, 85/1, 85/3 and Survey No.242 of a total extent of 19.72 acres are Devadayam or Pagoda inam lands and the said lands were given as inam to his forefathers on 25.04.1863 for rendering service in the Temples known as Periya Amman and Chinna Amman Temples in Annur Village by the Inam Commissioner on behalf of the Governor-in-Counsel of Madras, however, based on the petition filed by the respondent No.5 requesting to set aside the order passed by the Sub-Collector, Tirupur, in the petition filed by some third party to cancel the patta issued in favour of the petitioner's father and his brothers, and issue patta in favour of the Temple, the respondent No.7 has passed an order remanding the matter back to the respondent No.6 for fresh enquiry and



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pursuant to the same, the respondent No.6 has cancelled the patta issued in favour of the petitioner's father vide proceedings dated 09.09.2004 which is under challenge in W.P.No.20342 of 2009 and when W.P.No.20343 of 2009 filed by him seeking a writ of Certiorari, to quash the order dated 09.09.2004 is pending, the subsequent proceedings has been initiated by the respondent Nos.7 and 8 to sell the subject lands to the Revenue Department for construction of Taluk Office/Quarters. Hence, the Writ Petition in W.P.No.12646 of 2014 has been filed to forbear the respondents from dealing with the properties or effecting construction in the subject lands.

11. It is even the admitted case of the petitioner that the lands are Devadayam lands or Pagoda Lands, which was granted as inam for rendering service in the Temples known as Periya Amman and Chinna Amman Temples in Annur Village and were given to his forefather, Subba Pandaram. From the above, it is clear that the lands were given to the forefathers of the petitioner so long as they render service to the temple/deity. However, from the materials available on record as also the



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averment of the petitioner, there is no whisper as to whether the petitioner is rendering any service to the temple/deity. The lands could be utilised by the petitioner only so long as he renders service to the temple/deity. From the above, it is clear that the lands belong to the temple and it cannot be claimed by the petitioner, though the petitioner was allowed to occupy the lands till such time he renders service to the temple/deity.

12. From the above narration, it is clear that the lands belong to the temple and, therefore, patta in the name of the petitioner is impermissible. It is the further case of the respondents that originally the patta stood in the name of the Temple, which were changed to the name of the petitioner, and others, as they being the Trustees of the temple. The petitioner, being trustee of the temple, cannot be said to be rendering service to the temple/deity and rightly, appreciating the aforesaid material, the respondents have cancelled the patta issued in favour of the petitioner, which act cannot be said to be erroneous.



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13. Further it is evident from the materials available on record that action was initiated against the petitioner and one Dhandapani by the Joint Commissioner, HR & CE Department and charges were framed and the proceedings were taken up in which enquiry has been conducted. This clearly shows that the petitioner is a Trustee of the temple. That being the case, when action has been initiated by the respondents against the petitioner and Dhandapani, it ought to be concluded at the earliest. In such circumstances, this Court directs the respondent Nos.3 and 7 to conclude the proceedings initiated against the petitioner and Dhandapani within a period of six months from the date of receipt of a copy of this order.

14. In respect of the prayer made in W.P.No.12646 of 2014, it is to be pointed out that the lands belong to the Temple and the income generated from the said lands have to be utilised for the welfare of the Temple and the deity. Further, the respondents have no authority/power to alienate the property belonging to the temple/deity in favour of any Department of the Government or third party, even if the proceeds are to be utilised for the



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purpose of the temple for the reason that the income from the lands to be utilised is a perennial source and once the lands are sold, the income generated dries up and, therefore, the inam becomes frustrated. Therefore, the respondents cannot act against the interest of deity by alienating the lands. It is open to the respondents to generate the income from the property for the benefit of deity by leasing out the property and sale of the property to any person or authority is impermissible and any sale done cannot be permitted to continue.

15. With the above observations and directions, both the writ petitions are dismissed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

04.10.2024

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb



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To

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M.DHANDAPANI, J.

ssb

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