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W.P. No.9798 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.9798 of 2024

1.S.Jothimani

2.S.Sampathkumar

3.N.Bhuvaneswari

4.Aruna Shivani

... Petitioners

Vs

1.The Joint Commissioner
Hindu Religious and Charitable
Endowment Department
Tiruppur - 638 004
Tiruppur District

2.A/m.Sellandiamman Thirukoil
Rep. by its Thakkar
Vellakovil - 638 111
Kangayam Taluk
Tiruppur District

3.The Sub Registrar
Sub Registrar Office
Vellakovil - 638 111
Tiruppur District

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders (i) made in Na.Ka. No.8010/2021/A4 dated 18.10.2021 issued by the 1st respondent, (ii) passed by the 2nd respondent dated 08.12.2022 and (iii) Refusal check slip in RFL/Vellakovil/73/2022 dated 23.12.2022 passed by the 3rd respondent, quash the same and consequently direct the 3rd respondent to register the sale deed dated 23.12.2022 executed by the petitioners 1 to 3 in favour of the 4th petitioner in respect of the property measuring 1747 sq.ft. bearing R.S. No.1703/2A1, a portion of old S.F. No.572/A Vellakovil Village, Kangayam Taluk, Tiruppur District.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.N.R.R.Arun,
Spl. Govt. Pleader (HR&CE)
for R1 & R2
Mr.B.Vijay,
Addl. Govt. Pleader for R3

ORDER

This writ petition has been filed seeking a direction to cancel the Refusal check slip passed by the 3rd respondent in RFL/Vellakovil/73/2022 dated 23.12.2022 refusing to register the document on the ground that the property is



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a temple land and such decision is taken by the authorities, mainly on the ground of letters submitted by the HR&CE authorities stating that the property is the temple land.

2. Per contra, it is the contention of the learned counsel appearing for the petitioner that patta was originally granted by the Settlement Tahsildar under the Tamil Nadu Minor Inam (Abolition and Conversion into Ryotwari) Act, 1963 (in short Act 30 of 1963). Thereafter, the same was subjected to appeal in C.M.A. Nos.290 & 291 of 1968 before the Minor Inam Tribunal, Coimbatore. After hearing the temple and other parties, the Tribunal finally allowed C.M.A. No.291 of 1968 and the order of the Settlement Officer was set aside and one Duraisamy Gounder was granted patta under Section 8(2)(i)(b) of the Act, 1963 in respect of 10 Acres 40¼ cents in Survey No.572/A, subject to payment of consideration as determined and prescribed under the Act.

3. Similarly, C.M.A. No.290 of 1968 was allowed in part. The appellants in the above said Civil Miscellaneous Appeal were given patta in respect of 4 Acres in Survey No.572/A and the temple was granted patta in respect of the remaining land. This judgment and decree was passed on 18.09.1970. The



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same has reached finality, as the same has not been challenged by the temple in all these days.

4. On 26.03.1984, the petitioner has purchased the property from one of the allottees in C.M.A. No.290 of 1968. It is also to be noted that the Tahsildar vide his proceedings dated 26.07.1973 fixed the value of the land to be paid by the allottees. A sum of Rs.2,880/- was fixed as payment and directed allottee to pay the same on installment basis. Thereafter, a demand notice was issued on 25.06.1996 for recovery of the said amount already fixed. Pursuant to the said demand notice, the amount has been paid. Hence, according to the learned counsel appearing for the petitioner, the temple has no right over the property of the petitioner's vendor. Patta has also been granted to the petitioner's vendor and the amount has also been paid, now the temple cannot resist the registration, merely on the basis of the objection before the Registrar.

5. Per contra, the learned Special Government Pleader appearing for the HR&CE department would submit that though the judgment and decree passed in the civil miscellaneous appeals has reached finality, the amount fixed by the Tahsildar has not been paid by Lakshmiammal, namely the vendor of the writ



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petitioner in time, before payment of that amount, the property has been sold in the year 1984. According to him, as long as the amount remains unpaid, the title was not vested with the allottee. Therefore, any purchase made by the petitioner in the year 1984, did not convey any title to the petitioner. Hence the property shall revert back to the temple. Hence according to him, the petitioner cannot seek a direction.

6. Heard both sides and perused the materials available on record in the form of typed set of papers.

7. The refusal slip has been issued to the petitioner on the ground that there is an objection by the HR&CE authorities not to register certain documents. Only based on the said letter, the document was refused to be registered. As rightly pointed out by the learned counsel appearing for the petitioner, the proceedings under the Act 30 of 1963 has reached finality in the year 1970 itself. The appeal filed before Minor Inam Tribunal, Coimbatore had been disposed of in the year 1970 itself, wherein patta has been granted in favour of the vendor of the petitioner one Lakshmiammal in respect of the said land. Similarly patta was also granted in favour of other private parties in



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respect of other survey numbers, which is not germane for consideration in this writ petition.

8. Be that as it may, the order granting patta in favour of Lakshmiammal was passed by the Tribunal on 18.09.1970, which has not been put into challenge. Therefore, it is very clear, the same has reached finality. Determination of amount payable under the Act had been passed by the Tahsildar vide his order on 26.07.1973. He has determined the amount of Rs.2,880/- payable by the allottee during the Fasli 1383 to 1402 i.e. between 1974 to 1993. Though the orders have been passed, a communication has been sent by the Tahsildar to recover that amount only on 25.06.1996. Thereafter, Lakshmiammal had paid that amount. It is also to be noted that before that payment be effected, transfer took place in the year 1984. The petitioner has purchased 1750 sq.ft. land and the remaining land is still retained by the said Lakshmiammal. These facts are not in dispute.

9. It is also to be noted that the amounts as determined by the authorities under the Act 30 of 1963 has been paid, of course with a delay. It is relevant to note that though the determination order dated 26.07.1973 stipulated that the



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amount shall be paid in between 1974 to 1993, the very communication for recovery of that amount has been issued only in the year 1996 in Na. Ka.4529/96 vide order dated 25.06.1996. The demand has been made thereafter and the amount has been paid by Lakshmiammal. Therefore, this court is of the view that merely because the amount has not been paid strictly in accordance with the instalment as ordered by the Tahsildar vide order dated 26.07.1973, it cannot be said that the title automatically revert back to the temple. If any arrears or any amount as fixed under Section 8 of the Act, while granting patta under the Minor Inam Abolition Act, remains unpaid the same shall be recovered as arrears of land revenue as per Section 8(3)(i) of Tamil Nadu Minor Inam (Abolition and Conversion into Ryotwari) Act, 1963, as the authority competent to determine the amount is the Tahsildar as per the schedule appended to Rule 43 of the Tamil Nadu Minor Inam (Abolition and Conversion into Ryotwari) Rules, 1965. Therefore, when the amounts have been properly determined and collected, of course there is some delay, the delay cannot be put against the writ petitioner and temple cannot claim title merely on the ground of such delay, when the rights of temple have already been decided in the proceedings initiated under the Act 30 of 1963. Such orders have reached



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finality. Now, it is too late for the temple to contend that still they retain ownership over the property in respect of which patta has already been decided.

10. It is also to be noted that any order passed under Act 30 of 1963 and is not challenged, is binding on the parties as per Section 46 of the Act. In such view of the matter, at this stage, the temple cannot resist registration merely on the ground that the amount has not been paid in time. Therefore, the objection of the temple, at this stage cannot be maintained. It is for the authorities to establish their title in the manner known to law. It is not that the temple has remediless. In the event they are able to establish their title in a competent civil forum, it is always open for them to restore the properties by invoking Section 78 of the Act.

11. Accordingly, this writ petition is allowed and the impugned orders passed by the respondents 1 to 3 are hereby quashed. There shall be a direction to the third respondent to register the sale deed dated 23.12.2022 executed by the petitioners 1 to 3 in favour of the 4th petitioner in respect of the property measuring 1747 sq.ft. bearing R.S. No.1703/2A1, a portion of old S.F.



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No.572/A Vellakovil Village, Kangayam Taluk, Tiruppur District, within a

period of one week from the date of receipt of a copy of this order. No costs.

12.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

Asr

To

1.The Joint Commissioner
Hindu Religious and Charitable
Endowment Department
Tiruppur - 638 004
Tiruppur District

2.The Sub Registrar
Sub Registrar Office
Vellakovil - 638 111
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3.The Government Pleader
High Court, Madras



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N.SATHISH KUMAR, J.

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