



WEB COPY



WP.No.11473 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.11473 of 2023

V.A.Thirumagal

.. Petitioner

Versus

1. The Secretary to Government,
Hindu Religious and Charitable Endowment Department,
Fort St. George, Chennai – 600 009.
2. The Assistant Commissioner, O/o.Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Coimbatore – 641 018.
3. The Fit Person,
Arulmigu Ullur vinayagar and Bhagavathi Amman Temple,
Moperipalayam, Coimbatore.
4. The Sub Registrar, Annur Sub Registration Office,
Annur, Coimbatore.
5. The Sub Registrar, Singanallur Sub Registration Office,
Singanallur, Coimbatore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records about the proceedings of the third respondent dated 03.08.2021 and quash the same and consequently direct the fifth respondent to duly register the



WP.No.11473 of 2023

documents if any, presented about lands in Survey Nos.170 and 171 at Mopiripalayam Village, Paladam Taluk, Coimbatore District, without reference to the impugned proceedings of the third respondent dated 03.08.2021.

For Petitioner : Mr.V.Raghavachari, Senior Counsel
for Ms.V.S.Usharani

For Respondents : Mr.N.R.R.Arun Natarajan,
Special Government Pleader – R1 & R2

Mr.R.Rajesh Vivekanandan – R3

Mr.B.Vijay,
Additional Government Pleader – R4 & R5

ORDER

This Writ Petition is filed to quash the impugned proceedings of the third respondent dated 03.08.2021 and consequently direct the fifth respondent to duly register the documents if any, presented about lands in Survey Nos.170 and 171 at Mopiripalayam Village, Paladam Taluk, Coimbatore District, without reference to the impugned proceedings of the third respondent.

2. Heard learned counsel for the petitioner and the learned Special Government Pleader and Additional Government Pleader appearing for the respondents and perused the materials available on record.



WP.No.11473 of 2023

WEB COPY

3. It is the case of the writ petitioner that she had purchased to an extent of 6.62 ½ acre out of 13.25 acre comprised in Survey Nos.170 and 171 Moperipalayam Village, Sulur Taluk, Coimbatore District vide sale deed dated 07.11.2005. Now the above properties have been assigned with survey Nos.170/3, 170/4, 171/3 and 171/4 and patta has also been issued to the petitioner and the revenue records have also been mutated in the name of the petitioner. The property was originally subject matter of the proceedings under Tamil Nadu Minor Inams [Abolition and Conversion into Ryotwari] Act, 1963 in S.R.No.625/MI dated 05.06.1967 and S.R.No.628/M1 dated 05.06.1967 and Ryotwari Patt has been issued to one Chinnaiya Gounder and four others under section 8[2] [1] [b] of the Tamil Nadu Minor Inams [Abolition and Conversion into Ryotwari] Act, 1963. Pursuant to the said Order, an application has been filed by the land owners on 26.04.1971 for fixation of fair rent and the Special Tahsildar by his proceedings dated 26.04.1971 fixed a sum of Rs.12,220/- for the land in Survey No.171 and had fixed a sum of Rs.12,220/- for the land in Survey No. 170 by proceedings dated 26.04.1971. Aggrieved by the said Order, the land owners have filed an appeal before the appellate authority and the appellate authority quashed the Orders and remanded back the matter for fixation of fair rent. However, the



WP.No.11473 of 2023

original authority has not passed any Order for more than 40 years. The petitioner has given a representation to the Tahsildar for fixation of consideration and as the representation of the petitioner has not been considered, he filed a Writ Petition in W.P.No.14439 of 2016, wherein this Court by an Order dated 20.04.2016 directed the Special Tahsildar [Fair Rent Fixation] to fix the consideration. Thereafter, the consideration has been fixed and the petitioner purchased the property on 07.11.2005. The further case of the petitioner is that when she presented a Mortgage Deed dated 28.03.2014 before the fifth respondent for registration, the same was not registered. Hence, the petitioner filed a Writ Petition in W.P.No.39123 of 2016 and as per the Order of this Court dated 22.06.2017, the mortgage deed has been registered on 10.03.2021. Thereafter, once again the petitioner executed Memorandum of Deposit of Title Deeds on 10.05.2021 and presented the same for registration, the third respondent once again in the very same line of the earlier communication dated 03.10.2103 which was quashed by this Court in W.P.No.39123 of 2016, refused to register the document presented for registration. Challenging the same, the present Writ Petition has been filed.

4. It is the contention of the third respondent that ryotwari patta has been originally granted to one Chinnaiya Gounder and four others and enquiry



WP.No.11473 of 2023

has been conducted without serving notice to the temple. However, Chinnaiya Gounder has not paid the consideration within the period of limitation. Therefore, the alleged deeds are void ab initio. Hence, opposed the Writ Petition.

5. The learned counsel appearing for the petitioner would contend that the temple was aware of the proceedings even while fixing the fair rent and notice has been served to the Assistant Commissioner of the Hindu Religious Charitable Endowment Department. Fair rent has been fixed 40 years ago and the same has been set aside and thereafter fair rent has not been fixed. As the Ryotwari patta has been issued under section 8 [2] [1] [b] of the Tamil Nadu Minor Inams [Abolition and Conversion into Ryotwari] Act, 1963 and the same is in force and same has not been challenged, the temple cannot resist the registration.

6. Whereas, it is the contention of the temple that very issuance of patta is not according to the Tamilnadu Minor Inams [Abolition and Conversion into Ryotwari] Act 1963. That apart, it is their contention that though the fair rent was fixed after serving notice to the Assistant Commissioner by the original authority, in the subsequent proceedings, no



WP.No.11473 of 2023

notice has been served on the respondent. Therefore, according to them, the transfer is not valid in the eye of law and the original Order has been set aside and therefore, mere payment of consideration will not give any right to the petitioner. Hence, submitted that the temple has every right to resist the registration and submitted that the interest of the temple has to be protected.

7. I have perused entire materials available on record. It is not in dispute that the patta has been issued under section 8 [2] [1] [b] of the Tamil Nadu Minor Inams [Abolition and Conversion into Ryotwari] Act, 1963. While granting patta, the Special Tahsildar has been directed to fix fair rent. The Special Tahsildar before fixing fair rent issued notice to the Assistant Commissioner, Hindu Religions Charitable Endowment Department and fixed the fair rent in the year 1971. Aggrieved over the fair rent fixed by the Special Tahsildar, an appeal has been filed before the appellate authority and the same has been allowed on 11.02.1974. The matter was onceagain remanded to Special Tahsildar for refixation of fair rent. However, it appears that after remanding, refixation has not been done. In the meanwhile, the petitioner had purchased the property. Thereafter, the petitioner has made a representation for refixation of the consideration amount and as the same has not been done, the petitioner has filed a Writ Petition in W.P.14439 of 2016 and as per the



WP.No.11473 of 2023

Order of this Court, the consideration amount has been refixed and the petitioner purchased the property. Further, it is seen that the petitioner has also executed a mortgage deed, which has also been registered as per the directions of this Court in W.P.No.39123 of 2016. Even thereafter, when the petitioner presented the supplementary Memorandum of Deposit of Title Deeds, the same was refused to be registered citing their earlier letter issued by the authorities.

8. It is relevant to note that as far as registration is concerned, the title cannot be decided by the Sub Registrar. Rights of parties will be governed based on the their title and the earlier documents, unless there is an Order from the competent Court. This aspect has been elaborately dealt by this Court in ***Subramani Vs. 1.The Sub-Registrar, Office of the Sub-Registrar, Rasipuram. 2. The Inspector General of Registration, Chennai [W.P.No.11056 of 2024, dated 26.04.2024]***. It is to be noted that even issuance of the patta under the Act 30 of 1963 will not be a bar to the temple to file a suit to establish their right. In the event, they succeed, they can recover the property as per the Hindu Religious Charitable and Endowment Act. Though the Hindu Religious Charitable Endowment Department has not been put in notice in the proceedings of the year 2016, they were put on notice in the proceedings of the year 1971 which went against them. In such view of



WP.No.11473 of 2023

the matter, the documents presented by the petitioner cannot be refused to be registered citing their earlier letter, which has already been quashed by this Court in W.P.No.39123 of 2016.

9. Accordingly, this Writ Petition is allowed and the impugned proceedings of the third respondent dated 03.08.2021 is quashed and the fifth respondent is directed to register the documents whenever presented by the petitioner. No costs.

26.07.2024

vrc

Index :Yes/No

Internet :Yes/No

Neutral Citation : Yes/No

To,

1. The Secretary to Government,
Hindu Religious and Charitable Endowment Department,
Fort St. George, Chennai – 600 009.
2. The Assistant Commissioner, O/o.Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Coimbatore – 641 018.
3. The Fit Person,
Arulmigu Ullur vinayagar and Bhagavathi Amman Temple,
Moperipalayam, Coimbatore.
4. The Sub Registrar, Annur Sub Registration Office,



WP.No.11473 of 2023

Annur, Coimbatore.

WEB.COM

5. The Sub Registrar, Singanallur Sub Registration Office,
Singanallur, Coimbatore.



WEB COPY



WP.No.11473 of 2023

N. SATHISH KUMAR, J.

vrc

W.P.No.11473 of 2023

26.07.2024