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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.A.No.2027 of 2024
and
C.M.P.Nos.14417, 14419 & 14422 of 2024

1.P.Murali Krishnan

2.P.Hari Krishnan

3.P.Venugopal ...Appellants

Vs.

1.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai – 600 009.

2.The Additional Chief Secretary and
Commissioner for Land Administration,
Ezhilagam, Chepauk, Chennai – 600 005.

3.The Commissioner,
HR & CE Department,
Uthamar Gandhi Road,
Nungambakkam,
Chennai – 600 034.

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4.The District Collector,
GST Road,
Chengalpattu District – 603 001.

5.The District Revenue Officer,
VOC Nagar,
Chengalpattu – 603 001.

6.The Sub Collector,
Madurantakam,
Chengalpattu District.

7.The Tahsildar,
GST Road,
Madurantakam,
Chengalpattu – 603 306.

8.The Assistant Commissioner,
HR&CE,
Chengalpattu District.

9.Sri Kodanda Rama Swami Temple,
No.12, Nelli Main Road,
Palli Agaram, Madurantakam Taluk,
Chengalpattu District. ...Respondents

<u>Prayer</u>: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 09.08.2023 made in the writ petition in W.P.No.11335 of 2023 and quash the order of the 5th respondent in Na.Ka.No.6871/2019/A4 dated 30.06.2022 and subsequent proceedings of the 2nd respondent in R2/2911107/2022 dated 20.10.2022.

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For Appellants	:	Mr.T.Pushkin Rajkumar
For Respondents 1, 2, 4 to 7	:	Mr.A.Selvendran, Special Government Pleader
For Respondent No.3	:	Mr.N.R.Arun Natarajan
For Respondent No.9	:	Mr.M.Elumalai

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JUDGMENT

(Judgment of the Court was made by ***R.SUBRAMANIAN, J.****)*

Challenge in the appeal is to the order of the learned Single Judge dismissing the writ petition in W.P.No.11335 of 2023 filed by the appellants.

2. The prayer in the writ petition reads as follows:-

> *"Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent by his proceeding in Na.Ka.No.6871/2019/A4 dated 30.06.2022 and subsequent to the proceedings of the second respondent in Rs/2911107/2022 dated 20.10.2022 and quash the same and consequently direct the fifth respondent to rectify the UDR patta and issue patta in the name of the petitioners with respect to the lands comprised*

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in SF.No.18/1, 18/2 and 21 to an extent of 21.73 acres situated at Palliyakaram Village, Madurantakam Taluk, Chengalpattu District."

3. It is the contention of the petitioners/ appellants that the lands in question belonged to their ancestors under the compromise decree for partition dated 07.01.1918. It is not in dispute that the properties in question belonged to the ancestors of the petitioners, since it is seen from the order of the District Revenue Officer, which was impugned in the writ petition that the land in question stood registered in the names of the ancestors of the petitioner even in the RSR of the year 1911. Subsequently, as per the compromise decree, the nanja land in schedule 'B' were to be divided equally between the plaintiffs and the 1st defendant on one part and the 2nd defendant on the other part. There was a further direction in the compromise decree that from and out of the income from the punja land in the 'B' schedule, the Thirukalyanam at Arulmigu Kothandaramaswamy Temple, Palliyakaram Village should be performed.

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4. After this decree, the revenue records were mutated and lands in S.Nos.18 and 21 were shown in the name of Arulmigu Kothandaramaswamy Temple represented by its present Trustee. Claiming that the said entry has been wrongly made at the time of UDR, the petitioners sought for correction of the entries. The said request was rejected by the 5th respondent District Revenue Officer, Chengalpattu on the ground that there is absolute dedication of properties in favour of the temple as per the compromise decree and the District Revenue Officer also rendered a finding that the Will executed by one Kesavalu Naidu in favour of his wife Andal Ammal is not valid because of the recital in the compromise decree. It is this order which was put in issue before the writ Court.

5. The writ Court found that the issue as to whether the recitals in the compromise decree would amount to absolute dedication of the property in favour of the temple or it would be a charge over the property for performance of Kalyana Utsavam at Arulmigu Kothandaramaswamy Temple at Palliyagaram Village is the question to be decided by the competent

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Authority under Section 63(b) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. On the said conclusion the writ Court dismissed the writ petition. Hence, this appeal.

6. We have heard Mr.T.Pushkin Rajkumar, learned counsel appearing for the appellants and Mr.N.R.Arun Natarajan, learned counsel appearing for the respondents 3 and 8, Mr.A.Selvendran, learned Special Government Pleader appearing for the respondents 1, 2, 4 to 7 and Mr.M.Elumalai, learned counsel appearing for the 9th respondent.

7. Mr.T.Pushkin Rajkumar, learned counsel appearing for the appellants would vehemently contend that there was no dedication of the property and the temple in question is a private temple over which the HR&CE Department has no jurisdiction. He would also point out that the recitals in the compromise decree would not amount to absolute dedication. It is his further plea that the observation of the District Revenue Officer to the effect that the recitals in the compromise decree would amount to absolute dedication of the property in favour of the temple are without

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jurisdiction apart from being erroneous.

8. Mr.N.R.Arun Natarajan, learned counsel appearing for the respondents 3 and 8 would submit that the issue as to whether a particular document creates absolute dedication in favour of the temple or it amounts to creation of charge with duty to perform certain acts in the temple are within the exclusive jurisdiction of the competent Authority constituted for that purpose under Section 63 of the Hindu Religious and Charitable Endowments Act, 1959. Therefore, neither the District Revenue Officer nor this Court sitting under Article 226 of the Constitution of India can pronounce upon the issue. He would also point out that an order made under Section 63 by the Joint Commissioner or Assistant Commissioner of the HR&CE Board is appealable under Section 69 and further suit is provided for under Section 70. Pointing out that a complete machinery for adjudication are made available in the enactment, the learned counsel would submit that the attempt by the appellants to get the issue resolved through District Revenue Officer or by this Court under Article 226 cannot be permitted.

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9. Mr.M.Elumalai, learned counsel appearing for the 9th respondent would adopt the submissions of the learned Special Government Pleader for the respondents 3 and 8.

10. Mr.A.Selvendran, learned Special Government Pleader appearing for the respondents 1, 2, 4 to 7 would submit that their function is only adjudicatory and therefore they cannot support the order or resile from it.

11. We have considered the rival submissions.

12. The property which originally belonged to the family of the petitioners/ appellants was subject matter of dispute in a partition suit. A compromise decree came to be passed in the said suit as early as in 1918. That compromise decree contained certain recitals. What will be the effect of those recitals are not within the domain of either the District Revenue Officer or this Court sitting under Article 226 of the Constitution of India. A separate machinery has been made available under Hindu Religious and

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Charitable Endowments Act, 1959 to resolve such issues.

13. In fact, we find from the orders of the writ Court that the learned counsel for the petitioners himself had stated that he would approach the competent Authority under the Hindu Religious and Charitable Endowments Act, 1959. It is not open to the District Revenue Officer or this Court to decide whether there is absolute dedication or not once there is a dispute regarding the character of dedication. As of now entries have been made based on the said decree in the revenue records. If the petitioners want to challenge those entries they have to first take an adjudication on the nature of the dedication that is made in the compromise decree. Unless that question is decided they cannot seek rectification of the revenue records. We find that the Hindu Religious and Charitable Endowments Act, 1959 is a self-contained code in respect of such disputes and complete machinery is provided under the Act for resolution of such disputes.

14. Hence, we do not propose to entertain the writ appeal. The writ appeal is dismissed with liberty to the appellants / petitioners to approach

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the Authority and seek a decision on the character of the dedication made in the compromise decree. We make it clear that none of the observations made in the orders of the District Revenue Officer or the writ Court or in this order by us will affect the rights of the petitioners, if they choose to go before the Authority concerned.

15. The writ appeal therefore fails and it is **dismissed** with the above observations. No costs. Consequently, the connected miscellaneous petitions are closed.

(R.S.M., J.) **(R.S.V., J.)**

24.07.2024

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Index : No
Internet : Yes
Neutral Citation : No
Speaking order

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