



W.P.No.23199 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2024

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.23199 of 2018
and
W.M.P.No.27101 of 2018

A.Rajakumari

...Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road,
Chennai – 600 034.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road,
Chennai – 600 034.
3. Arulmigu Ekambareswarar Thirukovil,
Having its office at the temple premises,
Aminjikai, Chennai – 600 029.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the Notice of the first respondent bearing M.P.No.15/2018/A3/ dated 01.03.2018 and quash the same and consequently forbearing the respondents from interfering with the peaceful possession of the petitioner's property, situated at No.37 & 38 Pulla



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Avenue, Aminjikarai, Chennai – 600 029.

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For Petitioner : M/s.Dr.G.Babu

For Respondents : Mr.S.D.Ramalingam for R3

Mr.K.Karthikeyan, GA (HR & CE)
for R1 and R2

ORDER

This writ petition has been filed seeking to quash the notice of the first respondent and to consequently forbear the respondents from interfering with the peaceful possession of the petitioner's property, situated at No.37 & 38 Pulla Avenue, Aminjikarai, Chennai – 600 029.

2. It is the case of the petitioner that her predecessors owned Inam land in O.S.No.67, R.S.No.67/3B2, presently Block No.14, T.S.No.87 & 88 which was taken over by the Government under the Tamilnadu Minor Inams Abolition Act, 1963 (in short 'the Act'). The petitioner acquired the said property through sale and has paid the property taxes, water, sewage, and electricity bills without interruption since, 2014. However to the shock and surprise of the petitioner, the first respondent issued a show cause notice in M.P.No.15/2018/A3 dated 01.03.2018 under Section 78(2) of the Hindu



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Religious and Charitable Endowments Act, 1959 declaring the petitioner as an encroacher calling upon her to show cause against the same, despite previous orders granting joint patta to the petitioner's predecessors and the third respondent Temple. Challenging the same, the present writ petition has been filed seeking the aforesaid relief.

3. The learned counsel for the petitioner submits that admittedly the Assistant Settlement Tahsildar granted patta in respect of the aforesaid property as per Section 8 of the Act vide proceedings dated 31.03.1971 in favour of the petitioner's predecessors and the Temple. Thereafter, the petitioner purchased the said property from her vendor and has been paying the property taxes, water, sewage, and electricity bills without interruption since, 2014. Despite the proceedings of the Settlement Tahsildar, the third respondent suppressing all the aforesaid facts had been collecting rent from the petitioner and after coming to know the same, the petitioner stopped paying the rent in favour of the Temple. Hence, he prayed to allow this writ petition.



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4. Per contra the learned Government Advocate appearing for the respondents 1 and 2 submitted that though the petitioner claims that the patta was granted by the settlement Tahsildar in favour of the petitioner's predecessor, however, the petitioner has not shown any proof to substantiate her claim and even in her affidavit she has not mentioned any specific date to show that she purchased the said property from her vendor, which clearly proves that the petitioner has not approached this Court with clean hands. Further the order passed by the settlement Tahsildar makes it clear that the schedule lands are religious Inam granted for the third respondent Temple, which correlates with R.S.Nos.67/3B2, 67/4Bpt and 66 and also that the Temple owns both the varams in the land.

5. It is further seen from the order passed by the Settlement Tahsildar that the third respondent Temple was entitled to ryotwari patta and on that basis a ground rent patta was jointly granted in favour of the temple and the occupants. The list of the occupants was also annexed along with the said order, wherein the petitioner claims that she purchased the said property from her vendors who are in S.Nos.57 and 58 of the said order namely



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Ellappan and John Basha respectively, however the petitioner did not show any proof to substantiate her title. Since the Temple owns both varams in the land and was granted ryotwari patta, the petitioner or her predecessors are not entitled to claim any patta in their favour. When the land vests with the Temple, the petitioner has no right to claim title over the same and thereby the impugned order has been passed by the first respondent treating the petitioner as an encrocher, which is perfectly in order and the same does not require any interference of this Court.

6. Heard the learned counsel appearing for the third respondent and perused the materials placed on record.

7. Assailing the order passed by the first respondent treating the petitioner as an encroacher, despite orders from the Settlement Tahsildar granting patta in favour of the petitioner's predecessor and the Temple, the present writ petition has been filed.



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8. On a bare perusal of the order passed by the Settlement Tahsildar makes it clear that the schedule lands are religious Inam granted for the third respondent Temple and also that the Temple owns both varams in the schedule lands. Further the Temple was granted with a Ryotwari Patta. It is also seen that the list of the occupants was also annexed along with the said order wherein the petitioner claims that she purchased the said property from her vendor who are in S.Nos.57 and 58 of the said order namely Ellappan and John Basha respectively, however the petitioner did not produce any document or proof to show that she purchased the said property from her vendors. As rightly pointed out by the learned Government Advocate appearing for the respondents 1 and 2, though the petitioner claims that she purchased the subject property from her vendor, however, she has not produced any proof to substantiate her claim. In the absence of any proof or title to show that that she is the owner of the aforesaid property, it cannot be said that she is not an encroacher. Hence, the impugned order passed by the first respondent does not warrant any interference of this Court.

9. Accordingly, this writ petition is dismissed. No costs.



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Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To:

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M.DHANDAPANI, J.

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