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W.A.No.2395 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR

AND

THE HON'BLE Mr. JUSTICE K.RAJASEKAR

W.A.No.2395 of 2024

A.Lathamani

.. Appellant

Vs.

1.Sub Registrar
Nallur Sub Registrar Office
Tirupur

2.Arulmighu Visweswaraswamy Visalakshiamman
and Subramaniasamy Temple
Rep. by its Executive Officer
Nallur, Tirupur 641 606

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 07.03.2024 passed by the learned Judge in W.P.No.2682 of 2024.

For Appellant : Ms.AL.Gandhimathi
Senior Counsel
for Mr.J.Titus Enock

For 1st Respondent : Mr.B.Vijay
Additional Government Pleader

For 2nd Respondent : No appearance



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J U D G M E N T

(Delivered by S.S.SUNDAR, J.)

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This appeal is directed against the order of the learned Single Judge dated 07.03.2024, dismissing the writ petition filed by the appellant, for issuance of a writ of mandamus directing the 1st respondent to register the document executed by the appellant in respect of the land in S.No.262/1, Nallur Village, Tirupur South Taluk and District.

2. It is the case of the appellant that she is the absolute owner and is in possession and enjoyment of the property comprising about 5 acres and 27 cents, by virtue of a registered sale deed dated 26.05.1983 obtained by her father from one Shanmuga Thevar and subsequent settlement deeds from her predecessor-in-interest. The appellant, of course, in the affidavit filed in support of the writ petition, claims title on the basis of settlement deeds executed by her father and later, by her brother Sivasakthi, in her name who had got the said property by way of a settlement deed executed by their father Palanisamy. The vendor of the appellant's father, viz., Shanmuga Thevar traced his title through the order dated 25.10.1968 passed by the Settlement Tahsildar No.II, Gobichettipalayam, where he was found entitled to Ryotwari patta.



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3. It is the further case of the appellant that the 2nd respondent/temple raised an objection when the appellant executed a sale deed in respect of the land, for which her predecessor-in-interest had title. The document was not registered as the 2nd respondent/temple claimed title to the said property which was sought to be conveyed under sale deed. Though the Sub Registrar did not pass any order, the appellant, after enquiry, filed a writ petition in W.P.No.2682 of 2024 for issuance of a writ of mandamus to the 1st respondent to register the document in respect of an extent of 2.13.50 hectares in S.No.262/1, Nallur Village, Tirupur South Taluk and District.

4. The said writ petition was dismissed by the learned Single Judge, holding that the dispute between the appellant and the 2nd respondent/temple is civil in nature and the question as to whether the property belongs to the appellant or the 2nd respondent/temple should be decided only by the competent Civil Court and that Article 226 of the Constitution of India cannot be invoked for deciding the said question.

5. Further, since it was reported that the suit filed by the 2nd respondent/temple is yet to be numbered by the Principal District Court, Tirupur, the learned Single Judge directed the 2nd respondent/temple to take steps to get the



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suit numbered. Further, the learned Single Judge directed the trial Court in which the suit is pending, to dispose of the same within a period of six months.

6. It is to be noted that the Settlement Tahsildar No.II, Gobichettipalayam has recognised the appellant's father's predecessor-in-interest as a person holding possession, pursuant to the sale deed which was executed 60 years ago. When a Ryotwari patta is given in favour of an individual by the Settlement Tahsildar in exercise of his powers under the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (for brevity "Act 30 of 1963"), the same is *prima facie*, a document of title.

7. No doubt, a person aggrieved by the order of the Settlement Tahsildar can file an appeal or seek relief before the Civil Court for declaration of title and the order of the Settlement Tahsildar can be rendered invalid by a Civil Court's decree, which is binding and the Revenue officials have no power to treat the land quite contrary to the findings of the Civil Court. By analysing the evidence, the Settlement Tahsildar, found that the predecessors-in-interest of the appellant's father are entitled to half-share in S.No.262 as a person who is in possession for more than 60 years, on the basis of the sale deed which was executed prior to Act 30 of 1963.



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8. Further, the Ryotwari patta is granted in favour of the individual in recognition of his pre-existing right to hold the property. In this case, the findings of the Settlement Tahsildar reveal that the property in S.No.262 measuring an extent of about 15.47 acres had been registered jointly in the name of one Shamuga Thevar and Rasappa Gounder who were entitled to hold lands in equal proportion. It is also to be noted that the right of the appellant's predecessor-in-interest was recognised under Section 8(2)(i)(a) of the Act 30 of 1963. One Shanmuga Thevar applied for Ryotwari patta on the basis of a sale deed obtained by his grandfather on 23.07.1886 and a subsequent partition deed dated 08.08.1906, in which his father was allotted half-share out of an extent of 15.47 acres. Though the Settlement Tahsildar found that the lands in S.No.262 were Devadayam minor inam lands granted for the support of Visweswaraswamy Visalakshiamman Subramaniaswamy Temple, Ryotwari patta was given in favour of appellant's predecessor-in-interest in recognition of their right under Section 8(2)(i)(a) of the Act 30 of 1963, in respect of 15.47 acres in S.No.262 by proceedings dated 25.10.1968.

9. It is also now brought to our notice that the order of the Settlement Tahsildar dated 25.10.1968 was challenged before the Principal Sub Judge, Tirupur, in C.M.A.No.15 of 2014. By the judgment dated 11.01.2017, the



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appeal in C.M.A.No. 15 of 2024 was dismissed for non-prosecution. The learned counsel for the 2nd respondent/temple was unable to produce any document or any material to show that the temple is in enjoyment of the property.

10. In view of the *prima facie* title as seen from the proceedings of the Settlement Tahsildar in 1968, this Court is unable to countenance the submission of the learned counsel for the 2nd respondent/temple or the order of the Single Judge holding that the 2nd respondent/temple is entitled to raise objection for registration of document by the appellant. In other words, there is no reason or cause for the 1st respondent to refuse to register the document presented by the appellant, in view of the proceedings of the Settlement Tahsildar dated 25.10.1968.

11. Further, it was brought to the notice of the learned Single Judge that a suit was filed by the 2nd respondent/temple which was not numbered. As directed by the learned Single Judge, the 2nd respondent/temple may take steps to get the suit numbered, if not already numbered and if the same has been numbered, the trial Court is directed to deal with the suit in the manner known to law, taking note of the substantial time. However, it is open to the appellant



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to raise all her objections in the pending suit, including the maintainability aspect of the suit, which was filed after several decades.

12. Now, the order impugned is therefore set aside. This writ appeal stands allowed with a direction to the 1st respondent/Sub Registrar to register the document presented for registration by the appellant, in accordance with law within a period of one week from the date of presentation of any document by the appellant. No costs.

[S.S.S.R.,J.]

[K.R.S.,

J.]

09.09.2024

Internet : Yes

Neutral Citation : Yes/No

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To

1.The Sub Registrar

Nallur Sub Registrar Office

Tirupur

2.The Principal District Court

Tirupur



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