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CRP.50 and 52 of 2022

In the High Court of Judicature at Madras

Reserved on: 15.03.2024

Delivered on : 03.06.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**C.R.P.Nos.50 and 52 of 2022
and C.M.P.Nos.320 and 322 of 2022**

Anandkumar Drolia

... Petitioner
in both CRPs.

-Vs-

1.Arulmigu Santhana Venugopalaswamy Thirukovil

Rep. by its Fit Person Cum Executive Officer

Avinashilingashewarar Temple

Avinashi, Tiruppur District.

2.The Settlement Tahsildar

Gobichettipalayam, Erode District

... Respondents
in both CRPs

PRAYER in CRPs.50 and 52 of 2022: Civil Revision Petitions filed as against C.M.A.No.3 and 2 of 2021 pending on the file of Principal Subordinate Judge-cum-Tribunal constituted under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, Tirupur, to set aside the proceedings.



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For Petitioner : Mr.G.Ethirajulu

For Respondents : Mrs.Hema Sampath, Senior counsel for
Mrs.R.Meenal, for R1.
Dr.S.Suriya, AGP for R2.

COMMON ORDER

The above Civil Revision Petitions are filed against the CMA.Nos.3 and 2 of 2021 filed by the 1st respondent viz., Fit person cum Executive Officer, Arulmigu Santhana Venugopalaswamy Thirukovil. The said CMAs are filed under Section 11(3) of the Tamil Nadu Minor Inams (Abolition and conversion into Rytotwari Act of 1963).

2. The above said CMAs were filed in the year 2021 before the Minor Inams Appellate Tribunal and Principal subordinate Judge, Tiruppur, as against the order of the Settlement Tahsildar, Gobichettipalayam in S.R.No.159/1966/MI Act and 160/MI Act/Avn.Tk.66, Avinashi Taluk dated 17.11.1966.

3. The order of the Settlement Tahsildar, Gobichettipalayam, dated 17.11.1966, would read that on the basis of Inam B.Register (Ex.C.1) produced



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by P.W.1 Varadachar who being the sole owner of S.No.431 and 433, Thekkalur Village, and that there were no objections or representations and no claims were received, directed the inam tenure of S.No.431, 433 of Thekkalur village measuring 5-06 acres (dry) and 16-20 acres (dry) be abolished and Ryotwari Patta for the same land be allowed to Varadachar, Thekkalur under Section 8(1) of the Madras Minor Inams (Abolition and conversion into Ryotwari Act, 1963.

4. In the grounds of appeal filed by the Fit Person cum Executive Officer, the appellant in CMAs namely Temple stated that the 1st respondent – Settlement Tahsildar, did not give any notice to the appellant temple and the appellant alone is entitled to the temple property; the 1st respondent-Settlement Officer made a fraudulent act and as per the Act, when the decision of the Assistant Settlement Officer was vitiated by fraud or by mistake of fact, appeal can be entertained by the Tribunal.

5. When facts of the case stood thus, the above civil revision petitions are filed by the revision petitioner who claims to be the proprietor of a company namely M/s.Sobhasaria Properties (P) Ltd.,



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6. The contention of the learned Senior counsel appearing for the revision petitioner is that without incorporating the company, the CMAs were filed by the temple only against the individual and therefore, the CMAs are not maintainable. It is submitted by the learned Senior counsel that the land is under the enjoyment of P.W.1 and the extract of Inam B.Register was produced before the 2nd respondent/Settlement Officer. Only on that basis, Ryotwari patta for the said land was allowed under Section 8(1) of the Act. Copy of the order was also sent to the Tahsildar, Avinashi. Enquiry was conducted after issuing publication of notice but no one has appeared before the authority including the 1st respondent.

7. The learned Senior counsel would further contend that Section 11(3) of the Act stipulates that the Tribunal may in its discretion, entertain an appeal by the Government at any time if it appears to the Tribunal that the decision of the Assistant Settlement Officer was vitiated by fraud or by mistake of fact but the Hon'ble Tribunal entertained the appeal by way of numbering the CMAs and issued summons to the revision petitioners even without considering that the appeals are filed only by the temple and not by the Government.



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8. The learned Senior counsel would further submit that subsequent purchasers were not added as parties to the appeal and hence for non-joinder of necessary and proper parties to adjudicate the entire appeal, CMAs are to be rejected.

9. The learned Senior counsel would argue that the temple is not the “any person aggrieved” as stated in the Act and even if so, it should have filed an appeal before the Tribunal within 3 months and the tribunal may in discretion allow further time not exceeding two months and therefore, the period of limitation is only for 5 months in terms of Section 11(3) of the Act.

10. The learned Senior counsel would also point out that the temple has no locus standi to file CMAs before the Tribunal after limitation period. In the absence of any pleading, the 1st respondent cannot let in any oral or documentary evidence to set aside the order dated 17.11.1966.

11. The learned Senior counsel for the revision petitioner would contend that the revision petitioner purchased the property during the year 2006 and invested Rs.300 crores and at this stage nearly after 54 years if the



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first respondent initiated action to set aside the order dated 17.11.1966 passed by the 2nd respondent will cause great prejudice to the Revision petitioner which cannot be compensated in terms of money. The learned Senior counsel for the petitioner would rely on the following decisions in support of the case of the revision petitioner.

(i) 1996 SCC Online Mad 743 : (1997) 2 Mad LJ 248.

[Sri Varadaraja Perumal Temple, Anjur Village, Erode Taluk, Coimbatore District. Rep. By its Trustee V.R.Sampath Kumar Vs. K.Ramachandran and 3 others.]

(ii) S.T.A.No.6 of 1987 dated 14th September 1993. [Rangasamy Naidu Vs. Veerappan and others]

(iii) 2019 (3) CTC 570 [Arulmigu Jala Perumal Temple, Kallapalayam Vs. Settlement Tahsildar].

12. Per contra, the learned counsel for the 1st respondent-Temple would submit that the present civil revision petitions filed as against the numbering of CMAs by the revision petitioner who is the subsequent purchaser of the lands, are to be dismissed. The learned counsel would submit that the Tribunal, on being satisfied with the explanation offered on behalf of the temple



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that no notice was served on the temple and that the order was vitiated by fraud, numbered the appeals.

13. The learned counsel for the 1st respondent would submit that the revision petitioner is in no way prejudiced by the numbering of the appeals as he has ample opportunity to raise his objections before the Tribunal. The temple claims ownership of the land. There was no notice to the temple. It was not heard during the enquiry by the Thasildar. A copy of the order was also not served on the temple. Since the temple filed the appeal as soon as it came to know about the order, time has to be reckoned from the date of knowledge.

14. The learned counsel for the 1st respondent would rely on the decision *Rangasamy Naidu Vs. Veerappan and others* reported in **1994 1 MLJ 410**, wherein it was held that order without jurisdiction, or an order void ab initio, or an order non est in law would become final and that this could not be intention of the legislature. The learned counsel also relied on the ratio laid down in the case of *Arulmigu Jala Perumal Temple Vs. Settlement Tahsildar, [2019(3) CTC 570]* wherein, the order of the Settlement Tahsildar was challenged before the Tribunal after 45 years. The learned counsel thus



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submitted that the question of limitation would not arise in the case of a person who was not a party to the proceedings. In the cited case, the matter was remanded to the tribunal to decide the issue afresh.

15. The learned counsel for the 1st respondent would also submit that since the principles of natural justice were violated, the cited decisions will squarely apply to the facts of this case and the attempt of the revision petitioner to throttle the proceedings at the threshold, cannot be entertained by this court.

16. A perusal of the decisions cited by the parties, particularly in the case of *Arulmigu Jala Perumal Temple Vs. Settlement Tahsildar*, while remanding the STA filed by the temple to the Tribunal, framed the following issues for fresh consideration by the court:-

(i) Whether the appellant was put on notice before the Settlement Tahsildar or not?

(ii) Whether the appellant was served with the order passed by the Assessment Settlement Tahsildar or not?

(iii) Whether the respondents are entitled to contend that the appellant has to cancel the Inam and if not, the effect of it?



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(iv) The scope of civil court decrees and their effect qua the present proceedings?

(v) The effect of the pendency of the appeal filed?

17. In the present case on hand, inasmuch as the appellant in CMAs namely the Temple was not a party to the proceedings initiated by the Settlement Tahsildar, the said order cannot be put against the Temple and therefore the question of limitation would not arise in challenging the proceedings of the Settlement Tahsildar. Therefore, the numbering of the appeals by the Tribunal is well in order and this court does not find any reason to interfere with the proceedings pending before the Tribunal/Principal Subordinate Court, Tiruppur.

18. In the result, the civil revision petitions are dismissed. No costs. Consequently, connected MPs are closed.

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nvsri



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To

1.The Fit Person Cum Executive Officer

Avinashilingashewarar Temple, Arulmigu Santhana Venugopalaswamy
Thirukovil, Avinashi, Tiruppur District

2.The Settlement Tahsildar, Gobichettipalayam

Erode District.



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J.NISHA BANU, J.

nvsri

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