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Order dated 26.02.2024
in W.P.No.32309 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.02.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.32309 of 2023
and W.M.P.No.31913 of 2023

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The Executive Officer,
Arulmigu Thirumuruganatha Swamy Temple,
Thirumurugan Poondi,
Avinasi Taluk,
Tiruppur District.

.. Petitioner

Vs.

1. The District Revenue Officer, Tiruppur.
2. Mrs.Lalitha, W/o Subramaniya Iyer
3. Mr.Muraliram
4. Ms.Chithra
5. Ms.Usha
6. Mr.Krishnamurthy
7. Mrs.Ananthalakshmi
8. Mrs.Girijambal
9. Mrs.Umapuri
10. Mr.Srithar
11. Mr.Ramesh
12. Mrs.Lalitha, D/o Venkatramana Iyer
13. Mrs.Subbulakshmi
14. Mr.Shankar

.. Respondents

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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in issuance of the impugned order in Ni.Mu.16790/2020/J2, dated 28.08.2023 and quash the same as illegal and to direct the first respondent to restore the petitioner-Temple land in Survey No.539/1 situated at Rakkiyapalayam Village, Avinasi Taluk, Tiruppur District and enter the name of the petitioner/Temple in respect of subject matter land(s) in Survey No.539/1 in all the Revenue Records.

For petitioner : M/s.S.Sithirai Anandam

For respondents: Mr.T.Arun Kumar, Addl.G.P. for R-1

Mr.N.Manokaran for RR-2 to 14

ORDER

The petitioner/Temple has filed the present Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in issuance of the impugned order in Ni.Mu.16790/2020/J2, dated 28.08.2023 and quash the same as illegal and to direct the first respondent to restore the petitioner-Temple land in Survey No.539/1 situated at Rakkiyapalayam Village, Avinasi Taluk, Tiruppur District and enter the name of the petitioner/Temple in respect of subject matter land(s) in Survey No.539/1 in all the Revenue Records.

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2. Learned counsel for the petitioner submitted that the property in question belongs to the petitioner/Temple for more than 100 years. The Temple is in possession of the property. The Patta also stands in the name of the Temple. One of the Trustees, i.e. Kaliappa Gounder, in the year 1925, released the Patta which stood in his name in respect of the Temple land, vide Document No.2275/1925, dated 17.12.1925 registered in the Office of the Sub-Registrar, Avinasi. Further, another Trustee, i.e. Aayee Gounder sold some portion of the Temple land to some third party, as his name was also reflected in the Patta and created encumbrance. Therefore, the petitioner made a representation before the first respondent and the Tahsildar, without considering the same, passed order without any jurisdiction and if there is any dispute regarding the Temple property, then the first respondent/District Revenue Officer is the competent authority to deal with the subject matter and therefore, the authority has passed the order without any authority/jurisdiction. However, they have filed appeal and the DRO, without considering all the documents, passed the impugned order, which is liable to be quashed. Since the property in question is the Temple property, no other person has any authority to alienate or encumber the same. In support of his submissions, learned counsel for the petitioner relied on a decision of the Supreme Court reported in 2005 (9) SCC 232 = 2005 SCC Online

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SC 72 (Commissioner, Hindu Religious and Charitable Endowments Vs. P.Shanmugama and others).

3. The learned Additional Government Pleader appearing for the first respondent submitted that there is dispute regarding the title in respect of the property in question, and therefore, the first respondent has passed the impugned order based on the order in appeal in Writ Appeal No.1275 of 2006, dated 28.07.2011 of this Court. Therefore, there is no illegality or perversity or error in the impugned order.

4. Learned counsel for the private respondents submitted that even prior to 1925, the property was dedicated to the Temple and it was a private property, which the vendor of the petitioner was said to have dedicated/settled the land(s) to the Temple itself, and the petitioner has no authority to alienate/encumber the same. Even otherwise, they have only 1/6th share in the said property. Therefore, the Temple's property shall not be alienated/encumbered, and therefore, joint Patta was also issued. When the petitioner/Temple files a representation before the Tahsildar, the Tahsildar has passed the order, against which, the Temple filed appeal before the first respondent, who, after considering the documents produced by both sides, found that there is a cloud

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in the title of the property and therefore, the impugned order was passed directing the petitioner to approach the Civil Court to establish their title. In support of his submissions, the learned counsel for the private respondents relied on a judgment of a Division Bench of this Court reported in 2011 (5) CTC 94 (Vishwas Footwear Company Limited Vs. The District Collector, Kancheepuram and others).

5. Heard both sides and perused the materials available on record.

6. Admittedly, on a perusal of the affidavit filed in support of the present Writ Petition and also the counter affidavit of the official and private respondents, it is clear that there is a title dispute in respect of the property in question, and therefore, either the Revenue Authority or the Writ Court cannot decide the dispute regarding the title. Therefore, this Court finds that there is no perversity or illegality or impunity in the impugned order passed by the first respondent. The petitioner-Temple is at liberty to work out their remedy before the Civil Court and until then, either of the parties are directed not to deal with the property in question or create alienation or encumbrance over the property.

7. The decisions relied on by the learned counsel for the petitioner and the

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learned counsel for the private respondents, are distinguishable on facts and hence, they are not applicable to the facts of the present case on hand.

8. For the reasons stated above, the Writ Petition is disposed of with the above observations/direction. There shall be no order as to costs. Consequently, W.M.P. is closed.

26.02.2024

CS

To

1. The Executive Officer,
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CS

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