



WEB COPY



W.P.No.3836 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.03.2024

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

**W.P.No.3836 of 2024 and
W.M.P.No.4144 of 2024**

Kasturba Gandhi Kanya Gurukulam,
Nagai Road, Vedaranyam – 614810
represented by its Managing Trustee,
A.Vedarathinam.

... Petitioner

Versus

1. Government of Tamil Nadu
Represented by the
Secretary to Government,
Revenue Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Commissioner of Land Administration,
Ezhilham, Chepauk, Chennai – 600 005.
3. The Settlement Officer,
Survey & Settlement Department,
Survey House, Chepauk,
Chennai – 600 005.
4. Arulmihu Vedaranyeswarar Devasthanam,
Represented by its Executive Officer,
HR & CE Department,
Vedaranyam – 614 810.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the second respondent pertaining to the title of the land in S.No.175/29 of the Vedaranyapattinam Village and quash the order of the second respondent in proceedings Roc.No.K1/15711/2019 dated 03.05.2023 and consequently, direct the second respondent to pass orders vesting in the petitioner rights over the building including the site on which that building stands and the rights over the adjacent premises occupied as an appurtenance thereto in the said S.No.175/29, as has been permitted by the sovereign legislature as per Section 5(4) & Section 15 (5) of the Tamil Nadu Estates (Abolition & Conversion of Ryotwari) Act, 1963.

For Petitioner : Mr.R.Natarajan

For Respondents : Mr.T.Arunkumar
Addl. Government Pleader for RR1 to 3

Mr.N.R.R.Arun Natarajan
Spl.Govt.Pleader (HR & CE) for R4

ORDER

This writ petition has been filed to quash the order of the second respondent in proceedings Roc.No.K1/15711/2019 dated 03.05.2023 and consequently to direct the second respondent to pass orders vesting in the petitioner rights over the building including the site on which that building



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stands and the rights over the adjacent premises occupied as an appurtenance thereto in the said S.No.175/29, as has been permitted by the sovereign legislature as per Section 5(4) & Section 15 (5) of the Tamil Nadu Estates (Abolition & Conversion of Ryotwari) Act, 1963.

2 Learned counsel for the petitioner would submit that the fourth respondent/Temple has no right or title over the subject property and they have not produced any document to establish their right and title over the property. The petitioners and their predecessors are in possession of the property. The petitioner purchased the subject property from one Annamalai Chettiyar vide registered sale deed No.996 of the Sub-Registrar's Office, Vedaranyam dated 06.07.1977 and from that date onwards the petitioner is enjoying the property both building and the superstructure thereon. The second respondent failed to consider the documents produced by the petitioner and has failed to answer the issues raised by the petitioner.

2.1 Learned counsel would further submit that the fourth respondent Temple never produced any evidence before the any legal or judicial forum to prove that the Temple had Iruvaram right over the impugned land and had exercised its right to recover the Iruvaram dues from the people who were in



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possession of the land. The second respondent failed to adhere the rulings of the Hon'ble Supreme Court in the cases cited before it. The fourth respondent Temple cannot claim right over the property after the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 26 of 1963) came into force, because of the operation of Section 3(b), 9 and 10 of the Act 26 of 1963.

2.2 The second respondent has failed to consider all the above facts and passed the impugned order, which is not sustainable in law and the same is liable to be quashed.

3 Learned Special Government Pleader for the respondents 1 to 3 would submit that in the sale deed dated 06.07.1977, under which, the petitioner claiming title over the property, it is mentioned that the property is ancestral property of Annamalai Chettiyar, who executed the sale deed in favour of the petitioner. Therefore the petitioner is not entitled to claim right over the property unless it establishes the title of its vendor Annamalai Chettiyar.

4 Learned Special Government Pleader (HR & CE) for fourth respondent would submit that the land belongs to the Temple and the vendor of the petitioner had only Melvaram right, not Kudivaram right and hence he is



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entitled to convey the superstructure alone and the land always vested with the Temple. Therefore the petitioner cannot deny the title of the Temple.

4.1 All the issues raised by the petitioner before the second respondent have been considered and answered in the impugned order. The petitioner did not produce any document to show that its Vendor has Iruvarams. Annamalai Chettiyar sold the property to the petitioner without knowledge of the Temple and admittedly the Temple is not a party to the sale deed executed by the Annamlai Chettiyar in favour of the petitioner. Therefore unless the petitioner establishes the title of its vendor Annamalai Chettiyar, the petitioner cannot claim right over the property. The petitioner has failed to establish the fact that its vendor Annamali Chettiyar has purchased Kudikani right from the Temple or Annamalai Chettiyar has independent title to convey the land with superstructure. Therefore the petitioner is not entitled to the relief sought for in the writ petition and the same is liable to be dismissed.

5 Heard the learned counsel on either side and perused the materials available on record.

6 It is the contention of the petitioner Gurukulam that it purchased



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the property from one Annamalai Chettiyar vide registered sale deed dated 06.07.1977 and from that day onwards the petitioner has been in possession of the same. The fourth respondent Temple cannot claim right over the property after the Inam Abolition Act came into force.

7 According to the fourth respondent/Temple, the petitioner's vendor has no right or title over the property and he has only Melvaram right, not Kudivaram right and he did not purchase Kudikani right from the Temple, who was granted Iruvaram. Therefore when the petitioner's vendor has no better title to convey the property, the petitioner is not entitled to the relief sought for in the writ petition.

8 A careful perusal of the records shows that the subject land is an Iruvaram lands, which is belonging to the fourth respondent Temple. The Assistant Settlement Officer, in the order dated 15.12.1977 had held that it was seen from the records that the site belong to Temple and the superstructure belongs to the Annamalai Chettiyar.



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9 In the impugned order, the second respondent has answered all the

issues raised by the writ petitioner. Further the writ petitioner has not produced any document to prove the title of its Vendor and its Vendor has Iruvarams. It is admitted fact that the land stood in the name of the Temple and the superstructure alone stood in the name of the vendor of the writ petitioner.

10 Therefore unless the writ petitioner proves the title of its vendor over the subject property, it cannot claim right over the property. The second respondent also in its order has elaborately discussed the issues raised by the writ petitioner and this Court does not find any reason to interfere with the same.

11 In view of the above, the writ petition shall stand dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index: Yes/No
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P.VELMURUGAN, J.,

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