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W.P(MD)No.11520 of :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.07.2024

Delivered on : 02.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.11520 of 2021

and

W.M.P(MD)Nos.9039, 9041 and 9042 of 2021

Synammal

: Petitioner

Vs.

1.The District Revenue Officer
cum Additional District Magistrate,
Trichy.

2.Arulmighu Boothanayagi Amman Temple,
Rep.by its Executive Officer,
Thuvarankurichi, Trichy.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of certiorarified Mandamus, to call for the records comprised in Na.ka.No.A5/4802/2018, dated 28.04.2021 on the file of the first respondent and quash the same as arbitrary, illegal and ultra vires and consequently, direct the first respondent to rectify the UDR record with respect to an extent of 3.53 acres in S.No.202/2 in Ponnampatti Village, Marungapuri Taluk by including the petitioner's name as pattadar.

For Petitioner : Mr.K.Prabhakar



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W.P(MD)No.11520 of :

For Respondents : Mr.V.Om Prakash,
Government Advocate, for R1.
: Mr.A.N.Ramanathan, for R2.

ORDER

This Writ Petition is directed against the order, dated 28.04.2021 and for directions to the first respondent to rectify the UDR record with respect to an extent of 3.53 acres in S.No.201/2 in Ponnampatti Village, Marungapuri Taluk including the petitioner's name as pattadhars.

2. The case of the petitioner is that the properties in old S.No.47 belonged to one Atheenamilagi Poosari, who was in management of the second respondent temple; that the said Atheenamilagi Poosari had sold the lands comprised in S.No.47 in two portions and the specific extent of 5.06 acres in favour of one Naina Mohammed Rowther vide sale deed No.1366/1929 on the file of the SRO, Manapparai and since then he had been in possession and enjoyment of the said lands; that the property had been subsequently renumbered as S.F.No.201/2, which are agricultural punja lands; that the Settlement Tahsildar -I, Trichy under the Minor Inams Abolition Act had passed an order, dated 09.09.1967 granting patta in favour of the second respondent for the entire lands comprised in S.No.201/2; that one Sheik



W.P(MD)No.11520 of :

Mohammed Rowther, S/o.Naina Mohammed Rowther had preferred an appeal before the Inams Tribunal/Subordinate Judge, Trichy in C.M.A.No.101 of 1968 and the appeal was allowed on 10.07.1970 and the order of the Settlement Tahsildar, dated 09.09.1967 relating to 5.06 cents in S.No.201/2, Ponnampatti Village was set aside and the ryotwari patta was directed to be issued in the name of Sheik Mohammed Rowther subject to payment of compensation under Section 8(2)(i)(b) of Minor Inams Abolition Act and that after communication of the order passed in C.M.A.No.101 of 1968 vide letter, dated 27.08.1970 by the Divisional Settlement Office, mutations had been carried out in the 'A' Register of Ponnampatti Village and the entries reflected the name of Sheik Mohammed Rowther as pattadar.

3. It is the further case of the petitioner that Sheik Mohammed Rowther along with his minor children had executed a sale deed for an extent of 3.53 acres in S.No.201/5 along with other properties in favour of the petitioner vide document No.709 of 1972 on the file of the SRO, Thuvrankurichi and since then the petitioner has been in possession and enjoyment of the same; that the remaining portion of the land in old S.F.No.47 had been sold by one Podugan Poosari to one Chinnadurai Rowther S/o.Mohammed Gani vide document No.1361/1929; that the said Chinnadurai Rowther had also appealed against



the order of the Settlement Tahsildar and in the appeal, the Inam Tribunal had issued him ryotwari patta for his portion of S.No.201/2; that the sons of Chinnadurai Rowther had divided the property amongst themselves vide partition deed No.1175/1972; that the entries for S.No.201 specifically show that only S.No.201/3 is in the name of the second respondent temple; that the petitioner had made a representation, dated 28.02.2018 to the first respondent, who in turn conducted enquiry; that the first respondent, without taking notice of the order passed by the Inam Tribunal and the subsequent mutation of records and placing reliance only on the subsequent 'A' register prepared during the UDR, has dismissed the petitioner's representation vide order, dated 28.04.2021 and that therefore, the petitioner with no other option has filed the present writ petition.

4. The second respondent has filed a counter affidavit disputing the petitioner's case and further stating that originally an extent of 7.14 acres in S.No.201/2 was Devadayam Land; that during settlement proceedings in 1967 one N.Sheik Mohammed claimed ryotwari patta before the Settlement Tahsildar to the extent of 5.06 acres and the same was rejected; that the petitioner has produced a copy of the order alleged to have been passed in C.M.A.No.101 of 1968 by the Inam Tribunal, Trichy, but no notice was sent to



the second respondent in the CMA proceedings; that the petitioner has also not produced the original CMA order before the first respondent and before this Court; that the property in dispute was in possession and enjoyment of the temple without any hindrance for more than 100 years; that the temple is disputing the genuineness of the order produced in C.M.A.No.101/1968; that there is no evidence that the writ petitioner's vendor has paid the compensation fixed by the Tribunal and they have also not produced any documents to show the proof for payment; that the petitioner's vendor himself does not have any right in the property and the temple was the absolute owner of the property; that since the property in dispute was Devadhayam Land and settlement patta cannot be issued to the individuals, 'A' Register and revenue records like Patta, Chitta and Adangal stands in the name of the temple; that the first respondent after considering the entire facts and circumstances has rightly rejected the petitioner's case; that the petitioner ought to have approached the appropriate civil Court for her remedy and the writ petition will not lie and that therefore, the above petition is liable to be dismissed.

5. Though the first respondent has not chosen to file any counter, they have taken a stand in support of the second respondent.



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6. The learned counsel for the second respondent and the learned Government Advocate appearing for the first respondent would submit that the petitioner has only produced the Xerox copy of the order passed in C.M.A. No.101 of 1968 by the Inam Tribunal and they are disputing the genuineness of the same.

7. In view of the submission of the respondents' side, the learned counsel for the petitioner has produced the certified copies of appeal memorandum filed by N.Sheik Mohammed Rowther before the Tribunal and the judgment and decree passed in C.M.A.No.101 of 1968 by the Minor Inams Abolition Tribunal, Trichy, dated 10.07.1970. It is seen from the said records that the second respondent has been shown as the respondent/objector in the settlement CMA and after considering the cases of both the parties and taking note of the evidence adduced, the Tribunal by observing that in the absence of any title or Inam Registrar extract, they were not in a position to know the nature of the grant and that it is not clear whether the grant was for the support of the temple or it was grant burdened with service or whether it was a service grant and also taking note of the fact that the temple did not let in any evidence, has come to a decision that the appellant i.e.,N.Sheik Mohammed Rowther is entitled to get ryotwari patta as contemplated under Section 8(2)(i)(b) of the said Act, subject



to the condition of his paying 20 times the difference between the fair rent in respect of the said land determined in accordance with the provisions contained in the schedule and the land revenue due on such land and allowed the appeal and thereby setting aside the order of the Settlement Tahsildar and for issuance of ryotwari patta in favour of the appellant in respect of 5.06 acres in S.No. 201/2 under Section 8(2)(i)(b) subject to the payment of compensation by the appellant.

8. Admittedly, the second respondent has not challenged the order passed in C.M.A.No.101 of 1968 by the Inam Appellate Tribunal, Trichy and as rightly contended by the learned counsel for the petitioner, the said order has attained finality. It is not in dispute that as rightly pointed out by the learned counsel for the petitioner subsequent to the judgment passed by the Inam Appellate Tribunal in C.M.A.No.101 of 1968 necessary mutations had been carried out in 'A' registrar of Ponnampatti Village and the name of Sheik Mohammed Rowther was entered as pattadar.

9. It is not the case of the second respondent that they have challenged the order including the name of Sheik Mohammed Rowther in the 'A' register as pattadar. It is the specific case of the petitioner that resurvey register of



Ponnampatti Village would also show that S.No.201/2 stands in the name of the said Sheik Mohammed Rowther whereas S.No.201/3 alone stand in the name of the second respondent's temple. It is evident from the records that during UDR survey some entry came to be made in the 'A' register showing that S.No.201/2 stands in the name of the second respondent's temple, but the basis on which, the said entry came to be included is not known.

10. It is pertinent to note, as rightly contended by the learned counsel for the petitioner that the petitioner's vendor has been claiming ownership over the said property vide sale deed No.1366/1929 since the settlement Tahsildar vide proceedings under the Minor Inams Abolition Act has granted patta in favour of the second respondent for the land comprised in S.No.201/2 and after coming to know about the same, the Sheik Mohammed Rowther, S/o.Naina Mohammed Rowther had preferred an appeal before the Inam Appellate Tribunal and as already pointed out, the Inam Abolition Tribunal has allowed the appeal and directed to issue ryotwari patta in respect of 5.06 acres of land in S.No.201/2.

11. In pursuance of the judgment of Inam Tribunal, patta came to be issued in favour of Sheik Mohammed Rowther. As rightly contended by the



learned counsel for the petitioner, since 1997 'A' survey register would go to show that the petitioner's vendor as pattadar for S.No.201/2 along with other owner, the question of non payment of compensation and consequence non compliance of order passed by the Inam Abolition Tribunal does not arise at all.

12. As rightly contended by the learned counsel for the petitioner, if the payment was not made, there was no chance or occasion to include the petitioner's vendor in 1977 resurvey register, but the first respondent, by mainly relying on the entries made consequent to the UDR survey, has come to a decision that the land in S.No.201/2 belongs to the second respondent temple and patta cannot be issued in favour of the petitioner.

13. Considering the facts and circumstances of the case and also taking note of the fact that the judgment and decree passed in C.M.A.No.101 of 1968 on the file of the Inam Abolition Tribunal had attained finality and taking note of the consequent entries in the resurvey register and issuance of patta in favour of the petitioner's vendor, the order of the first respondent granting patta in respect of the property in dispute in favour of the second respondent on the basis of the entries made made consequent to the UDR survey cannot be sustained and hence, the same is liable to be quashed.



W.P(MD)No.11520 of :

WEB COPY

14. In the result, the Writ Petition is allowed and the impugned order dated 28.04.2021, Na.ka.No.A5/4802/2018, is quashed and the first respondent is directed to issue patta in respect of 3.53 acres of land in S.No.201/2 in Ponnampatti Village, Marungapuri Taluk. The second respondent is at liberty to approach the competent Civil Court for deciding the title to the suit property, if so advised. Consequently, connected Miscellaneous Petitions are closed. No costs.

02.08.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

das

To

1.The District Revenue Officer
cum Additional District Magistrate,
Trichy.

2.Arulmighu Boothanayagi Amman Temple,
Rep.by its Executive Officer,
Thuvarankurichi, Trichy.



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W.P(MD)No.11520 of :

K.MURALI SHANKAR, J

DAS

Pre-delivery order made in
W.P(MD)No.11520 of 2021
and
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Dated 02.08.2024