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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13230 of 2024

Vanitha Natarajan ... Petitioner

Vs.

1.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
Karur District,
Karur.

2.The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
Karur District,
Karur.

3.The Executive Officer,
Arulmigu Subramaniyaswamy Temple,
Vennamalai,
Karur,
Karur District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 1st and 2nd respondents to provide electricity service connection in respect of the property located in S.F.No. 566/3B, Athur, Manmangalam Taluk, Karur District based on

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petitioner's Application Reference No. 200060150424322 dated 25.04.2024 forthwith.

For Petitioner : Mr.N.Shanmuga Selvam

For Respondents : Mr.S.Deenadhayalan
Standing Counsel for R1 & R2

: Mr.S.Madhavan for R3

ORDER

Heard both sides.

2. The petitioner applied for being provided with electricity service connection for the petition mentioned land. Application was duly registered by the second respondent. Based on the objection received from the third respondent temple, registration was cancelled. Questioning the same, this writ petition came to be filed.

3. The learned counsel appearing for the temple submitted that the subject land is actually a inam land and that pursuant to the direction given by the Hon'ble Division Bench, a civil suit has already been filed for declaration and recovery of the petition mentioned land also. The suit schedule includes the petition mentioned land also.

4. As rightly pointed out by the learned counsel for the petitioner, the issue on hand is no longer *res integra*. One K.Subramanian filed W.P.(MD)No.

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12966 of 2021. A learned Judge of this Court vide order dated 20.12.2023 allowed the writ petition in the following terms:-

"8. The issue that is involved in the present writ petition is substantially covered by the earlier order that was passed by the Division Bench of this Court in WP(MD)No. 64 of 2018 dated 23.10.2019. This writ petition was filed by a devotee of Arumighu Balasubramania Swamy Temple, Vennaimalai, with a prayer to remove the encroachments made in the lands belonging to the temple. While dealing with this issue, this Court identified that there are four categories of land and they are as follows:-

"I. The lands standing in the name of the temple but are vacant lands.

II. The lands standing in the name of the temple but with constructions.

III. The lands standing in the name of the temple during 1912 settlement, but settlement pattas were issued during enquiry under Act 30 of 1963 in the name of the individuals.

IV. The lands standing in the name of the temple during 1912 settlement, but revenue pattas were issued during Updating Registry Scheme [UDR] in the name of the individuals. V. The lands standing in the name of the temple during 1912 settlement, but revenue patts were issued after updating Registry Scheme [UDR] in the name of the individuals."

9. Insofar as the present case is concerned, the petitioner is claiming right under the settlement patta that was issued by the settlement Tahsildar under Act 30 of 1963. While dealing with the properties falling under this category, this Court gave the following directions:-

"Insofar as the third category is concerned, wherein settlement pattas were given in the name of the individuals, the temple has to work out its remedies by filing a suit within a period of three months from the date of receipt of the copy of the order and the same has to be disposed of by the concerned Court within a period of one year thereof.

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The fourth respondent as well as the Commissioner, Archives and Historical Research Department shall provide all relevant records of the lands in issue to the HR & CE Department within two months from the date of receipt of copy of this order enabling them to initiate a suit as directed."

10. The learned Senior Counsel appearing on behalf of the petitioner submitted that the fourth respondent has not instituted any suit till date, inspite of the order passed by the Division Bench of this Court in the year 2019. It was therefore contended that the petitioner cannot be made to await endlessly and that the petitioner has to avail additional loan facilities only by depositing the title deeds pertaining to the subject property.

11. Per contra, the learned counsel appearing for the fourth respondent submitted that the time limit given by this Court was not sufficient for the fourth respondent to collect all the details, since it involved vast extent of land. Therefore, it was contended that third party rights should not be created and if such rights are created, the fourth respondent will be put to further hardship in recovering the lands belonging to the temple.

12. In the considered view of this Court, the Division Bench of this Court has already taken note of the grievance that was expressed by the devotee of the temple and has dealt with the issue elaborately. While doing so, various categories were identified and insofar as the petitioner is concerned, it falls under the third category, where the title is traced from the patta issued by the settlement Tahsildar under Act 30 of 1963.

13. In order to take care of the grievance of the temple, some directions were also issued by this Court, which has been extracted supra. For various reasons, the fourth respondent is not able to institute the suit till date. Hence, persons who are claiming right over the property cannot be made to await endlessly and the stalemate cannot be continued forever. Hence, some via media has to be struck by this Court in order to balance the rights of the petitioner as well as the fourth respondent temple.

14. In view of the above, the impugned check slip issued by the third respondent

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in Check Slip No.19/2021 dated 26.04.2021 is hereby set aside. There shall be a direction to the third respondent to entertain the document presented by the petitioner for registration of deposit of title deeds. This shall be made subject to the result of any suit that may be instituted by the fourth respondent temple. If this safeguard is made, ultimately, as and when the temple succeeds in the suit, any registration of the documents will be subject to such result in the suit. This will take care of the interest of the temple.

15. In the result, this writ petition is allowed in the above terms. No costs."

5. I am inclined to adopt the very same approach in this case. The petitioner had purchased the property from Subburayan and his wife Perumayiammal vide sale deed dated 31.10.2001 (Document No.4442/2021) on the file of the Sub Registrar, Melakarur. The said vendors trace the title from one Kamatchiammal. Admittedly, patta stands in the name of the petitioner as on date. Therefore, TANGEDCO is bound to respect the same. If patta is cancelled or civil suit is decreed, then, the third respondent can definitely demand disconnection or call upon TANGEDCO not to give service connection. So long as patta as well as possession is in the name of the petitioner, the third respondent has to necessarily wait for the successful outcome of the civil proceedings initiated by them. The rights of the parties will abide by the outcome of the civil proceedings initiated by them. If the petitioner puts up any permanent construction, still the same will be the subject of the result of the civil suit.

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6. The Writ Petition is allowed. No costs.

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NCC : Yes/No
Index : Yes / No
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