



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.17245 to 17248 of 2024

and

W.M.P.(MD) Nos.14858, 14860, 14861, 14862, 14866, 14868, 14869, 14871 of 2024

S.Mohan

... Petitioner in W.P.(MD) No.17245 of 2024

K.Lakshmi

... Petitioner in W.P.(MD) No.17246 of 2024

S.Malliga

... Petitioner in W.P.(MD) No.17247 of 2024

V.Navaneetha Krishnan

... Petitioner in W.P.(MD) No.17248 of 2024

/vs./

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Chennai 600 034.

2.The Joint Commissioner (Tirupur Zone),
HR & CE Department,
2nd Floor, Cotton Market Complex,



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Palladam Road,
Tirupur District,
Tirupur.

3.The Assistant Commissioner,
O/o. the Assistant Commissioner,
HR & CE Department,
Karur District, Karur.

4.The Executive Officer,
Arulmigu Kalyana Pasupatheeswara Swamy Thirukoil,
Sannadhi Street,
Karur 639 001.

... Respondents in all W.Ps.,

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order made in Se.Mu.Na.Ka.Nos.10538/2022-70 and 71/A3, 10538/2022-76/A3, 10538/2022-77/A3 and 10538/2022-72/A3 dated 25.06.2024 passed by the 2nd respondent and quash the same as illegal and arbitrary.

For Petitioners
in all W.Ps.,

: Mr.Shanmuga Selvam for
Mr.P.Murugksan

For R1 to R3
in all W.Ps.,

: Mr.P.Subbaraj
Special Government Pleader

For R4
in all W.Ps.,

: Mr.P.Athimoola Pandian
Standing Counsel



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COMMON ORDER

By this common order, all these writ petitions are being disposed of.

2.The petitioners are the subsequent purchasers of land, which purportedly was a Inam property settled in favour of the fourth respondent temple, namely Arulmighu Kalyana Pasupatheeswara Swamy Thirukoil. There is a long history of litigation between the previous owners and the fourth respondent temple.

3.Earlier, the temple had filed civil suits before the trial Courts, which came to be decreed. The decisions of the trial Courts ultimately came up to the High Court in A.Nos.19 to 21 and 39 of 2005, Tr.A.S.Nos.50 to 55 of 2007 and S.A.No. 746 of 2002 and Tr.A.S.(MD) No.1 of 2014.

4.The learned counsel for the petitioners submits that neither the petitioners nor the predecessors of the petitioners were party to the proceedings and therefore, the decisions passed by the trial Courts against some of the persons, who were in occupation of the land in T.S.No.2918 of Karur Government Inam Village, measuring an extent of 10.48 would not bind on them. It is therefore



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submitted that the decision of the Division Bench of this Court dated 01.11.2017 cannot act as an order *in rem* against the respective petitioners.

5.The learned counsel for the petitioners has attempted to demonstrate that the petitioners' predecessors were issued with pattas based on the settlement patta issued to their predecessors under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948.

6.It is further submitted that the impugned orders although have preceded various notices, which were replied back, have not been properly considered by the second respondent/the Joint Commissioner. It is submitted that after the aforesaid Act came into force, all the temple lands, which were gifted earlier, stood vested with the Government and that no patta was issued to the temple. On the other hand, the pattas were given to the persons, who were in occupation of the land.

7.The learned counsel for the fourth respondent would submit that the land in question was purchased by the temple for a sum of Rs.1,000/- on 21.06.1892



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vide Doc.No.290. He would submit that the rights have been recognized not only by the trial Courts but has also been affirmed by the Division Bench of this Court in the above mentioned Writ Appeals and Second Appeals, vide common order dated 01.11.2017.

8.It is submitted that the petitioners' cases are not an exception, as the entire parcels of land measuring an extent of 10.48 acres indeed belongs to the temple. On a specific query as to whether the temple was issued with any settlement patta under 1948 Act, the learned counsel for the fourth respondent temple is unable to confirm the same.

9.The petitioners have *prima facie* demonstrated that pattas were issued to the petitioners' predecessors. It would be the contention that these pattas are nothing but pattas issued under 1948 Act and therefore, the impugned proceeding passed by the second respondent/the Joint Commissioner is arbitrary and is liable to be quashed.



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10. The learned counsel would submit that under 1948 Act, there will be only an Entry made in 'A' register of the settlement patta issued to the ryots, who were in possession and who had applied for such ryotwari patta under 1948 Act. It is submitted that the respondent temple does not have any patta and therefore, the writ petition deserves to be allowed.

11. Having considered the submissions made by the learned counsel for the petitioner, learned Special Government Pleader for the respondents 1 to 3 and the learned Standing Counsel for the fourth respondent, I am of the view that the impugned order does not warrant interference, as the respective petitioners have an alternate remedy under Section 21 of the HR & CE Act, 1959 before the first respondent as the Revisional Authority.

12. This Court also cannot be relegated to examine the pattas issued to the petitioners and their predecessors. It would be therefore appropriate, if these are produced before the Revisional Authority under the Act. In fact, it was incumbent on the part of the petitioners as also the fourth respondent to have established their rights based on the pattas granted under the aforesaid Act before the second



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respondent that the property has been purchased by the fourth respondent temple in 1892. The issue needs a thorough comparison.

13.Meanwhile, it is open for the petitioners to move the Division Bench for Review of the order dated 01.11.2017 in Rev.Aplc.Nos.101 to 106 of 2018. It is made clear that pending the above exercise before the Commissioner, no attempt shall be made to dislocate the petitioners, who are in possession of the property.

14.Considering the same, I direct the respective petitioners to file a Revision under Section 21 of the HR & CE Act, 1959 before the first respondent herein. It is open for the first respondent either to remit the case back for a fresh consideration to the second respondent, who shall after examining the records, pass such orders or await for the orders in the Review Application filed by the petitioners, who have approached the Division Bench to review the decision in A.Nos.19 to 21 and 39 of 2005, Tr.A.S.Nos.50 to 55 of 2007 and S.A.No.746 of 2002 and Tr.A.S.(MD) No.1 of 2014 of this Court dated 01.11.2017.



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15. The first respondent shall take a call depending upon the documents that are produced by the parties. It is expected that the petitioners will file a Revision Petition within a period of 30 days from the date of receipt of a copy of this order. The Revision Petition shall be taken up and disposed of by the Commissioner within a period of 6 months thereafter.

16. These Writ Petitions stand disposed of, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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26.07.2024

To

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Chennai 600 034.

2. The Joint Commissioner (Tirupur Zone),
HR & CE Department,
2nd Floor, Cotton Market Complex,
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3.The Assistant Commissioner,
O/o. the Assistant Commissioner,
HR & CE Department,
Karur District, Karur.



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C.SARAVANAN, J.

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