



W.P.(MD) No.17437 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.17437 of 2023

SV.Devendran

... Petitioner

Vs.

- 1 The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.
- 2 The Executive Officer,
Arulmigu Kallzhagar Temple,
Alagarkoil, Madurai.
3. The District Registrar,
Madurai.
4. The Sub Registrar,
Thamaraipatti Sub Registrar Office,
Madurai.
5. The District Revenue Officer,
Madurai.

... Respondents

(R5 is impleaded as *sue moto* vide order dated 21.06.2024
in W.P.(MD)No.17437 of 2023)



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to remove the objections made by the 2nd respondent in respect of the properties bearing S.No. 62/5A1, 62/5A2, 62/5A3 measuring about 2.23 acres and situated at Poyyakaraipatti Village, Madurai.

For petitioner : Mr.Selva Aditya for
Mr.G.Prabhu Rajadurai
For respondents : Mr.P.Subbaraj
Special Government Pleader for R1, R3 & R4
Mr.S.Manohar
Standing Counsel for R2

ORDER

Heard learned counsel for the petitioner, learned Special Government Pleader for the respondents 1, 3 and 4 and learned Standing Counsel for the second respondent.

2. This Writ Petition has been filed for the relief of directing the first respondent to remove the objections made by the second respondent in respect of the properties bearing S.No.62/5A1, 62/5A2, 62/5A3 measuring about 2.23 acres and situated at Poyyakaraipatti Village, Madurai.



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3. The petitioner has title to the subject properties, totally measuring an extent of 2.23 acres in Survey Nos.62/5A1, 62/5A2 and 65/5A3.

4. It is the specific case of the petitioner that several parcel of lands were owned by one Paramasamy Ambalam, who had created a Trust and gifted 79 items of properties to the second respondent/temple, *vide* gift deed dated 09.07.1940.

5. It is submitted that the property in question *i.e.*, survey no.62/5 was not the subject property of the aforesaid gift deed dated 09.07.1940.

6. It is submitted that after the death of the said Paramasamy Ambalam, his daughter Alamelu Mangai sold the land to an extent of 2.23 acres to one Premalatha on 25.06.1992, who, in turn, sold the aforesaid extent of 2.23 acres on the northern side of the composite survey no.62/5 to one Nagamani, on 11.09.1997, who, in turn, sold the said property measuring extents of 75, 74 and 74 cents to Ramesh, Gurunathan and Thirunavukarasu, respectively, by three separate sale deeds dated 06.07.2005.



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7. It is further submitted that the petitioner's mother Gandhimathi had purchased the entire extent of 2.23 acres land that was sold by Alamelu Mangai to Premalatha on 25.06.1992, from the buyers of Nagamani viz., Ramesh, Gurunathan and the legal heirs of Thirunavukarasu by three separate sale deeds dated 23.11.2006.

8. It is submitted that thereafter, the petitioner's mother has settled the entire extend of 2.23 acres in favour of the petitioner by a registered settlement deed dated 15.05.2009 and further, the petitioner has clubbed the entire extent of 2.23 acres of lands.

9. The learned counsel for the petitioner further submits that from the UDR certificate, the land in survey no.62/5 is measuring an extent of 4.46 acres, which includes 2.23 acres of land, which was sold by Paramasamy Ambalam's daughter Alamelu Mangai to Premalatha and the balance portion was included in the name of the second respondent/temple.

10. It is submitted that against the aforesaid wrong entry made out of UDR



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certificate, the said Alamelu Mangai and Premalatha had earlier approached the Revenue Divisional Officer, Madurai. The Revenue Divisional Officer, Madurai, by an order dated 12.06.1996 had rectified the mistake. Despite the same, the second respondent/Temple has been sending objections to the District Collector, Madurai and the Sub-Registrar, Thamaraipatti Sub Registrar, Madurai/respondents 3 and 4, objecting the transfer of patta.

11. The learned counsel for the petitioner would submit that though the petitioner has sold most of the extent of lands over the period of the petitioner, the persons, who intended to purchase the property, are facing problems by the respondents 3 and 4. Hence, this Writ Petition.

12. This Writ Petition is opposed by the learned Standing Counsel for the second respondent, on the ground that the order of the Revenue Divisional Officer, Madurai, dated 12.06.1996 was passed behind the back of the second respondent/Temple and therefore, an Appeal was filed before the Additional Chief Secretary/Commissioner of Land Administration, Chepauk by the second respondent/Temple in Revision Petition dated 22.02.2002. Further, an order came



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to be passed on 17.04.2014 by the Additional Chief Secretary/Commissioner of Land Administration in his proceedings bearing reference in D.Dis K4/RP 43/2002 (7854/02), wherein, liberty was given to the second respondent/Temple to file an Appeal before the District Revenue Officer, Madurai and pursuant to the aforesaid order, the second respondent/Temple has also filed an Appeal before the District Revenue Officer, Madurai on 02.12.2015.

13. It is submitted that in the aforesaid Appeal, it was stated that the entire extent of 4.46 acres of land, which came in the hands of the daughter of Paramasamy Ambalam viz., Alamalu Mangai, part of which, on the northern portion has been sold by the said Alamelu Mangai, which has been subsequently settled in favour of the petitioner, which is subject matter of this Writ Petition, belongs to the second respondent/Temple and therefore, there is no merits in the present Writ Petition.

14. It is submitted that the purchases on 06.07.2005 from the said Nagamani by Ramesh, Gurunathan and Thirunavukarasu were long after the Revision Petition was filed by the second respondent/Temple on 22.02.2002



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before the Additional Chief Secretary/Commissioner of Land Administration.

15. It is submitted that the matter is subjudiced before the District Revenue Officer, Madurai and therefore, there is no case made out for a Writ of Mandamus.

16. It is submitted that in any event, it is open for the petitioner to participate in the aforesaid proceedings and defend the rights based on the sale deed dated 25.06.1992 and the subsequent sale deeds dated 11.09.1997, 06.07.2005 and 23.11.2006 and the settlement deed dated 15.05.2009.

17. Having considered the submissions made by the learned counsel for the petitioner and the learned Standing Counsel for the second respondent, this Court is of the view that although the petitioner may have a case, it is best left to be decided as the issue is now subjudiced before the District Revenue Officer, Madurai.

18. Since the District Revenue Officer, Madurai, is not a party to this



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proceedings, the District Revenue Officer, Madurai is *sue moto* impleaded as fifth respondent.

19. The District Revenue Officer, Madurai/fifth respondent, before whom the proceedings are now pending since 02.12.2015 of the second respondent/Temple pursuant to the order dated 17.04.2014 bearing reference in D.Dis K4/RP 43/2002 (7854/02) passed by the Additional Chief Secretary/Commissioner of Land Administration, shall hear the petitioner before the final orders are passed.

20. It is expected that the fifth respondent will dispose of the aforesaid Appeal of the second respondent/Temple, after hearing the petitioner within a period of three months from the date of receipt of a copy of this order.

This Writ Petition is disposed of, with above directions. No costs.

Index : Yes / No
Internet : Yes / No
apd

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C.SARAVANAN, J.

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