



W.P(MD)No.7717 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.7717 of 2017

Ammaiyakkal

... Petitioner

Vs.

1.The State represented by,
District Registrar,
Karur.

2.The State represented by,
Sub Registrar,
Velliyanai,
Karur District.

3.K.R.Kalliappan

4.R.Karuppusamy

5.Pitchaiammal

6.Saraswathi

7.Vempayee

8.Karupanna Gounder

9.Subramanian

10.Ramasamy

11.Karuppanan



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12.Kaliappan

13.Karuppana Gounder

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in P31/2015 dated 05.06.2015 and quash the same as illegal, arbitrary and against the provisions of the Act and consequently direct the second respondent to register the document in P31/2015 dated 05.06.2015 on the file of the second respondent within the time frame as may be fixed by this Court.

For Petitioner : Mr.V.Balaji

For R-1 and R-2 : Mr.M.Sarangan
Additional Government Pleader

For R-4 to R-7 : No Appearance
and R-9 to R-13

ORDER

Heard Mr.V.Balaji, learned counsel for the petitioner and Mr.M.Sarangan, learned Additional Government Pleader for the respondents 1 and 2.

2. The challenge in the present Writ Petition pertains to the refusal slip issued by the second respondent, wherein the petitioner was directed to produce a No Objection Certificate from the Hindu Religious and Charitable Endowments (HR&CE) Department.



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3. The learned counsel for the petitioner submitted that, with respect to the lands in question, the Settlement Tahsildar, after affording a hearing to the various parties, including the temple concerned, granted patta under Section 8(2)(ii) of Act 30 of 1963, vide proceedings dated 08.05.1967. Since a ryotwari patta had been issued to the predecessor-in-interest of the petitioner, thereby rejecting the temple's claim, and the same had attained finality between the parties, there is no requirement for obtaining a No Objection Certificate (NOC) from the temple concerned. Further, the learned counsel submitted that there is no statutory provision or authority empowering the respondent to insist the petitioner to obtain a No Objection Certificate under the Hindu Religious and Charitable Endowments (HR&CE) Act.

4. Countering his arguments, the learned Special Government Pleader appearing for the respondents 1 and 2 would submit that the revenue records indicate that the land belongs to the temple and therefore the refusal slip was likely issued by the department. Only when the petitioner gets a No Objection Certificate from the HR and CE Department, such document could be registered and therefore he would submit that the impugned order does not suffer from any infirmity and therefore, the Writ Petition is liable to be dismissed.



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5. I have considered the submissions made on either side and perused the materials available on record.

6. Admittedly, the petitioner's forefathers did not become owners of the property by inheritance or purchase. Instead, they were granted ryotwari patta under the Settlement proceedings initiated pursuant to Act 30 of 1963. The Settlement Tahsildar after considering the claim of the predecessor-in-interest of the petitioner vis-a-vis the claim of the temple in question, granted patta in favour of the predecessor in interest of the petitioner. Therefore, from the date of the order passed by the Settlement Tahsildar, the temple loses its right of title to the property as envisaged under the statute. In such event, there is no question of obtaining a No Objection Certificate in respect of survey numbers covered under the settlement proceedings of the year 1967.

7. For the aforementioned reasons and findings, the impugned order dated 05.06.2015 in the Writ Petition is hereby set aside. Consequently, the respondents are directed to entertain the document sought to be registered by the petitioner, subject to any objections limited to the identification of the executant or claimant only.



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8. In view of the above, this Writ Petition is allowed. There shall be no order as to costs.

03.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Nsr

To:

- 1.The District Registrar,
Karur.
- 2.The Sub Registrar,
Velliyanai,
Karur District.



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K.KUMARESH BABU, J.

Nsr

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