BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:28.10.2024

CORAM :

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN
AND
THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN

W.A.(MD).Nos.1405 and 1406 of 2017
& C.R.P(MD).No.379 of 2017 and
W.P(MD).No.5773 of 2017
and
C.M.P(MD).Nos.10232, 10233 of 2017
& W.M.P.(MD).No.4597 of 2017

W.A(MD).No.1405 of 2017:

1. The District Collector,
 Madurai District,
 Madurai.

2. The Revenue Divisional Officer,
 Madurai.

3. The Tahsildar,
 Madurai South Taluk,
 (New West Taluk),
 Madurai.

4. Sri Meenakshi Sundareswar Devasthanam,
 Madurai,
 through its Executive Officer,
 South Adi Veethi,
 Madurai. ... Appellants/Respondents

Vs.

1. Muthulakshmi ... Respondent/Writ Petitioner

2. Sivagangai Samasthanam Devasthanam,
   Sivagangai through its Manager,
   Sivagangai. ... Respondent

   (2nd Respondent is impleaded vide common order dated 11.03.2024 made in CMP(MD).Nos.102 and 112 of 2022 in W.A(MD).Nos.1405 and 1406 of 2017)

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 21.09.2017 in W.P(MD).No.6941 of 2017.

W.A(MD).No.1406 of 2017:

1. The District Collector,
   Madurai District,
   Madurai.

2. The Revenue Divisional Officer,
   Madurai.

3. The Tahsildar,
   Madurai South Taluk,
   (New West Taluk),
   Madurai.

4. Sri Meenakshi Sundareswar Devasthanam,
   Madurai,
   through its Executive Officer,
   South Adi Veethi,
   Madurai. ... Appellants/Respondents

Vs.

1. Alagumalai ... Respondent/Writ Petitioner

2. Sivagangai Samasthanam Devasthanam,
Sivagangai through its Manager,
Sivagangai. ... Respondent

(2nd Respondent is impleaded vide common order dated 11.03.2024 made in CMP(MD).Nos.102 and 112 of 2022 in W.A(MD).Nos.1405 and 1406 of 2017)

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 21.09.2017 in W.P(MD).No.6942 of 2017.

W.A.(MD).Nos.1405 and 1406 of 2017:

For Petitioners : Mr.A.K.Manikkam,
Special Government Pleader
(in both cases)

For Respondents : Mr.T.K.Gopalan for R1
(in both cases)

: Mr.S.Manohar for R2
(in both cases)

C.R.P(MD).No.379 of 2017:

Sri Meenakshi Sundareswarar Etc.,
Devathanam, Madurai
Through its Executive Officer,
Having Office at South Adi Veedhi,
Sri Meenakshi Sundareswarar Temple,
Madurai. ... Revision Petitioner/Appellant/Claimant

Vs.

1. Muthuswami Thevar

2. Gurunatha Thevar ... Respondents/Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying this Court to set aside the fair and decreetal order dated 07.09.1972 in C.M.A.No.761 of 1969 on the file of the learned Principal Sub Judge, Madurai (Minor Inams Abolition Tribunal) confirming the order dated 28.06.1969 passed in SR.No. 237/M.I.Act/MDU/66 on the file of learned Settlement Tahsildar (Minor Inams) Unit No.I, Madurai.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : R1 & R2 - Died

: Mr.T.K.Gopalan for R3 & R4

W.P(MD).No.5773 of 2017:

The Executive Officer/Joint Commissioner,
Sri Meenakshi Sundareswarar Temple Devasthanam,
Madurai. ... Petitioner

Vs.

1. The Revenue Divisional Officer,
Madurai.

2. The Tahsildar,
Madurai South, Madurai.

3. Bagavathi Ammal

4. Muthulakshmi ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the 1st respondent in Na.Ka.No.315/2015/En, dated 29.09.2016, is illegal and quash the same and further direct the respondents 1 & 2 to mutate the revenue entires in respect of lands in S.No.72/2, measuring 62 cents and S.No.72/5, measuring 1 acre and 64 cents situated at Kochadai Village, Madurai West Taluk, Madurai in the name of petitioner temple within the time limit fixed by this Court.

For Petitioner : Mr.AL.Kannan

For Respondents : Mr.A.K.Manikkam,
Special Government Pleader
for R1 & R2

: No appearance for R3 & R4

C O M M O N O R D E R

[Order of the Court was made by **Mr.K.K.RAMAKRISHNAN.J**]

The above intra Court writ appeals have been filed under clause 15 of Letter Patent by the government authority and Meenakshi Sundareshwar Devasthanam.

2. The lands in the survey No.72/2 measuring 62 cents and survey No.72/5 measuring an extent of 1 acre 64 cents situated at Kochadai Village, Madurai West Taluk belonged to Sri Meenakshi Sundareshwar

Temple Devasthanam, Madurai. The same was entrusted with Sivagangai Samasthanam Devasthanam to generate the income from the said temple land and provide the said income to the temple. The temple is the title holder of the iruvaram.

3. One Muthusami Thevar and Gurunatha Thevar have filed the application before the settlement Tahsildar (Minor Inams) Unit No.I, Madurai to claim the settlement patta inrespect of the above said lands stating that they have purchased in the year 1923 the said property from Irulayee and Rajappa Moopanar. They had been paying kist to the Sivagangai Samasthanam. The Sivagangai Samasthanam granted the said land to their vendor to perform the endowment attached to the idol of Meenakshi Devasthanam. Initially the same was considered by the said settlement Tashildar and thereafter, the same was set aside by the appellant authority on the appeal filed by the temple and remitted back to the settlement Tahsildar. The settlement Tahsildar after the enquiry ordered to grant patta in the name of the Gurunatha Thevar and Muthusamy Thevar for the specific endowment of performing "*Annaabhisekam Kattalai"* i.e., மதுரை மீனாட்சி சுந்தேரஸ்வரா் கோவில் அன்னாஅபிஷேக கட்டளை நடத்தி வர வேண்டும் under section 8 (1) of

the Tamil Nadu Minor and Inam Abolition Act 30 of 1963. In the said patta itself the character of the land is stated as "Meenakshi Sundareswar Temple Annaabhisekam Kattalai Manniam land".

4. The said order was challenged by the temple authority before the tribunal constituted under the said act 30 of 1963 which had been presided by the learned principal subordiante judge, Madurai. The Sivagangai Devasthanam also filed the appeal challenging the same. The said appeal in C.M.A.Nos.761 of 1969 and 766 of 1969 were dismissed and there is no further appeal. In the said appeal the Learned Appellate authority also confirmed that the said Gurunatha Thevar and Muthusamy Thevar are entitled to the patta under section 8 (1) of the Act to perform the Annaabhisekam Kattalai. Thereafter there was no further appeal. Only now, the temple authority has filed the civil revision petition in C.R.P.(MD).No.379 of 2017 under the Article 227 of Constitution of India to set aside the said orders.

5. Before filing the said CRP, the said Gurunatha Thevar and Muthusamy Thevar have filed W.P.(MD).No.6941 of 2017 before this

Court to issue writ of mandamus directing the 3rd appellant to issue revenue patta to them in respect of the said survey number on the basis of the above said order passed by the settlement Tashildar dated 28.06.1969 and confirmed in C.M.A.No.761 of 1969 by the Minor Inam Land Abolition Tribunal dated 07.09.1972. Pending the said proceedings, there was a partition in the family of Muthusamy Thevar in the year 1971 and the writ petitioner in W.P.(MD).No.6941 of 2017 father namely Periyannan Thevar allotted to her share in the survey No.72/2 measuring 62 cents and the said Periyannan Thevar died on 22.08.1986 leaving behind his wife Bagavathyammal and his only daughter Muthulakshmi namely the writ petitioner in W.P.(MD).No.6941 of 2017. The said Muthulakshmi and her mother Bagavathyammal filed the petition before the Tahsildar, Madurai South to issue patta in their name to the 62 cents of the land comprised in survey No.72/2. The Tahsildar in his proceedings in Ni.Mu.RTR.No.7510/2010 dated 13.10.2012 directed to issue patta in their name and the same was confirmed by the Revenue Divisional Officer, Madurai in his proceedings in Na.Ka.No.315/2015/N dated 29.09.2016 and the temple appeal was dismissed and there was further revision before the District Revenue Officers. Even after that there was no issuance of patta. In the meantime, the said

Bagavathyammal died on 13.12.2015 leaving behind the Muthulakshmi as a sole legal heir. She filed the writ petition before this Court to issue a writ of mandamus to issue patta in respect of the 62 cents comprised in the survey No.72/2 of the Kochadai Village, Madurai as per the order passed by the Tahsildar in his proceedings Ni.Mu.RTR.No.7510/2010 dated 13.10.2012 confirmed by the revenue divisional officer in his proceedings in Na.Ka.No.315/2015/N dated 29.09.2016. Similarly, the legal heir of the Gurunatha Thevar namely Alagumalai writ petitioner in W.P.(MD).No.6942 of 2017 also filed similar petition to issue patta in respect of the extent of the 82 cents of the land comprised in the survey No. 72/5 and there was no order passed till 2013 and hence he filed a writ petition in W.P.(MD).No.19593 of 2013 before this Court and this Court directed the Tahsildar to consider the petitioner's representation dated 25.09.2013. Subsequently also there was no progress and hence she filed another writ petition in W.P.(MD).No.6942 of 2017. This Hon’ble Court passed the following impugned order in both writ petition in W.P.(MD).Nos.6942 of 2017 and 6941 of 2017.

Prayer in the W.P.(MD).No. 6942 of 2017	To issue a writ of mandamus, directing the third respondent to issue patta to the petitioner in respect of survey No. 72/5 measuring 82 cents out of 1 acre 61 cents sitauted at Kochadai Madurai based on the order passed by the settlement tahsildar (minor inam) unit No. 1, Madurai in the proceedings in S.R.No.237/H1 Act/MDU/66, dated 28.06.1969 and confirmed in C.M.A.No. 761 of 1969 Principal Sub Court (Minor Inam Abolition Tribunal), Madurai dated 07.09.1972.
Order in the W.P.(MD).No. 6942 of 2017	In view of the same this writ petitions is disposed of and the third respondent is directed to pass appropriate orders in respect of the petitioner's claim for patta within a period of six weeks from the date of receipt of a copy of this order. No costs.
Prayer in the W.P.(MD).No. 6941 of 2017	To issue a writ of mandamus, directing the third respondent to issue patta to the petitioner in respect of the land bearing survey No. 72/2 measuring 62 cents sitauted at Kochadai Madurai as per the order passed by the third respondent in his proceedings Nee.Mu.RTR.No.7510/2010, dated 13.07.2012 and the same was confirmed by the second respondent in his proceedings in Na.Ka.No.315/2015/N, dated 29.09.2016.
Order in the W.P.(MD).No. 6941 of 2017	In view of the same this writ petitions is disposed of and the third respondent is directed to pass appropriate orders in respect of the petitioner's claim for patta within a period of six weeks from the date of receipt of a copy of this order. No costs.

"In view of the same, this writ petition is disposed of and the third respondent is directed to pass appropriate orders in respect of the petitioner's claim for pattta within a period of six weeks from the date of

receipt of a copy of this order. No Costs".

6. Challenging the same, these Writ Appeals in W.A.(MD).Nos. 1405 and 1406 of 2017 have been filed by the Government and the temple authorities.

7. In meantime the temple authority have filed the civil revision petition in C.R.P.(MD).No.379 of 2017 under the Article 227 of Constitution of India to set aside the order passed in C.M.A.No.761 of 1969 confirming the order dated 28.06.1969 passed in SR.No. 237/M.I.Act/MDU/66 on the file of the Learned Settlement Tashildar (Minor Inams) Unit No.I, Madurai and this Court passed the following interim injunction restraining the Muthusamy Thevar and Gurunatha Thevar from alienating the said property :

> *" The civil revision petition is filed against the order of Tribunal on the ground that the said order is vitiated as the said order obtained by playing fraud and the property enclosed to the Temple for Annabishegam Kattalai. Therefore, the respondents are not entitled to claim any right. In view of the said. Contention, there will*

an order of interim injunction. Notice".

8. Subsequently the temple authority also filed W.P.(MD).No.5773 of 2017 challenging the order of the Tashildar and the revenue divisional officer passed in Na.Ka.No.315/2015/En, dated 29.09.2016.

9. Since, above all cases are relating to the common issues, the Hon'ble My Lord Chief Justice has directed to club all the cases and post before this Court for the common hearing.

10. The learned counsel for the temple authority and the government and Sivagangai Samasthanam made the following submission with one voice:

10.1. The Muthusamy Thevar and Gurunatha Thevar claimed that they have purchased the property from Irulayee and Rajappa Moopanar. They made the application before the settlement Tashildar (minor inam) Unit No. I, Madurai to grant settlement patta. The said authority accepted their plea and upheld their entitlement to get the settlement patta under section 8 (1) of the Tamil Nadu (Minor & Inam) Abolition Act 30 of

1963 under section 8 (1) of the said Act, they are not entitled to get patta. The vendor of the said persons are not the Inamdhar. Only if the purchase is made from the Inamdhar, they are entitled to make application under section 8 (1) of the Act. Even as per the finding of the said authority and the Learned Tribunal confirming the said original order of the authority, the properties are under the occupation of the said Muthusamy Thevar and Gurunatha Thevar. They paid the revenue charge to the Sivagangai Devasthanam and the Sivagangai Devasthanam obtained the property from the Meenakshi Sundareswarar Temple. Therefore, order to grant patta under section 8 (1) of the Tamil Nadu (Minor & Inam) Abolition Act 30 of 1963 is null and void and also illegal. Therefore, they sought to set aside the same by allowing the above civil revision and all the consequential direction issued in the various revenue proceedings which are the subject matter of the writ appeal and the writ petition are non-est in law. Even in the order of settlement Tahsildar, dated 28.06.1969, it is directed to perform the Annaabhisekam Kattalai, and direction to issue patta was issued. Therefore, they have no right to enter into partition between the family members and hence they seek to allow the writ appeal, civil revision petition in C.R.P.(MD).No.379 of 2017 and the writ petition in W.P.(MD).No.5773 of 2017.

11.The learned counsel for the private respondents made the following submissions:

11.1. Originally the land was granted in favour of Bhodagurusamy Periyaudaya Thevar and the same was mentioned as "*Sri Madurai Meeakashi Sundareswarar Annabhishega Kattalai Bhodagurusamy Periyaudaya Thevar"* in the IFR. They further claimed that the land was alienable one. Their ancestor namely Kattamuthu Thevar, Chockalinga Thevar purchased the properties in the year 1905 and 1923. They had been continuously paying kist (Theervai receipts) in favour of the Sivagangai Zamindari recognizing their Kudivaram right. Therefore, they made claim before the Inam Settlement Tahsildar to grant patta under the Tamil Nadu Minor and Inam Abolition Act. "*The said inam Tahsildar accepted their case that they ancestral had been in possession of the land with occupancy right and by paying melwaram to Sivagangai Devasthanam"*. Challenging the same both temple authority and the Sivagangai Devasthanam preferred appeal and the same was dismissed in C.M.A.Nos.761 of 1969 and 766 of 1969 with confirmation of the finding that Kudivaram interest is always with the occupier and the same was substantiated by the private respondents' ancestor and hence direction was issued to give patta under section 8 (1) of the Act as they were lawfully entitled to Kudivaram and the same was not challenged by way of the statutory appeal. On the basis of the said order, Tahsildar south, Madurai has granted patta in favour of the legal heirs of the claimants before the settlement tahsildar. Against which the temple authority filed appeal before the RDO and the same was also confirmed. At this stage, C.R.P.(MD).No.379 of 2017 has been filed before this Court to set aside the order passed in C.M.A.Nos.716 and 766 of 1969 without filing the statutory appeal. Therefore, the CRP is liable to be set aside on the ground of both latches and limitation. They further contended that the CRP under Article 227 of the Constitution of India is not maintainable when the alternative remedy is available and the same was not availed within the prescribed period of limitation and in order to circumvent the limitation, the temple authority has filed the present CRP which amounts to abuse of process of law.

11.2. The learned counsel for the private respondent further submits that once the order was passed by the inam abolition tribunal in C.M.A.Nos.761 and 766 of 1969, the same conferred right of enjoyment of the property as absolute title holder and hence they specifically made the submission that as per the judgment of the ***1986 (1) SCC 794, 1998***

(2) MLJ 722 & 1988 (2) LW 513, the temple authority ought to have filed the suit as per the provision of the HR & CE Act. They have no right to file the CRP under Article 227 of the Constitution of India after the 35 years from the date of the decision of C.M.A.Nos.761 and 766 of 1969.

11.3. The Learned counsel further submitted that the temple authority's submission that there was no limitation as per the section 109 of the Tamil Nadu Hindu Religious and Charitable Endowments Act to recover the temple immovable properties belonging to the religious institution and hence they have right to challenge the same under article 227 of the Constitution of India by way filing the CRP ought to be rejected on the ground that the both said HR & CE Act and the Tamil Nadu Minor and Inam Abolition Act occupy different field and in the inam abolition Act there is a specific provision to file statutory appeal before this Court withing the period of maximum 60 days. Therefore, to challenge the order of the C.M.A.Nos.761 and 766 of 1969, the provision of the HR & CE Act ought not have been invoked. Hence, they seek to reject the said contention.

11.4. The Learned counsel further submitted that without any challenge of the order passed in C.M.A.Nos.761 and 766 of 1969, the revenue department has correctly granted patta in favour of the writ petitioner namely "*Muthulakshmi"* and direction was issued to grant patta in favour of another legal heir Alagumalai. Hence, all the writ appeals and writ petitions filed by the both government and temple authority ought to be dismissed.

12. By way of reply, the Learned counsel appearing for the temple authority and Devasthanam and government would submit that it is true that under the minor inam of abolition Act there is a period of limitation to file the statutory appeal but for some other reason the same had not been filed and there is no legal impediment to file the CRP under Article 227 of Constitution of India. To file the CRP under Article 227 of the Constitution of India, there was no limitation and the persons have the alternative remedy is not a ground to file the CRP under Article 227 of the constitution of India. Article 227 of the Constitution of India is a special provision to redress the illegalities and perpetual fraud. Therefore, they seek to set aside the order by exercising the parens patriae jurisdiction. The tribunal without considering the material

documents namely IFR and other title deed and also the presumption under section 44 of the Inam Abolition Act and the purchase that was made not from the inamdhar and entire claim was made on the basis of the sale deed dated 16.03.1923, 28.09.1981 and 27.03.1905 and even as per the finding of the inam Special Tahsildar original authority. Melvaram alone granted and there is no Iruvaram and therefore the presumption under section 44 of the Inam abolition Act comes. In the said circumstances the land's character was Devadayam and granted only for the Annaabiseka Kattalai and therefore the said lands are not alienable one and they are not entitled to get revenue patta. In the said circumstances to question the order under Article 227 of Constitution of India is maintainable. They would also submit that when the Special Act namely Tamil Nadu HR & CE Act and the Inam of Abolition Act is involved to decide the issue the object of both the Acts are to be looked into. Upon considering the object, the provision of the HR & CE Act has to be considered. Hence, their limitation under section 109 is applicable. Hence they seek to set aside the order in C.M.A.Nos.761 and 766 of 1969 and consequently seek to set aside all the impugned orders in W.P.(MD).Nos 6941, 6942 of 2017 and the Writ Appeals in W.A.(MD).Nos. 1405 and 1406 of 2017.

12.1.Thiru.Shanmuganathan the learned counsel for the appellant to substantiate his argument placed the following precedents:

1	Order passed in C.M.P.(MD).No.10861 of 2016
2	1974 87 LW 652
3	1978 LW 142
4	1993 (4) SCC 519 (supp)
5	AIR online 2019 MAD 1169
6	2007 0 AIR (SC) 1546
7	1992 3 SCC 14
8	2006 1 SCC 257
9	2007 58 AIC 244
10	1994 0 AIR (SC) 853
11	1974 87 LW 652
12	AIR 1919 PRIVY COUNCIL 62
13	Order passed in W.P.Nos. 6664 & 14074 of 2021
14	1991 Supp (2) SCC 228
15	1995 Supp 4 SCC 87

12.2.Thiru.T.K.Gopalan learned counsel for the private respondents to substantiate his argument placed reliance on the following precedents:

1	AIR 1986 1 SCC 794
2	1998 2 MLJ 722
3	1998 2 LW 513
4	2019 6 CTC 814

5	Executive Officer of Magudeswarar Veeranarayana Temple, Kodumudivs Sadayappagounder and ors (S.A.No.769/1990)
6	Director of survey and settlement survey house and others Vs Srinivasarao (W.A.No. 3178 of 2019)
7	W.P.No. 64 of 2018.

13. This Court considered rival submission and their written submissions and perused the records and all the impugned orders and the precedents relied upon them.

14. Both the parties to the proceedings made the lengthy submission and also filed their written submission. From the written submission of the private respondent, it is clear that on extent of 62 cents comprised in the survey number of the 72/2 and 1 acre 64 cents of the land comprised in survey number 72/5 situated in the Kochadai Village, Madurai has been granted as a inam for the performance Annaabisega in Sri Meenakshi Sundareswarar Temple at Madurai. The same was noted in the Inam favour register as "Sri Madurai Meeakashi Sundareswarar Annabhishega Kattalai Bhodagurusamy Periyaudaya Thevar". The private respondents argued that the said lands are alienable one and

hence their ancestors purchased in the year 1891, 1905 and 1923 are valid one and hence they are the absolute owners of the property and they had been continuously paying the kist to the Sivagangai Devasthanam and hence, the settlement officer (original authority) under the Tamil Nadu Minor Inam and Abolition Act correctly decided their entitlement under the Tamil Nadu Minor Inam and Abolition Act and recognized their right of Melvaram and correctly issued direction to give patta and the same was confirmed in C.M.A.Nos.761 and 766 of 1969.

15. This Court is unable to accept the said argument of the learned counsel for the private respondents. Once the land is granted for the purpose of specific religious endowments i.e., “to perform the Annaabisega Kattalai at Madurai Meenakshisundareswarar temple”, the title of the land is absolutely vested with the temple. Therefore, the lands are not alienable one. Therefore, the case of the private respondent that their ancestors purchased the property from the legal heir of the said Bhodhagurusamy Periya Udayar Thevar under the various sale deeds are illegal for the reason that the said Bhodhagurusamy Periya Udayar Thevar had no right to alienate the same and he was not the “inamdhar”. As per the section 8 (1) of the Tamilnadu Minor and Inam Abolition Act,

the purchaser from any inamdhar alone have right to make the application under the minor inam and abolition Act before the special tahsildar (original authority) under the Tamil Nadu Minor and inam Abolition Act. In this case, the present private respondents legal heirs have not purchased the property from the temple authority. They have had transaction with the Melvaram holder. Further, during the course of the proceedings, both before the settlement officer and special tribunal, the submission of the private respondents ancestor was that they had been paying kist to the Sivagangai Samasthanam. The temple properties entrusted with the Sivagangai Samasthanam are to manage and generate the income. The ancestor of the private respondents paid the kist to the Sivagangai Samasthanam as a occupier of the said land. Therefore, they have no absolute right over the property. Hence their claim on the basis of the C.M.A.Nos.761 and 766 of 1969 to get revenue patta is without any legal right and hence the revenue patta granted in favour of the private respondents (Mrs. Bagavathyammal and Mrs.Muthulakshmi) in W.P.(MD).No.5773 of 2017 is illegal and hence is liable to be set aside.

15.1. Similarly, the direction of the writ Court in W.P.(MD).Nos. 6941 and 6942 of 2017 are also liable to be set aside.

15.2. To entertain the plea of the temple authority to set aside the order passed in the C.M.A.(MD).Nos.761 and 766 of 1969, this Court has considered the judgment of the Hon'ble Supreme Court reported in ***1986 (1) SCC 794***, Hon'ble Full Bench of this Court reported in ***1998 (2) MLJ 722***. As per the principle laid down in the above cases, the finding and order passed in C.M.A.Nos.761 and 766 of 1969 under the proceedings of the Tamil Nadu Minor and Inam Abolition Act is not a bar to initiate the civil proceedings for recovery of the possession of the temple property or any other proceeding either under Section 41 of Tamil Nadu HR & CE Act or 21(7) of the Tamil Nadu Minor and Inam Abolition Act.

15.3. That apart as per the section 41 of the Tamil Nadu HR & CE Act and 21 (7) of the Tamil Nadu Minor and Inam Abolition Act both government and temple authorities have independent power to recover the subject matter of the properties of C.M.A.Nos.761 and 766 of 1969. The Hon'ble Supreme Court in Sankaranarayanaswami Devasthanam case in Civil Appeal No.2671 of 2013 has held that the once a grant is burdened with service, then the right of resumption under section 21 (7) of the Act is always there. The private respondent's claim on the basis of their ancestor's purchase from the service holder of the persons and further claim of occupancy under the control of the Sivagangai Samasthanam as a dedicated property to perform Annabisegam all should have been subjected to the further course of action as per law. In the said circumstances the adjudication under the CRP is not necessary. In all circumstances it is open to temple authority to recover the property from the private respondent either by filing suit or invoke the provision of the 41 of the HR & CE Act are 21 of the Minor and Inam Abolition Act. Therefore, this Court is inclined to dispose of all the above cases in the following terms:

15.3.1. Admittedly, the land is dedicated “to perform the Annaabisega Kattalai at Madurai Meenakshisundareswarar temple” and therefore the said lands are specific religious endowment and nobody has right of alienation.

15.3.2. As per the section 109 of the HR & CE Act the temple authority has power to file suit at any time to recover the property and the civil Court has independent power to reside the title of the property dehors the finding of the settlement authority and the settlement tribunal in C.M.A.Nos.761 and 766 of 1969 and therefore, the finding in C.M.A.Nos.761 and 766 of 1969 that the Section 8 (2) of the Tamil Nadu

Minor and Inam Abolition Act it is not necessary and to purchase from the inamdhar and to claim the patta it has to be independently assessed in the civil suit.

15.3.3. The revenue authority has no right to grant patta in favour of the private respondents and the land was dedicated to perform the "Annaabisega Kattalai at Madurai Meenakshisundareswarar temple" and therefore mutation made in the individual names is not in accordance with law and hence, it is liable to be set aside.

16. Accordingly, these Writ Appeals in W.A.(MD).Nos.1405 and 1406 of 2017 are allowed in the following terms:

16.1. The order passed in the W.P.(MD).Nos.6941 and 6942 of 2017 are hereby set aside.

16.2. But, the private respondent's possession is not liable to be disturbed by the Government and temple authority until they are dispossessed as per the manner discussed in this case.

17. Accordingly, these writ petition in W.P.(MD).No.5773 of 2017 is allowed in the following terms:

17.1. The direction to issue revenue patta in favour of the private respondent (Muthulakshmi and Bagavathyammal) by proceedings dated 29.09.2016 in proceedings Na.Ka.No.315/2015/En is hereby quashed.

17.2. It is open to the said Muthulakshmi to substantiate her claim of absolute title on the basis of the partition deed before the appropriate civil Court.

18. Accordingly this civil revision petition in C.R.P.(MD).No.379 of 2017 is disposed with the following direction:

18.1. In view of the admitted position that the lands are dedicated to perform “Annaabisega Kattalai at Madurai Meenakshisundareswarar temple” and the same is specific religious endowment and it is open to the temple authority to resume the land as per law dehors the finding in the C.M.A.Nos.761 and 766 of 1969 confirmed in settlement officer proceedings either under Section 21(7)(a) of the Tamil Nadu Inam and

Minor Abolition Act or 41 of the HR & CE Act or filing separate suit for recovery of possession. There shall be no order as to costs. Consequently, the connected civil miscellaneous petitions are closed and the connected writ miscellaneous petition is closed.

[V.B.S.J.,] [K.K.R.K.J.,]
28.10.2024

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
vsg

To

1. The District Collector,
   Madurai District,
   Madurai.

2. The Revenue Divisional Officer,
   Madurai.

3. The Tahsildar,
   Madurai South Taluk,
   (New West Taluk),
   Madurai.

4. The Executive Officer/Joint Commissioner,
   Sri Meenakshi Sundareswarar Temple Devasthanam,
   Madurai.

5. The Special Government Pleader,
   Madurai Bench of Madras High Court,
   Madurai.

V.BHAVANI SUBBAROYAN.J.,
and
K.K. RAMAKRISHNAN. J.,

vsg

W.A.(MD).Nos.1405 and 1406 of 2017
& C.R.P(MD).No.379 of 2017 and
W.P(MD).No.5773 of 2017
and
C.M.P(MD).Nos.10232, 10233 of 2017
& W.M.P.(MD).No.4597 of 2017

Dated :28.10.2024