



C.R.P(MD).No. 2978 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2024

CORAM :

THE HON'BLE MR JUSTICE G.ILANGO VAN

CRP(MD).No.2978 of 2023

Sri Vaikuntapathi Swami Temple
Thoothukudi,
Through its Executive officer.

Petitioner

Vs.

Joe Machado (died)
1. Immanuel Machado
2. Joeal Machado
3. Anto Machado
Rosita Machado(died)
4. Hearty Machado
Sahayaraj Machado(died)

Respondents

PRAYER : Petition filed under Article 227 of the Constitution of India against the fair and decreetal order, passed by the Principal District and Sessions Court, Thoothukudi, dated 22.09.2023 in I.A.No.3 of 2023 in O.P.No.181 of 2001.

For Petitioner : Mr.R.Dilipkumar
For respondents 1 and 4 : Mr. R.Gowri Shankar
For respondents 2 and 3 : No appearance

ORDER

This Civil Revision Petition is filed against the fair and



C.R.P(MD).No. 2978 of 2023

decreetal order, dated 22.09.2023 made in I.A.No.3 of 2023 in O.P.No. 181 of 2001 on the file of the Principal District and Sessions Court, Thoothukudi.

2. The suit in O.S.No.393 of 1971 was filed by the revision petitioner / temple for declaration of title and for permanent injunction that was decreed on 20.03.1973. In the meantime, the settlement Thasildar, Kovilpatti granted Ryotwari Patta to one Martin Ammal Machado. Later, it was remanded back to the Assistant Settlement Officer and the Assistant Settlement Officer passed an order granting Ryotwari Patta to the said Martin Ammal Machado in respect of Item Nos.1 to 3 and in respect of the item Nos.4 to 7 are communal lands and hence, none of them are entitled. Against which, appeal was preferred by that temple that was dismissed on 18.12.1982. Thereafter, Second Appeal was also preferred before this Court in S.TA.No.26 of 1983 and the same was also dismissed on 07.09.1998. Assailing the same, the petitioner temple filed Civil Appeal in Civil Appeal No.4448 of 1989 and the same was disposed of by this court with the following observations:

“Instead of paying 1/5th share value of the land, the appellants would retain in all an extent of 55 acres out



WEB COPY



C.R.P(MD).No. 2978 of 2023

of 241.18 acres on the western side of the National Highway towards the north in one block with 1/5th frontage on the entire length of the National Highway.

The above mentioned 55 acres are to be demarcated and divided in favour of the appellant temple by the Court of District Judge, Tirunelveli through a Commissioner if necessary. The said 55 acres are to be sold by a public auction under the supervision of the Court of the District Judge, Tirunelveli. The amount realized by the public auction would belong to the appellant temple and be put in a fixed deposit in favour of the appellant temple. The remaining extent of 186.18 acres on the western side of the National Highway left out after the division of 55 acres as above mentioned and 6.44 acres on the eastern side of the National Highway shall be retained jointly by the respondents.”

3. Later that order was also modified by the Hon'ble Supreme Court on 12.05.2001 for demarcating the temple land. On that basis O.P.No.181 of 2001 was filed before the Principal District Court, Tuticorin for appointment of Commissioner. The Commissioner was appointed and land was also demarcated on the land which belongs to the temple was brought for public auction and it was sold for a sum of Rs.28,96,38,057/-. The above said amount was deposited in the name of temple in the State Bank of India, Tuticorin by the District Court, Tuticorin. Seeking to return the above said amount, the petitioner temple filed a petition in I.A.No.3 of 2023 on the file of the Principal District and Sessions Judge, Thirunelveli, but, that got to be dismissed stating



C.R.P(MD).No. 2978 of 2023

that the Hon'ble Supreme Court ordered to deposit of the amount in the name of the temple, but, no permission was granted by the Hon'ble Supreme Court to return the amount to the temple. Against which this revision is preferred.

4. The learned counsel appearing for the revision petitioner submitted that there is no issue involved in this matter regarding the entitlement of the money deposited viz., Joe Machado (died) and his Legal Heirs were brought on record and they have also no objection to withdraw the above said amount.

5. The learned counsel for the petitioner submitted since the amount is not deposited in CCD account, the revision petitioner could not en-cash the Fixed Deposit since the case number is mentioned. He further submitted that since no further order is required from Hon'ble Supreme Court over the entitlement, permission may be granted to the petitioner en-cash the deposited amount.

6. Report is called for from the Principal District Judge, Thoothukudi wherein it has been stated that no amount is lying in the



C.R.P(MD).No. 2978 of 2023

CCD account as on date, but, lies in the name of the temple in the form of Fixed Deposit in Sl.No.7952 for a sum of Rs.42,62,47,505/-.

7. In view of the said findings the order passed by the trial Court is required to be set aside and accordingly set aside. Apart from that also the petitioner is directed to place the appropriate documents obtained from the higher authorities for withdrawal of the amount.

8. In the result, this Civil Revision Petition is allowed. No costs.

06.03.2024

trp
Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
trp

To

The Principal District and Sessions Court, Thoothukudi,



C.R.P(MD).No. 2978 of 2023

G.ILANGOVA,N,J.

Trp

CRP(MD).No.2978 of 2023

06.03.2024