



W.P(MD)No.27400 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2024

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.27400 of 2023

and

W.M.P.(MD)Nos.23539 & 23541 of 2023

K.Mayilvel

... Petitioner

**Vs.**

1.The District Revenue Officer,  
Office of the District Collector,  
Sivagangai-630 561.

2.M.Ramakrishnan  
(R2 is suo motu impleaded vide order dated 17.11.2023)

3.The Commissioner,  
T.N.Hindu Religious Charitable and Endowments Department,  
No.119, Uthamar Gandhi Road,  
Thousand Lights West,  
Nungambakkam Road,  
Chennai-600 034.

4.The Joint Commissioner,  
T.N.Hindu Religious Charitable and Endowments Department,  
Sivagangai,  
Sivagangai District.

5.The Assistant Commissioner,  
T.N.Hindu Religious Charitable and Endowments Department,  
Sivagangai District.  
(R3 to R5 are impleaded vide order dated 07.03.2024  
in W.M.P.(MD)No.24989 of 2023)

... Respondents



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**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the proceedings of the respondent in Na.Ka. C3/12736/2023 and quash the same.

For Petitioner : Mr.S.R.Ragunathan  
assisted by  
Mr.Manjunatha Karthikeyan

For Respondents : Mr.V.Nirmal Kumar  
Government Advocate for R1

: Mr.M.Jegadeesh Pandian for R2

: Mr.B.Saravanan for R3 to R5

### **ORDER**

Heard both sides.

2. The petitioner challenges the impugned notice dated 11.09.2023 issued by the District Revenue Officer, Sivagangai calling upon the petitioner to attend enquiry. The cause of action has been triggered by the private respondents herein. They want the patta standing in the name of the petitioner to be cancelled. According to them, the revenue record should reflect the name of Arulmigu Pushpanathaswamy and Sountharanayaki Temple, Thirppuwanam. They contend that the petition mentioned land was endowed for water charity in connection with the said temple.



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3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He took me through the materials enclosed in the typed set of papers. His contention is that the issue had already been agitated and that the petitioner cannot be vexed again on the same cause of action. He added that in view of the decision rendered by the Hon'ble Division Bench in *Vishwas Footwear Company Limited Vs. The District Collector, Kancheepuram (2011 5 CTC 94)*, the revenue authority cannot go into contentious issues of title. He called upon this Court to set aside the impugned notice and grant relief as prayed for.

4. The learned Government Advocate as well as the learned counsel appearing for HR & CE Department and also the learned counsel appearing for the private respondent submitted that the materials on record clearly point to the fact that the lands were endowed in favour of the temple and that since the petitioner had illegally alienated a portion of the endowed lands, the jurisdiction of the DRO was rightly invoked. Reliance is placed on Section 41 of Tamil Nadu HR & CE Act, 1959. They also contend that when the petitioner succeeded before the learned single Judge, the matter was taken on appeal before the Hon'ble Division Bench. The Hon'ble Division Bench had granted



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an interim order of status quo in W.A.(MD)No.1539 of 2021. More than anything else, according to them, the Writ Court ought not to interfere at the notice stage itself. They called upon this Court to dismiss the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. It is true that the writ Court would be clearly reluctant to interfere at the notice stage. The Hon'ble Supreme Court in the decision reported in **(2006) 12 SCC 28 (Union of India Vs. Kunisetty Satyanarayana)** had held that at the notice stage, rights of the noticee are not infringed. But this proposition has two exceptions. One of which is that if the noticee can show that the notice itself has been issued without jurisdiction, then the Writ Court can definitely interfere. It is seen that one Poovalingam filed a revision petition before the DRO, Sivagangai questioning the mutation of patta made in favour of the petitioner. The contentions of the said revision petitioner was that the land had been endowed in favour of the temple known as Adainchiamman Temple. The DRO, vide order dated 12.05.2000 dismissed the revision petition confirming the mutation order dated 01.10.1997 made in favour of the petitioner by RDO, Sivagangai. Challenging the same, the said Poovalingam filed second revision before the Commissioner of Land Administration, Chepauk Chennai. The revision was dismissed on 18.12.2001 in the following



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“5. I have gone through the records of lower courts and considered the written statement, documents and arguments putforth by the respective counsels. The revision petitioner mainly relied upon a document (No.771/50 dated 28.04.50) which he claims as a gift deed. The Trustees of Adanjiamman temple viz., Thiru.Sivanandi Konar and 6 others had entered into an agreement with Thiru.Sivaparangiapillai to install a “பீடம்” and to erect “திருமதில்கள்” on the four sides of the land under question. The agreement also restrained the trustees from encroaching on the properties belonging to Thiru.Sivaparangia Pillai and restrained them from putting up “சன்னல் மற்றும் நிலைக் கதவுகள்” (windows and doors) in the Thirumadhils. As contented by the learned counsel for the respondent, it is only an agreement entered between two parties about on using the suit land for certain purposes. It is not a deed of conveyance of title and oral gift is not acceptable in law. Since settlement the registry in the revenue records was in the name of Thiru.Kandasami Pillai, 2.Lakshmana Pillai and 3.Chinnasamy for S.Nos.101/3A, 101/3B and 101/3C respectively.

6.The name of the revision petitioners was not found in the patta until the revenue inspector included the revision petitioner's name in the patta for S.No.101/3A by his RIPT 50/94, dated 05.12.94. The Revenue Inspector has executed his authority in ordering the inclusion of a name in the joint patta. The Tahisldar, Manamadurai in his K.Dis TKTR 587/94-95, dated 27.08.95 has ordered sub division and issued separate patta without enquiring the other pattadhars. These irregularities were corrected by the Revenue Divisional Officer, Sivagangai who in his proceedings K.Dis(B1)/10721/96, dated 01.10.97 set aside the orders of the Tahsildar, Manamadurai. The District Revenue Officer, Sivagangai in his proceedings first read above discussed the subject matter in detail and confirmed the order of the Revenue Divisional Officer, Sivagangai.



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6. The learned Special Government Pleader for the revenue authorities and the learned Additional Government Pleader for the HR & CE Department and the learned counsel for the private respondents would strongly contend that when the materials on record point to the fact that the settlement authority's order passed in the year 1967 clearly states that the petitioner's father Kandasamy Pillai was given only service inam and when the terms of the ryotwari patta are breached, certainly, Section 41 of HR & CE Act can be invoked. Section 41 of HR & CE Act on a plain reading confers power only on the District Collector and not on the DRO. The learned counsel for the respondents also added that in the earlier proceedings, neither HR & CE nor the temple in question was a party. There are substantial objections. But when the commissioner of land administration had already sustained the order of mutation made in favour of the revision petitioner herein, it will not be open to the first respondent herein to re-open or revisit the issue. I hold that the first respondent is not competent to go into the issue only for this reason. I am of the view that the impugned proceedings are without jurisdiction. They stand quashed. I make it clear that objection raised by the respondents are not foreclosed.



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7. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

**14.03.2024**

Index : Yes / No  
Internet : Yes/ No  
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To

The District Revenue Officer,  
Office of the District Collector,  
Sivagangai-630 561.



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**G.R.SWAMINATHAN, J.**

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