



SA(MD)No.589 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : **21.10.2024**

C O R A M

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

SA(MD)No.589 of 2024

and

CMP(MD) No.13476 of 2024

Thiruvavaduthurai Adheenam,
Thiruvavaduthurai
through its Adheenakartha Sri-La-Sri Ambalavana Pandara
Sannithi Avergal
having its head office at Thiruvavaduthurai,
Mailaduthurai Taluk,
Nagappattinam District.

... Appellant/ Appellant / Plaintiff

Vs.

1.Jesuraj
d.Thangam

... Respondents / Respondents / Defendants

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, 1908, to set aside the judgment and decree dated 24.03.2017 made in AS.No.35 of 2012 on the file of the Subordinate Judge, Ambasamudram, Tirunelveli District confirming the judgment and decree dated 29.02.2012 made in OS.No.364 of 2002 on the file of the Principal District Munsif, Ambasamudram.

For Appellant : Mr.K.P.Sanjeev Kumar for

M/s.OJAS Law Firm



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JUDGMENT

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Thiruvavaduthurai Adheenam, through its Dharmakartha, has filed this second appeal as against the judgment and decree passed by the District Munsif, Ambasamudhram, in OS.No.364/2002 dated 29.02.2012 and the judgment and decree passed by the first appellate Court / Sub Court, Ambasamudhram, in AS.No.35/2012 dated 24.03.2017.

2. The Aadhenam / plaintiff has filed the suit for recovery of possession of the suit 2nd schedule property after removal of the construction made thereon and for damages for illegal occupation and mesne profit for the subject property situated in Sivanthipuram village that the plaintiff is the owner of the property. The case of the defendants is that Sivanthipuram village is an Inam Village and they were the cultivating tenants and they are in possession and enjoyment of the suit schedule property by constructing a residential building.



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3. The trial Court, by considering the earlier proceedings under the Inam Abolition Act, dismissed the suit. The appellate Court has also considered the ryotwari patta issued in the name of the other land holders, rejected the appeal and confirmed the judgment and decree passed by the trial Court. Hence, this second appeal.

4. Learned Counsel for the appellant submitted that the Aathenam has pre-existing right, by virtue of the Inam Deed in No.202/1864. The plaintiff institution is a Mutt and as per Section 2(2S) of Tamil Nadu Public Properties Act, the grant conferred in the name of Thiruvavaduthurai Adheenam cannot be questioned. The Adheenam has leased out the lands to the tenants and taking advantage of the same, some of the tenants have obtained patta during the inam proceedings.

5. This Court considered the submissions of the learned Counsel for the appellant, the substantial questions of law raised in this appeal and the materials placed on record.



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6.1 Sivanthipuram Village in Ambasamudram Taluk of Tirunelveli

District was notified as Inam Village under Section 1(4) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwar) Act, 1963, (T.N.Act 26 of 1963) and taken over by the Government on 15.04.1965. The entire inam estate (including all communal lands and porombokes, other non-ryoti lands, waste lands, pasture lands, forest, mines and minerals, quarries, rivers and streams, tanks and ooranies (including private tanks and ooranies) and irrigation works, fisheries stand transferred to the government and vested in them free of all encumbrances from the above notified date.

6.2. Against the action of taking over the inam estate, Thiruvavaduthurai Adheenam filed an appeal before the Settlement Officer, Madurai questioning the nature of tenure of inam estate. Dismissing the appeal, the settlement officer, Madurai in his order in S.R.5/Amb/67, dated 15.07.1971 held that the village as an Existing Inam Estate. Aggrieved by that order, the Adheenam filed an appeal before the Inam Abolition Tribunal, Tirunelveli. The Inam Abolition Tribunal in its order in RA.No.165/71, dated 23.09.1974 confirmed the order of Settlement Officer, Madurai.



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6.3. The Adheenam filed a further appeal before this Court contending that the declaration of the village as an existing Inam Estate is against law. This Court, upholding the orders of the Inam Abolition Tribunal, Tirunelveli disposed the appeal by its order in CRP.No.3771 of 1974, dated 24.11.1974, thereby giving effect that on and from the notified date the entire Inam Sivanthipuram Estate shall stand transferred to the Government and vest in them free from all encumbrances.

6.4. Thereafter the Assistant Settlement Officer, Madurai initiated suo motu proceedings under Rule 9(4) of the Tamil Nadu Inam Estates: Abolition and Conversion into Ryotwari) Rules, 1965 and passed orders in SR.Nos.1 to 592 /Amb/79, dated 02.04.1980 granting patta to the Adheenam for the entire Sivanthipuram village including the communal lands (Poramboke Lands).

6.5. As against this order of the Assistant Settlement Officer, an appeal was filed by 111 cultivators of Sivanthipuram village before the Inam Abolition Tribunal, Tirunelveli. The Inam Abolition Tribunal in its order RAIAT.No. 5 of 1980 dated 31.01.1984, set aside the orders of the Assistant Settlement Officer and remanded the case to the Assistant



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Settlement Officer for conducting fresh enquiry on the grounds that sufficient opportunities had not been given to the appellants and pattas were granted to the Adheenam by the Assistant Settlement Officer for the buildings constructed and enjoyed by the appellants and pattas were given even for the communal lands in the name of Adheenam, which are basically not correct. Aggrieved on the order of remand of Inam Abolition Tribunal, the Adheenam filed an appeal in STA.No.51 of 1984 before this Court. This Court has upheld the order of the Inam Abolition Tribunal in its order dated 05.09.1996 and dismissed the appeal filed by the Adheenam that there was no proper notice to the claimants and therefore, the order of remand made by the Tribunal deserves to be sustained. The Division Bench of this Court upheld that there are 592 claimants agitating for grant of patta in respect of their individual holdings on the ground that they are ryots and cultivating the lands for a long time and the entitlement of the parties have not been considered individually by taking up various claims.

6.6.Pursuant to this order, the Assistant Settlement Officer conducted a fresh enquiry by issuing notice to the Adheenam and 111 claimants, who filed RAIAT.No. 5 of 1980 and the same was questioned



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in WP.No.42572 of 2002 by the remaining 481 claimants that they also need to be enquired by the Assistant Settlement Officer. Therefore, the Assistant Settlement Officer issued enquiry notice to all the 592 claimants for the enquiry.

6.7.The plaintiff Adheenam once again filed another writ petition in WP(MD)No.1278 of 2006 as against the proceedings of the Assistant Settlement Officer to conduct enquiry as per the order of the Inam Abolition Tribunal, Tirunelveli in RAIAT.No. 5 of 2006, dated 31.01.1984. In view of the interim order granted by this Court in WP(MD)No.1278 of 2006, the enquiry of the Assistant Settlement Officer was stayed pending writ petition. Subsequently, WP(MD)No.1278 of 2006 was dismissed by this Court on 17.10.2012 directing the Assistant Settlement Officer to proceed with the enquiry and permitted the appellant Adheenam and parties to whom notices have been issued, to produce oral and documentary evidence before the Assistant Settlement Officer.

6.8.Pursuant to the above order, the Assistant Settlement Officer started a fresh enquiry and issued notice in Form No.V to all the persons



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including the Adheenam and the Assistant Settlement Officer has conducted a field Inspection.

6.9. Pending this enquiry the plaintiff Adheenam submitted a representation to the Commissioner of Survey and Settlement, requesting a copy of the records submitted by the Adheenam during the statutory enquiry conducted by the then Assistant Settlement Officer, Madurai in SR.Nos.1 to 592 / Amb/79 and approached this Court by filing a writ petition in WP(MD)No.13980 of 2015 seeking a writ of mandamus directing the Assistant Settlement Officer, Office of Survey and Settlement, Madurai to send the entire files and records in respect of the proceedings in SR.Nos.1 to 592 / Amb/79 to the Assistant Settlement Officer (Chennai, South).

6.10. The plaintiff Adheenam has also filed another writ petition before this Court in WP(MD)No.896 of 2016 seeking for a direction to the Assistant Settlement Officer, not to pass any orders till the disposal of the writ petition in WP(MD)No.13980 of 2015 pending before this Court. He also sought for an interim relief in WMP(MD)No.684 of 2016 and this Court has granted an order of interim stay by order dated 18.01.2016.



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6.11.Both the writ petitions filed by the plaintiff Adheenam in WP(MD)No.13980 of 2015 and 896 of 2016 were disposed by this Court on 02.03.2016 observing that the appellant / plaintiff had already participated in the enquiry and submitted his written arguments and it is for the Assistant Settlement Officer to look into all the files relevant to the documents and pass appropriate orders in accordance with law.

6.12.In the meantime, the Assistant Settlement Officer (Chennai, South), Office of the Director of Land Revenue Survey and Settlement, Chepauk rejected the request of the Adheenam that Adheenam has not filed any document in support of his claim and granted patta in favour of the individuals by order dated 10.12.2015.

6.13.This order of the Assistant Settlement Officer, dated 10.12.2015 was challenged by the plaintiff Adheenam in a batch of writ petitions in WP(MD)Nos.21718 to 21712 of 2016 and the same was disposed of by setting aside the orders of the Assistant Settlement Officer dated 10.02.2015 and remanding the matter for fresh consideration to the Assistant Settlement Officer (South Chennai in charge) with a direction to the Assistant Settlement Officer to ensure



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before proceeding to hear the parties that all the documents filed by both parties are available on record.

6.14. This Court has also granted liberty to all the parties to produce those documents. For want of documents, it appears that the proceedings for grant of patta is still lying with the Assistant Settlement Officer. As on date the petitioner / appellant is not having any right on the suit schedule property and the issue is still pending with the Assistant Settlement Officer. Therefore, this Court is not inclined to interfere with the findings of the Courts below. Accordingly this second appeal is dismissed, however, with liberty to the appellant to pursue his claim based on the outcome of the proceedings, which is pending with the Assistant Settlement Officer (South, Chennai). No costs. Consequently connected miscellaneous petition is closed.

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index : yes/ no

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To

1. I Additional District Judge,
Tirunelveli.
2. The Principal Sub Judge,
Tirunelveli.
3. The District Collector,
Tirunelveli.



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