



A.S.No.819 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 02-06-2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Appeal Suit No. 819 of 2012

1. K.R. Srinivasan (died)
2. S. Geetha
3. Minor. S.Mahalakshmi
4. Minor S. Rajalakshmi
(Appellants 2 to 4 are brought on record
as legal heirs of deceased K.R. Srinivasan,
sole Appellant in this appeal, as per
order dated 10.03.2020 made in
CMP Nos. 5910, 5909 and 5912 of 2020
in A.S. No. 819 of 2012)

...Appellants

Versus

Arulmigu Vedaraneswaraswamy Thirukovil
Vedaranyam
Represented by its Executive Officer
Vedaranyam Town, Taluk & Munsif

.. Respondent

Appeal Suit is filed under Order 41 Rule 1 r/w Section 96 of Civil Procedure Code praying to set aside the judgment and decree dated 14.02.2012 made in O.S. No. 22 of 2010 on the file of the learned District judge, Nagapattinam.

For Appellant : Mr. Krishna Ravindran
For Respondent : Mr. S. Kingston Jerold



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JUDGMENT

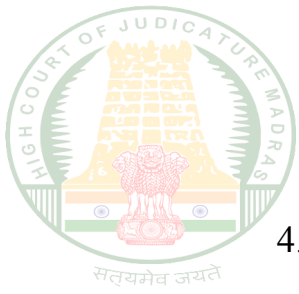
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The Appeal Suit is filed by the Appellants, seeking to set aside the judgment and decree dated 14.02.2012 made in O.S. No. 22 of 2010 on the file of the learned District judge, Nagapattinam.

2. The Appeal Suit is filed by the sole Defendant in O.S. No. 22 of 2010 on the file of the learned District Judge, Nagapattinam. During the pendency of this Appeal, the sole Appellant/Defendant died and therefore his legal heirs were brought on record as Appellants 2 to 4.

3. The Executive Officer of Arulmigu Vedaraneswaraswamy Thirukovil, Vedaranyam, as Plaintiff, had preferred the suit in O.S. No. 22 of 2010 on the file of the learned District Judge, Nagapattinam against the sole Defendant/K.R. Srinivasan seeking the relief of declaration of title to the suit property and for eviction of the Defendant from the suit property after removal of construction put up in the suit property. The Plaintiff also sought for mesne profit after passing of decree in the suit.

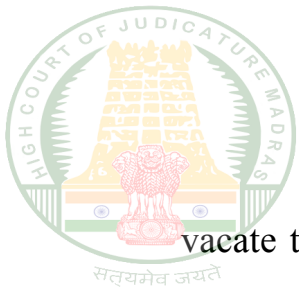
4. The brief facts, which are necessary to dispose of this Appeal Suit, are as follows:-



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4.1. The Plaintiff is a Temple. The land comprised in Survey Nos.175/3A 1A1A1A1A and presently bearing Survey No.175/84 is the subject matter of the property. The said property is the inam property given in favour of the Temple through a gift made by the then Ruler of Thanjavur Shri. Sahaji Raja in favour of the Temple vide T.D.No.840 as Inam which is covered under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26/1963). After enquiry by the Settlement Officer, the Plaintiff/Temple was granted Patta to the suit property in the name of the Temple. Except the Temple Authorities, no other person has any title or interest over the property. However, the Defendant attempted to put up construction in the suit property on 20.06.2009 and subsequently, he completed the construction. When the Defendant attempted to put up a construction in another portion of the property on 10.04.2010, the Plaintiff/Temple issued notice directing the Defendant not to put up any construction as the property belongs to the Plaintiff/Temple. However, the Defendant claimed that he had purchased the suit property through registered sale deeds dated 05.02.2004 and 09.02.2004 from one Nagarajan and his family. The conduct of the Defendant is found to be illegal as he had encroached the property belonging to the Temple and attempted to put up construction forcing the Plaintiff to issue notice calling upon the Defendant to



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vacate the property and handover vacant possession. As the activities of the Defendant are found to be detrimental to the right, title and interest of the Plaintiff Temple, the suit was filed.

4.2. On notice, the Defendant filed a written statement contending *inter alia* that the suit property belonged to one Subramaniya Chettiar. From Subramaniya Chettiar, one Vedharethinam Pillai purchased the same on 02.06.1963 and he was in enjoyment of the same. At the time when the property was purchased by Vedharethinam Pillai, there was a tiled house in the suit property. Under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, enquiry was conducted and later Vedharethinam Pillai was granted Patta in respect of the suit property and he was also in possession and enjoyment of the suit property. After his lifetime, his legal heirs were in enjoyment of the same and thereafter, sold the property to one Nagarajan, S/o. Sundara Gounder. From Nagarajan, S/o. Sundara Gounder, the Defendant purchased the property on 05.02.2004 and 09.02.2004. Ever since the date of purchase, the Defendant was in possession and enjoyment of the same. The Plaintiff has no right over the suit property. The Plaintiff had not filed any document to show that the property belongs to the Temple. The Plaintiff had not objected the Defendant while putting up construction in the

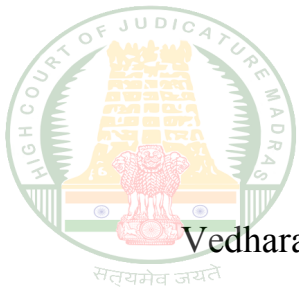


suit property. After completing the construction, the Plaintiff had made an alleged claim. The suit had been filed without sanction of law. The suit is not maintainable and the Trial Court has no jurisdiction to try the suit. Accordingly, the Defendant prayed for dismissal of the suit.

4.3. On the basis of the pleadings in the plaint and written statement, the learned District Judge, Nagapattinam had framed following issues:

1. *Whether the suit property was Inam property given to the Plaintiff Temple?*
2. *Whether the sale deed dated 05.02.2004 and 09.02.2004 are not binding on the Plaintiff?*
3. *Whether the Plaintiff is entitled to declaration and recovery of possession as prayed for?*
4. *Whether the Plaintiff is entitled to mesne profits?*
5. *Whether the suit property is not an absolute property of Subramaniya Chettiar?*
6. *Whether the suit is not maintainable without proper sanction?*
7. *Whether the Civil Court has jurisdiction?*
8. *To what other relief?*

4.4. During trial in the suit, the Executive Officer of the Plaintiff Temple was examined as P.W-1 and seven documents were marked as Ex.A-1 to Ex.A-7. Ex.A-1 is the Chitta dated 26.06.2009. Ex.A-2 is the letter sent by the Executive Officer of the Plaintiff Temple to the Sub-Registrar,

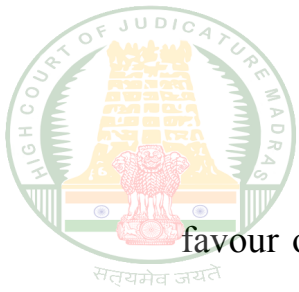


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Vedharanyam dated 15.04.2009. Ex.A-3 is the sale deed executed by S. Nagarajan and three others in favour of K.R. Srinivasan (Defendant) dated 05.02.2004. Ex.A-4 is the sale deed executed by S. Nagarajan and three others in favour of K.R.Srinivasan (Defendant) dated 09.02.2004. Ex.A-5 is the order issued by H.R & C.E Office, Chennai in favour of the Executive Officer of the Plaintiff Temple dated 06.05.1987. Ex.A-6 is the letter executed by Joint Director, Survey Department, Thiruvarur to the Executive Officer, Arulmigu Vedaraneswaraswamy Temple, Vedaranyam dated 11.02.2011. Ex.A-7 is the photo copy of the order dated 01.12.1975 in R.P.320/1A/TTD/71 on the file of the Settlement Tahsildar Court, Thanjavur.

4.5. On behalf of the Defendant in the suit, the deceased sole Defendant namely Mr. K. R. Srinivasan examined himself as D.W-1. He marked four documents as Ex.B-1 to Ex.B-4 in support of his defence in the suit. The sale deed dated 26.04.1989 executed by Varalakshmi and 2 others in favour of Nagarajan was marked as Ex.B-1. The sale deed executed by Mrs. Varalakshmi and two others in favour of Nagarajan dated 28.02.1990 was marked as Ex.B-2. The sale deed dated 05.02.2004 executed by S. Nagarajan and three others in favour of the Defendant K.R.Srinivasan was marked as Ex.B-3. The sale deed executed by S. Nagarajan and three others in



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favour of K.R.Srinivasan/Defendant dated 09.02.2004 was marked as Ex.B-4

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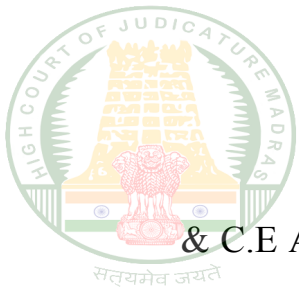
4.6. On assessment of oral and documentary evidence produced by both parties, the learned District Judge, Nagapattinam concluded that the sale deeds dated 05.02.2004 and 09.02.2004 were executed in favour of the Defendant without any permission whatsoever from the Plaintiff Temple, especially when the Plaintiff Temple is the absolute owner of the properties described in the plaint. Merely because construction was put up by the Defendant and was in occupation of the property in question, it will not confer him any right, title or interest over the said property. The revenue records under Ex.A-7, Patta and Ex.A-1 Chitta clearly disclosed that it was the Plaintiff Temple got the ownership over the suit property and their name has been incorporated in the revenue records. Referring to Section 34 of The Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959, the learned Trial Judge concluded that there is a clear prohibition under Section 34 of the Act for sale of the temple properties and therefore also, the so-called sale deeds executed in favour of the Defendant are invalid and they are not binding on the Plaintiff Temple. Accordingly, the Trial Court answered Issues 1 to 8 in the affirmative and decreed the suit as prayed for with costs.



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WEB COPY 4.7. Aggrieved by the Judgment and Decree dated 14.02.2012 made in OS. No. 22 of 2010, the present Appeal Suit had been filed.

5. The learned Counsel for the Appellants relied on the reported decision in the case of W.A. No. 1743 of 2012, dated 23.07.2021 particularly in paragraph 3 and 4 wherein it was directed that the Settlement Officer may consider the request of those who are enjoying the property. It is the contention of the learned Counsel for the Appellants that the deceased Appellant had purchased the property through two sale deeds dated 05.02.2004 and 09.02.2004. Further, from the year 1963, the predecessors in title of the Defendant had been in continuous possession and enjoyment of suit property in their own right. It is the further contention of the learned Counsel for the Appellants that the Settlement Tahsildar accepts the title of the vendor of the Defendant after due enquiry. While so, the entire judgment of the trial Judge based on the letter of the Assistant Director, Survey and Settlement is legally not sustainable. The learned Counsel for the Appellants further submitted that the Plaintiff Temple has to approach only the H.R & C.E Officials for eviction of the tenant and the suit filed as such is not maintainable. The filing of the suit itself is barred as per the provisions of H.R



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& C.E Act, 1959. The entire pleadings of the Plaintiff is based on the order of the Settlement Tahsildar and the Plaintiff Temple has not proved the case independently. The judgment of the learned District Judge, Nagapattinam in O.S.No.22 of 2010 dated 14.02.2012 is perverse and it has to be set aside.

6. On the other hand, the learned Counsel for the Respondent objected to the line of arguments of the learned Counsel for the Appellant and contended that the Appellant, as Defendant, was unable to disprove the claim of the Plaintiff. The lands in undivided Thanjavur District was granted by the Rulers in favour of the Temples for which there were only stone inscriptions in the ancient era. After India became independent, the Temple lands vested with the Temples and they were granted Inam Patta by Act 26 of 1963 and under the provisions of Minor Inam Act, Tamil Nadu Inam Estates and Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. In this context, the learned Counsel for the Respondent relied on the reported decision of the Hon'ble Supreme Court in ***K.S. Thirugnanasmbandan Chettiar (dead) by Lrs etc -vs- The Settlement Tahsildar, Coimbatore-18 and Others*** reported in ***1996 (1) L.W. 19***, wherein it was held as follows:

"Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari Act 1963), Section 13 - Scope - Act enables the State to accomplish acquisition of rights of inamdar in minor inams - It nowhere envisages that the rights of a person who held a ryotwari patta in his favour or was



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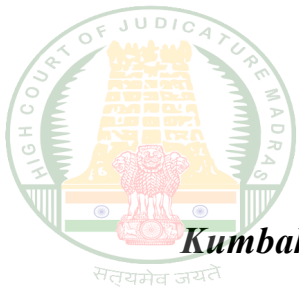
otherwise entitled to a ryotwari patta were meant to be abolished - Settlement of pattas where buildings stood erected on Inam Lands - Right of Government to make assessment as envisaged - Inclusion of the site under the definition of building - Scheme of the Act.

Dual estate, that is, building may belong to one and the site to another not repugnant to the provision - Rights conferred on building owners, extent of – Scope.

Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari Act (26 of 1963), Section 15 - See Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act (1963), Section 13, etc.

It is a plain from a bare reading of the Section 13 of TN Minor Inams Abolition and Conversion into Ryotwari Act, 1963, and its setting that it is a provision occurring in Chapter III as one of the tools to confer ryotwari pattas to persons entitled. The Preamble to the Act makes it clear, as also its name, that the Act enables the State to accomplish acquisition of the rights of inamdars in minor inams in the State of Tamil Nadu and the introduction of ryotwari settlements in such inam lands. It nowhere envisaged that the rights of a person who held a ryotwari patta in his favour or was otherwise entitled to a ryotwari pattas were meant to be abolished under the Act. Rather on abolition of inams, claims of persons entitled, to the grant of ryotwari pattas had to be examined and settled. Under the provision under scrutiny too, it is patent that some ryotwari pattas had to be settled, where buildings stood erected on inam lands immediately before the appointed day and the Government, in that event was entitled to an appropriate assessment as envisaged therein. Designedly, the building so erected was to include the site on which it stood and any adjacent premises occupied as an appurtenance thereto. Since the scheme of the Act patently was in establishment and preservation of ryotwari rights, it cannot be said that by virtue of Section 13, the ryotwari rights of the site-owners stood abolished or those rights got merged in the building and hence vesting in the building owner. Rather, a dual estate is conceived of in the scheme of Section 13, that is to say, the building may be belong to one and the site to another. It is, therefore, not necessary that both the site and the building should belong to one and the same person so as to derive the benefit of Section 13 with effect from the appointed day".

7. The learned Counsel for the Respondent also placed reliance on the decision in ***Nageswaraswamy Devasthanam by its Executive Officer,***



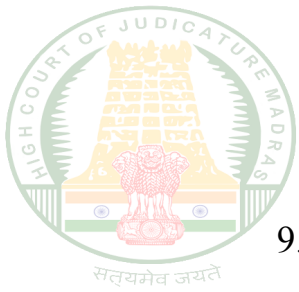
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Kumbakonam -vs Saroja reported in **1999 MLJ (Supp) 534**, wherein the

Hon'ble Supreme Court had held as follows:

“Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act XXX of 1963), Section 8 – Tamil Nadu City Tenants Protection Act (II of 1922) Section 9 - Owner of superstructure on site belonging to Temple, claiming title to the site – claim, untenable – Grant of joint patta, held, does not extinguish right of Temple to evict the tenant – Tenant forfeited right to tenancy on her denying title of the Temple”

8. Also, the learned Counsel for the Respondent relied on the Judgment passed by this Court in Writ Appeal in W.A. No. 1743 of 2012 dated 23.07.2021, relied on by the learned Counsel for the Appellant wherein it was only stated that the learned Single Judge of this Court directed the Settlement Officer to consider the case of the Writ Petitioner on merits. In the said Judgment, there was no specific direction given to grant Patta. Therefore, the Writ Appeal filed by the Executive Officer of the Temple, as Appellant, was dismissed by this Court on the ground that there was no positive direction issued by the learned single Judge in the Writ Petition, to grant Patta. Therefore, it was contended that the Judgment in Writ Appeal preferred by the Executive Officer (Plaintiff Temple herein) Vedharaneswara Swami Thirukovil, Vedaranyam cannot be made applicable to the facts of this case. The claim of the title made by the Defendant from the year 1963 from Subramaniya Chettiar will not bind the Plaintiff temple in any manner.



9. The learned Counsel for the Respondent further submitted that in

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the case of **A.N. Kumar -vs- Arulmighu Arunachaleswarar Devasthanam**

Thiruvannamalai, rep by its Executive Officer & Others reported in **CDJ**

2011 MHC 1412 the Division Bench of this Court held as follows.

“Hindu Religious and Charitable Endowments Act, 1959 - Section 34 & 108 - City Tenants Protection Act - When the Temple has not chosen to go under the purview of the Act, then it cannot be said that the suit is barred - since there is no adequate remedy provided under the H.R & C.E Act for eviction of tenants, licensees, lessees or mortgagees, thus Section 108 is not a bar for the ejectment suits instituted - the remedy is given only to the encroacher for passing an order against him. Hence, the bar certainly would apply to the case of the encroacher in directly filing the suit against the Temple - the defendants have no right to continue in possession after the expiry of the lease and the suit filed by the Plaintiff Devasthanam was rightly decreed for delivery of possession and also to pay compensation - the defendants are not entitled for renewal of lease for fifty years by merely exercising their option - the appeals are dismissed.

“so far as the suits filed by the Temple for eviction of tenants/licensees/lessees/mortgagees for filing of the ejectment suit, the Civil Court's jurisdiction is not barred. The decision to approach Civil Court or invoke the provisions of H.R. & C.E Act vests with the Temple.”

10. Therefore, the contention of the learned Counsel for the Appellant that the suit filed by the Executive Officer of the Plaintiff Temple is not maintainable and the Plaintiff Temple ought to have approached the H.R & C.E Authorities is not correct. When the Defendant is a stranger and is an encroacher, the Civil Court is not barred under law to pass appropriate orders. Since there is no adequate remedy provided under the H.R&C.E Act for eviction of tenants/licensees/leasees or mortgagees, the Temple is within its



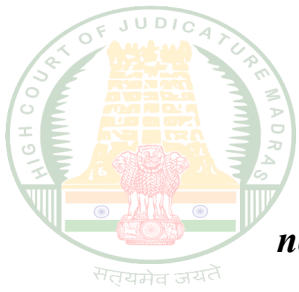
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discretion to approach the Civil Court for appropriate relief. When the Defendant or his predecessors in title had not obtained any permission from the H.R & C.E Authorities for sale of the property, then the document under Ex.B-1 to Ex.B-4 will not confer any title on the Defendant, adverse to the interest of the Temple. The learned Trial Judge, on considering the entire material records, had correctly concluded that the sale deeds relied on by the Defendant will not bind the Plaintiff Temple in any manner especially when the Temple is the owner of the properties described in the plaint. The Judgment of the Trial Court is well reasoned and it does not warrant any interference by this Court. Accordingly, the learned Counsel for the Respondent/Plaintiff prayed for dismissal of this Appeal and to confirm the Judgment dated 14.02.2012 made in O.S. No. 22 of 2010.

Points for determination:

(1) Whether the judgment of the learned District Judge, Nagapattinam is perverse as he had relied by the Ex.A-7 to decree the suit?

(2) Whether the learned Judge had erred in relying upon Ex.A-2 in which the Sub-Registrar, Vedharanyam had only given guideline value for the Vedha Patinam, veethi, as 210 and



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(3) Whether the Defendant and his predecessor in title for the last 6 decades and more had paid the statutory dues and assessed in the name of the Defendant and his predecessor in title will confer any title in favour of the Defendant and against the Temple?

(4) Whether the learned trial Judge failed to recognise the fact that the Defendant has paid valid sale consideration and purchased the suit property and is in absolute possession of the suit property from the date of purchase?

(5) Whether the learned Judge ought to have the appreciated the fact that most of the lands in and around Vedharanyam Temples are Inam Lands and many of the land owners have constructed pucca building and in possession of the patta lands?

(6) Whether the finding given by the learned Judge that the Patta is document of title and rejected the contention of the Defendant?

(7) Whether the finding of the learned trial Judge rejecting contention of the Defendant that the suit filed without proper authorisation and sanction?



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(8) Whether the learned Judge had wrongly rejected the

contention of the Plaintiff regarding lack of jurisdiction of Civil Court under 78 of the Tamil Nadu HR&CE 1959 which specifically provided for predecessor to be adopted evicting encroachers and trespassers?

(9) Whether the Appeal preferred by the Defendant claiming that the Temple has not established its right is to be allowed and the suit filed by the Temple is to be dismissed?

11. Heard the learned counsel for the Appellants as well as the learned counsel for the respondent/Temple and perused the materials placed including the Judgment dated 14.02.2012 made in O.S. No. 22 of 2010.

12. In the annals of the State of Tamil Nadu, Rulers or Kings donated vast extents of lands under their territory to build temples with the avowed object of benefiting the future generations. After India became Independent, the Temple lands were made to be encroached by third parties at the instigation of various persons occupying the helm of affairs, without any right. Such encroachers, after occupying the temple lands, made a rival claim for the land. Even the Temple also did not take action for a long time and taking



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advantage of the same, constructions are put up over the temple land, without the consent of the Temple knowing fully well that such construction put up in the Temple land will not cloth the encroachers with any title. The Kings of bygone period donated vast extent of lands for each of the Temple for the benefit of their citizens not only for worship but also for continuous possession and enjoyment of the properties and also for using the appurtenant lands for agriculture. Based on the income derived from agriculture, the temples had to be maintained. Instead those lands were misused and usurped by vested interest against the interest of the devotees of the temple. It is in this background, the issues involved in this appeal has to be examined.

13. The sole Defendant in this case claim that he and his predecessors in title have been in continuous possession and enjoyment of the lands in dispute from 1963 and based on the same, the Defendant claims that both site and the building belongs to him. On consideration of the documents marked under Ex.A-1 to Ex.A-7, the learned Trial Judge had held the Issue- No.1 in favour of the Plaintiff concluding that the Settlement Officer, after due enquiry under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26/1963), had granted Patta in favour of the Temple as *Devadhanyam Iru Varam Grant*. After perusing the evidence and



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records, the Settlement Officer held that the Temple had valid title to the lands

on the basis of the grant made in its favour and granted Patta in favour of the

Temple subject to payment of assessed amount. However, it was held that the

building situated in Item 1, after notification of the Act, was not vested with

Vedharethinam Pillai. Therefore, from Ex.A-7, Patta proceedings, it is clear

that the Patta was granted to the entire suit property in S.No. 175/84 to an

extent of 28 cents in favour of the Temple. The building available in that

Survey number was vested with Vedharethinam Pillai, S/o Kuppusamy. By

virtue of the Temple Patta, the Temple become the owner of the site. Merely

the building was vested with the persons occupying it, it will not give title to

the site as per the Hon'ble Supreme Court in the case of

K.S.Thirugnanasambandan Chettiar (dead) by lrs., etc vs. The Settlement

Tahsildar Coimbatore-18 and Others etc reported in ***1996 (1) L.W.19*** which

was also relied on by the learned District Judge, Nagapattinam. Further,

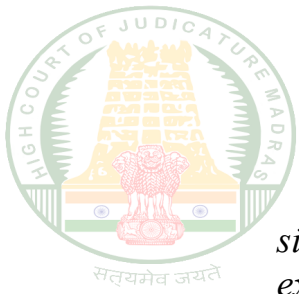
reliance was placed on the reported decision of the Hon'ble Supreme Court in

the case of ***Sri Nageswaraswamy Devasthanam by its Executive Officer,***

Kumbakonam vs. Saroja reported in ***1999 MLJ (Supp) 534*** wherein it was

held as follows;

“Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act XXX of 1963), Section 8 – Tamil Nadu City Tenants Protection Act (II of 1922) Section 9 - Owner of superstructure on site belonging to Temple, claiming title to the



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site – claim, untenable – Grant of joint patta, held, does not extinguish right of Temple to evict the tenant – Tenant forfeited right to tenancy on her denying title of the Temple”

14. Therefore, the learned District Judge answered the Issue-1 in favour of the Plaintiff Temple to the effect that the suit property was Inam property given to Plaintiff Temple. The Trial Judge also answered Issues Nos. 2 and 5 in the suit to the effect that the sale deeds dated 05.02.2004 and 09.02.2004 executed by one S. Nagarajan, the vendor of the Defendant in favour of the Defendant/K.R.Srinivasan, will not bind the Plaintiff Temple in any manner.

15. While answering Issue No.5, the learned Judge claimed that the Defendant cannot claim that the suit property was the absolute property of his Predecessor in Title Subramaniya Chettiar. In fact, the predecessors of the Defendant namely Vedharethinam Pillai claimed Patta in respect of the suit property but such claim of Vedharethinam Pillai was negated by the Settlement Officer against which no Appeal was preferred. Therefore, the finding of the Settlement Officer was final and accordingly, the learned Trial Judge answered Issue No.5 in favour of the Plaintiff Temple.

16. The learned Counsel for the Appellants contended that Patta is not a document of title and based on the same, the Plaintiff Temple cannot

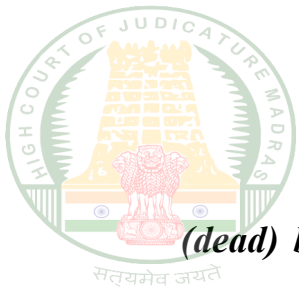


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claim themselves to be the owners of the land in question. Such a contention will not hold good as, enquiry was conducted under the the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 by the Settlement Officer and after due enquiry, Patta was granted to the Temple. Therefore, the document under Ex.B-1 dated 26.04.1989, which is a sale deed executed by Varalakshmi and two others in favour of Nagarajan, vendor of the Defendant, is without any sanction obtained from the Officials of H.R&C.E Department and it cannot confer any title. Consequently, the sale deed relied on by the Defendant to lend support to his claim for title cannot be valid. The building put up by Vedharethinam Pillai was earlier demolished. Therefore, the entire site belongs to Temple. Subsequently, construction was put up by the Defendant. The said construction has to be treated as illegal. Therefore, whatever is purchased under Ex.B-3 and Ex.B-4 will only confer a right over the superstructure and not the site as per the reported decision of the Hon'ble Supreme Court mentioned supra. Accordingly, the learned Judge had answered the issues against the Defendant in the suit.

17. As regards the maintainability of the suit, it was specifically rejected by the learned Trial Judge holding that the suit is maintainable as against strangers or encroachers. In ***K.S.Thirugnanasambandan Chettiar***



(dead) by lrs., etc vs. The Settlement Tahsildar Coimbatore-18 and Others

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reported in **1996 (1) L.W.19** and **Sri Nageswaraswamy Devasthanam by its**

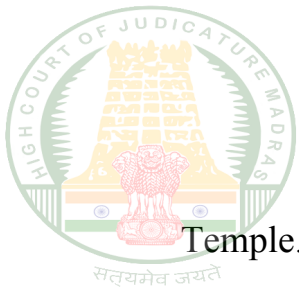
Executive Officer, Kumbakonam vs. Saroja reported in **1999 MLJ (Supp)**

534 it was specifically held that a suit against a third party encroacher is very much maintainable. The learned Judge also relied on Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 which prohibits the sale of Temple properties, wherein it is stated as follows.

“Alienation of immovable trust property – (1) Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property, belonging to, or given or endowed for the purposes of, any religious institutio shall be null and void unless it is sanctioned by (the Commissioner) as being necessary or beneficial to the institution”.

18. Therefore, the sale deed relied by the Defendant under Ex.B-1 to Ex.B-4 were to be treated as illegal. It does not confer any lawful title or a legally enforceable title in favour of the Respondent/Plaintiff. Thus, all the issues raised in the suit were against the Defendant and the suit was decreed in favour of the Plaintiff.

19. After the enactment of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26 of 1963), the Temple lands were considered as Inam land and Inam Patta was granted to the



Temple. This was proved by the Plaintiff Temple through documents under Ex.A-6 and Ex.A-7. The claim of Vedharethinam Pillai, the predecessor in title of Nagarajan, claiming patta for the property in question was rejected by the order in RP 320/18 TTD/71 and it was not challenged. Therefore, the argument of the learned Counsel for the Appellants that the learned Trial Judge solely relied on Ex.A-7 to decree the suit cannot be accepted.

20. The reported decisions relied on in this case also related to the Temple lands akin to the case on hand. In the case of ***K.S.Thirugnanasambandan Chettiar (dead) by lrs., etc vs. The Settlement Tahsildar, Coimbatore-18 and Others*** reported in ***1996 (1) L.W.19*** and in the case of ***Sri Nageswaraswamy Devasthanam by its Executive Officer, Kumbakonnam vs. Saroja*** reported in ***1999 MLJ (Supp) 534*** it was held that the claim of title by individuals against the Temple is not proper.

21. The learned Counsel for the Respondent/Temple relied on the reported decision in the case of ***A.N. Kumar -vs- Arulmighu Arunachaleswarar Devasthanam Thiruvannamalai, rep by its Executive Officer & Others*** reported in ***CDJ 2011 MHC 1412***. In that case, the Appeal was dismissed and the claim that the suit for eviction cannot be instituted

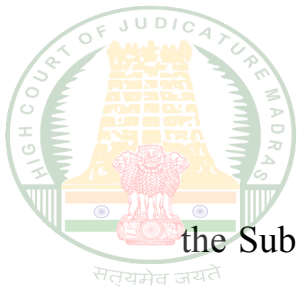


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against the H.R & C.E provisions was specifically rejected by the Division Bench of this Court. In the light of the above rulings, the claim of the Defendant in O.S. No. 22 of 2010 is found untenable and hence, rejected.

22. Ex.A-7 is the proceedings of the Settlement Officer under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26 of 1963). Ex.A-6 is in continuation of the same by the Joint Director, Survey Department, Tiruvarur to the Executive Officer. Therefore, the claim of the Defendant that the learned Trial Judge erred in exclusively relying on Ex.A-7 cannot hold good. Ex.A-7 is the deed dated 01.12.1975 in continuation of the same, Ex.A-6 was issued by Joint Director, Survey Department, Tiruvarur to Executive Officer, Vedharaneswara Swamy Temple, dated 11.02.2011. Therefore, the Plaintiff had proved that through Ex.A-1, Ex.A-7 and Ex.A-6 they have substantiated the averments in the plaint.

23. The reply by the Sub-Registrar is a valuable evidence while registering the properties. The Registrar shall not register the land belonging to Temple as though it belongs to an individual. Therefore, based on instructions, issued by the Revenue Department and the Inspector General of Registration,



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the Sub Registrar or District Registrar as the case may be registers documents without taking the risk of registering the land belonging to various Government Departments and registering them in the name of the individuals thereby, attracting Departmental enquiry including removal from services. Therefore, the Registration Department Officials registering the immovable property, including the superstructures clearly mentioned that the site belong to Temple. It has to be relied by the learned Judge based on evidence available before the Court. Therefore, there is nothing wrong in the learned Trial Judge placing reliance on the letter of the Sub-Registrar under Ex.A-2. Ex.A-7 is the proceedings of the Settlement Officer under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963. Ex.A-6 is the latest Report from the Joint Director, Survey Department, Thiruvavur to the Executive Officer of the Temple regarding the Temple lands. Therefore, the learned Trial Judge had not only relied on Ex.A-2 but also relied on Ex.A-7 and Ex.A-6.

24. The learned Trial Judge had quoted Section 34 of the H.R & C.E Act, 1959 by which any exchange of sale or mortgage or any lease for a term exceeding 5 years relating to any immovable property belonging to or given or endowed for any purpose in any religious Institution shall be null and void



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unless it is sanctioned by the Commissioner as being necessary or beneficial to the institute. On the basis of Section 34 of the Act, the learned Trial Judge had held that without obtaining any sanction or prior approval from the Commissioner of H.R & C.E Department, Ex.B-1 to Ex.B-4 will not confer any title to the Defendant.

25. The learned Counsel for the Appellant submitted that the learned Trial Judge failed to appreciate the fact that most of the lands in or around Vetharanyam Temples are Inam lands and many of the land owners have constructed pucca buildings and are in possession of Inam lands. It was further stated that the Defendants also had been cornered for no fault of theirs. The said submission of the learned Counsel for the Appellant will not hold good. It is found that those who were in such enjoyment had formed an association called as Vedharanyam Nagara Pattanam Manai Kudiyirupor (Anubavatharar) Nala Sangam, Vedharanyam and filed W.P.No. 5143 of 2012 in which the Executive Officer, Vedharaneswara Swamy Devasthanam was also a party. As against an order passed in WP No. 5143 of 2012, the Plaintiff herein namely Executive Officer, Vedharaneswara Swami Temple filed W.A.No. 1743 of 2012 and it was dismissed on 23.07.2021 holding as follows:-

“ 3. After hearing the parties on either side, the learned Single Judge, while holding that there cannot be any impediment on the side



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of the respondents therein, particularly, the Settlement Officer, to consider the case of the 1 st respondent herein and grant patta for the land in which they are in occupation for long years, had only directed respondents 2 to 6 herein to consider the representation of the writ petitioner/1 st respondent herein and pass orders on merits and in accordance with law after giving due opportunity of hearing to the writ petitioner/1 st respondent and the temple, namely, the Joint Commissioner, HR & CE and the Executive Officer of Vedaranyeswara Swamy Devasthanam within a stipulated time.

4. There is no positive direction, as such, issued to grant patta to the 1 st respondent herein/writ petitioner and an opportunity of hearing had also been ordered to be given to the parties concerned before orders could be passed on the representation of the writ petitioner/1 st respondent herein. The Appellant can always express his grievance/objections before the authority concerned, who is to pass orders on the representation of the writ petitioner/1st respondent herein.”

26. It is evident that the Division Bench dismissed the writ appeal on the ground that there is no positive direction to grant patta was issued in W.P.No.5143 of 2012. What was directed is that an opportunity of hearing may be granted to the aggrieved persons to submit their objections, if any. Therefore, the Division Bench dismissed the writ Appeal only on the ground that no positive direction was issued in favour of the aggrieved persons for grant of patta. The Judgment of the Writ Appeal cannot be of any help to the Defendant/Appellant herein. The Division Bench observed that the Writ Court had only issued a direction to consider the representation of the Vedharanyam Nagara Manai (Anubavatharar) Nala Sangam and there was no positive

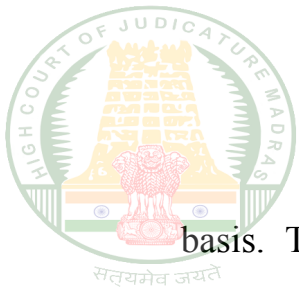


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direction issued to grant patta. Under those circumstances, the submission that the Defendant/Appellants herein alone were discriminated will not hold good.

27. Before the Trial Court, the Defendant was only able to show his possession based on the documents under Ex.B-1 to Ex.B-4 which are sale deeds. Such sale deeds came to be executed without prior sanction from the H.R & C.E Commissioner as per Section 34 of the H.R & C.E Act. Therefore, those sale deeds will not confer title. This was also correctly pointed out by the learned Trial Judge while granting a decree of declaration in favour of the Plaintiff Temple and it does not call for any interference by this Court.

28. During the course of argument in this appeal, a Memo was filed by the learned Counsel for the Appellants enclosing the clear copies of the sale deeds obtained by the deceased Defendant, executed by Mr. Vedharethinam Pillai and also the sale deed in the name of the Vedharethinam Pillai executed by Mr. Subramania Chettiar. As observed by the learned trial Judge, the sale deeds under Ex.B-1 to Ex.B-4 were executed without obtaining proper sanction from the H.R & C.E Commissioner and therefore, they have no validity in law. The land belongs to the Respondent/Temple had been usurped by the so called predecessors in title of the sole Defendant without any legal



basis. Therefore, the claim of adverse possession raised on behalf of the Appellants contending that they and their predecessor in title are in possession of the lands in dispute since 1963 also has to be rejected

29. In the light of the above discussions, the Points for determination made in this Appeal are answered as follows:

Point for determination - 1 : The judgment of the learned District Judge, Nagapattinam is found to be well reasoned judgement. It is not perverse. The learned District Judge relying on Ex.A-7 is found proper. The point for determination-1 is answered against the Defendant and in favour of the Plaintiff.

Point for determination – 2: The learned District Judge had not erred in relying upon Ex.A-2 which is the guideline value for the property. The point for determination-2 is answered against the Defendant and in favour of the Plaintiff.

Point for determination – 3: The Defendant and his predecessor in title for the last 6 decades and more had paid the statutory dues and assessed in the name of the Defendant and his predecessor in title will not confer any title in favour of the Defendant and against the Temple. Without obtaining prior sanction, the predecessor in title of the Defendant cannot have title to the suit



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property. The site belonging to the HR & CE Department. What was assessed is only regarding the superstructure on the HR & CE land/temple land.

Therefore, the claim of the Defendant that they had prescribed title in favour of the Defendant and against the temple was rejected by the learned District Judge, Nagapattinam which is a well reasoned judgement that does not warrant interference by this Court. The point for determination-3 is answered against the Defendant and in favour of the Plaintiff.

Point for determination – 4: The learned District Judge had appreciated the facts of the case based on the law laid down by the judgments of this Court as well as the Hon'ble Supreme Court. Therefore, he had not failed to consider that the Defendant had paid sale consideration, purchased the property and is in absolute possession of the suit property from the date of purchase. The learned Judge had clearly mentioned in his judgement that what had been purchased is the right over the superstructure and not over the vacant site. It is a well reasoned judgement that does not warrant any interference by this Court. The point for consideration-4 is answered against the Defendant and in favour of the Plaintiff.

Point for consideration – 5: The learned Judge had rejected the claim of the Defendant that most of the lands in and around Vedharanyam Temple are Inam lands and had constructed pucca building and in possession of the

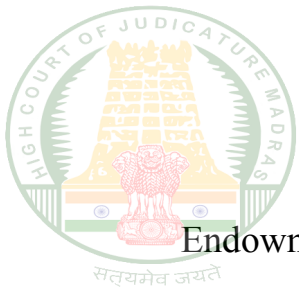


WEB COPY patta lands. The claim made by the Defendant was rightly rejected by the learned District Judge. The point for determination-5 is answered in favour of the Plaintiff and against the Defendant.

Point for determination – 6 : The finding given by the learned District Judge that the Settlement Officer had granted Patta in favour of the Plaintiff temple after conducting enquiry is found to be well reasoned judgement thereby rejected the contention of the Defendant to claim ownership against the temple. The finding of the learned District Judge, Nagapattinam is found proper it does not warrant any interference by this Court. The point for determination-6 is answered in favour of the Plaintiff and against the Defendant.

Point for determination – 7 : The finding of the learned District Judge rejecting the contentions raised by the Defendant claiming that the suit is filed without proper authorization and sanction is also found proper. It is a well reasoned judgment which does not warrant any interference by this Court. The point for determination-7 is answered against the Defendant and in favour of the Plaintiff.

Point for determination – 8 : The learned District Judge had rightly rejected the contention of the Defendant stating lack of jurisdiction of the Civil Court under Section 78 of the Tamil Nadu Hindu Religious and Charitable



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Endowments Act, 1959 which provides for evicting encroachers and trespassers. The learned Judge had clearly stated the reasons that Civil Court has jurisdiction to evict trespassers and encroachers. The point for determination-8 is answered in favour of the Plaintiff and against the Defendant.

Point for determination – 9: The learned District Judge had rightly rejected the claim of the Defendant that the temple had not established its right. Therefore, the Appeal preferred by the Defendant that the Plaintiff temple had not established its right and the Appeal is to be rejected and the suit filed by the Temple is to be decreed. The point for determination-9 is answered against the Defendant in favour of the Plaintiff.

In the result, **the Appeal Suit is dismissed with costs throughout.** The judgment and decree dated 14.02.2012 made in O.S. No. 22 of 2010 on the file of the learned District judge, Nagapattinam stands confirmed.

02.06.2025

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Internet : Yes / No

Index : Yes/No

Speaking/Non-speaking order



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To

1. The District Judge,
Nagapattinam.
2. The Section Officer,
V. R. Section,
High Court Madras.



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SATHI KUMAR SUKUMARA KURUP, J

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Judgment in
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02.06.2025