



S.A. No. 1088 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2025

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CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

S.A. No. 1088 of 2009

- 1.T.N.Shanmughasundaram
- 2.Rameshkumar
- 3.K.S.Ravichandran
- 4.S.Vijayan
- 5.T.N.Murugesan
- 6.M.Udayakumar
- 7.M.Ilangoan
- 8.M.Sundar

... Appellants

Vs.

- 1.Sri Neelakandiamman Kovil
(Affiliated to Sri Muruganathaswamy Koil)
Represented by its Executive Officer
Thirumuruganpoondi
Avinashi Taluk, Coimbatore District.

- 2.Shanmugha Pandaram
- 3.Parathal
- 4.Natarajan
- 5.N.Mariammal
- 6.N.Loganathan
- 7.G.Indirani
- 8.Chellammal
- 9.Kaveriammal
- 10.Deivanai
- 11.N.Dandapani



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12.N.Arumugham
13.P.Sivagami
14.Venkatachalam

... Respondents

This Second Appeal has been filed under Section 100 of Code of Civil Procedure praying to allow the Second Appeal by setting aside the judgment and decree dated 20.01.2009 made in A.S. No. 91 of 2006 on the file of the Principal District Judge, Coimbatore confirming the judgment and decree dated 05.10.1994 made in O.S. No. 533 of 1993 on the file of the Sub Court, Tirupur.

For Appellants : Ms.Haritha

For Respondents : Mr.G.Sugumaran (R1)

J U D G E M E N T

The 17th to 24th respondents, who had been impleaded in A.S. No. 91 of 2006 during the pendency of the Appeal Suit by order dated 27.02.2008 in I.A. No. 138 of 2008, are the appellants herein. The appellants herein were not parties to the suit. Their predecessor in title of the suit property, who had sold the suit schedule property to them, were the plaintiffs. It must be further pointed out that this sale deed was before the institution of the suit. However, the fact of sale was not disclosed in the plaint and was also not stated as the cause of action in the plaint.



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2. The suit in O.S. No. 533 of 1993 had been filed by six plaintiffs, who were the legal representatives of one Ramalinga Pandaram. The 1st defendant was the Temple, Sri Neelakandiamman, Sub Temple of Sri Muruganathaswamy Temple, represented by its Executive Officer. The 2nd to 11th defendants were also other legal successors in title of the original grantee of Raya Pandaram. The suit property consisted of two survey numbers viz., 401/1 and 411/1. In survey No. 401/1, the area was 7 acres and 34 cents. In Survey No.411/1, the area was 8 acres and 36 cents. The total area was 15 acres and 7 cents.

3. The suit had been filed seeking a declaration that the plaintiffs are the owners of the suit property and for an injunction restraining the defendants from interfering with peaceful possession of the suit property. Even on the date of institution of the suit, the plaintiffs were no longer title holders of the land having sold the land much earlier to the appellants.

4. The appellants had not thought it fit to institute any suit. The



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plaintiffs had not thought it prudent to disclose that they are not the owners of the land and that they had sold the land. The 1st defendant contested the suit by filing written statement. The 2nd to 11th defendants also filed their written statement, wherein, they stated that they had relinquished their right, title and interest over the suit property. Therefore, they were not necessary parties to the plaint. The suit had been filed in the Sub Court at Tirupur. By judgment dated 05.10.1994, the suit was decreed.

5. Thereafter, the 1st defendant filed A.S. No. 91 of 2006, which came up for consideration before the Principal District Court at Coimbatore. During the pendency of the First Appeal, the present appellants got themselves impleaded as 17th to 24th respondents by order dated 27.02.2008 in I.A. No. 138 of 2008. By judgment dated 20.01.2009, the Appeal Suit was allowed and the judgment and decree of the trial Court was set aside.

6. This had necessitated the newly impleaded respondents in the



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First Appeal viz., 17th to 24th respondents, who were the purchasers of the suit property even prior to the institution of the suit to file the present Second Appeal.

7. The Second Appeal had been admitted on the following three substantial questions of law:-

“(a) Whether the Additional Collector had jurisdiction to pass an order restoring the lands to the temple under Section 41 of the Hindu Religious and Charitable Endowment Act in the light of the fact that the inam character of the land stood abolished by virtue of Section 3 of the act of 62 and patta had been issued to the predecessors of the appellants under Section 8 read with Section 21 of the said act?

(b) Whether the findings of the Lower Appellate Court that the orders passed by the Tahsildar, Avinashi is invalid as he was not appointed as Settlement Officer under the Hindu Religious and Charitable Endowment Act 30 of 1963 is sustainable in law in view of Rule 33 of the Rules framed



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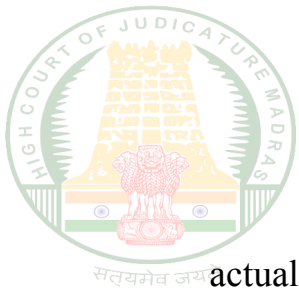
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under the said act?

(c) Whether the judgment and decree of the Lower Appellate Court is sustainable in law in view of the unassailable fact that successors of the service holder who was granted Ryotwari Patta under Section 8(2)(ii) of the Act, 1963 (Act XXX 1963) has satisfied the condition of the grant of patta by paying the amount as determined by the Competent Authority viz., Tahsildar within the time fixed and thereby discharged themselves from the condition of service and become the absolute owner of the inam land in question.”

O.S. No. 533 of 1993/ the Sub Court, Tiruppur:-

8. In the plaint, the plaintiffs had contended that they are the hereditary Trustees of the 1st defendant /Sri Neelakandiamman Sub Temple of Sri Muruganathaswamy Temple at Thirumuruganpoondi. They had also stated that their predecessors were doing poojas in the Temple for more than 3 decades. They had further stated that the plaintiffs were



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actually enjoying the suit property. The 2nd to 11th defendants were also successors in title but by a Family Arrangement they had relinquished their right over the suit property.

9. It had been further contended that the suit properties were Devadayam Inam comprised in T.D.No.686 of Rakkyapalayam Village, Avinashi Taluk. It had been granted as service inam more than 125 years. Before the institution of the suit, the forefathers of the plaintiffs and also the 2nd to 11th defendants were traditionally performing poojas in the said Temple.

10. It had been contended that in the year 1963, the Madras Minor Inam (Abolition & Conversion into Ryotwari) Act, 1963 came into force. The object was to ensure that the lands, which had been granted as service inam are re-categorized as Ryotwari Inams so that patta could be granted by the Tahsildar. It had been contended that the Settlement Tahsildar had commenced proceedings for grant of Ryotwari Patta. It had been further contended that the original grant was not only for kudiwaram

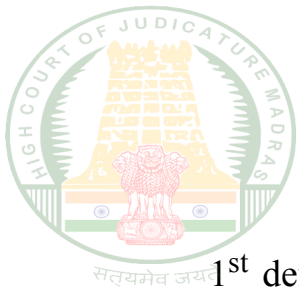


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but also for melwaram, which would imply right to enjoy and also to the profits from crops over the land.

11. It had been further contended that the defendants however also claimed Ryotwari Patta. This necessitated the Settlement Tahsildar to examine as the credentials of the plaintiffs and the 2nd to 11th defendants and thereafter, on examining that the plaintiffs were doing the poojas and were paying kist to the Government and enjoying both melwaram and kudiwaram rights, the Settlement Tahsildar had granted Ryotwari Patta to the plaintiffs.

12. The plaintiffs claimed that this granted them a right to deal with the property in any manner they deemed fit. It had been contended that the 1st defendant had filed a petition before the Additional Collector Coimbatore under section 41(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 seeking resumption of the lands from the plaintiffs. It had been stated that the Additional Collector also passed an order on 31.03.1993 directing resumption of the lands in favour of the



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1st defendant Temple. It is the case of the plaintiffs that the Additional Collector had no authority to pass such order. It is further contended that that he had completely over looked the order of the Settlement Tahsildar. It had been further stated that the order of the Settlement Tahsildar had become final. It was under those circumstances, the suit had been filed seeking declaration of title and injunction restraining the 1st defendant from interfering with the peaceful possession of the property.

13. The 1st defendant filed a written statement stating that a total area of 15.7 acres in Rakkyapalayam Village, Avanashi Taluk in Survey Nos. 401/1 and 411/1 had been granted as Devadayam Inam. It had also been stated that the proceedings were initiated in the year 1963 by the Settlement Tahsildar, Gobichettipalayam under the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 and that conditional patta was granted to Ramalingam Pandaram. There were two conditions, which had been imposed. The first condition was that the service holder could either to pay to the religious institution viz., to the 1st defendant an amount equal to 20 times the difference between the fair rent in respect of



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the Inam lands as determined under the provisions of the land. If it is so paid, the land would be discharged from the service to which it was attached. The second option was to continue to do the service and hold the lands as service inam.

14. It had been stated that the grantee /Ramalinga Pandaram did not opt to pay the amount of fair rent determined. He and his family members continued to render service to the Temple. It had been further stated that therefore the plaintiffs had chosen the second option. It had been further contended that the plaintiffs had however dealt with the land as if they were owners of the land. They could only render service and hold the lands as service inam alone. It had been further stated that violating the condition imposed, the plaintiffs had sold the service land to third parties under Sale-deeds dated 06.07.1990 and 25.09.1991.

15. It had been further specifically stated in the written-statement that the said alienation is contrary to the conditions imposed by the Settlement Tahsildar. It had been further stated that therefore, the



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plaintiffs had lost their right to occupy the lands permanently. It had been further stated that the sale was void under Section 41 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. It had been further stated that therefore, a petition was given to the Collector to proceed under Section 41(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 to resume the land. The Additional Collector, Coimbatore also passed orders on 31.03.1993 for resumption of the land. It had been contended that the said order is binding on the plaintiffs and that all these facts had been suppressed in the plaint, viz., (1) the plaintiffs had not paid 20 times the fair rent as the option given by the Settlement Tahsildar and that they had continued to use the land as Service Inam. (2) They however sold the land to third parties (3) that they had not disclosed that they are bound by the orders of the Additional Collector, Coimbatore dated 31.03.1993.

16. The only relief sought in the plaint was to declare that they are the title holders of the land in spite of the fact that on the date of filing of the suit, they had already sold the land to 7th to 11th defendants.



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17. A written statement was also filed by the 2nd to 11th defendants that they had relinquished their right and title and interest over the land and that they are not necessary parties to the suit.

18. The suit came up for consideration before the Sub-Court, Tirupur. The learned Sub Judge had framed the following issues:-

- 1. Whether the plaintiffs are entitled for declaration as claimed in the plaint?*
- 2. Whether the order of the Sub Collector dated 31.03.1993 directing the resumption of the land is valid and whether any declaration could be issued against the same?*
- 3. Whether the plaintiffs are entitled for injunction protecting possession?*
- 4. To what other reliefs are the plaintiffs entitled to?*

19. During the trial, the 1st plaintiff had examined himself as PW1. On the side of the defendants, two witnesses were examined. The plaintiffs marked Exs.A1 to A12. The defendants marked Ex.B1.



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20. On consideration of the oral and documentary evidences, the learned Sub Judge had decreed the suit by granting declaration of title and also declaring that the order of the Additional Collector, dated 31.03.1993 is null and void and is not binding on the plaintiffs.

21. It must be further pointed out that the Additional Collector was not a party to the suit. The plaintiffs had not sought the relief that the order passed on 31.03.1993 should be declared as null and void. Even without any pleadings that particular issue had been framed and answered by the learned Sub Judge. It is also to be noted that the learned Sub Judge had failed to consider the specific statement in the written statement that the property had already been sold by the plaintiffs even prior to the institution of the suit.

22. It had also been stated that the learned Sub Judge had also failed to note that the Settlement Tahsildar had given two options to the plaintiffs viz., to pay the rent at 20 times the value or to continue to use the land as service inam and that though the plaintiffs continued to do



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service inam they considered themselves as owners of the property and had sold the property to third parties. They had subsequently paid the service inam at 20 times the value, which had also been collected. But on the date when they paid that amount they were no longer owners of the land. They had already sold the lands.

A.S. No. 91 of 2006:- / Principal District Court, Coimbatore:-

23. The judgment of the Trial Court was put in appeal before the Principal District Court at Coimbatore by the 1st defendant by filing A.S. No. 91 of 2006. The First Appellate Court by judgment dated 20.01.2009 reappraised the entire evidence. During the pendency of the First Appeal, the present appellants, who had purchased the property even prior to the institution of the suit had impleaded themselves as 17th to 24th respondents.

24. The learned First Appellate Court examined the orders passed by the Settlement Tahsildar, which was a conditional grant of Patta directing the plaintiffs in the suit to either choose to continue to use the land as service inam and or to pay 20 times the fair rent value of the land.



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25. It was observed that even prior to the institution of the suit, the property had been sold. It had been observed that the plaintiffs had not also impleaded the Additional Collector who passed the order dated 31.03.1993. It had been further observed that the decree had been passed against an order which had been not challenged before the Court. The Trial Court had however granted a declaration that the said order of the Additional Collector was null and void. The learned Principal District Judge was of the opinion that the judgment of the Trial Court should be interfered with and accordingly, allowed the Appeal Suit and dismissed the Original Suit.

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26. The 17th to 24th respondents in the First Appeal had filed the present Second Appeal. The Second Appeal had been admitted on the following substantial questions of law:-

“(a) Whether the Additional Collector had jurisdiction to pass an order restoring the lands to the temple under Section 41 of the Hindu Religious and Charitable



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Endowment Act in the light of the fact that the inam character of the land stood abolished by virtue of Section 3 of the act of 62 and patta had been issued to the predecessors of the appellants under Section 8 read with Section 21 of the said act?

(b) Whether the findings of the Lower Appellate Court that the orders passed by the Tahsildar, Avinashi is invalid as he was not appointed as Settlement Officer under the Hindu Religious and Charitable Endowment Act 30 of 1963 is sustainable in law in view of Rule 33 of the Rules framed under the said act?

(c) Whether the judgment and decree of the Lower Appellate Court is sustainable in law in view of the unassailable fact that successors of the service holder who was granted Ryotwari Patta under Section 8(2)(ii) of the Act, 1963 (Act XXX 1963) has satisfied the condition of the grant of patta by paying the amount as determined by the Competent Authority viz., Tahsildar within the time fixed and thereby discharged themselves from the condition of



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service and become the absolute owner of the inam land in question.”

27. The learned counsel for the appellants advanced arguments and also filed written arguments. It is the contention of the learned counsel that the First Appellate Court should have noticed that the property is an inam land and that it was in possession and enjoyment of the predecessors of the plaintiffs as inam land for performing pooja in the 1st respondent Temple. It had also been contended that there was no dispute that the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 had been brought into force and thereafter, Ryotwari Patta had been granted to the plaintiffs. It had also been contended that this particular patta had been marked as Ex.A1.

28. It had also been argued by the learned counsel that grant of the Ryotwari Patta gave right to the plaintiffs to deal with the property in any manner.

29. The learned counsel further argued that the Additional

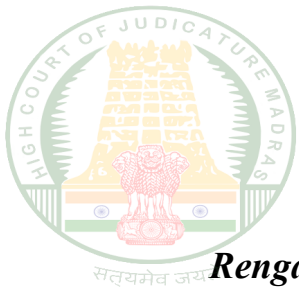


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Collector, who had passed the order under Section 41 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, did not have jurisdiction to pass such order, since the inam character of the land stood abolished by grant of patta to the predecessors in title of the appellants herein.

30. The learned counsel further argued that the orders of the Tahsildar, Avinashi who had represented before the Sub Collector is not valid, since he was not appointed as the Settlement Tahsildar. It had been further pointed out by the learned counsel that the plaintiffs had satisfied the conditions which was imposed for grant of patta by paying the amount as determined by the competent authorities within the extended period granted and that the amounts had also been received by the Competent Authority.

31. The learned counsel further contended that the order of the First Appellate Authority must be interfered with by this Court. In this connection, the learned counsel placed reliance on a judgement passed by me reported in **2018 (6) CTC 744** in **Saraswathi Ammal -vs- Vadamalai**



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Rengappan (died) and others, wherein, I had held that once sale of inam lands was specifically barred under Section 35 of the 1951 Act and Section 41 of the 1959 Act, such sale is void *ab initio*, no right can ever flow from the sale even in future. I had distinguished an act which is void under the Statute and an void by act of parties.

32. The facts in this case are certainly distinguishable.

33. In the instant case, the plaintiffs had already sold the land even prior to the institution of the suit. They had been given the option by the Settlement Tahsildar to either pay 20 times the fair rent or to continue to use the land as service inam. They had not paid the 20 times the fair rent and they continued to use the land as service inam. Once they continued to use the land as service inam, they had no right to convey the land to any third party. The plaintiffs had however sold the land in violation of the conditions laid down by the Settlement Tahsildar to the appellants herein.

34. After that particular sale, they paid the 20 times the fair rent



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value, which was also accepted. But the fact remains that the sale to the appellants itself is void and it is void under Statute. It can never be set right. On the date when the appellants purchased, the properties their vendors viz., the plaintiffs in the suit had no right to convey the land. They were only users of the land as service inam. They had to do pooja. For doing the pooja they were given a right to use the land and enjoyed both melwaram and kudiwaram rights. But they did not have the right to make profit out of the land by selling it to third parties for valuable consideration. These facts have been over looked by the Trial Court.

35. The learned Trial Court had also exceeded jurisdiction by granting a declaration that the order of the Additional Collector passed under Section 41 (1) and (2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 is void, and not binding, over looking the fact that the Additional Collector was not a party in the suit.

36. In the back ground of those facts, while examining the substantial questions of law, it has to be held that the Additional Collector had jurisdiction to pass an order resuming the lands to the Temple.



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Section 41(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 relates to resumption and regrant of inam granted for performance of any charity or service.

“Section 41(2) in Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 is as follows:-

(2)(a) The Collector may, on his own motion, or on the application of the trustee of the religious institution or of the Commissioner or of any person having interest in the institution who has obtained the consent of such trustee or the Commissioner, by order, resume the whole or any part of any such inam, on one or more of the following grounds, namely:-

(i) that except in the case referred to in the proviso to sub-section (1), the holder of such inam or part or the trustee of the institution has made an exchange, gift, sale or mortgage of such inam or part or any portion thereof or has granted a lease of the same or any portion thereof for a term exceeding five years, or”



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37. When the holder of the inam had sold the property, then the Collector has the right to pass an order of resuming the land in favour of the Temple. A *proviso* had also been given that any party aggrieved by the final order of the Collector may file a suit in the Court to determine the inam comprises both melwaram and kudiwaram or only melwaram. In the instant case, the appellants were only third party purchasers. They cannot claim either melwaram right or kudiwaram right. They however claimed a right under a sale deed through which they had purchased the property. Under those circumstances, since the sale itself is void, it is only appropriate that the Collector and the Sub Collector took action under Section 41 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. I answer the first substantial question of law that the Additional Collector had jurisdiction to order restoring the land.

38. The second substantial question of law is about the Tahsildar, Avinashi, who had granted extension of time to the plaintiffs, to pay 20 times the fair rent value as given in the earlier order of the Settlement Tahsildar after they had sold the land.



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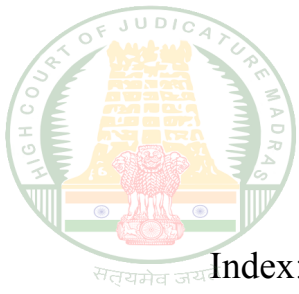
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39. The Tahsildar had no such authority to grant such extension of time. The fact that the amount had been paid and had been received would not work to the advantage of the appellants. The plaintiffs had already sold the lands to the appellants. I hold the Tahsildar Avinashi did not have any authority to pass such order.

40. With respect to the third substantial question of law, I hold that there had been failure to satisfy the condition of grant of Ryotwari patta, since two options were given, to either pay 20 times the fair rent value or to continue to use the lands as service inam. The plaintiffs in the suit had only continued to use the land as service inam and had not paid 20 times the fair rent value within the time prescribed. They had then sold the lands, which right they did not have. The appellants therefore cannot claim any title over the lands.

41. In view of these reasons, I hold that the Second Appeal has to necessarily fail and the same is dismissed. No order as to costs.

26.08.2025



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Index: Yes/No
Internet: Yes/No
Speaking /Non-speaking order
NCC : Yes / No
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To

1. The Principal District Judge, Coimbatore.
2. The Sub Court, Tirupur.
3. The Section Officer,
Vernacular Section,
High Court, Madras.



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C.V.KARTHIKEYAN, J.

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Dated : 26.08.2025