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W.P.No.21362 of 2024

In the High Court of Judicature at Madras

Reserved on : 10.2.2025	Delivered on: 13.2.2025
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.21362 of 2024
& WMP.Nos.23316 & 23317 of 2024

1.M/s.Jains Housing, a partnership
firm, having office at 98/99,
Habibullah Road, T.Nagar,
Chennai-17.

2.Mr.Vinayagam
3.Mr.Sundaram
4.Mr.Dilli Babu
5.Mrs.Vasantha
6.Mrs.Sakila
7.Mr.Anbu
8.Mrs.Rathi
9.Mrs.Ramani
10.Mr.Dhanasekar
11.Ms.Gnanaoli

all parties are rep.by their
power of attorney agent
Mr.Chenaram Seni

...Petitioners

Vs



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- 1.The District Revenue Officer,
Office of the District Revenue
Officer of Chengalpattu,
Anna Salai, VOC Nagar,
Ammanambakkam,
Chengalpattu District-603001.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional
Officer, Kadaperi, Tambaram.
600045.
- 3.The Executive Officer, Arulmigu
Ranganatha Perumal Thirukoil,
Thiruneermalai, Chennai-44.
- 4.The Sub-Registrar, Office of the
Sub-Registrar, Thiruneermalai
Main Road, Pammal, Chennai-75.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 1st respondent dated 23.5.2023, Ref.No.11132/2022/A4, quash the same and consequently to direct the 1st and 2nd respondents to restore Patta Nos.712, 3158 and 1566 in the names of the petitioners.



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For Petitioners : Mr.N.L.Rajah, SC for
M/s.Ganesh & Ganesh
For R1, R2 & R4 : Mr.M.R.Gokul Krishnan, AGP
For R3 : Mr.N.R.R.Arun Natarajan, SGP

ORDER

This writ petition has been filed challenging the proceedings of the first respondent dated 23.5.2023 and for a consequential direction to respondents 1 and 2 to restore patta Nos.712, 3158 & 1566 in the names of the petitioners.

2. Heard the learned Senior Counsel appearing on behalf of the petitioners, the learned Additional Government Pleader appearing for respondents 1, 2 & 4 the learned Special Government Pleader appearing for the third respondent temple.

3. The case of the petitioners is as follows :

(i) The properties in survey Nos.56, 57/1, 57/2A & 70/1 situated at Thiruneermalai originally stood in the name of individual owners for more than 50 years. The respective title holders were in uninterrupted



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possession and enjoyment of the subject properties. That apart, pattas were also issued in the names of private individuals.

(ii) The first petitioner, which is a property developer, wanted to develop the subject properties into residential apartments in the name and style of Jains Alphine Meadows. Before commencing the development, the first petitioner also sent a communication to the Hindu Religious and Charitable Endowment Department and the trustee of the third respondent temple during 2009 about the residential development proposed to have been carried out at about 16 acres of land, which included survey Nos.56, 57 and 70. Apart from that, the first petitioner sought for lease of 20 cents of land in survey No.90 from the third respondent temple and in turn, the first petitioner also donated a sum of Rs.50 lakhs to the third respondent for this purpose.

(iii) Totally, 952 units were planned to have been constructed and out of the same, 400 units were completed during the year 2011 – 2012 and they were handed over to the purchasers. The said construction was made after getting proper planning permission from



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the Chennai Metropolitan Development Authority and the building licence from the Thiruneermalai Town Panchayat. Further, the completion certificate was also obtained on 14.2.2014.

(iv) All of a sudden, the third respondent temple started making a claim over the subject properties and an order dated 24.3.2020 came to be passed by the second respondent whereby the pattas that were granted in favour of the private individuals pertaining to the subject properties were canceled and a direction was given to restore the original entries in the revenue records in favour of the third respondent temple.

(v) Aggrieved by the order dated 24.3.2020 passed by the second respondent, an appeal was filed by the petitioners before the first respondent, who, through the impugned proceedings dated 23.5.2023, came to the conclusion that both the sides are claiming title over the subject properties and that therefore, they can agitate their rights only before the competent civil court and establish the same. However, after having rendered such a finding, the first respondent did not interfere with the order passed by the second



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respondent. Challenging the same, the petitioners have come forward with this writ petition.

4. The Special Government Pleader appearing for the third respondent took the following stand by filing a typed set of papers:

(i) The subject properties along with a large extent of land measuring 755 acres were gifted to the third respondent temple in the 7th Century. Thereafter, as per the Survey and Settlement Register prepared in the year 1876, it was recorded that the said lands belonged to the third respondent temple. Even in the records that were maintained with the Revenue Department in the year 2011, the name of third respondent temple alone finds a place. However, the Revenue Officials had erroneously recorded the names of the private individuals.

(ii) While so, a similar issue pertaining to such large scale of lands belonging to a temple being usurped by private individuals and entities came up for consideration before this Court in the case of ***P.Lakshmanan Vs. Superintendent of Police [reported in 2018***



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SCC OnLine Madras 13605] wherein a slew of directions came to be issued by this Court, which read thus :

"20. Therefore, this Court, considering the various allegations and the lapses on the part of the Department and in the capacity as parens patriae, issues the following directions to the respondents:

a. The 3rd respondent shall conduct an inquiry under Section 78 of the HR & CE Act and take steps to recover the property subjected to this writ petition from the purchasers, after giving opportunity to all the parties concerned and such steps shall be initiated not later than two weeks from the date of receipt of this order;

b. The 5th respondent shall prepare and file a report specifying the details of the temple lands in Tamil Nadu for which patta has been granted to third parties/encroachers within four weeks from the date of receipt of a copy of this order;

c. The 6th respondent shall instruct all the Tahsildars or District Revenue Officers as the case may be, to take steps to alter the patta granted to the beneficiaries of illegal transfer of land or possession and restore the name of the temple with further direction to refrain from issuing patta without getting written communication from the H.R & CE department related to the temple lands and such process shall be commenced within four



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weeks from the date of receipt of a copy of this order;

d. The details/particulars regarding the properties/lands owned by the said Public Religious Institutions/temples have to be collected as contemplated under Section 29 of the HR & CE Act and must be published in the Official Website of the H.R. & CE. Department, forthwith and a report to that effect shall be filed before this Court not later than four weeks from today;

e. The 5th respondent shall within four weeks, file a report disclosing the lands, the details of the sanction granted by him for alienating the properties of the temples in Tamil Nadu either by way of sale, exchange or mortgage or lease beyond five years with the copy of the approval obtained from the Government and the report of objections from the trustees or interested parties as contemplated under Section 34 of the Hindu Religious and Charitable Endowments Act, 1959;

f. The 5th respondent shall constitute a committee/ committees for each territories/regions and direct the members to visit all the temples in Tamil Nadu, identify the lands belonging to and in the custody of the temple and in the hands of the encroachers with the help of the Tahsildars of the respective revenue Districts and submit a report before this Court within six weeks from the date of receipt of a copy of this order;



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g. The 5th respondent shall send a communication to the trustees for various temples and collect the details of the properties under their custody and in illegal occupation of third parties, the properties alienated by them with or without sanction and the list of cases pending in various courts and submit a report within six weeks from the date of receipt of the copy of this order;

h. Further, the 5th respondent shall look into it as to whether appropriate departmental action is taken against the erring officials of the H.R. & C.E. Department and the trustees of the temples under Sections 53 and 66 of the Act, against whom, the allegations with regard to illegal transfers of the properties/lands owned by the Public Religious Institutions/temples are made, after conducting proper enquiry in this regard;

i. The 5th respondent shall issue appropriate directions to his subordinates to ensure that the temple properties are not sold, parted or leased illegally;

j. The 5th respondent shall instruct the appropriate Assistant Commissioners/Joint Commissioners to initiate inquiry under Section 78 to retrieve the temple lands from the encroachers and shall submit a report to that effect within four weeks;

k. The 5th respondent shall cause to issue public notices informing the public/ encroachers/



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third parties in possession of the temple lands to voluntarily come forth and surrender the lands to avoid penal action, failing which, inform them that prosecution will be initiated against them under Section 79B of the HR & CE Act."

(iii) Pursuant to the above directions, an appeal was filed by the third respondent temple before the second respondent seeking for cancellation of the pattas granted in favour of the private individuals with respect to the properties owned by the third respondent temple. By order dated 24.3.2020, the second respondent dealt with the appeal in accordance with the directions issued by this Court and took into consideration various documents that were placed before him and canceled the pattas granted in favour of the private individuals.

(iv) Challenging the order dated 24.3.2020 passed by the second respondent, an appeal was filed by the petitioners before the first respondent, who, after applying his mind on the documents placed by both parties and after obtaining necessary report from the Revenue Authorities, came to the conclusion that the dispute raised by the petitioners can be decided only before the competent civil court and accordingly disposed of the appeal.



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(v) In view of the above, the third respondent has also taken a stand that there is absolutely no ground to interfere with the orders passed both respondents 1 and 2, that if at all the petitioners want to work out their remedy, they must approach only the civil court and that this writ petition is liable to be dismissed by this Court.

5. When the matter came up for hearing on 05.2.2025, this Court passed the following order :

"This Court heard Mr.N.L.Rajah, learned Senior Counsel appearing on behalf of the petitioners.

2. The sum and substance of the submissions made by the learned Senior Counsel appearing on behalf of the petitioners is that the petitioners are the owners of the property measuring an extent of 16 acres. Patta was also issued in their favour. The first petitioner was in the process of developing the property. While so, the third respondent had submitted an appeal before the second respondent claiming right over 4 acres of land out of the total extent of 16 acres. The second respondent, vide proceedings dated



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24.3.2020, cancelled the patta that was granted in favour of the petitioners. The second respondent merely extracted the stand that was taken by both sides and ultimately without rendering any finding, has relied upon the judgment of a Division Bench of this Court in the case of P.Lakshmanan & Others Vs. Superintendent of Police, Sivagangai District & Others [reported in 2018 SCC OnLine Madras 13605] and straight away directed cancellation of the patta issued in favour of the petitioners.

3. Aggrieved by the order passed by the second respondent, an appeal was filed before the first respondent, who, on considering the entire facts, came to the conclusion that the issue has to be resolved only before the competent civil court and that the issue cannot be decided by the Revenue Authorities. Having said so, the first respondent did not interfere with the order passed by the second respondent with reference to cancellation of the patta that was issued in favour of the petitioners. It is this portion of the order of the first respondent that is put to challenge in this writ petition.

4. The Additional Government Pleader appearing for the third respondent seeks for time to make his submissions.



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5. Post on 10.2.2025."

6. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order.

7. In the case in hand, survey Nos.56, 57/1, 57/2A & 70/1 are involved and they measure a total extent of 2.76 acres. Even in the year 2007, when the first petitioner started developing the subject properties, a legal notice came to be issued by the third respondent temple on 27.6.2007. At that point of time, the third respondent temple was not claiming any right with respect to survey Nos.56, 57 & 70. On receipt of the said notice, a reply notice dated 03.7.2007 was issued by the first petitioner whereby it was informed that the properties belonging to the third respondent temple have not been utilized for the purpose of putting up a residential construction.



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8. That apart, in respect of survey No.90, over which, the third respondent is claiming a right, the first petitioner, through the letter dated 25.1.2009, requested the Commissioner, Hindu Religious & Charitable Endowment Department, Chennai-34 for giving on lease an extent of 20 cents in order to utilize the same as one of the approach roads to the subject properties. There were some exchange of correspondence and in order to show their bona fides, the first petitioner also paid a sum of Rs.50 lakhs as donation to the third respondent temple. There was no further development thereafter. The petitioner obtained necessary planning permission and the building licence and completed the project after getting a completion certificate on 14.2.2014. Thus, 952 residential units have been put up over the entire area. In so far as the title to the subject properties is concerned, the petitioners are claiming title for all the three survey numbers through various title documents and pattas were also standing in the names of the private individuals.



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9. Per contra, the third respondent temple was relying upon the entries that were made in the settlement register of the years 1896 and 1911. Even as per the register relied upon by the third respondent temple, survey No.56 stood in the name of one Mr.Venka Rama Iyer; survey No.57 stood in the name of one Mr.Damara Maniyam; and survey No.70 stood in the name of one Mr.Srinivasa Iyengar.

10. Actually, the trigger for this case started from the earlier order passed by this Court in the case of **P.Lakshmanan** wherein this Court took into consideration the fact that various properties belonging to temples and religious institutions have been dealt with and occupied illegally and hence, this Court, exercising its parens patriae jurisdiction, issued a slew of directions to ensure that illegal occupations are removed and that the properties are restored back to temples/religious institutions. After the said order was passed by this Court, the third respondent temple filed an appeal before the second respondent seeking for cancellation of the pattas granted in favour of the private individuals. The second respondent took into consideration



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the title claimed by both the third respondent temple as well as the petitioners and also the earlier order passed by this Court in the case of **P.Lakshmanan** and came to the conclusion that the pattas standing in the names of the private individuals must be canceled and that they must be restored back in the name of the third respondent temple.

11. Challenging the order passed by the second respondent, the petitioners filed an appeal before the first respondent. In turn, the first respondent extracted (i) the order dated 24.3.2020 passed by the second respondent; (ii) the written submissions made by the petitioners; (iii) the written submissions made by the Executive Officer of the third respondent temple; and (iv) the report of the Village Administrative Officer, Thiruneermalai and ultimately passed the impugned order dated 23.5.2023 wherein the only reasoning that is available is extracted as hereunder :

"எனவே, ஆவணங்கள், அனுபவம் வைத்து
மனுதாரர்களும், 1911-க்கு முன்பு உள்ள கிராம
கணக்குகள்கொண்டு, இந்து அறநிலையத்



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துறையினரும், உரிமை கோருவதால், மேற்படி தாவா புலங்களில், title deed குறித்து, மனுதாரர்கள் திரு.விநாயகம் மற்றும் 11 நபர்கள் மற்றும் திரு.இராஜன் மற்றும் 3 நபர்கள், எதிர்மனுதாரர் இந்து அறநிலையத்துறை ஆகியோர், உரிய சிவில் நீதிமன்றத்தினை அணுகி தீர்வு பெற்றுக்கொள்ள அறிவுறுத்தி உத்தரவிடப் படுகிறது.”

12. In the case in hand, the initial legal notice that was issued by the third respondent temple did not make any mention about survey Nos.56, 57 and 70. The first petitioner was requesting for a long lease of a portion of survey No.90 to utilize it as an approach road. Even as per the information provided under the Right to Information Act in the year 2024, survey Nos.56, 57 and 70 do not find a place in the name of the third respondent temple. On the other hand, the petitioners are tracing their title for nearly 50 years. The First Authority namely the second respondent passed the order dated 24.3.2020 without going into the rival claims made, but only based on the earlier order passed by this Court in the case of **P.Lakshmanan**.



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13. It must be kept in mind that in the case of **P.Lakshmanan**, the subject properties were not involved and that the directions issued by this Court were only general directions to be followed by the Authorities. Those directions should not be construed as if whenever a claim is made by a temple or a religious institution, the patta standing in the name of an individual should be canceled. The earlier order of this Court can only act as a trigger and the Authority concerned is expected to independently deal with cases on their own merits and in accordance with law. The order passed by the second respondent is in the nature of a knee jerk reaction without assigning any reason as to why the second respondent came to the conclusion that the pattas standing in the names of the private individuals must be canceled.

14. The impugned order dated 23.5.2023 passed by the first respondent is even more bad since there is absolutely no reasoning and the so-called reasoning has been extracted supra. Respondents 1 and 2 must realize that they are dealing with the important property rights of the parties and they should also keep in mind that they can



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decide the same only under the Tamil Nadu Patta Passbook Act, 1983 (for short, the Act) and the Rules framed thereunder.

15. The scope of inquiry under the Act and the Rules framed thereunder was dealt with by the Apex Court in the case of ***M/s.Edelweiss Asset Construction Co. Ltd. Vs R.Perumalswamy And Ors. [reported in 2020 SCC OnLine SC 833]***. On considering the provisions of the Act, the Apex Court has held that the Tahsildar is not empowered to adjudicate upon a title dispute. For better appreciation, paragraph 19 is extracted as hereunder :

"Under the Tamil Nadu Patta Pass Book Act 1983 and the Tamil Nadu Patta Pass Book Rules 1987, the Tahsildar is not empowered to adjudicate upon a 'title dispute'. A combined reading of Section 14 and Rule 4(4) indicates that where there exists a dispute with respect to ownership of a land between parties with respect to a patta entry, the correct procedure to be adopted is to approach a civil court having competent jurisdiction. The entry records will be updated on the basis of the decree of the civil court upon adjudication."



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16. In so far as the impugned order dated 23.5.2023 passed by the first respondent is concerned, with whatever little reasoning is available, it is seen that he has come to the conclusion that the parties have to agitate their dispute only before the competent civil court. With this reasoning, the only thing that can be deciphered is that the first respondent thought that the matter involved a title dispute. If that is what the first respondent had intended, he should have interfered with the order dated 24.3.2020 passed by the second respondent and sent the parties before the civil court to agitate their dispute in line with the said judgment of the Apex Court in the case of ***M/s. Edelweiss Asset Construction Co. Ltd.***

17. The learned Additional Government Pleader appearing for respondents 1, 2 and 4 argued the case in extenso touching upon the title to the subject properties by showing various documents. He further submitted that this Court must exercise its parens patriae jurisdiction.



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18. This Court is not able to agree with this submission of the learned Additional Government Pleader appearing for respondents 1, 2 & 4. In this case, this Court is testing the orders dated 23.5.2023 and 24.3.2020 passed by respondents 1 and 2 respectively. While doing so, this Court should not be substituting its views based on the materials placed in the place of the views expressed by respondents 1 and 2. Exercising parens patriae jurisdiction in a case of this nature is not warranted since this Court is not deciding the title to the subject properties. This Court is merely testing the orders passed by respondents 1 and 2 canceling the pattas that stood in the names of the private individuals and transferring the same in the name of the third respondent temple. While undertaking this exercise, this Court must only see as to whether respondents 1 and 2 properly exercised their jurisdiction by assigning appropriate reasons within the ambit of the Act and the Rules framed thereunder. This Court finds that the orders passed by respondents 1 and 2 lack every one of those requirements. In the light of the above discussions, this Court is



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inclined to interfere with the orders passed by both respondents 1 and 2.

19. Accordingly, the orders dated 23.5.2023 and 24.3.2020 passed by respondents 1 and 2 respectively are hereby quashed. As a consequence, the second respondent shall restore the pattas as they stood originally in the names of the private individuals forthwith. The matter is remanded back to the second respondent, who shall issue notice to the petitioners and the third respondent temple, give them an opportunity and pass a speaking order by assigning proper reasons within the ambit of the Act and the Rules framed thereunder. This Court intentionally has not gone into the merits of the case nor rendered any finding since it will have a bearing while the matter is dealt with by the second respondent. The second respondent shall pass final orders within a period of three months from the date of receipt of a copy of this order. It is made clear that any observations made by this Court in this order will not have any bearing while the second respondent decides the issue. The second respondent is directed to



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independently consider the claims made by both the parties and thereafter pass final orders.

20. The writ petition is allowed with the above directions. No costs. Consequently, the connected WMPs are closed.

13.2.2025

To

- 1.The District Revenue Officer,
Office of the District Revenue
Officer of Chengalpattu,
Anna Salai, VOC Nagar,
Ammanambakkam,
Chengalpattu District-603001.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional
Officer, Kadaperi, Tambaram.
600045.
- 3.The Executive Officer, Arulmigu
Ranganatha Perumal Thirukoil,
Thiruneermalai, Chennai-44.
- 4.The Sub-Registrar, Office of the
Sub-Registrar, Thiruneermalai
Main Road, Pammal, Chennai-75.

N.ANAND VENKATESH,J



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