



W.A.Nos.3489 of 2024 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2025

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CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.Nos.3489, 3490, 3493, 3510, 3514, 3515, 3518, 3520 & 3521 of 2024

T.Thangavel	..	Appellant in W.A.No.3489 of 2024
G.Vijayakumar	..	Appellant in W.A.No.3490 of 2024
K.T.Viswanathan	..	Appellant in W.A.No.3493 of 2024
T.Govindasamy	..	Appellant in W.A.No.3510 of 2024
S.Manoharan	..	Appellant in W.A.No.3514 of 2024
G.Ramkumar	..	Appellant in W.A.No.3515 of 2024
K.T.Chinnadurai	..	Appellant in W.A.No.3518 of 2024
M.Samudi	..	Appellant in W.A.No.3520 of 2024
T.Subramani	..	Appellant in W.A.No.3521 of 2024

v.

1. The District Collector
Tirupattur District
Tirupattur 635 601
2. The Commissioner
Hindu Religious and Charitable
Endowments Department
Nungambakkam
Chennai 600 034



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3. The Joint Commissioner
Hindu Religious and Charitable
Endowments Department
Vellore, Vellore District

4. The Assistant Commissioner
Hindu Religious and Charitable
Endowments Department
Tirupattur, Tirupattur District

5. The Tahsildar
Natrampalli Taluk
Tirupattur District 635 852

6. The Fit Person/Executive Officer
(Arulmigu Perumal Swamy Thirukoil)
Kathari Village
Natrampalli Taluk
Tirupattur District

7. R.Sekar .. Respondents in all the Writ Appeals

Memorandum of Grounds of Writ Appeals filed under Clause 15 of the Letters Patent against the common order dated 18.10.2024 passed in W.P.Nos.25947, 25910, 25946, 25954, 25953, 25942, 25943, 25908 & 25956 of 2024, respectively.

For Appellants :: Mr.K.K.Ramsiddhartha
for Mr.S.Sivakumar

For Respondents :: Mr.A.Selvendran
Special Government Pleader for
R1 and R5
Mr.N.R.R.Arun Natarajan
Special Government Pleader(HR&CE)



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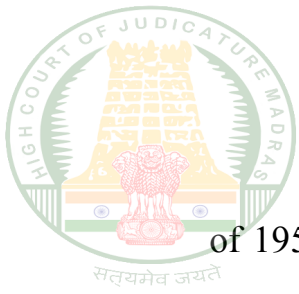
for R2 to R4 & R6
Mr.R.Selvakumar for R7

COMMON JUDGMENT

(Judgment of the Court was made by S.M.SUBRAMANIAM,J.)

The intra-Court appeals on hand have been instituted to assail the common order dated 18.10.2024 passed in W.P.Nos.25947, 25910, 25946, 25954, 25953, 25942, 25943, 25908 & 25956 of 2024, respectively.

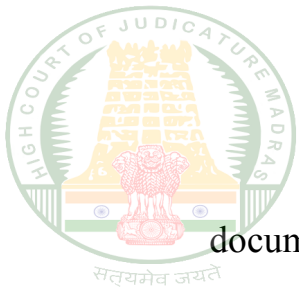
2. The writ petitioners are the appellants before this Court. Writ proceedings came to be initiated challenging the order dated 15.07.2024 passed by the Commissioner, Hindu Religious and Charitable Endowments Department under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as “the HR & CE Act). Facts not seriously disputed between the parties reveal that the appellants claim right over the subject property, on the ground that they are the holders of personal inam of temple property. The deity, namely, Swamy Perumal instituted a suit along with the trustees for possession in O.S.No.53



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of 1956. The District Munsif Court, Tirupattur dismissed the suit by order dated 29.11.1958. The findings by the trial Court show that the plaintiffs are not entitled for the relief of possession, but the defendants in the suit are not the holders of title. The defendants have not filed any appeal suit. But the plaintiffs filed appeal suit in A.S.No.353 of 1959. The Sub Court, Vellore, while upholding the conclusion of the trial Court, made a finding that the temple has not produced any evidence for grant of relief in the suit. The enjoyment or possession as is sought to be explained on the defendants' side is quite consistent with the inam being personal in their favour. If as matter of fact the title vested in the first plaintiff temple, there should be some evidence which would deserve respect from a Court of law.

3. Thereafter, the lands were taken up under the provisions of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 . The order of the Settlement Tahsildar, Chengalpet dated 09.04.1976 passed in S.R.15/75 TPTR/30/63 (Rem) was taken by way of appeal in M.I.A.T.Appeal No.13 of 1976 before the Minor Inams Abolition Tribunal, Vellore. The Tribunal elaborately adjudicated the facts based on the



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documents and evidence produced by the parties. The Tribunal considered the judgment of the civil Court in O.S.No.53 of 1956 and the judgment in Appeal Suit No.353 of 1959. The Tribunal, while allowing the appeal filed by the objector by order dated 03.02.1977, observed as follows:-

“9. The respondents then rely upon the printed judgment in OS 53 of 1956, on the file of the District Munsif's Court of Tirupathur (Ex.A2) and also the suit register extract (Ex.A3) to show that Muthu Gounder and Thirupathur gounder filed the suit to recover possession of these lands from the present 1st respondent and the present 2nd respondent also their vendor and that suit was dismissed by the learned District Munsif and the appeal also went against them and it has become final and so it will not be open to the present objector who was the 1st plaintiff in that suit to claim possession and ask for the issue of patta. No doubt, in that judgment the 1st plaintiff was the temple by its next friend Muthu gounder and Muthu gounder and thirupathi gounder filed that suit against those respondent and their vendor and the court also held that they cannot recover possession of the property. But it is significant to note that in that suit, the question of title was not raised nor was it decided. The



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prayer was only for recovery of possession. Secondly, under issue No.2, the learned District Munsif held that the suit property is not the property of sami perumal temple on the ground that there was no documentary evidence and also relying upon the present Ex.A1, that it was an ancestral property. But now they have produced the unimpeachable ancient documents of title Exs.R1 and R4.

12. The respondents learned counsel then states that they are not claiming title by adverse possession, but they are claiming title by their rendering pooja in the temple. Even for this, there is only the interested testimony of RW1. He has not chosen to examine any body else. Still worse to say that the 2nd respondent who is the widow of late Munisami is rendering service as though a lady is competent to render service in a perumal Temple. I, therefore, find that the grant is only in favour of the Temple and the income alone was utilized for the pooja in the Temple. I also find that the possession of the respondents was only on behalf of the Temple and as such they cannot claim any possession in their names.

13. In the result, the order passed by the Settlement Tahsildar of Chengalpattu is set aside and the appeal is allowed with costs.”



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4. The order of the Tribunal was challenged in S.T.Appeal No.288 of 1978 before the High Court. The Division Bench of the High Court relegated the parties to institute a civil suit, relying on the judgment in the case of *Arumugam Chettiar v. Subramanian Chettiar*, 1983-L.W.580. Admittedly, no civil suit was instituted by any of the parties. Thereafter, one Mr.R.Sekar filed W.P.No.26574 of 2021 seeking a direction to remove the encroachments in the temple lands. The Division Bench of this Court passed an order on 15.12.2021 as under:-

“6. In the light of the limited prayer sought in this writ petition and the submissions of the learned counsel on either side, this Court without expressing any opinion on the merits of the matter directs the respondents 2, 3 and 4 to consider the representation of the petitioner and take action in accordance with law, after providing ample opportunity to all the necessary parties. The 3rd respondent shall forward the relevant records as per Section 78(ii) of the Hindu Religious and Charitable Endowments Act, to the concerned Joint Commissioner, Hindu Religious Charitable Endowments Department, for taking necessary action. The said exercise shall be completed within a period of six months from the date of receipt of a copy of this order.



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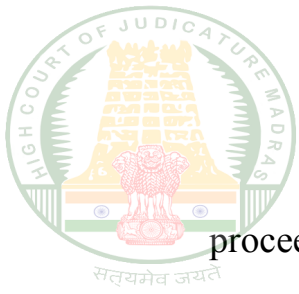
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7. With the above direction and observation, this writ petition is disposed of. No costs.”

5. Pursuant to the directions issued by the Division Bench of this Court, the competent authority under the HR & CE Act initiated eviction proceedings under Section 78 of the HR & CE Act.

6. The learned counsel for appellants would mainly contend that the suit for possession filed by the temple was dismissed and confirmed by the first appellate Court. Therefore, the appellants are the holders of personal inam and their right for possession need not be denied. The procedures as followed by the authority under Section 78 are not in consonance with the procedures as contemplated under the HR & CE Act and thus the eviction proceedings are liable to be set aside.

7. When the civil Court in O.S.No.53 of 1956 made a finding that the temple is not entitled for the relief of possession and considered the fact that the appellants are the service inam holders, the initiation of S.78



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proceedings based on the general direction issued by the Division Bench of this Court is perverse. In support of the contention, the learned counsel for appellants Mr.K.K.Ramsiddhartha would rely on the judgment of the learned single Judge of this Court in the case of *Sellakumarasamy v. P.Swaminathan and others (Second Appeal Nos.166 & 177 of 2006 dated 17.03.2009)*; judgment of the Hon'ble Supreme Court in the case of *Rajinder Singh v. State of Jammu and Kashmir and others (Civil Appeal No.5269 of 2003 dated 11.07.2008)*; judgment of the Hon'ble Supreme Court in the case of *Union of India and others v. Vasavi Co-op.Housing Society Ltd., and others, (2014) 2 SCC 269*; judgment of the learned single Judge of this Court in the case of *A.Ramamurthy v. V.B.Jayaraman and others (W.P.Nos.30923 to 30925 of 2008 dated 06.09.2011)*.

8. Relying on the above judgments, the learned counsel for appellants would submit that they are entitled for title, as they have validly purchased the land and therefore initiation of S.78 proceedings treating the appellants as encroachers is invalid. The appellants continued to be the holders of personal inam and therefore it would be inappropriate for the authorities to



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remove them from possession by invoking the provisions of the HR & CE

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9. Regarding the order passed by the Joint Commissioner, the learned Special Government Pleader would submit that the procedures as contemplated under Section 78 have been followed by affording ample opportunities to the appellants. Notices were issued, enquiry was conducted. The appellants were represented by Advocates and the matter was heard elaborately by the Joint Commissioner and final order under Section 78 was passed in proceedings dated 01.03.2023.

10. Writ petitions were filed by the appellants in W.P.Nos.11235 of 2023 etc., and the learned single Judge of this Court passed the order dated 19.04.2023, as follows:-

“16. In the result, the impugned notice dated 30.03.2023 that was issued to each of the petitioners is hereby set aside. The second respondent, viz., the Commissioner, HR&CE department, is directed to take the revision petitions that have already been represented by the



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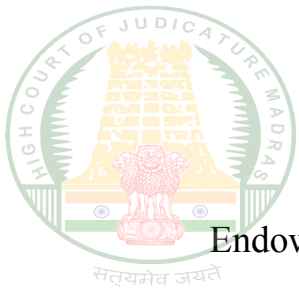


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petitioners on file. The Commissioner shall deal with the case on merits based on the contentions put forth by the petitioners and the reply given by the temple and shall take note of the documents that are submitted on either side in this regard. Sufficient opportunity shall also be given to both the sides to put forth their contentions. The Commissioner, HR&CE department, shall pass orders in the revision petitions filed by the petitioners within a period of twelve (12) weeks from the date of receipt of a copy of this order. It is made clear that the petitioners will co~operate for the disposal of the revision petitions within the time limit stipulated by this Court. If the petitioners adopt any dilatory tactics, it is left open to the Commissioner to proceed further with the documents available. Based on the final decision taken by the Commissioner, HR&CE department, further course of action shall be taken in the manner known to law.

All these writ petitions are allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.”

11. Revision petitions filed by the appellants under Section 21 of the HR & CE Act before the Commissioner, Hindu Religious and Charitable



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Endowments Department were taken up for enquiry and the Commissioner independently conducted the enquiry by affording opportunity to the parties. Even before the Commissioner, the appellants had been represented by their Advocates. The Commissioner dismissed the revision petitions. Thus the writ petitions came to be instituted.

12. The learned single Judge also elaborately considered the facts and circumstances raised between the parties. The documents relied on by the appellants as well as by the respondents were also considered and the writ petitions were dismissed. Thus the present writ appeals.

13. This Court is of the considered opinion that the judgment and decree in O.S.No.53 of 1956 was delivered on 29.11.1958. Appeal Suit filed by the temple was dismissed on 27.02.1961. Thereafter, the Settlement Tahsildar, Chengalpet passed orders under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act in proceedings dated 09.04.1976. Appeal was filed in M.I.A.T.Appeal No.13 of 1976 before the Minor Inams Abolition Tribunal and the order of the Settlement Tahsildar



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directing issuance of patta was set aside. Pertinently, the Minor Inams Abolition Tribunal made a finding that the appellants are not claiming title by adverse possession, but they are claiming title by rendering pooja service in the temple. Even for this, there is interested testimony of RW.1. Therefore, the Tribunal formed an opinion that the grant is only in favour of the temple and the income alone was utilized for the pooja in the temple. Secondly, the possession of the appellants was only on behalf of the temple and as such, they cannot claim any possession in their names. The said order of the Inams Abolition Tribunal became final. Though the appeal filed before the Division Bench of this Court was dismissed by granting liberty to the appellants to approach the civil Court, they have not instituted any suit.

14. Section 6(17) of the HR & CE Act defines “religious endowment” or “endowment” and the first Explanation to the said provision reads as under:-

“Explanation.—(1) Any inam granted to an archaka, service holder or other employee of a religious



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institution for the performance of any service or charity in or connected with a religious institution shall not be deemed to be a personal gift to the archaka, service holder or employee but shall be deemed to be a religious endowment. ”

15. Pursuant to the orders of the Inams Tribunal, further actions were initiated by the Hindu Religious and Charitable Endowments Department. The writ petitions subsequently filed were also considered by the High Court and directions were issued to the Department to conduct enquiry and pass appropriate orders under Section 78 and thereafter by the Commissioner under Section 21 of the HR & CE Act. The Joint Commissioner passed an order under Section 78 on merits and by affording opportunity and thereafter the Commissioner confirmed the order of the Joint Commissioner under Section 21 of the HR & CE Act and both the authorities have conducted enquiries by affording opportunities to the parties. Pertinently, the appellants contested the case through their Advocates. That being so, the ground raised by the appellants that no opportunity was granted is unacceptable.



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16. Since the appellants have not established any title, they are not entitled for the relief. The suit instituted for recovery of possession by the temple and its dismissal would not have any implication, since the Inams Abolition Tribunal adjudicated the entire issues including the judgment and decree passed in the original suit and the appeal suit and found that the property belongs to the temple. The Tribunal in unequivocal terms held that the title vest with the temple based on the inam register. In paragraph-9 of the order, the Tribunal made a finding that the prayer in the original suit was for recovery of possession. Under issue No.2, the learned District Munsif held that the suit property is not the property of Sami Perumal temple, on the ground that there was no documentary evidence and also relying upon Ex.A1 before the Tribunal that it was an ancestral property. But now the temple have produced the unimpeachable ancient documents of title Exs.R1 and R4 before the Tribunal. Therefore, the Inams Tribunal also independently verified the original documents with reference to the findings of the civil Court in the original suit and concluded that the property belongs to the temple. Further the Tribunal made a finding that the widow of late Munisami is rendering service as though a lady is competent to render



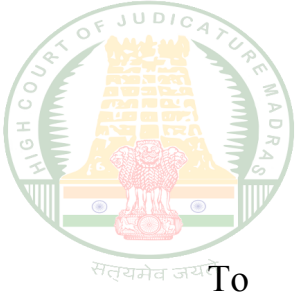
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service in perumal temple. Thus the Tribunal found that the grant is only in favour of the temple and the income alone was utilized for the pooja in the temple. Further the liberty granted by the Division Bench of this Court to approach the civil Court has not been exercised by the appellants. Admittedly, no civil suit has been instituted to establish title. That being so, this Court do not find any infirmity in respect of the action initiated by the competent authority under Section 78 of the HR & CE Act, which is in consonance with the facts established in the present cases. The learned single Judge also appreciated the circumstances, facts and documents in elaborate manner, which deserve no further interference from the hands of this Court. Accordingly, the writ appeals are dismissed. Consequently, interim order stands vacated and C.M.P.Nos.27159, 27162, 27164, 27251, 27258, 27260, 27264, 27271, 27276 of 2024 are also dismissed. No costs.

Index : yes
Neutral citation : yes

(S.M.S.,J.) (K.R.S.,J.)
10.03.2025

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To
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