



W.A.(MD)No.1296 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.A.(MD)No.1296 of 2015
and
M.P.(MD)No.1 of 2015
and
C.M.P.(MD)Nos.848 and 849 of 2017**

The Joint Commissioner cum
Executive Officer,
Arulmigu Meenakshi Amman Temple,
Madurai.

... Appellant

Vs.

- 1.V.Sheela Robert,
Represented by His Power of Attorney,
A.Amalraj.
- 2.The Sub Registrar,
Arasaradi Sub Registrar Office,
Nataraj Nagar,
Opposite to Fenner,
Madurai.
- 3.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai.



W.A.(MD)No.1296 of 2015

4.The Secretary to Government,
Tourism, Culture and Religious Endowments Department,
Secretariat, Fort St.George,
Chennai – 9.

... Respondents

*(R3 & R4 are suo motu impleaded vide order
dated 23.04.2025 in W.A.(MD)No.1296 of
2015 by GRSJ & MJRJ)*

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow
the writ appeal by setting aside the order dated 16.10.2015 passed in
W.P.(MD)No.19930 of 2014 on the file of this Court.

For Appellant : Mr.S.Manohar

For Respondents : Mr.J.Barathan for R1.
Mr.R.Suresh Kumar,
Addl. Government Pleader for R2.
Mr.G.V.Vairam Santhosh,
Addl. Government Pleader for R3 & R4.

JUDGMENT

(Judgment of the court was delivered by **G.R.Swaminathan, J.**)

This Writ Appeal is directed against the order dated 16.10.2015
allowing W.P(MD)No.19330 of 2014. The Writ Petition was filed by the
first respondent herein. The first respondent herein executed a sale deed
dated in favour of one Manimaran, S/o.Mayandi conveying 1293.95 Sq.ft
in Plot No.2 in EMS Nagar in Survey No.156/3A, Ponmeni Village,



W.A.(MD)No.1296 of 2015

Madurai South Taluk. It was presented for registration before the Sub Registrar, Arasaradi. The Registering authority declined to register the document on the ground that “No Objection Certificate” has not been obtained from the appellant / temple and refused registration. Challenging the refusal check slip dated 21.11.2014, the first respondent herein filed the aforesaid writ petition. The learned Single Judge allowed the writ petition in the following terms:

“10.Keeping in mind the submission of the learned counsels appearing on either side and on perusal of the entire materials available on record, I find that it is the main submission of the second respondent that the land in question has been given to the service holders of the temple as a service grant and therefore, the lands are inalienable. Therefore, unless the second respondent gives no objection certificate to the said land, the sale deed which pertains to the said land cannot be registered. But on a perusal of the judgment delivered by the Principal Sub Court, Madurai, in the suit filed by the second respondent as against the occupants of the said land, the Principal Sub Court had held that grant given to the occupants of the land is only a personal grant and not a service grant. As against the said judgment, after a period of 19 years, an appeal has been filed by the second respondent only in the year 2004 which is now pending before this Court, but no interim injunction has been granted in the said appeal. Further, till



WEB COPY



W.A.(MD)No.1296 of 2015

date no notice was served on the respondents in the said second appeal. Therefore, in the absence of interim order in the second appeal, first respondent cannot refuse to register the documents stating that unless the petitioner obtains NOC from the Commissioner, H.R & C.E., the document cannot be registered. Further, in my considered opinion the first respondent can deny registration of document only by conducting enquiry on the grounds enumerated in the Rule 55 of the Registration Rules, 1908 and therefore, the Authority concerned is bound to act only in accordance with the Act and Rules framed thereunder. Therefore, I do not find any justification in the impugned order dated 21.11.2014 passed by the first respondent refusing to register the document presented by the petitioner. Accordingly, the impugned order dated 21.11.2014 is set aside and this Writ Petition is allowed. The first respondent is directed to register the sale deed executed by the petitioner in respect of housing plot measuring 1293.75 sq.ft in Plot No.2 in E.M.S.Nagar in Survey No.156/3A, Ponmeni Village, Madurai South Taluk, Madurai District, if the said document is otherwise eligible for registration within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.”

Challenging the same, the temple has filed this writ appeal.



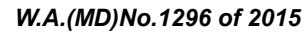
W.A.(MD)No.1296 of 2015

2.The learned counsel appearing for the appellant reiterated all the contentions set out in the memorandum of grounds of writ appeal and called upon this Court to set aside the impugned order and dismiss the writ petition.

3.Per contra, the learned counsel appearing for the writ petitioner / first respondent submitted that the learned Single Judge had given strong and convincing reasons and that therefore interference is not warranted.

4.We carefully considered the rival contentions and went through the materials on record.

5.It is not in dispute that the petition mentioned land is covered by ryotwari patta issued by the settlement Tahsildar (Minor inams Unit No.I), Madurai in S.T. 2 SR.No.404/ Md 9 Mdu 67 dated 01.08.1967. The ryotwari patta was issued in favour of one C.Nithyanandam and C.Balakrishnan (sons of Chinnaiya Asari) and Narayana Pathar, S/o.Chokkalingam Pattar. Copy of the said proceedings has been made available to us. It reads that the land was inam land granted for the



6. It is seen that the ryotwari pattadhars subsequently parcelled the land and alienated the same. The legal heirs of Narayana Pattar vide sale dated 02.06.1995 sold the petition mentioned parcel of land in favour of one T.Rengarajan. The said Rengarajan sold the property through his power agent in favour of the first respondent herein vide sale dated 24.12.2004. This property that is now sought to be sold by the first respondent is in favour of one Manimaran.

6/16



W.A.(MD)No.1296 of 2015

for mense profits. C.Balakrishnan, C.Nithyanandam and the legal heirs of Narayana Pattar figured as defendants in the suit. The suit was eventually dismissed on 30.04.1985. Challenging the same, the temple belatedly filed first appeal and it was numbered as A.S.No.271 of 2004. The said appeal has been disposed of by this Court.

8.The learned trial Judge while dismissing the suit had given a finding that it was not a service grant but a personal grant. The learned single Judge allowed the writ petition in view of the dismissal of the suit filed by the temple.

9.We have already noted that ryotwari patta was directed to be issued by the settlement authority only under Section 8(2)(ii) read with 8(5) subject to Section 21 of the Act. The said provisions are as follows:-

“ Section 8. Grand of ryotwari pattas.

(2) Notwithstanding anything contained in sub-section (1) in the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.] Hindu Religious and Charitable Endowments Act, 1959 [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil



Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.] Act 22 of 1959), [and in the [Tamil Nadu] [Inserted by section 7 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Amendment Act, 1964 (Tamil Nadu Act 33 of 1964).] (Transferred Territory)] Incorporated and Unincorporated Devaswoms Act, 1959 [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.] Act 30 of 1959), the following provisions shall apply in the case of lands in an iruvaram minor inam granted for the support or maintenance of a religious institutions or for the performance of a charity or service connected therewith or of any other religious charity -

(i)

(ii) in the case of any other land, the institution or the individual rendering service shall, with effect on and from the appointed day, be entitled to a ryotwari patta in respect of that land.

Explanation. - For the purpose of this sub-section, "land revenue" means the ryotwari assessment including the additional assessment, water-cess and additional water-cess.

(3)

(4)

(5) In the case of a minor inam held immediately before the appointed day by an individual on condition of rendering



W.A.(MD)No.1296 of 2015

service to a religious, educational or charitable institution, the grant of ryotwari patta under sub-section (1) or (2) shall be subject to the provisions of section 21.

Section 21: Service inams.

(1) The provisions of this section shall apply in respect of any minor inam which was held immediately before the appointed day by an individual (hereinafter referred to in this section as the service-holder) on condition of rendering service to a religious, educational or charitable institution.

(2) The service-holder shall, subject to the provisions of sub-section (3), be bound to continue to render the service after the appointed day.

(3)(i) Where a service-holder is entitled to a ryotwari patta under section 8 in respect of any land, he shall have the option -

(a) either to pay to the religious institution the amount specified in subsection (4) and on such payment the land shall, notwithstanding anything contained in sub-section (7), be discharged from the condition of the service; or

(b) to hold the land and continue to render service subject to the provisions contained in sub-sections (1), (2), (6) and (7).

(ii) The option referred to in clause (i) shall be twenty times the difference between the fair rent in respect of such land determined in accordance with the provisions contained in the Schedule and the land revenue due on such land.

(5) Where the service-holder has exercised his option to



W.A.(MD)No.1296 of 2015

pay the amount specified in sub-section (4), the tasdik allowance referred to in sub-section (6) in respect of the period subsequent to the date of the exercise of such option shall be the absolute property of the institution and the institution shall be at liberty to make such arrangements as it thinks fit for the performance of the service.

(6)(a)For so long as the service-holder renders the service, the institution shall pay to the service-holder the tasdik allowance paid by the Government under section 20.

(b)If the service-holder fails to render the service, the prescribed officer shall, after such inquiry and after such notice to the service-holder as may be prescribed in this behalf, notify such failure in such manner as may be prescribed. He shall then declare that the tasdik allowance payable to the institution in respect of the period subsequent to the failure shall be the absolute property of the institution and the institution shall be at liberty to make such arrangement as it thinks fit for the performance of the service.

(7)(a)For so long as the service-holder renders the service, he shall be entitled to occupy permanently the lands in respect of which he is entitled to a patta under section 8, subject however, to the payment of the assessment fixed [under section 16 or under section 16-A, as the case may be] [Substituted for the expression 'under section 16' by section 13 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Amendment Act, 1964 (Tamil Nadu Act 33 of 1964).], in respect of such lands.



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W.A.(MD)No.1296 of 2015

(b) If the service-holder fails to render the service, the prescribed officer shall, after such inquiry and after such notice to the service-holder as may be prescribed in this behalf, notify such failure in such manner as may be prescribed. He shall then declare that the service-holder's right to occupy permanently the land under clause (a) shall cease and determine, and the institution shall be at liberty to make such arrangement as it thinks fit for the performance of the service and shall be entitled to hold the land as its absolute property subject, however, to the payment of the assessment fixed therefor [under section 16 or under section 16-A, as the case may be] [Substituted for the expression 'under section 16' by section 13 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Amendment Act, 1964 (Tamil Nadu Act 33 of 1964)].

Explanation I. - For the purposes of this section, -

(i) service-holder includes his heirs;

(ii) non-performance of the service due to illness or other temporary disability shall not be deemed to be failure to render service, provided that the service-holder makes alternative arrangements for rendering the service during the period of such illness or of other temporary disability.

Explanation II. - For the purposes of sub-section (4), "land revenue" means the ryotwari assessment including the additional assessment, water-cess and additional water-cess."



W.A.(MD)No.1296 of 2015

10.A careful reading of the aforementioned statutory provisions would clearly show that the service holder is not entitled to alienate the lands. Service holder can only occupy the lands permanently so long as the service is performed. In the event of service holder failing to render service, the procedure to be adopted by the institution is set out in Section 21(7)(b) which entitles the temple to resume the land.

11.In the case on hand, the temple did not adopt the said procedure but instead filed the suit. Therefore, we are of the view that the dismissal of the suit cannot be faulted. But then, the land will continue to retain the character of a religious endowment. Therefore, the registering authority was justified in declining to register the document. The learned Single Judge had gone merely by the dismissal of the suit. The legal effect of the aforementioned statutory provision was not taken note of. We are therefore of the view that the impugned order deserves to be interfered with. It is set aside accordingly.

12.Considering the special facts and circumstances of this case, we intend to travel an extra mile. It is not in dispute that the value of the



W.A.(MD)No.1296 of 2015

property as on date is Rs.1,100/- per square feet. The learned standing counsel for the temple draws our attention to the letter bearing Na.Ka.No.190/2025 issued in the month of April 2025 given by the jurisdictional Sub Registrar. The person in occupation of the land can take a title deed in his name absolutely on payment of the aforesaid sum computed at the rate of Rs.1,100/- per square feet directly to the temple account and they can obtain NOC from the temple also. Since in this appeal, the Commissioner, Hindu Religious and Charitable Endowments Department as well as government are made as respondents, as and when NOC is issued by the appellant / temple, any land transaction shall be registered. The learned counsel for first respondent states that he is not in a position to pay the said amount right away. He shall pay a sum of Rs.1,00,000/- per cent within a period of two months from the date of receipt of the copy of this order so that he can continue to be in occupation of his lands. As and when he sells the land in question occupied by him, he has to pay at the rate mentioned above after making due deduction. Of course, interest also will start running from today ie., 28.04.2025 onwards at the rate of 6% per annum. If the entire amount is remitted to the temple account by the first respondent, the temple will



W.A.(MD)No.1296 of 2015

immediately issue NOC based on which, he can enter into transactions later. The registering department will not decline to register the document on the ground that the value of lands have been shown as “zero” value. If there is failure on part of the first respondent to pay the aforesaid sum of Rs.1,00,000/- within the period mentioned above, the temple management would be at liberty to move the prescribed authority for resumption of lands occupied by him. We also grant liberty to the appellant / temple to resume the lands that are vacant and which have not changed hands from the hands of the original service holder.

13.This writ appeal is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S. J.) & (M.J.R. J.)
28.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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W.A.(MD)No.1296 of 2015

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To:-

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W.A.(MD)No.1296 of 2015

G.R.SWAMINATHAN, J.
and
M.JOTHIRAMAN, J.

ias/skm

W.A.(MD)No.1296 of 2015

28.04.2025
(3/3)