

G. Thiagarajan v. The District Collector: A Case Study

This article examines the Madurai Bench of the Madras High Court's recent decision in the July 5, 2024, case of G. Thiagarajan vs. The District Collector. The case serves as an example of important topics concerning Scheduled Tribes' rights, land registration, and the legal interpretation of revenue standing orders and government orders. This article clarifies the rules governing land transactions involving tribal lands and the procedural safeguards that guarantee legitimate ownership and registration by carefully analyzing the ruling, pertinent legal provisions, and real-world examples.

Overview

A key component of property rights is land registration, which serves as the legal basis for ownership validation, transfers, and purchases. However, the procedure becomes complicated in areas where lands are assigned to or linked with Scheduled Tribes (STs), necessitating unique laws, directives, and limitations to safeguard tribal rights.

A relevant example of the legal complexities inherent in the transaction of such lands is the case of G. Thiagarajan vs. The District Collector. The main point of contention was that the registration authorities had refused to register a sale deed, citing Scheduled Tribe property and the influence of current government rules on registration processes.

Context and Legal Background

The Scheduled Tribes' Land Rights

Scheduled Tribes in India have particular rights and safeguards regarding land ownership. In order to prevent encroachment or displacement, land sold or transferred to non-tribals frequently needs to adhere to specific directives and regulations.

Standing Orders for Revenue and Conditions for Land Transfers

The case highlights Revenue Standing Order-15(40) (RSO-15(40)), which prohibits transferring land outside of the designated class without permission and outlines conditional land transfer to Malayalis and Sholagas. The resumption of land in the event of an illegal transfer is a noteworthy provision.

Judicial and Legislative Protections

In order to protect tribal interests (as mentioned in the court's decision), orders like G.O.1197 (25-5-2020) and judgments about panchami lands control the registration procedure and frequently impose moratoriums on the transfer or registration of certain lands.

Synopsis and Procedures of the Case

PARTIES:

G. Thiagarajan, the petitioner, attempted to buy real estate from the fifth respondent.

Because the property belonged to a Scheduled Tribe, the registration was denied, and an order was issued stating that the Patta might be revoked if there were transfer violations.

Important Concerns:

Does the current ownership status and Patta support the denial of registration?

Does the land's designation as Panchami land limit its transferability?

Were revenue standing instructions and government orders sufficient justifications for rejection?

Procedures: To ascertain if the registration authority's action was legally justified, the court reviewed the pertinent orders and the factual matrix, concentrating on whether the vendor's Patta was legitimate and uncontested.

Reasoning and Decision of the Court

Examination of Revenue Orders

The court noted that while RSO-15(40) limits transfers to Malayalis and Sholagas under some circumstances, it does not altogether forbid the registration of legitimate sales. Furthermore, the refusal was untenable because there was no clear order or decision terminating the vendor's Patta.

Authorities' Clarification TAHDCO removed any procedural obstacles about No Objection Certificates by stating that it was not involved with the land in question.

Taking into Account Panchami Land

The court observed insufficient proof to support a moratorium or alternative course of action, indicating that the area was Panchami territory.

Legal Justification

Without supporting orders or evidence of an illegal transfer, the court stressed that a refusal based only on the land's tribal relationship was insufficient. The court emphasized the significance of justifications in government decrees and the need for specific legal support before depriving someone of their rights.

Final Decision

The court ordered the registration authority to approve, register, and assist with the transfer as long as all formalities were completed. It also invalidated the contested communication and allowed the petitioner to re-present the sale deed. The court emphasized that cancellation orders cannot contest the vendor's valid Patta, which is still a strong prima facie proof of ownership.

Example: Real-World Consequences

Consider a tribal community with a legitimate Patta and land legally assigned to a tribe. The government may limit a non-tribal person's attempt to buy this land. However, initial tribal ownership issues should not be the only reason to thwart the acquisition if there is no official cancellation or adverse order. By reaffirming that appropriate legal processes and verifiable proof are required prior to registration denial, this case protects legitimate real estate transactions and tribal land rights.

In conclusion

The necessity of precise legal rules and the requirement that authorities base registration decisions on substantive legal grounds rather than conjecture or partial instructions are both highlighted by this case. It draws attention to the delicate balancing act required to protect indigenous land rights while maintaining procedural justice in real estate registration.

Legal Conclusions:

When refusing registration, registration authorities must cite clear directives and convincing evidence.

Property rights depend on Patta's validity, which cannot be revoked without a valid reason.

It is important to read government directives and revenue orders such as RSO-15(40) within their context rather than as outright bans.

Citations

- 1: July 2024 Madurai High Court ruling.
- 2: July 2024 court order.
- 3: Standing Order 15(40) on Revenue.
- 4: 2020 Government Order 1197.
- 5: Previous court rulings about the transfer of tribal lands.

G.Thiyagarajan vs The District Collector on 5 July, 2024

Author: G.R.Swaminathan

Bench: G.R.Swaminathan

W.P (MD)

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10791 of 2024

G.Thiyagarajan

... Petiti

Vs.

1.The District Collector,
Collectorate, Trichy.

2.The Revenue Divisional Officer,
Musiri, Trichy District.

3.The Tahsildar,
Taluk Office,
Thuraiyur,
Trichy District.

4.The Sub-Registrar,
Sub-Registrar Office,
Uppiliapuram,
Trichy District.

5.R.Karikalan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for records relating to the Impugned Refusal Check RFL/Uppiliapuram/46/2024 dated 22.4.2024 issued by the 4th respondent and quash the same as illegal and consequently direct the 4th respondent to

<https://www.mhc.tn.gov.in/judis>

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W.P (MD)

the document dated 22.04.2024 within a period that may be stipulated by Court.

For Petitioner : Mr.N.Mohan

For Respondents : Mr.B.Saravanan,
Addl. Government Pleader for R1 to R4.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Government Pleader for the respondents 1 to 4. Issuance of notice to the fifth respondent is dispensed with.

2.The petitioner proposes to purchase the petition mentioned land from the fifth respondent. A sale deed was executed. It was presented for registration. The registering authority refused to register the document on the ground that the property originally belonged to schedule tribe (Hindu Malayali) and that judgment has been passed for cancelling patta if there has been breach of assignment terms and conditions. Challenging the refusal check slip, the present writ petition has been filed.

3.The petitioner's vendor is the fifth respondent. The fifth respondent is having patta in his favour. It appears that the fifth respondent purchased the <https://www.mhc.tn.gov.in/judis> property from a schedule tribe. Till date, no cancellation order has been passed.

So long as patta of the fifth respondent is holding good, the question of the registering authority of his own refusing registration cannot arise at all.

4.The learned counsel for the petitioner also brought to my notice to the order dated 27.02.2023 made in W.P.(MD)No.29047 of 2022. The order passed in the said writ petition reads thus:-

“2. The writ petitioner wanted to purchase the petition mentioned land from one Senthil Kumar (R6). He had also paid the necessary consideration. When the sale deed dated 19.12.2022 was presented for registration, the fourth respondent declined to entertain the document. Instead, the impugned proceedings dated 19.12.2022 was issued.

3. The stand of the fourth respondent is that the petitioner must obtain No Objection Certificate from TAHDCO. Therefore the present writ petition came to be filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the same and grant relief as prayed for.

5. The learned Additional Government Pleader appearing for the fourth respondent drew my attention to the Revenue Standing Order-15(40) and contended that since the land is comprised in <https://www.mhc.tn.gov.in/judis> Pachamalai Hills, the impugned communication deserves to be sustained.

6. I carefully considered the rival contentions and went through the materials on record.

7. RSO-15(40) reads as follows:-

(40) Hill Tribes:- Conditional assignment:- In the following cases the assignment of land to Malayalis or Sholagas, as the case may be, shall be subject to the conditions that the land shall not be transferred by the assignees to any person outside the class to which they belong without the express sanction of the Divisional Officer, and that, if the land is transferred without such sanction or is attached and sold by any legal process, it shall be liable to resumption by the Divisional Officer without payment of any compensation whatever:-

G.O.1197, dt., 25-5-20 G.O.Ms.507,Rev.dt.23.3.30 B.P.57, dt.7-7-20 B.P.Mis.29, dt.3-4-30 G.O.Mis.3316, Rev.dt.5-9-58 (1) Pachamalai taraf (2) The surveyed hamlets of Valasaikallipatti and Vippantattai in the Krishnapuram taraf.

(3) The surveyed hamlets of Velur (known as Karattur) and Manmalai (second bit) in the Gudamalai taraf.

(4) Manmalai (first bit) taraf excluding Modukkupatti Village.

8. The above RSO may not be sufficient to sustain the impugned communication. This is because, it is completely silent as regards the registration of any deed of conveyance. Since the fourth respondent had specifically stipulated that No Objection Certificate must be obtained from TAHDCO, notice was issued to the fifth respondent. Today, Thiru.D.Anbu Raja, Assistant Manager of TAHDCO is present in person. He categorically states that the District Manager of TAHDCO, Trichy has categorically clarified to him that TAHDCO has nothing to do with the lands in question.

<https://www.mhc.tn.gov.in/judis>

9. The learned Additional Government Pleader would claim that the land in question is a panchami land and that vide order dated 25.11.2022 in W.P. (MD)No.26567 of 2022, the Hon'ble Division Bench had given a direction to the Registering Authority to keep in abeyance the registering process with regard to the panchami lands. There is nothing on record to show that the land in question are panchami lands. In any event, the order of the public authority has to be tested in the light of the reasons set out in the order itself. They cannot be supplemented during arguments.

10. In this view of the matter, the impugned communication is set aside. The Writ Petition is allowed. The petitioner is permitted to re- present the document in question. The fourth respondent shall receive the same and register it subject to fulfilment of the other usual formalities. No costs.”

5.In this view of the matter, the parties are permitted to re-present the document in question. It shall be received, registered and released. The writ petition is allowed. No costs.

NCC	: Yes/No
Index	: Yes / No
Internet	: Yes/ No
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<https://www.mhc.tn.gov.in/judis>

G.R.SWAMINATHAN, J.

ias

To:-

- 1.The District Collector,
Collectorate, Trichy.
- 2.The Revenue Divisional Officer,
Musiri, Trichy District.
- 3.The Tahsildar,
Taluk Office,
Thuraiyur,
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