

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.12557 of 2014

1.D.Kamalakannan
2.K.Siranjeevi
3.K.Prabhu

... Petitioners

vs.

The Revenue Divisional Officer,
Gopichettypalayam,
Erode District.

... Respondent

Prayer: Writ Petition filed 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 Na.Ka.7612/2012 A1 dated 03.09.2013 pending on the file of the respondent and to quash the same and consequently directing the respondent to issue community certificate to the petitioners that they belong to the "Konda Reddy's (ST)" community.

For Petitioners : M/s.S.P.Arthi

For Respondent : A.Kumar
Special Government Pleader

ORDER

(Order of the Court was delivered by M.V.MURALIDARAN, J.)

This writ petition is filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.7612/2012 A1 dated 03.09.2013 pending on the file of the respondent and to quash the same and consequently directing the respondent to issue community certificate to the petitioners that they belong to the "Konda Reddy's (ST)" community.

2. It is the case of the petitioners that they are the resident of Maravankuttai Village, Andiyur Taluk, Erode District and they belong to Konda Reddy (ST) community. The 2nd and 3rd petitioners are the sons of the 1st petitioner. On 26.04.2010 the petitioners gave an application to the respondent requesting for issuance of community certificate. Based on the application of the petitioners the respondent vide communication dated 24.01.2011 called upon the petitioners for an enquiry to be held on 31.10.2011 along with supporting original documents. Accordingly the 1st petitioner attended the enquiry and in support of his claim has produced the original community certificate of his blood brother namely D.Venkatesan, wherein it was precisely mentioned as Konda Reddy (ST) community. However, without proper appreciation of such documentary evidence that they belong to Konda Reddy community, the respondent by his proceedings dated 09.05.2012 has rejected the petitioners' application holding that they do not belong to Konda Reddy (ST) community. The said order was challenged before this court in W.P.No.17514 of 2012 and the impugned order therein rejecting the petitioner's application was set aside and the matter was remitted back to the respondent for fresh consideration by the order of this court dated 19.07.2013. Thereafter the respondent called upon the petitioners for enquiry on 06.08.2013 directing the petitioners to produce all the relevant original documents. Accordingly the petitioners again submitted the above referred original community certificate dated 15.09.1965 of the 1st petitioner's blood brother namely V.Venkatesan. However, again without proper appreciation of the material documents and the importance of the certificate dated 15.09.1965, the respondent again has rejected the petitioners application for issuance of community certificate that they belong to Konda Reddys (ST) community. The said rejection order is impugned in this writ petition.

3. We heard M/s.S.P.Arthi, learned counsel appearing for the petitioners and Mr.A.Kumar, learned Special Government Pleader appearing for the respondent.

4. The learned counsel appearing for the petitioners submitted that the order of the respondent is liable to be set aside in limine that the respondent failed to appreciate the importance of the original community certificate dated 15.09.1965 of the 1st petitioner's blood brother namely D.Venkatesan, disclosing their communal status as "Konda Reddys (ST)". The order of the respondent is a biased and a pre-determined one, that despite of submitting the original

community certificate of the 1st petitioner's blood brother D.Venkatesan, the respondent has chosen to say that there was no such original document submitted before him.

5. In support of his contention the learned counsel for the petitioners drawn this court's attention to the certified copy of an undertaking made by the petitioners during the course of enquiry on 31.10.2011, wherein it is seen that the petitioners had submitted the original community certificate before the respondent. The respondent herein after perusing the document has returned the original document by retaining a set of Xerox copy of the community certificate.

6. Furthermore, the learned counsel for the petitioners contented that the finding of the respondent to the effect that the petitioners cannot be a member of Konda Reddy (ST) community, since the physical appearance, activities and custom of the petitioners' do not resemble the Konda Reddys (ST) community, is baseless, erroneous and totally irrational. Such a blanket view that too touching upon the physical appearance of an individual cannot be taken by the respondent. It was further contended by the learned counsel for the petitioners that the respondent ought not to have rejected the application on the ground that since in a sale deed of the year 1951 the 1st petitioner's father was mentioned as "Devu Reddiar". Whereas, it is habitual and common practice that the people belonging to their community will not use "Konda Reddy" as their surname. However the respondent failed to take into account the above said facts.

7. Per contra the learned counsel for the respondent filed counter and contented that in the case on hand the petitioners neither produced the community certificate of their forefathers nor the certificates of their siblings nor any transaction instruments prior to 1970. Further during the course of enquiry the original community certificate of 1st petitioner's blood brother namely D.Venkatesan was not at all produced, whereas it is falsely claimed by the petitioners as if the original community certificate was produced before the respondent. The petitioners are belong to Reddiar community and they do not fall under Konda Reddy community. It can be well ascertained from a sale deed of the year 1951 in Doc.No.2150 of 1951 reflects the name of the 1st petitioner's father as "Devu Reddiar" and there is no reference as "Konda Reddy". Further the petitioner's custom, tradition and rituals do not coincide with that of Konda

Reddy Tribes. Moreover even if the petitioners produce the original certificate of the 1st petitioner's blood brother namely D.Venkatesan, the same cannot be accepted or relied upon, unless its genuineness is scrutinized by the Tamil Nadu State Level Scrutiny Committee Adi-Dravidar and Tribal Welfare Department.

8. On hearing the rival submissions and on careful perusal of the impugned order, this Court finds that the petitioner's application came to be rejected on the following three grounds that

1. Since only a Xerox copy of the community certificate of above said D.Venkatesan was produced by the petitioner, whereas the original certificate was not produced, the same cannot be accepted or relied upon.
2. The sale deed of the year 1951 reflects the community of 1st petitioner's father as "Reddiar" and there is no reference as "Konda Reddy".
3. The physical appearance, custom, rituals followed by the petitioners' community do not concur with that of the Konda Reddy community.

9. In so far as the first ground is concerned from the additional typed set of papers containing the certified copy of the undertaking made by the 1st petitioner during the course of enquiry on 31.10.2011 it is seen that the original community certificate of D.Venkatesan was submitted by the petitioners. Further it is found that the respondent after perusing the original has returned the same by retaining a set of xerox copy of the community certificate. Therefore it is obvious that the finding of the respondent that only a Xerox copy of a community certificate is submitted by the petitioner is erroneous.

10. So far as the second ground of rejection is concerned, on perusal of the community certificate issued to one A.Dhakshinamoorthy belonging to Konda Reddy (ST) community viz annexed in page No. 34 of typed set of papers, this court finds that it is mentioned as "A.Dhakshinamoorthy S/o. Akki Reddy". Therefore it is understandable that in common practice that the people uses only their community name, whereas not the sub-classification therein. At this juncture it is found that the above said A.Dhakshinamoorthy claiming to be the petitioners' blood relative has executed a promissory deed annexed with his community certificate that the 1st petitioner is his paternal relative and he belonged to Konda Reddy (ST) community.

11. On coming to the 3rd ground of rejection on the basis of the petitioners' appearance, custom and their financial status, it is needless to say that such a bare and evasive approach is unsustainable and the same is unwarranted. The finding of the respondent that the physical appearance, features besides the possession of a piece of land by the petitioners family do not coincide with the nature and financial status of the Konda Reddy community is baseless and unjustifiable. For the foregoing reasons and in the light of the discussion above, this Court has no hesitation to set aside the impugned order.

12. In the result:

(a) the Writ Petition is allowed and the matter is remitted back to the respondent for fresh consideration;

(b) the petitioners are directed to produce the documents sought for by the respondent during the course of enquiry. In case the respondent is disputing the genuineness of the community certificate issued to the brother of the petitioners, it is open to him to refer the matter to the State Level Committee. In any case, the matter shall be disposed of within a period of three months from the date of receipt of copy of this order. No costs.

Sd/-

Assistant Registrar(CS IV)

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सत्यमेव जयते

Sub Assistant Registrar

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vs

To

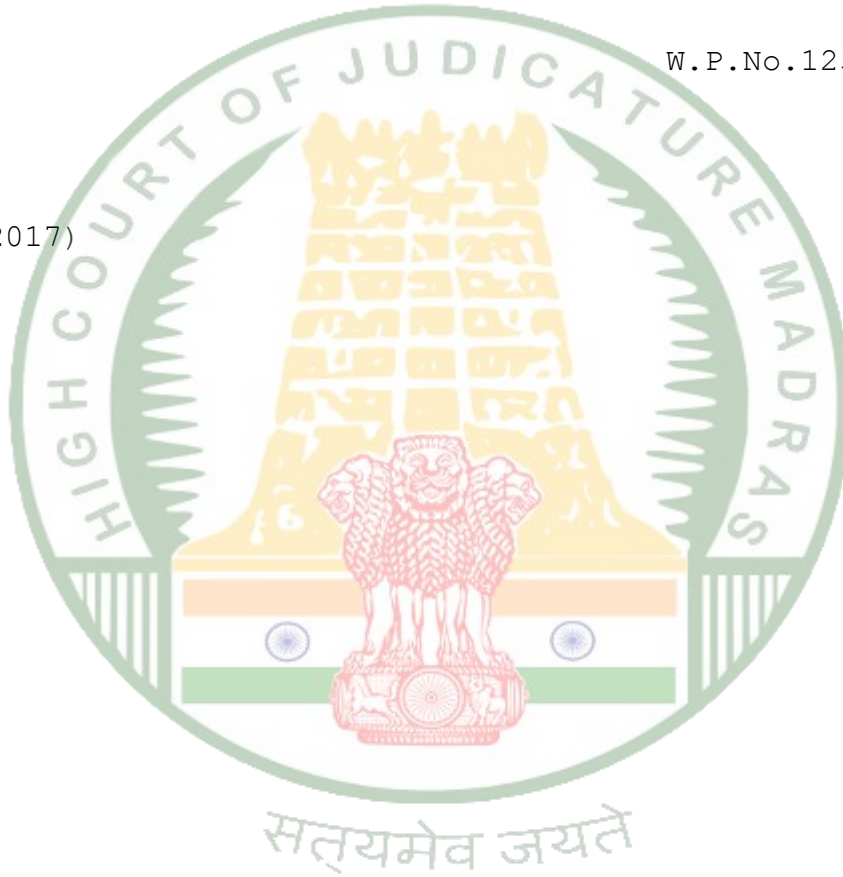
The Revenue Divisional Officer,
Gopichettypalayam,
Erode District.

+1cc to M/s.S.P.Arthi, Advocate, S.R.No.15860/2017

+1cc to the Government Pleader, S.R.No.15688/2017

W.P.No.12557 of 2014

AR (IV)
CU (11/07/2017)



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