



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.07.2017

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P. (MD) Nos.13379 to 13382 of 2017

B.M.Syed Abudhagir ... Petitioner in W.P(MD).,No.13379 of 2017

Kamardeen ... Petitioner in W.P. (MD).No.13380 of 2017

Jaluka Begum @ Jaluka Beevi ... Petitioner
in W.P. (MD).No.13381 of 2017

B.M.Hakkeem ... Petitioner in W.P. (MD).No.13382 of 2017

Vs.

1.The District Collector,
Theni District.

2.The Tahsildar,
Periyakulam Taluk,
Theni District. ... Respondents in all Writ Petitions

Common Prayer in W.P. (MD).No.13379 to 13381 of 2017: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to mutate all the Revenue records relating with the land, measuring 1 Acre 78 cents, comprised in S.No.700/2, 1 Acre 69 cents, comprised in S.No.699/2B and 1 Acre 26 cents, comprised in S.No.681/1 in Devathanapatti, in the petitioner's name and to issue patta, by disposing his application dated 06.04.2017, in the light of the Hiba Deed dated 03.12.2016, executed by his father Mohammed Ali respectively.

Prayer in W.P. (MD).No.13382 of 2017: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to mutate all the Revenue records relating with the land, measuring 1 Acre 39 cents, comprised in S.Nos.1018/2, 1018/3, 1019/2, 1021/1A, 1021/1B, 1022/1A and 1066/2B in Devathanapatti, in the petitioner's name and to issue patta, by disposing his application dated 06.04.2017, in the light of the Hiba Deed dated 03.12.2016, executed by his father Mohammed Ali.

In all Writ Petitions,

<https://hcservices.ecourts.gov.in/hcservices> For Petitioner
For Respondents

:Mr.R.Suriya Narayanan
:Mr.A.Muthukaruppan
Additional Government Pleader



C O M M O N O R D E R

These Writ Petitions are filed seeking a direction to the second respondent to mutate all the revenue records relating to the land in S.F.Nos.700/2, 699/2B, 681/1, 1018/2, 1018/3, 1019/2, 1021/1A, 1021/1B, 1022/1A and 1066/2B situated at Devathanapatti village, Periyayakulam Taluk and issue patta, based on the petitioner's applications dated 06.04.2017.

2.Mr.A.Muthukaruppan, learned Additional Government Pleader takes notice for the respondents. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

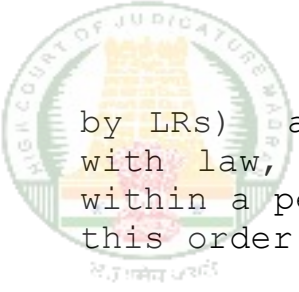
3.The petitioners would claim that they are legal heirs of Mohammed Ali, who was the owner of the land to an extent of 1.78 acre in S.F.No.700/2, to an extent of 1 Acre 69 cents in S.No.699/2B, to an extent of 1 Acre 26 cents in S.No.681/1 and to an extent of 1 Acre 39 cents in S.No.1018/2, 1018/3, 1019/2, 1021/1A, 1021/1B, 1022/1A and 1066/2B situated at Devathanapatti village. On 03.12.2016, he executed Hiba in favour of the petitioners and the same is accepted by them. Since then the petitioners are in possession and enjoyment of the properties.

4.The petitioners, namely B.M.Syed Abudhagir, Kamardeen and B.M.Hakkeem would claim that originally, pattas were granted in favour of their father, Mohammed Ali and the petitioner in W.P. (MD).NO.13381 of 2017 is the wife of the said Mohammed Ali. After his demise, the petitioner approached the respondents to transfer of patta and effect mutation with the revenue records by submitting the application dated 06.04.2017. Instead of passing the orders on the application, the respondents are orally informing that since Hiba was unregistered, they cannot effect any mutation.

5.Mr.Suriya Narayanan, learned counsel appearing for the petitioners would submit that all the legal heirs of said Mohammed Ali are not disputing the gift deed (Hiba) executed in favour of the petitioners and therefore, the respondent without conducting enquiry cannot kept the application pending.

6.Mr.A.Muthukaruppan, learned Additional Government Pleader would submit that the applications of the petitioners were already rejected by the second respondent on 23.06.2017 and if the petitioners establishes before the respondents that the gift deeds does not require the registration, the second respondent is ready to consider the same.

7.In view of the above said submission, this Court, without <https://hccservicescourts.gov.in/hccservices> merits of the matter, directs the second respondent to consider case of the petitioners in the light of the Judgment reported in **2011(4) CTC 675** (Hafeeza Bibi vs. Shaikh Farid (dead



by LR's) and pass appropriate orders on merits and in accordance with law, after providing opportunity to all necessary parties, within a period of ten weeks from the date of receipt of a copy of this order.

8. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(Records)

/Truecopy/

Sub Assistant Registrar

To

1. The District Collector,
Theni District.

2. The Tahsildar,
Periyakulam Taluk,
Theni District.

+1cc to M/S.R.SURIYA NARAYANAN, Advocate SR.No.66936

+1cc to Special Government Pleader, SR.No.67026

sss/skn

MAS/KK/SAR1:21.08.2017:3P-5C

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