

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.13639 of 2018

N.Thimmarayan

.. Petitioner

-vs-

1. The Revenue Divisional Officer
Revenue Division Office
Hosur Division
Krishnagiri District 635 109

2. The Tahsildar
Soolagiri Taluk
Krishnagiri District

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to dispose of the petitioner's appeal dated 16.05.2018 within the stipulated time as fixed by this Hon'ble Court.

For Petitioner :: Mr.S.Kumara Devan

For Respondents :: Mr.V.Jayaprakash Narayanan
Special Government Pleader

ORDER

This writ petition has been filed seeking a mandamus directing the first respondent to dispose of the appeal dated 16.5.2018 filed against the order dated 30.4.2018 passed by the Tahsildar, Soolagiri Taluk, Krishnagiri District refusing to entertain the request of the petitioner for grant of patta, for two reasons, namely, (i) that the grant of patta in respect of the land situated adjacent to the graveyard has been banned by the Government in G.O.Ms.No.1168, Revenue Department dated 25.7.89 and (ii) that the land covered in Survey No.199/2 is required for the usage of the public as burial ground. Besides, the petitioner is a pattadhar in respect of the land covered in Patta No.1084 to an extent of 0.83.0 ha, and in Patta No.170 to an extent of 0.88.0 ha in the same village.

2. Learned counsel for the petitioner further submitted that

the petitioner has moved an application for grant of patta in respect of 1.82 acres of land out of 5.82 acres covered in Survey No.199/2 of Keeranapalli village citing a reason that he has been in peaceful possession for a long time and the said land is also classified as "Mayanam" by the third respondent in the year 1970 and that his father, after taking steps, had cultivated the said land with the prior permission from the Sub Collector, Dharmapuri, who has issued notice under Section 5 of the Tamil Nadu Land Encoachment Act, 1905 to his father as the encroacher of the government land and further allowed him to do agricultural activities after collecting land tax. Subsequently, based on his father's request, the petitioner was also allowed to do agricultural activities by leaving 32 cents for the purpose of Mayanam for the SC/ST community people and the other community people are using the other part of the land in Survey No.199/2 of Keeranapalli village, which is under the enjoyment of descendants of late Venkatramana Achari of the same village. When the petitioner's father as well as the petitioner have been doing the cultivation for a long time and this has been supported by the notices issued under Section 5 of the Tamil Nadu Land Encroachment Act dated 18.4.73, 29.12.76 etc., the Tahsildar of Soolagiri Taluk ought not to have rejected the request of the petitioner for grant of patta. Therefore, the appeal filed against the order passed by the second respondent should be directed to be disposed of by the first respondent by issuing a suitable direction, he pleaded.

3. Objecting heavily on the prayer made by the petitioner, the learned Special Government Pleader for the respondents submitted that when the petitioner is a pattadhar in respect of the other lands covered in Patta No.1084 to an extent of 0.83.0 ha, and in Patta No.170 to an extent of 0.88.0 ha in the same village, he should not have made any attempt to encroach into the graveyard that is specifically earmarked for the usage of the SC/ST and other community people for burying the bodies. Secondly, the Tahsildhar has rightly passed the order citing G.O.Ms.No.1168, Revenue Department dated 25.7.89 under which the Government had directed the revenue officials including the Tahsildar not to entertain any application for patta in respect of the land adjacent to the graveyard etc. Moreover, when yet another G.O.Ms.No.116 dated 20.1.88 also forbids the revenue department from issuing patta in respect of the lands classified as mayanam or graveyard type of lands, no purpose would be served by entertaining the appeal by the first respondent, he pleaded.

4. I also fully agree with the submissions made by the learned Special Government Pleader for the respondents. Since the petitioner has been in possession of the land earmarked for mayanam or graveyard, which is being used by the SC/ST and other community people in Survey No.199/2 of Keeranapalli village,

this Court is not inclined to entertain the writ petition, as the Tahsildhar has rightly rejected the request of the petitioner for issuance of patta for the land classified as mayanam or graveyard. In that view of the matter, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Revenue Divisional Officer
Revenue Division Office
Hosur Division
Krishnagiri District 635 109

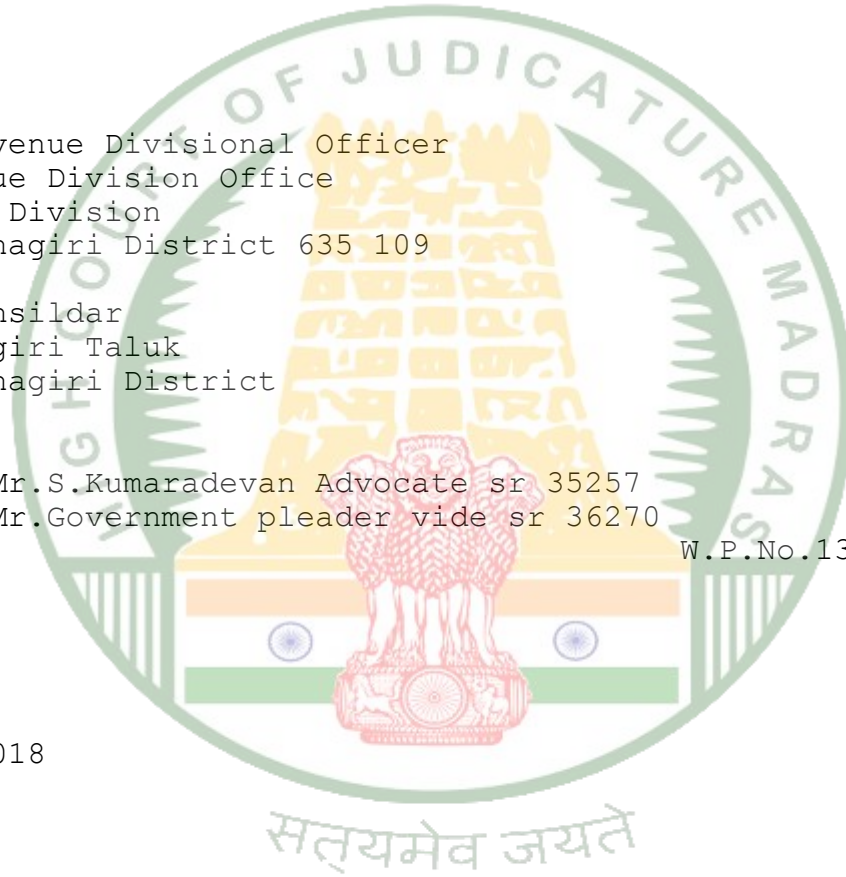
2. The Tahsildar
Soolagiri Taluk
Krishnagiri District

+1 cc to Mr.S.Kumaradevan Advocate sr 35257

+1 cc to Mr.Government pleader vide sr 36270

W.P.No.13639 of 2018

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