

W.P.Nos.10351 of 2007 and 42561 of 2006

M.DHANDAPANI,J.

Today, the above Writ Petitions are listed under the caption 'For Being Mentioned' at the instance of the learned counsel for the petitioner.

2. The learned counsel for the petitioner would highlight certain typographical errors in the rank of the parties.

3. In view of the submissions made, paragraph Nos.3 to 5 of the said order shall read as follows:

"3. The learned counsel appearing for the petitioner would submit that this Court has issued a direction to the 5th respondent to approach the competent Civil Court for the purpose of securing succession certificate and therefore liberty may be granted to the 5th respondent to approach before the competent Civil Court for securing succession certificate for the purpose of proving himself as the legal heir of Nariananjan.

4. The learned counsel for the petitioner submitted that though initially the petitioner had not produced the legal

heir certificate in the Revision Petition because of which the Revisional Authority rejected the petitioner's request; however thereafter the petitioner had secured the legal heir certificate. Hence liberty is granted to the petitioner to file appropriate petition before the 4th respondent. Thereafter, the 4th respondent may consider the legal heir certificate, after issuing notice to the other parties and pass appropriate orders.

5. In view of the relief already sought for by the petitioner and the 5th respondent in the respective Writ Petition, I am inclined to grant liberty to the 5th respondent to approach the competent Civil Court as well as the 3^d respondent Society. If any application is received within a period of eight (8) weeks, from the date of receipt of a copy of this order received by the 3rd respondent, it may pass appropriate orders in accordance with law within a period of four (4) weeks thereafter. With the above observations, the Writ Petitions are disposed of. No costs."

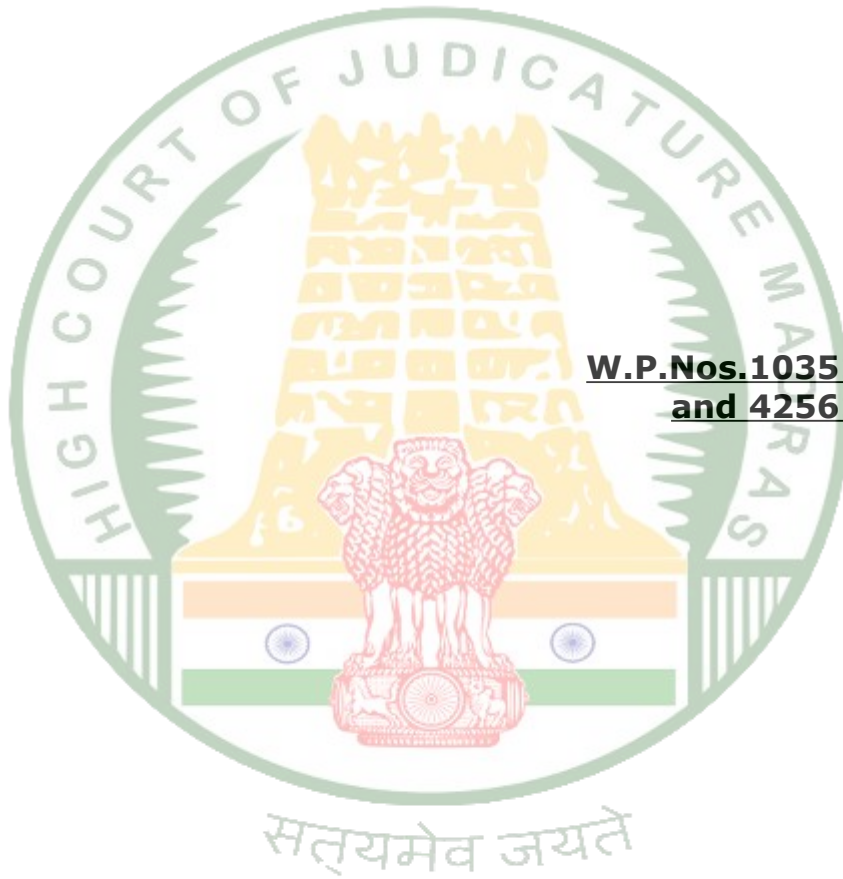
4. Registry is directed to issue fresh order copy to the respective parties.

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M.DHANDAPANI,J.

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W.P.Nos.10351 of 2007
and 42561 of 2006

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25.10.2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.07.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.10351 of 2007 and 42561 of 2006

R. Bhojan

Petitioner in W.P.Nos.10351 of 2007

vs

1. The Joint Registrar of Co-operative Societies,
Nilgiri Region,
Udhagamandalam,
The Nilgiris.

2. S. Sadhasivam

3. The Special Officer,
The Thengumarahada Co-operative Farming Society,
Thengumarahada,
Bhavani-Sagar Via,
The Nilgiris.

4. The Deputy Collector,
Nilgiris District,
Udhagamandalam,
The Nilgiris.

5. The Deputy Registrar of Co-operative Societies
Udhagamandalam,
The Nilgiris.

6. N.K. Shanmugam

.. Respondents in W.P.Nos.10351 of 2007

S. Sadasivam

4/11

...Petitioner in W.P.Nos.42561 of 2006
Vs.

1. The District Collector,
Nilagiri District,
Udhagamandalam.

2. The Joint Registrar of Co-operative Societies,
Nilagiri Region,
Udhagamandalam.

3. The Deputy Registrar of Co-operative Societies,
Udhagamandalam.

4. The Special Officer,
Thengumara Hada Co-operative Farming Society Ltd.,
Thengumara Hada, Bhavani Sagar (Via)
Nilgiri District.

5. R. Bhojan

6. N.K. Shanmugam

.. Respondents in W.P.Nos.42561 of 2006

Prayer in W.P.Nos.10351 of 2007: Writ Petition filed under Article 226 of the Constitution of India praying to issue appropriate writ, order or direction and in particular issue a writ in the nature of certiorarified mandamus after calling for the records of the first respondent pertaining to his proceedings in an Revision Petition No.513/2003/A4 and quash the order dated 25.05.2006 in so far as holding against the nomination of the petitioner to the 3rd respondent society and consequent direct the 3rd and 4th respondents to admit the petitioner as a member of the 3rd respondent society and transfer the shares, rights and all other interest of late Tmt. Chinnammal including the assignment of land in favour of the petitioner.

Prayer in W.P.Nos.42561 of 2006: Writ Petition is filed under Article 226 of

Constitution of India praying to issue a writ of certiorarified mandamus or any other appropriate writ, order or direction in the nature of a writ, calling for the records of the 2nd respondent made in revision petition No.513/2003/A4 dated 25.05.2006 and quash the same and direct the 4th respondent society to transfer the share and agricultural land in survey.No.53/2 of an extent of 2 acres and survey No.20/6 of an extent of 0.98 acres in Thengumara Hada village allotted to late Krishnan in favour of the petitioner and pass orders

For Petitioners : Mr. R. Sivakumar in W.P.No.10351 of 2007
Mr. M.S. Palaniswamy in W.P.No.42561 of 2006
For Respondents : Mr. D. Venkatachalam, AGP for R1, R3 and R5
Mr. M.S. Palanisamy for R2 in W.P.No.10351 of 2007
Mr. D. Venkatachalam, AGP for R1 to R4
Mr. R. Sivakumar for R5
Mr. M. Selvaraj for R6

COMMON ORDER

The petitioner in W.P.No.42561 of 2006 is the Great grandson of one Nariyananjan. The petitioner in W.P.No.10351 of 2007 is the Son-in-law of one of the legal heirs of Nariyananjan. There was a dispute in between them with regard to the enjoyment of the shares which was allotted by the fourth respondent. The cooperative society had allotted two acres of nanjai land in Survey No.53/2 and one acre of dry land in S.No.20/6 in favour of Nariyananjan in the year 1952. The said Nariyananjan died in the year 1972 leaving behind his son N.Krishnan as the legal heir. Krishnan had two wives Belliammal and Chinnammal. The said Chinnammal had no issue. However, Belliammal had one son and two daughters viz. K. Shanmgam, R.Deviammal and R.Mathiammal. K.

Shanmugam had a son S.Sadasivam, the petitioner in W.P.No.42561 of 2006 and one daughter S.Deepa. Deviammal, daughter of Krishnan had five daughters and one son. One of the daughters is Gowri, whose husband Bhojan is the petitioner in W.P.No.10351 of 2007.

2. The parties are referred to in this common order, as how they were arrayed in W.P.No.42561 of 2006.

The 5th respondent earlier filed W.P.No.15187 of 1997 seeking direction to the 4th respondent to transfer the shares of late Chinnammal in his favour, on the basis of nomination by Chinnammal, but the said petition was dismissed with liberty to raise the dispute before the proper forum under the Tamil Nadu Co-operative Societies Act. 5th respondent approached the 3rd respondent in Petition No.2 of 99, but third respondent dismissed the said petition, against which 5th respondent made representation to the first respondent. The first respondent rejected the claim of 5th respondent by order dated 18.04.2005 on the ground that Chinnammal has not nominated him as her legal heir. Then 5th respondent approached this Court in W.P.No.21645 of 2005 challenging the order dated 18.04.2005 of first respondent and seeking a direction to the second respondent society to transfer the shares of Late Chinnammal in his favour, but the said petition was dismissed on the ground that unless 5th respondent obtains a succession certificate from the competent Civil Court and directed the 5th

respondent to approach the competent Civil Court for the purpose of securing succession certificate. In the meanwhile against the order dated 10.10.2003, passed by the co-operative Tribunal, the petitioner filed Revision Petition No.513 of 2013 before 2nd respondent impleading 5th respondent and others. The Revision Court, after hearing both the parties passed an order rejecting the nomination of 5th respondent and refused to accept the claim of the petitioner as legal heir of Late Chinnammal in the absence of legal heir certificate before the authority, against which the petitioner filed the present Writ Petition before this Court.

3. The learned counsel appearing for the petitioner would submit that this Court has issued a direction to the petitioner to approach the competent Civil Court for the purpose of securing succession certificate and therefore liberty may be granted to the petitioner to approach before the competent Civil Court for securing succession certificate for the purpose of proving himself as the legal heir of Nariananjan.

4. The learned counsel for the petitioner submitted that though initially the petitioner had not produced the legal heir certificate in the Revision Petition because of which the Revisional Authority rejected the petitioner's request; however thereafter the petitioner had secured the legal heir certificate. Hence

liberty is granted to the petitioner to file appropriate petition before the Revisional Authority. Thereafter the petitioner to approach the 3rd respondent, who may consider the legal heir certificate, after issuing notice to the other parties and pass appropriate orders.

5. In view of the relief already sought for by the petitioner and R5 in the respective Writ Petition, I am inclined to grant liberty to the petitioner to approach the competent Civil Court as well as the 3rd respondent Society. If any application is received within a period of eight (8) weeks, from the date of receipt of a copy of this order received by the 3rd respondent, it may pass appropriate orders in accordance with law within a period of four (4) weeks thereafter. With the above observations, the Writ Petitions are disposed of. No costs.

23.07.2019

Index:Yes / No
Internet: Yes / No
Speaking / Non-Speaking order
mrn

सत्यमेव जयते
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To,

1. The District Collector,
Nilagiri District,
Udhagamandalam.

2. The Joint Registrar of Co-operative Societies,
Nilgiri Region,
Udhagamandalam,
The Nilgiris.

3. The Special Officer,
The Thengumarahada Co-operative Farming Society,
Thengumarahada,
Bhavani-Sagar Via,
The Nilgiris.

4. The Deputy Collector,
Nilgiris District,
Udhagamandalam,
The Nilgiris.

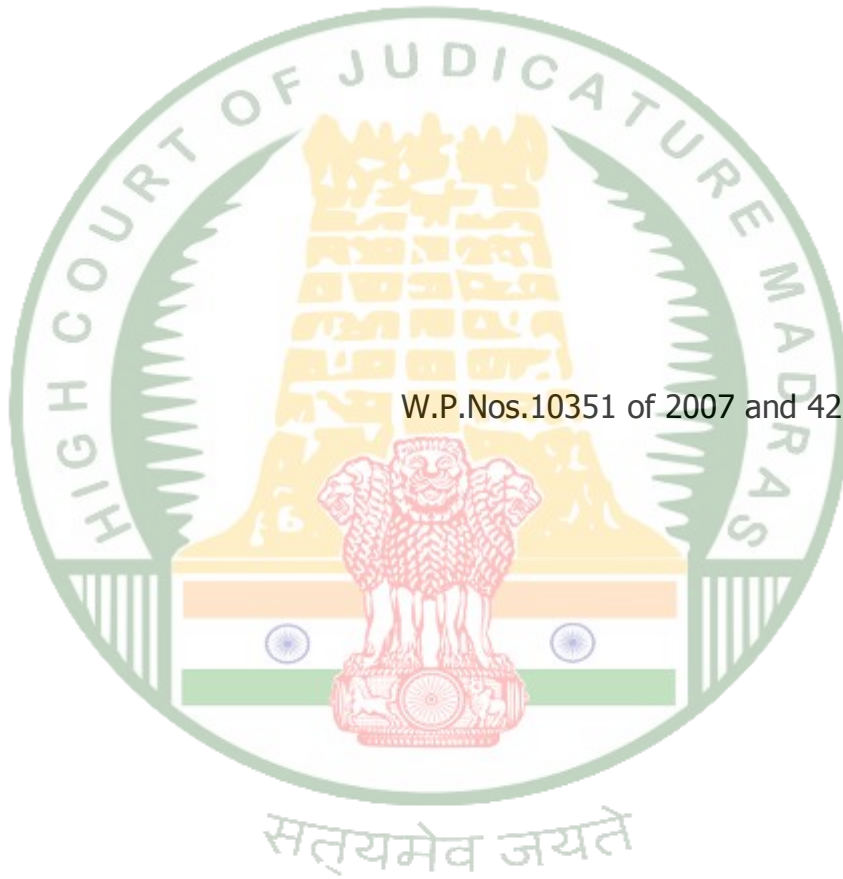
5. The Deputy Registrar of Co-operative Societies
Udhagamandalam,
The Nilgiris.



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M.DHANDAPANI, J.,

mrn



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