

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.7568 of 2011
and M.P.No.1 of 2011

Marry Kasthuri

...Petitioner

Vs

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St. George, Chennai 600 009.
2. The Commissioner of Land Administration and
Special Commissioner of Land Administration
Ezhilagam, Chepauk, Chennai 600 005.
3. The District Revenue Officer,
Tiruvannamalai District,
Tiruvannamalai.
4. Sowriammal

...Respondents

Prayer:-

The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the entire records in culmination of the proceedings of the 2nd respondent in No.G2/31209/2008, dated 25.11.2008 and quash the same and consequently direct the 2nd respondent to entertain the appeal of the petitioner filed against the order of 3rd respondent in Proceedings Na.Ka.A2/54711/2006 on 20.08.2007.

For Petitioner : Mr.P.Vasanth

For Respondents : Mr.D.Suriyanarayanan, AGP for RR1 to 3
No Appearance, for R4

ORDER

The petitioner has come forward with this Writ Petition for issuance of a Writ of Certiorarified Mandamus to call for the entire records in culmination of the proceedings of the 2nd

respondent in No.G2/31209/2008, dated 25.11.2008 and quash the same and consequently direct the 2nd respondent to entertain the appeal of the petitioner filed against the order of the 3rd respondent dated 20.08.2007.

2. The petitioner would state that the Tahsildar, Chengam, Tiruvannamalai District assigned an extent of 0.07.5 ares in S.No.51/9 and 51/14 in her favour, by his proceedings dated 11.11.2003. Since then, she has been in possession and enjoyment of the same.

3. It is further stated that the fourth respondent, who is the sister-in-law of the petitioner, was permitted to reside along with the petitioner as she is a widow, but without considering the same, the third respondent had cancelled the assignment issued in her favour and assigned the land in her favour by using fabricated documents.

4. The learned counsel for the petitioner would state that as per the Revenue Standing Order, the revision should have been filed within a period of 60 days. Since the petitioner had been suffering from jaundice for more than one year and she was bedridden, an application was filed to condone the delay along with the revision. The second respondent rejected the condone delay application stating that no supporting evidence was furnished by the petitioner.

5. According to the learned counsel for the petitioner, she is in possession of the property and she may be given opportunity to put forth her case before the second respondent.

6. The learned Additional Government Pleader appearing for the respondents would submit that no proper explanation was given for condoning the delay and it is also not supported by any material evidence.

7. I am not able to agree with the submissions of the learned Additional Government Pleader for the reasons that the petitioner is claiming right over the immovable property and there is no material to suggest that it was deliberate and thereby she gained. The condone delay application was dismissed on the only ground that the reason was not supported by any evidence. According to the learned counsel for the petitioner, the petitioner was taking native treatment and hence no certificate could not be produced to prove his illness.

8. It is settled law that the Court shall take a liberal approach while considering the application for condoning the delay of shorter duration, especially when the parties are claiming right over the property.

9. In that view of the matter, the order impugned in this Writ Petition is liable to be set aside. Accordingly, it is set aside and the matter is remanded to the second respondent for fresh consideration and pass appropriate orders on the revision, after providing ample opportunity to the petitioner as well as to the fourth respondent, within a period of twelve weeks.

10. With the above observations, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai 600 009.
2. The Commissioner of Land Administration and
Special Commissioner of Land Administration
Ezhilagam, Chepauk, Chennai 600 005.
3. The District Revenue Officer,
Tiruvannamalai District,
Tiruvannamalai.

+1cc to the Government Pleader, S.R.No.68460

W.P.No.7568 of 2011

RR(CO)
CS/03/10/2019

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