

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.3443 of 2018

Thavasiyappan

Petitioners

vs.

1. The District Collector,
District Collectorate,
Erode - 638 011.
2. Zonal Joint Registrar,
Officer of the Joint Registrar of Co-operative Societies,
Cooperative Complex,
Mohan Kumaramangalam Road,
Soorampatti, Erode.
3. Deputy Registrar of Co-operative Societies,
Office of the Assistant Registrar of Co-operative Societies,
Land Settlement Co-operative Societies,
Nallagoundan Palayam,
Sakthi Main Road, Balaji Nagar,
Gobi Circle,
Gopichettipalayam.
4. Land Inspector,
Land Settlement Co-operative Societies,
Nallagoundan Palayam,
Sakthi Main Road,
Balaji Nagar, Gobi Circle,
Gopichettipalayam.
5. The President,
Anthiyur Land Colonization Co-operative Societies Ltd. K.917,
Erode District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents No.4 to consider the representation dated 12.01.2018 and consequently direct them to grant

recognition to the petitioners status as reflected in the resolution dated 01.02.2018 passed by the General body of the K.917 Anthiyur Land Settlement Co-operative Society.

For Petitioner : Mr.V.Balamurugane
For Respondents: Mr.L.P.Shanmuga Sundaram
Special Government Pleader

O R D E R

This writ petition has been filed for issuance of a writ of mandamus directing the respondents to consider the representation made by the petitioner and to recognize the status of the petitioner as per the resolution passed by the General body of the Co-operative Societies on 01.02.2018.

2.The case of the petitioner is that the land was originally allotted in favour of the mother of the petitioner for doing agricultural activities. The petitioner thereafter, made an application for his membership in the respondent Society and resolution was also passed granting membership to the petitioner. The grievance of the petitioner is that his membership is not being considered by the Society and therefore, the petitioner has made a representation to the 5th respondent. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

3.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

4.The 3rd respondent has filed a counter affidavit in this case and the relevant portions are extracted hereunder:

7.I submit that the petitioner has not proved that he and his mother Kuruvayammal or his family members admitted as a member and allotted the land by the 5th respondent Society in accordance with the Act and Rules and bylaws and the due procedures as mentioned in Para No.6 above. Hence basically the petitioner have no right to get statutory remedy under the Tamil Nadu Cooperative Societies Act and Rules and bylaws, before the Court of law.

8.I submit that in the affidavit Para No.3 & 4 the petitioner admitted his family enjoyments of the land in Survey No.1152 to the extent of 5.33 acres, in which the land belongs to 5th respondent Society. It is

clearly proved, that the petitioner and his family trespassed the 5th respondent Society land without any statutory or lawful Sanction accorded by the 3rd and 5th respondent. So the petitioner treated as a Unlawful encroachers and its is necessary to vacate th encroachment from the 5th respondent society land.

9.I submit that the petitioner admitted in his affidavit Para No.5, applied to the 5th respondent Society for membership along with other some persons on 20.01.2015, 10.03.2017, 06.10.2017 and not to the 3rd or 4th respondents. Hence no remedy is due to the petitioner with respect to 3rd and 4th respondents.

5.Taking into consideration the facts and circumstances of the case and also the limited relief that has been sought for in this writ petition, there shall be a direction to the 5th respondent to consider the representation made by the petitioner on 12.01.2018 and pass appropriate orders strictly in accordance with law, within a period of six weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the 5th respondent along with a copy of the representation dated 12.01.2018 and a copy of this order.

6.This writ petition is disposed of with the above directions. No Costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssr

To

1. The District Collector,
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Officer of the Joint Registrar of Co-operative Societies,
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3. Deputy Registrar of Co-operative Societies,
Office of the Assistant Registrar of Co-operative Societies,
Land Settlement Co-operative Societies,
Nallagoundan Palayam,
Sakthi Main Road,
Balaji Nagar,
Gobi Circle,
Gopichettipalayam.

4. Land Inspector,
Land Settlement Co-operative Societies,
Nallagoundan Palayam,
Sakthi Main Road,
Balaji Nagar,
Gobi Circle,
Gopichettipalayam.

5. The President,
Anthiyur Land Colonization Co-operative Societies Ltd. K.917,
Erode District.

+1cc to Mr.L.P.Shanmugasundaram, Advocate, Sr.No.23741

+1cc to Mr.V.Balamurugane, Advocate, Sr.No.23747

+1cc to the Government Pleader(co-op), High Court, Madras,
Sr.No.24069

W.P No.3443 of 2018

PPA (CO)
GS (08/06/2020)

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