

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 6078 of 2017

C. Muniappa

...Petitioner

-vs-

1. The District Revenue Officer,  
Krishnagiri District, Krishnagiri.
  2. The Sub-Collector,  
Sub Collector's Office,  
Hosur, Krishnagiri District.
  3. The Tahsildar,  
Taluk Office,  
Dhenkanikottai,  
Krishnagiri District.
- .... Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent in Pa.Mu.25865/2016/J2 dated 14.12.2016 and confirming the order of second respondent issued in Pa.Mu.2015/2015/B3 dated 07.12.2015 quash the same and consequently direct the third respondent to delete the wrong classification of Assignment to Depressed Class Persons (ADC) in 'A' Register and other connected records in respect of Survey No.834/2G of Akkondapalli Village, Dhenkanikottai Taluk, Krishnagiri District.

For Petitioner : Mr.R. Bharath Kumar

For Respondents: Ms.A.Sri Jayanthi  
Special Government Pleader

ORDER

Heard Mr.R.Bharath Kumar, learned counsel for petitioner and Ms. A. Sri Jayanthi, learned Special Government Pleader for respondents.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. This writ petition has been filed challenging the order passed by the 1<sup>st</sup> respondent dated 14.12.2016, confirming the order passed by the 2<sup>nd</sup> respondent dated 07.12.2015 and for a consequential relief to direct the 3<sup>rd</sup> respondent to delete the wrong classification of Assignment to Depressed Class Persons (ADC) in 'A' Register and other connected records.

4. The case on hand is a classical case where the Department has initiated action against the petitioner in respect of the property in question after 55 years after his mother purchased the same by registered sale deed dated 06.08.1960 registered as document No.3079/1960. From the records placed before this Court as well as the before the 3<sup>rd</sup> respondent, it is evidently clear that the present impugned orders are result of a suo motto action initiated by the 3<sup>rd</sup> respondent purportedly to be when the UDR scheme was implemented. The reason for cancelling the classification of the land and requesting as ADC has been done in the Revenue records as there are no corresponding order to support such entires. The 3<sup>rd</sup> respondent in the counter affidavit accepted the fact that vendor of the petitioner's mother had purchased the property in the year 1956 from one Allaliappa S/o. Madhappa by a sale deed dated 15.09.1956 registered as document No.3121 of 1956. The 3<sup>rd</sup> respondent stated in the counter affidavit that the petitioner did not produce any document to show that Allaliappa had right to sell the property to the petitioner's mother.

5. Admittedly, there are no records available with the Department as to how it was classified as ADC in the 'A' register. That apart, if enquiry has to be done, it should have been done within a reasonable time to initiate suo motto action. After 55 years, after the petitioner's mother purchased the property, the same is done it will be an arbitrary exercise of power.

6. The 3<sup>rd</sup> respondent in the counter affidavit, more particularly, in paragraph 7 discussed about the communal status of the petitioner. However, this cannot be accepted, because the original owner of the property was Allaliappa. The respondents cannot dispute the purchase effected by Allaliappa in the year 1956 nor they can cancel or annul the registered sale deed. Equally the respondent cannot annul the registered sale deed executed in favour of the petitioner's mother in the year 1960.

7. Assuming the classification of the land has to be changed as ADC, then opportunity ought to have been granted to the persons like the petitioner, who are aggrieved the manner in which the respondents have deprived the petitioner's rights

to the property, which is wholly arbitrary and violation of Article 14 of the Constitution of India.

8. Though right to property is no longer a fundamental right depriving the right over a property should be in accordance with law and present action initiated by the respondents will not satisfy the test of reasonableness as the action has been initiated at a distant of time, that too on unsustainable grounds. Therefore, the impugned orders cannot be sustainable in law.

8. For the above reasons, the writ petition is allowed and the 3<sup>rd</sup> respondent is directed to delete the classification of the land in the 'A' Register and other connected records as ADC and restore the entries in the name of the petitioner/petitioner's children.

The above exercise shall be completed within a period of four(4) months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

mp

To

1. The District Revenue Officer,  
Krishnagiri District, Krishnagiri.

2. The Sub-Collector,  
Sub Collector's Office,  
Hosur, Krishnagiri District.

3. The Tahsildar,  
Taluk Office,  
Dhenkanikottai,  
Krishnagiri District.

+1cc to Mr.R. Bharath Kumar, Advocate SR.No.824

+1cc to Government Pleader, High Court, Madras SR.No.453

W.P.No.6078 of 2017

MP(CO)

GMV(11/02/2020)