



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. No.9369 of 2010

1. Faizulla Khan (deceased)
 2. Taseen Taj
 3. Siraj Khan
 4. Salman Khan
 5. Fouziya Khanum
(Minor petitioners 3 to 5 are
Represented by their mother
and natural guardian the
second petitioner herein)
- Petitioners 2 to 5 are substituted as
LRs of the deceased first respondent
as per Order dated 09.12.2015 in M.P.
No.2 of 2014 in W.P.No.9369 of 2010)

... Petitioners

-Vs-

1. The Principal Secretary and
Commissioner of Land Administration,
Government of Tamil Nadu,
Chepauk, Chennai - 600 005.
2. The District Collector,
Krishnagiri District,
Krishnagiri.
3. The District Revenue Officer,
Krishnagiri District,
Krishnagiri.
4. The Sub-Collector,
Hosur Taluk, Hosur,
Krishnagiri District.
5. The Tahsildar,
Hosur Taluk, Hosur,
Krishnagiri District.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the
Constitution of India praying for the issuance of a Writ of
Certiorarified Mandamus to call for the entire records
relating to the order dated 07.02.2010 in RC.No.G1-19213-08
from the file of the first respondent, quash the same and
direct the fifth respondent to grant patta in petitioners'



name for the land measuring three acres in Survey No.825/1, in Mathigiri Village, Hosur Taluk, Krishnagiri District.

For Petitioners: Mr.T.M.Hariharan
For Mr.B.K.Sreenivasan

For Respondents: Mr.M.R.Gokul Krishnan
Government Advocate.

ORDER

This Writ Petition has been filed to call for the entire records relating to the order dated 07.02.2010 in RC.No.G1-19213-08 from the file of the first respondent, quash the same and direct the fifth respondent to grant patta in petitioners' name for the land measuring three acres in Survey No.825/1, in Mathigiri Village, Hosur Taluk, Krishnagiri District.

2. Heard Mr.T.M.Hariharan, learned counsel appearing for the petitioners, Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents.

3. The case of the petitioners is that the land comprised in survey No.825/1 ad measuring 4.02 acres situated at Mathigiri Village, Hosur Taluk, Krishnagiri District, was in occupation and enjoyment of the deceased first petitioner's father. In the year 1963, he applied for assignment of patta for the said land on the basis that he is a landless poor and he was cultivating the said land for the past 15 years. At the same time, one Mutha Munisamy, a landless harijan also applied for assignment of patta to the Government of Tamil Nadu to an extent of 1.94 acres comprised in survey No.825/1. It was considered by the Sub-Collector and he passed order to evict the deceased first petitioner's father from the extent of 1.94 acres out of 4.02 acres. Aggrieved by the same, he filed appeal before the District Revenue Officer, Salem, to stall the eviction proceedings and the District Revenue Officer by an order dated 19.06.1965, set aside the eviction order.

4. However, a report was sent from the Office of the District Collector, Salem to the Board of Revenue contending that the deceased first petitioner's father's claim for assignment of land to an extent of 4.02 acre was not bonafied one and he was issued show case notice calling upon him as to why the order dated 19.06.1965 should not be modified. Thereafter the mater was remanded back to the District Collector for conducting fresh enquiry. The Sub Collector after due enquiry, by an order dated 14.11.1967 directed the Tahsildar to assign 2.08 acres out of 4.02 acre, comprised in survey No.825/1, in favour of the deceased first petitioner's father viz., Mustafa Khan. Simultaneously, the land to an extent of 1.94 acres was assigned in favour of the said Muktha Munisamy.



5. However, it was challenged in W.P.No.64 of 1968 forbearing the deceased first petitioner's father from evicting from the total extent of the property ad measuring 4.02 acres. This Court by an order dated 14.11.1969 directed the authority concerned to conduct fresh enquiry and pass orders. Thereafter by an order dated 31.12.1970, the Revenue Divisional Officer recommended for assignment of land to an extent of 2.08 acre in favour of the deceased first petitioner's father viz., Mustafa Khan and 1.94 acres in favour of the said Muktha Munusamy and fixed rate at Rs.2,000/- per acres.

6. Aggrieved by the same, again the deceased first petitioner's father viz., Mustafa Khan filed appeal before the Collector, Dharmapuri District, seeking assignment of entire land ad measuring 4.02 acres. However, it was dismissed by confirming the order passed by the Revenue Divisional Officer, dated 31.12.1970. Again aggrieved by the same, he filed a Writ Petition in W.P.No.2915 of 1973 and this Court by an order dated 04.05.1973 dismissed the Writ Petition by confirming the order passed by the Revenue Divisional Officer. Thereafter, on 05.07.1973, he remitted a sum of Rs.4,160/- being consideration for the land to an extent of 2.08 acres.

7. Further the deceased first petitioner's father and the said Muktha Munusamy, arrived an understanding and they jointly made a request to the Revenue Divisional Officer requesting to modify the order in respect of the assignment of 3 acres in favour of the deceased first petitioner's father and 1.02 acres in favour of the said Muktha Munusamy. On the said request, the Revenue Divisional Officer, Hosur directed to assign 3 acres in favour of the deceased first petitioner's father on collection of four times of the current market value and assigned 1.02 acre in favour of the said Muktha Munusamy on collection of single current market value. However, the earlier order passed by the Revenue Divisional Officer on 31.12.1970 was not set aside.

8. Though the deceased first petitioner's father was assigned to an extent of 3 acres, subsequently, the said Muktha Munusamy filed suit in O.S.No.61 of 1975 on the file of the District Munsif Court, Hosur, for declaration of ownership to the extent of 1.94 acres and injunction. Though the suit was partly allowed in the appeal suit, the entire suit was dismissed. Even then, the deceased first petitioner was not issued patta and the authorities attempted to dispossess the deceased first petitioner. Therefore, he filed Writ Petition before this Court in W.P.No.36460 of 2007 and this Court disposed the said Writ Petition by directing the deceased first petitioner to submit fresh representation to the District Collector, Krishnagiri.



9. Accordingly, the deceased first petitioner submitted representation on 29.01.2008 and on receipt of the report from the Sub Collector, Hosur, the District Collector, Krishnagiri, rejected the claim of the deceased first petitioner for the reason that the first deceased petitioner's father did not remit cost of the land as per the order dated 31.12.1970. It was challenged before the first respondent and the same was rejected for the reason that the father of the deceased first petitioner did not extend his willingness to remit the land cost and therefore, no patta was issued in favour of the deceased first petitioner's father and till now the land stands classified as "Annadeenam" in the village account. Further observed that, the learned counsel who appeared on behalf of the deceased first petitioner's father was requested to produce the evidence of payment and directed to produce copy of chellan remitting the land cost to prove the payment. However, the counsel had taken so many adjournments and did not turn up for hearing. Therefore, the first respondent presumed that the deceased first petitioner's father had no proof to substantiate his claim for assignment.

10. Now, the learned counsel appearing for the petitioners produced all the records including the payment of chellan dated 05.07.1973, in the Bank of Hosur for assignment of land and it revealed that the deceased first petitioner's father remitted a sum of Rs.4,160/- as the land value for the land ad measuring 2.08 acres comprised in survey No.825/1 at Mathigiri Village, Hosur Taluk, Krishnagiri District. As stated supra, the deceased first petitioner's father challenged the order passed by the Revenue Divisional Officer dated 31.12.1970 before this Court and got failed. Immediately, after the order dated 04.05.1973, passed by this Court in W.P.No.2519 of 1973, on 05.07.1973, his father remitted the sum of Rs.4,160/- as directed by the Revenue Divisional Officer. Even then, the respondents failed to assign the said land in favour of his father. Though his father and the said Mutha Munisamy had arrived for agreement for re-assignment to an extent of 3 acres in favour of the deceased first petitioner's father and 1.02 acres in favour of the said Mutha Munisamy, it was not materialized, since the deceased first petitioner's father was directed to pay four times of current marked value for the extend of 3 acres. Whereas, he already remitted the land cost of Rs.2,000/- per acres by the chellan dated 05.03.1973 itself. That apart, the deceased first petitioner also failed to produce the said chellan before the first respondent while enquiry.

11. In view of the above discussions, the petitioners are being the legal heirs of the deceased first petitioner and the said Musthafa Khan, they are entitled for assignment in respect of the land ad measuring 2.08 acres, as per the original assignment order passed by the Revenue Divisional Officer dated 31.12.1970 comprised in survey No. 825/1 at Mathigiri Village, Hosur Taluk, Krishnagiri District.



12. Accordingly, the order dated 07.02.2010 passed by the first respondent in RC.No.G1-19213-08, is set aside. The second respondent is directed to pass an order of assignment in favour of the petitioners in respect of the land ad measuring 2.08 acres comprised in survey No. 825/1 at Mathigiri Village, Hosur Taluk, Krishnagiri District, and directed the fifth respondent to issue patta for the assigned land in favour of the petitioners within a period of six weeks from the date of the receipt of a copy of this Order.

13. With the above directions, the Writ Petition stands partly allowed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

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To

1. The Principal Secretary and
Commissioner of Land Administration,
Government of Tamil Nadu,
Chepauk, Chennai - 600 005.
2. The District Collector,
Krishnagiri District,
Krishnagiri.
3. The District Revenue Officer,
Krishnagiri District,
Krishnagiri.
4. The Sub-Collector,
Hosur Taluk, Hosur,
Krishnagiri District.
5. The Tahsildar,
Hosur Taluk, Hosur,
Krishnagiri District.

+1cc to Mr.G.M.Anantha Kumar, Advocate SR.No.52135

+1cc to Government Pleader SR.No.51968

W.P. No.9369 of 2010

GPL (CO)

<https://hcservices.courts.gov.in/hcservices/>

GM (26/11/2021)