



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

W.P.No.6208 of 2020

and

W.M.P.No.7298 of 2020

1. R.Muniya ammal

2. M.Manikamma

3. M.Muniamma

.. Petitioners

Vs.

1. The District Collector,
Krishnagiri District.

2. The District Revenue Officer,
Krishnagiri District.

3. The Sub Collector,
Hosur, Krishnagiri District.

4. The Tahsildar,
Anchetty Taluk,
Krishnagiri District.

5. M.Kannammal

6. M.Saravanammal

7. M.Arumugam

8. M.Mahanandhi

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in impugned order in Pa.Mu.27613/2019/J2 dated 16.12.2019 passed by the 2nd respondent to conduct afresh enquiry on the appeal dated 31.10.2018 by affording opportunity to the petitioners and pass appropriate



orders within a stipulated time period as may be fixed by this Court.

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For Petitioners : Mr.T.Sundaravadanam

For RR1 to 4 : Mr.K.M.D.Muhilan
(Govt.Advocate)

For RR5 to 8 : No appearance

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with respect to an order dated 16.12.2019 passed by the 2nd respondent / District Revenue Officer, Krishnagiri District, and captioned Pa.Mu.27613/2019/J2 and seeking a further direction that the said 2nd respondent should conduct an enquiry afresh with respect to an appeal filed by the 5th to 8th respondents herein on 31.10.2018.

2. It is the case of the petitioners is that they are in possession of cultivating land in Anchetty Village, Krishnagiri District, which lands were originally owned by their grandfather of Perumal Gounder. He had three sons namely, Konappan, Krishnan and Mariyappan. The respondents 5 to 8 who are contesting the case of the writ petitioners are the legal representatives of the Mariyappan. The petitioners are the legal representatives of the Konappa Gounder. The grandfather Perumal Gounder had cultivated the lands in S.No.576/1F to an extent of 63 cents and another 55 cents in S.No.576/1A and a further 5 cents in S.No.576/1H totally measuring of 123 cents or 1.23 acres.

3. Consequent to the demise of Perumal Gounder, it was stated that the land should have been divided into two halves between Konappa Gounder and Mariyappan Gounder. It is presumed that Krishnan had no further interest in the lands.

4. At any rate, let me not delve deeper into the facts.

5. Subsequently, the petitioners found that patta had been transferred for the entire land to the legal representatives of



Mariyappan and their representations and protestations in this regard were left unheard. They, therefore, approached the 3rd respondent namely, Sub Collector, Hosur, Krishnagiri District, seeking cancellation of the patta of the entire lands granted to the 5th to 8th respondents and for subdivision of the land and for grant of patta for one half of the land to their names.

6. It is claimed by Mr.M.T.Sundaravadanam, learned counsel for the revision petitioner, that the petitioners had given necessary requisite documents particularly, the Death Certificate of Konappa Gounder and also the Legal Heirship Certificate which would indicate that they are lawfully entitled for the lands held by them. The 3rd respondent had passed an order on 22.01.2018. It is stated that necessary documents had been perused by the said official. Those documents included primarily the Death Certificate of Konappa Gounder and Legal Heirship Certificate of Konappa Gounder giving the names of the petitioners herein indicating that the petitioners have a legitimate expectation to the right of the lands of Konappa Gounder. The grant of patta was rejected.

7. An appeal was filed by the petitioners herein before the 2nd respondent questioning rejection of patta. The order passed by the 2nd respondent dated 16.12.2019 is the subject matter of the present Writ Petition.

8. It had been observed by the 2nd respondent in the course of the order and which stand had been affirmed by the counter in the Writ Petition that the petitioners herein had not been produced the relevant records particularly, the Death Certificate and Legal Heirship Certificate of Konappa Gounder. This stand taken by the 2nd respondent is very strongly refuted by Mr.T.Sundaravadanam, learned counsel, who claimed that the petitioners had obtained the Legal Heirship Certificate with much difficulty and nothing would have prevented them from producing it before the 2nd respondent. As a matter of fact, the Legal Heirship Certificate is also filed as a document before this Court.

9. It would therefore only be appropriate that a direction is given to the 2nd respondent to re-hear the appeal and pass fresh orders taking into consideration the documents filed by the petitioners herein. The 2nd respondent may give an opportunity to the petitioners to file further documents relating to their entitlement of their lands of Konappa Gounder.



10. The 2nd respondent may also issue notice to the 5th to 8th respondents herein. It is seen that in the cause title the names and addresses of the 5th to 8th respondents have been printed. But unfortunately, there is no representation. Notice can only be issued and notice can only be served. If the said respondents take a conscious decision not to appear before the Court, then, this Court cannot expect to hold over the matter awaiting appearance on behalf of the said respondents. However, their interests are protected by the direction given to the 2nd respondent to issue notice afresh in the appeal to the said respondents and hear both the parties and thereafter, pass a considered order.

11. It is to be noted that an obligation is placed on the Authorities particularly, while dealing with transfer of patta or grant of patta that the applicants may not be quite knowledgeable in the procedures and therefore, if requisite records are not available, the authorities may call upon the parties to produce such records and thereafter, give an opportunity of hearing them and then pass orders.

12. I would therefore set aside the impugned order dated 16.12.2019 and place a request on the 2nd respondent to rehear the appeal. I really hope that the appellate proceedings would be commenced and completed within a period of six months from the date of receipt of this particular order.

13. With the above observations, the Writ Petition is allowed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS)

// True Copy//

Sub Assistant Registrar

smv

To

1. The District Collector,
Krishnagiri District.



2. The District Revenue Officer,
Krishnagiri District.

3. The Sub Collector,
Hosur, Krishnagiri District.

4. The Tahsildar,
Anchetty Taluk,
Krishnagiri District.

+1cc to Mr.T.Sundaravadanam, Advocate, S.R.No.37571

+1cc to the Government Pleader, S.R.No.38064

W.P.No.6208 of 2020

GPL (CO)
SU(19/08/2021)