

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM

The Hon'ble Mr.Justice Krishnan Ramasamy

C.R.P.(NPD)No.4445 of 2013

and

M.P.No.1 of 2013

Kaliappan

..Revision Petitioner

vs.

1.Registrar of Co-operative Societies,
Gobichettypalayam, Erode District.

2.The President,
Nilakudiyetra Co-operative Societies,
Anthiyur, Erode District.

3.The Sub-Registrar/Managing Director,
Gobi circle Co-operative Societies,
Gobichettypalayam, Erode District.

..Respondents

PRAYER:

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the judgment and decree dated 17.09.2012 made in C.M.A. No.65 of 2008 passed by the Principal District Judge, Erode

confirming the order dated 09.11.2004 made in Na.Ka.No.4661/2002A passed by the Sub-Registrar/Magistrate, Gobi Circle Co-operatives Societies, Gobichettypalayam, Erode District.

For Revision Petitioner : Mr.S.Senthilnathan

For Respondent 1 and 3 : Dr.S.Suriya,
Government Counsel

For Respondent 2 : Mr.L.P.Shanmugasundaram

ORDER

This Civil Revision Petition is filed against the judgment and decree dated 17.09.2012 passed by the Principal District Judge, Erode, in C.M.A. No.65 of 2008, whereby, the order, dated 09.11.2004, passed by the Sub-Registrar, Gobi Circle, Co-operatives Societies, Gobichettypalayam, Erode District, in Na.Ka.No.4661/2002A was confirmed.

2. The learned counsel appearing for the revision petitioner submits that the father of the revision petitioner was the member of the respondent-Society from the year 1944, and he was allotted a land,

measuring to an extent of 5.39 acres in S.F.No.1104/1 and 1105 by the second respondent-Society and right from the said allotment, his father was cultivating the land till his death on 22.09.1984. After the death of the revision petitioner's father, the revision petitioner, being his legal heir, has right over the said land.

3. Per contra, the third respondent has filed a counter affidavit, inter alia denying the revision petitioner's right over the land by stating that the father of the revision petitioner resigned from the membership in the year 1982 itself, and surrendered the land, and therefore, there cannot be any claim by any of the legal representatives of the deceased.

4. In reply, the learned counsel appearing for the revision petitioner submits that the revision petitioner came to know from one Mr.C.K.Munusamy, the former President of the Society, that revision petitioner's father has not resigned from the Membership nor relinquished any right over the land as alleged by the third respondent

and buttressing the same, he has also filed an affidavit on 28th February, 2001. However, it is the contention of the learned counsel appearing for the third respondent, once the father of the revision petitioner relinquished his rights and got back the subscription amount, he has no business, whatsoever, and had he continued his membership in the Society, he has right over the properties in the Society.

5. Heard the learned counsel appearing for the parties and perused the materials available on records.

6. This Court perused the affidavit, dated 28.02.2001, alleged to have been filed by the ex President of the Society, viz., Mr.C.K.Munusamy. A perusal of the affidavit, dated 28.02.2001, would show that Mr.C.K.Munusamy was the ex President of the second respondent-Society, in the year 1983-84. According to him, the deceased father of the revision petitioner has not relinquished his right in the Society, whereas, the third official respondent had filed a

counter affidavit, stating that the father of the revision petitioner surrendered the membership, thereby, relinquishing his right over the land. The said counter affidavit was filed by the third respondent based on the records. Whereas, the affidavit, dated 28.02.2001, alleged to have filed by the ex-president of the Society, viz., C.K.Munusamy, is bereft of any materials with regard to the reference of the documents maintained in the Co-operative Society. Obviously, the said C.K.Munusamy was president of the Co-operative Society about 17 years back. The affidavit only shows that there was no relinquishment by the father of the revision petitioner, but, no entries were made in the register maintained by the Society, to prove the same and so far, there has been no challenge against that entries, and as long as there is no challenge to the entries made in the register, this Court finds substance in the counter affidavit filed by the third respondent. Therefore, this Court does not find any infirmity in the order passed by the Court below, and the same stands confirmed.

7. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions is closed.

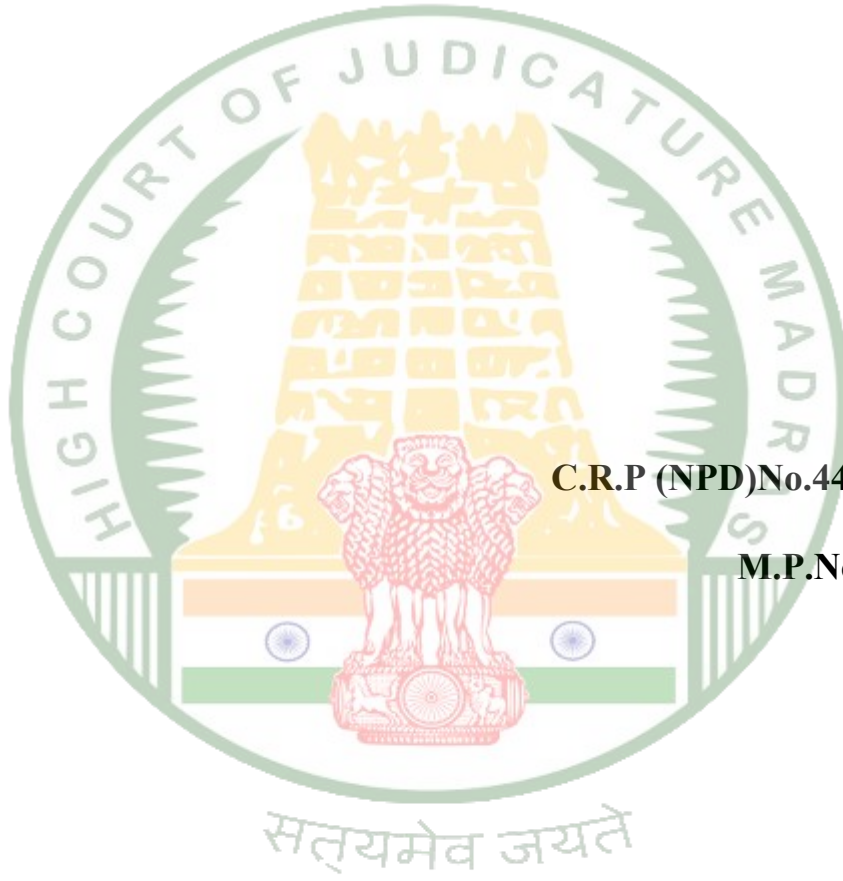
22.09.2021

Index: Yes/No
Speaking/Non-speaking Order
sd

To

1. The Principal District Judge, Erode.
2. Sub-Registrar/Magistrate,
Gobi Circle Co-operatives Societies,
Gobichettipalayam, Erode District.
3. The Registrar of Co-operative Societies,
Gobichettipalayam, Erode District.
- 4 The President,
Nilakudiyetra Co-operative Societies,
Anthiyur, Erode District.
5. The Sub-Registrar/Magistrate,
Gobi circle Co-operative Societies,
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Krishnan Ramasamy, J.,
sd



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