

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(N.P.D) Nos.2069 & 2078 of 2021
and C.M.P.Nos.15728 & 15785 of 2021**

In C.R.P.(N.P.D)No.2069 of 2021

A.K.Anvar Hamjath

...Petitioner

In C.R.P.(N.P.D)No.2078 of 2021

K.P.Amina

...Petitioner

Vs.

In Both C.R.P.'s:

- 1.Settlement Officer,
Gudalur Janmam Lands,
Gudalur,
The Nilgris District.
- 2.The Tahsildar,
Gudalur,
The Nilgris District.
- 3.The District Forest Officer,
Gudalur,
The Nilgris District.
- 4.The Godavarman Tirumalpad
Receiver, Nilambur Kovilagam,
Mallappuram District,
Kerala State.

...Respondents

Prayer In C.R.P.(N.P.D)No.2069 of 2021:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and

decreetal order dated 19.04.2021 made in I.A.No.34 of 2016 in C.M.A.C.F.R.No.488 of 2016 on the file of District Judge of the Nilgris at Udhagamandalam and to allow the Civil Revision Petition.

Prayer In C.R.P.(N.P.D)No.2078 of 2021:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 19.04.2021 made in I.A.No.36 of 2016 in C.M.A.C.F.R.No.456 of 2016 on the file of District Judge of the Nilgris at Udhagamandalam and to allow the Civil Revision Petition.

In Both C.R.P.'s

For Petitioners : Mr.C.Prabakaran
For Respondents : Mr.Edwin Prabakaran

COMMON ORDER

C.R.P.No.2069 of 2021 is filed challenging the order passed in I.A.No.34 of 2016 in C.M.A.C.F.R.No.488 of 2016 and C.R.P.No.2078 of 2021 is filed challenging the order passed in I.A.No.36 of 2016 in C.M.A.C.F.R.No.456 of 2016 on the file of District Judge of the Nilgris at Udhagamandalam, on 19.04.2021.

2.I.A.Nos.34 and 36 of 2016 were filed under Section 5 of Limitation Act to condone the delay of 2088 days in filing the Appeal against the order passed by the first respondent on 30.04.2009. The learned counsel for the petitioners submitted that the impugned order was passed on 30.04.2009, and the order was not communicated to the petitioners. The matter was entrusted to the counsel and the petitioner had left to Kerala. The petitioner's counsel had failed to inform the petitioners about the dismissal of the order passed by the Settlement Officer, (Gudalur Janmam Lands), Udhagamandalam, on 30.04.2009. Therefore, there is a delay of 2088 days in filing Appeal. He further submitted that the learned District Judge, Nilgiris, Udhagamandalam, without considering the reason that the order dated 30.04.2009, was not communicated to the petitioners, wrongly dismissed the delay condonation petition. Therefore, these Civil Revision Petitions are filed.

3.He further submitted that the petitioners are in possession and enjoyment of the lands in R.S.No.186/3, 186/6 to an extent of 10.00 acres for more than forty years. Application in Form-4 was submitted for grant of

Ryotwari patta under Section 9 of the Tamil Nadu Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act 24 1969. The learned settlement Officer (Gudalur Janmam Lands), Udhagamandalam, rejected the claim of the petitioners for grant of Patta, against which, the Appeal ought to have been preferred. As already said, the order dated 30.04.2009, was not communicated to the petitioners either by the learned settlement Officer (Gudalur Janmam Lands), Udhagamandalam, or by the learned counsel. Therefore, there is a delay of 2088 days in filing the appeal.

4. Considered the submission of the learned counsel for the petitioner and perused the records.

5. The reading of the order of the learned settlement Officer (Gudalur Janmam Lands), Udhagamandalam, dated 30.04.2009 shows that the application for grant of Ryotwari Patta under Section 9 of the Janmam Abolition Act was rejected mainly on the grounds that:

i) patta can be granted only to a tenant who has cultivated the land himself or by the members of his tarward, tavazhi illom or family or by his

own servants or by hired labour who has owned or hired stock in the ordinary course of husbandry for a continuous period of three agricultural years immediately before the 1st day of June 1969.

ii) A plantation lessee mentioned in Section 17(1) of the Janmam Abolition Act of 1969 cannot claim Ryotwari Patta under Section 9 of the Janmam Abolition Act of 1969.

6.It is observed in the order dated 30.04.2009, that the lands have been cultivated by the petitioners as lessees. They cannot be considered as a tenant entitling the petitioners for grant of Ryotwari Patta under Section 9 of the Tamil Nadu Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act 24/1969. The documents produced by the petitioners reveal that the lands in question are not the tenanted lands. Petitioners had not produced any land Revenue Taxes for the year 1966-1969 to prove that they were in occupation under Section 9(1) of the Gudalur Janmam Estates (Abolition & Conversion into Ryotwari) Act 1969. The lands are only the lease hold lands coming under Section 17 and not the land coming under Section 9 of the Gudalur Janmam Estates Act 24/1969. In this view of the

matter, it is found that the petitioners are not entitled to claim Ryotwari Patta under Section 9 of the Tamil Nadu Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act 24/1969 and the petitioners' application was rejected.

7. With regard to the contention that the order was not communicated to the Petitioners, it is seen from the order that the order was communicated to the respondents and the petitioners through the counsel. The learned counsel for the petitioners again claim that the order was not communicated to the petitioners directly. An Advocate is the agent of the party and the case was being conducted by the learned counsel appearing for the petitioners. Therefore, the service of the order to the petitioner's Advocate is as good as the service to the petitioners.

8. Be that as it may, the delay in filing the Appeal is huge that there is a delay of 2088 days in filing the Appeal. The reasons stated by the petitioners was found not satisfactory. The learned District Judge, Udhagamandalam, found that having initiated the proceedings, it is for the

petitioners to diligently follow up the case and get updated about the proceedings. They cannot sit idle and allege make a complaint that Advocate has failed to inform about the result of the proceedings. The reason for the delay is not satisfactorily explained by the Petitioners. This court finds no reason to interfere with the order dated 19.04.2021 of the learned District Judge, Udhagamandalam, and the order of the learned District Judge, Udhagamandalam is confirmed.

9.Resultantly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

30.09.2021

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

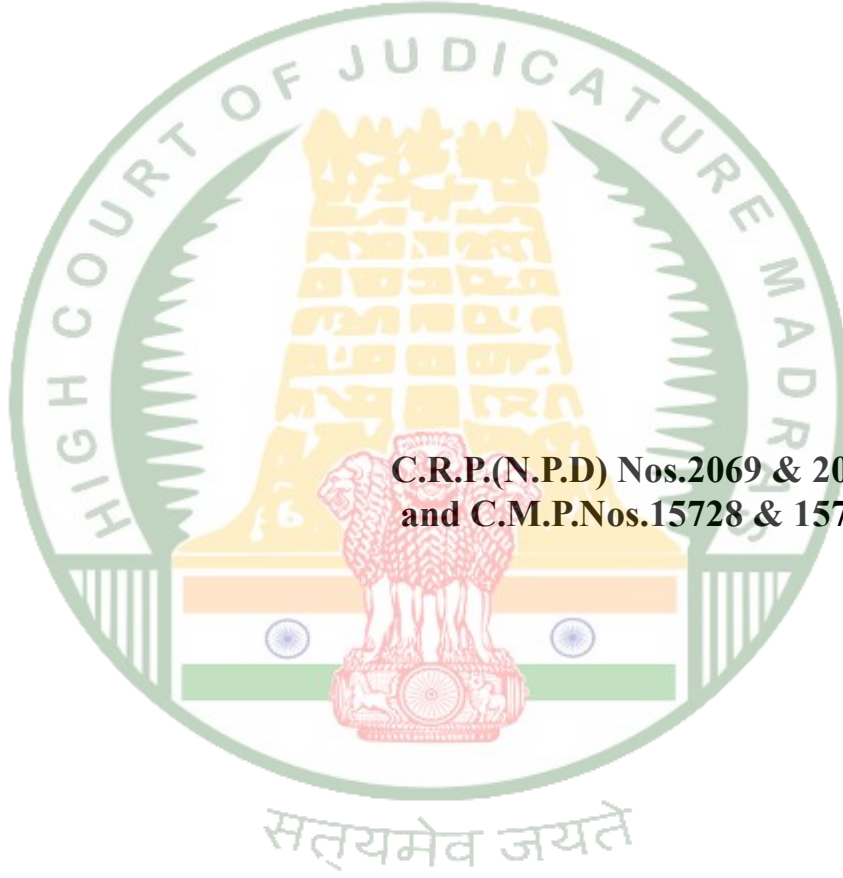
- 1.The District Judge,
The Nilgris at Udhagamandalam.
- 2.The Section Officer,
VR Section,
High Court of Madras.

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C.R.P.(N.P.D).Nos.2069 & 2078 of 2021

G.CHANDRASEKHARAN.J,

ep/ay



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