



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.24808 OF 2021

AND

W.M.P.NO.26092 OF 2021

K.Venkatachalam

... Petitioner

-Vs-

1. The State of Tamil Nadu
Rep. by its Principal Secretary,
Department of Co-operation, Food
& Consumer Protection,
Fort St. George, Chennai - 09.
2. The Registrar of Co-operative Societies
No.170, NV Natarajan Maaligai,
Periyar EVR Road,
Kilpauk, Chennai.
3. The District Collector
Collectorate, Salem,
4. The District Revenue Officer
DRO's Office, Salem.
5. The Tahsildar
Vazhapadi Taluk,
Salem District.
6. The Chairman
Tamil Nadu Co-operative Milk
Producers' Federation Ltd.,
Aavin, Sinthanur, Salem District.
7. The Village President
Kattuvelpalaipatti village,
Salem.

.. Respondents



Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 2 to 7 to consider the representation of the petitioner, dated 09.12.2020 and consequently, direct the respondents 2 and 3 to re-convey the Gifted Land of 50 cents in Survey No.57/2B of Kavurkalpatti village at Salem back to the petitioner and his family.

For Petitioner : Ms.Thanga Vadhana Balakrishnan

For Respondent : Mrs.Akila Rajendran
Government Advocate for R1 to R6
Mr.Mohammed Sathik
Government Advocate for R7

O R D E R

The prayer sought for herein is for a writ of mandamus, directing the respondents 2 to 7 to consider the representation of the petitioner, dated 09.12.2020 and consequently, direct the respondents 2 and 3 to re-convey the Gifted Land of 50 cents in Survey No.57/2B of Kavurkalpatti village at Salem back to the petitioner and his family.

2. Heard Ms.Thanga Vadhana Balakrishnan, learned counsel appearing for the petitioner, Mrs.Akila Rajendran, learned Government Advocate appearing for the Respondents 1 to 6 and Mr.Mohammed Sathik, learned Government Advocate appearing for R7.

3. It is the case of the petitioner that, the grand father of the petitioner was the owner of a piece of land at Sentrayampalayam, Salem District. In order to dig a community well by the society for the purpose of irrigation to various farmers in that village in the year 1972, that piece of land was donated by the grand father of the petitioner to the society and in this regard, a Gift Deed under Document No.377 of 1972, dated 28.02.1972 was executed and registered at SRO, Vazhapadi, Salem. The extent of the land is 50 cents at S.No.57/2b in Kavurkalpatti village, Salem District.

4. It is the further case of the petitioner that, though the land was donated to the society for the purpose of digging a common well, that purpose was not served and no such well was dug out and the society since become defunct and it came under the administration of Official Liquidator, the land in question has been sold to another society called Seshanchavadi Co-operative



Agricultural Bank for settling the loan amount that the society had to pay.

5. In the meanwhile, the grand father of the petitioner died. Subsequently, the petitioner's father and now the petitioner had been making efforts to get back the land donated by the grand father of the petitioner, as the purpose for which it was donated was not fulfilled.

6. It is also the case of the petitioner that, the land in question belong to the family of the petitioner donated by the grand father, since has not been utilised for the public purpose to have a community well for the benefit of entire agriculturists in that village and the petitioner's family also is not having enough agricultural land in that locality, in order to enhance the further quality of life and the livelihood, the petitioner's father first and thereafter, the petitioner though had been made several attempts to get back the land, which has not been given back to the petitioner's family, therefore at last in this regard, the petitioner has given a representation dated 09.12.2020 to the respondents 2 to 7 and the said representation since have not been considered, he has approached this Court by filing the present writ petition with the aforesaid prayer.

7. Ms.Thanga Vadhana Balakrishnan, learned counsel appearing for the petitioner has submitted that, though there has been no conditions imposed in the said Gift Deed executed by the grand father of the petitioner, at that time of donating the land to the society that, if the purpose for which it is donated was not fulfilled, it can be reverted back to the petitioners family, still the petitioner can expect that, the land in question can be given back to the petitioner's family because, firstly the purpose for which it was donated has not been fulfilled, secondly, now the land is in the hands of yet another Bank or Society, where it is not being properly utilised and some individuals who are in the helm of affairs of the Society / Bank are trying to grab the land, therefore the petitioner is entitled to get back the said land.

8. Per contra, Mrs.Akila Rajendran, learned Government Advocate appearing for the respondents 1 to 6 and Mr.Mohammed Sadhik, learned Government Advocate appearing for R7 would contend that, admittedly the land in question has been gifted to the erstwhile society in the year 1972 by the grand father of the petitioner. Once it had become the absolute property of the society, it can be exploited by any means, provided if the purpose for which it was donated could not be fulfilled and



accordingly, it has been sold to the Bank on 12.02.1990 and therefore, the present owner, i.e., the Bank can very well exploit the property in the manner known to law. Hence, the petitioner and his family have no right whatsoever to get back the said land, as absolutely that is not possible, since the Bank is now the present owner of the property.

9. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

10. Since it is an admitted case on the part of the petitioner that, at the time of donating the land in question by the grand father of the petitioner to the society, even though for a public cause, there has been no condition imposed by the grand father of the petitioner who was the owner that, if the purpose for which he donated is not fulfilled, it should be reverted back to the donor or his family or legal heirs.

11. Therefore, it has become an absolute gift, by which the donee has become the absolute owner of the property, subsequently, the society become defunct, therefore the Liquidator of the society, in order to settle the dues payable by the society to the Bank, has executed a sale deed in the year 1990 to the Bank concerned, that is how the Bank has become the absolute owner of the property. Therefore, at this juncture, neither the petitioner nor any of the legal heir of the grand father of the petitioner have right to seek for the said land to be reverted back to the petitioner or his family members.

12. When that being the legal position, the present prayer sought for by the petitioner, even to consider the representation given in this regard by the petitioner, by the respondent cannot be granted, as that kind of direction, if it is given by this court, that would run contra to the legal position.

13. In that view of the matter, this writ petition fails. Hence, it is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS IX)

//True Copy//

Sub Assistant Registrar

tsvn



To

1. The Principal Secretary
State of Tamil Nadu
Department of Co-operation, Food
& Consumer Protection,
Fort St. George, Chennai - 09.
2. The Registrar of Co-operative Societies
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5. The Tahsildar
Vazhapadi Taluk, Salem District.
6. The Chairman
Tamil Nadu Co-operative Milk
Producers' Federation Ltd.,
Aavin, Sinthanur, Salem District.

+1cc to Ms.Thanga Vadhana Balakrishnan, Advocate, S.R.No.59690
+1cc to Government Pleader, S.R.No.59995

W.P.No.24808 of 2021

PA(CO)
CS/30/11/2021