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W.P.No.1647 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1647 of 2022

and

W.M.P.No.1795 of 2022

S.Seenivasa Rao

... Petitioner

Vs.

- 1.The District Collector,
District Collector Office,
Krishnagiri.
- 2.The District Revenue Officer,
District Collector Office,
Krishnagiri.
- 3.The Assistant Director,
Survey and Land Records Department,
District Collector Office,
Krishnagiri District.
- 4.The Sub Collector,
Sub Collector Office,
Hosur,
Krishnagiri District.
- 5.The Tahsildar,
Taluk Office,
Shoolagiri,
Krishnagiri District.



6.Mr.Mohan

7.Mr.Sivaji

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of 2nd respondent dated 30.12.2021 passed in Pa.Mu.15423/2019/J2 and to quash the same and consequently direct the 1st and 2nd respondents to rectify the errors crept in the Revenue Records in respect of land measuring to an extent of 25 cents in Survey No.207/6 of Marthandapalli Village, Shoolagiri Taluk, Krishnagiri District which is earmarked as Burial ground vide proceedings of Assistant Settlement Officer, Salem dated 14.11.1965 in RP No.11/Section.11(a)/Hosur/1965, within the time to be stipulated by this Court.

For Petitioner	: Mr.R.Bharath Kumar
For R1 to R5	: Mr.T.Arun Kumar Additional Government Pleader
For R6 & R7	: Mrs.R.Poornima

ORDER

The order dated 31.12.2021 passed by the District Revenue Officer, Krishnagiri, rejecting the claim of the petitioner to utilise the portion of the property in the Survey No.207/6 measuring to an extent of 25 cents as burial



ground is under challenge in this writ petition.

2. The petitioner states that their ancestors belong to the “Marathi Community” and settled in Shoolagiri Taluk, Krishnagiri District for more than 100 years. The petitioner states that their family members are living in and around Shoolagiri Taluk. From time immemorial their community people have been using the land comprised in Survey No.207 Maruthandapalli Village, Shoolagiri Taluk, Krishnagiri District for burying the dead bodies of their community. The family members of the petitioner don’t burn the dead bodies, but used to bury the corpus as per their customary practices.

2. The learned counsel for the petitioner contented that the Assistant Settlement Officer, Salem in proceedings dated 14.11.1965 categorically made a finding as follows:

“11. If the documents filed by the respondent Ex.R.1., Ex.R2 and Ex.R3. series are also post notified date documents and are of no avail to determine the character of the land in question Ex.R4 is the patta issued by the Landholder to the predecessor in title to the Respondent. The evidence of C.W.1 the Karnam, who has been in



office even during the Zamin period, is that a portion of S.No.207/4 was being used as Burial ground by Namadev Community. The evidence of C.W.2 who conducted enquiry in the village shows that a portion shown as 207/6 pro of about 25cents was being used as burial ground by the Namadev Community and there were the existence of old burials in the suit land. I have no reason to disbelieve the evidence of these two witness. So I decide that extent of 25 cents in 207/6 pro was improperly included in the holding by the landholder as it was a burial ground and a non-ryoti land. The rest of the land in 207/4 i.e 207/4 pro as in Ex.C.2 was ryoti in character and was properly included in the holding of the predecessor in title of the respondent. Accordingly I order the issue of ryotwari patta under Section 11 (a) of the Act for 207/4 pro (2.66) to Sri Rajagopal Naidu the respondent and the 207/6 pro (0.25) shall be treated as Burial ground poramboke.”

3. Relying on the above order, the petitioner has stated that the practice, which is prevailing for several years cannot be now interfered with and thus, the order of the District Revenue officer is perverse and liable to be



set aside.

4. The learned counsel for the petitioner reiterated that the rights conferred on the family of the petitioner cannot be taken away after this length of time, which would cause detriment to the customary practices of the petitioner and his family.

5. The learned Additional Government Pleader appearing on behalf of the official respondents made a submission that the District Revenue Officer, Krishnagiri elaborately considered the issues and passed the order dated 30.12.2021. The finding made by the District Revenue Office would reveal that the patta land has been erroneously classified as burial ground based on the recommendations of the Revenue Authorities during the relevant point of time. On verification of the documents and records produced by the contesting respondents, the District Revenue Officer found that the subject land is a private patta land. More so, in the event of allowing the petitioner and their family members to bury dead body in the said property would result in law and order issue in that locality. Further, adequate facilities are available to bury the dead bodies of the family members of the petitioner in



existing burial ground situated in Shoolagiri Village itself.

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6. The learned Additional Government Pleader appearing on behalf of the official respondents made a submission that sufficient facilities will be provided to the family members of the petitioner to bury the dead bodies of their family.

7. No doubt, the petitioner is also harmed with an order by the Assistant Settlement Officer. That order becomes final and now after a lapse of about 50 years the District Revenue Officer conducted an enquiry, and during the enquiry the contesting respondents could establish that they are the absolute owners of the portion of the subject property, which was classified as burial ground.

8. In respect of the title or ownership, the parties have to approach the Civil Court of Law. As far as the claim of the petitioner is concerned, undoubtedly entitled to utilise the burial ground for the purpose of burial of the dead bodies.



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9. In order to avoid conflict between the communities and to maintain peace and harmony in that locality, this Court is of an opinion that the District Collector and the Revenue Authority should ensure that adequate facilities are to be made available to the family members of the petitioner for the purpose of burial of the dead bodies. There should not be any hindrance for the family members of the petitioner to bury dead body in the burial ground situated in Shoolagiri Village and the Revenue Authorities shall ensure that there is no hindrance caused to the members of the family, since they are minority community in Shoolagiri Taluk.

10. Rest of the issues raised by the petitioner need not be adjudicated in the writ petition, since the Revenue Authorities made a finding that in the event of providing burial ground in the subject property, the same will create law and order issue in that locality.

11. Considering the facts and circumstances, the respondents 1 to 5 are directed to ensure that the petitioner's family members and their community people are permitted to bury dead body in a peaceful manner in the existing



burial ground situated in Shoolagiri Village. It is needless to state that the customary practice and sentiments attached to the community belongs to the family of the petitioner is to be respected by the authorities.

12. With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

23.08.2023

Veda/Jeni
Index:Yes
Speaking order
Neutral Citation:Yes

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S.M.SUBRAMANIAM, J.

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