



WEB COPY



W.P.No.20033 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.20033 of 2023
and
W.M.P.No.19385 of 2023

1.R.Deepa

2.R.Saranya

... Petitioners

vs.

1.The Joint Registrar of Co-operative Societies
Erode Zone
Erode.

2.The Deputy Registrar of Co-operative Societies
Gobichettipalayam Circle
Gobichettipalayam.

3.The Secretary
Alukuli Primary Agricultural Co-operative Credit Society
Alukuli,
Gobichettipalayam Taluk.

4.The Sales Officer
Alukuli Primary Agricultural Co-operative Credit Society
Alukuli,
Gobichettipalayam Taluk.

... Respondents



W.P.No.20033 of 2023

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the order passed by the 1st Respondent dated 14.11.2022, made in Na.Ka.No.8726/2018/Sa.pa to quash the same, consequently direct the 1st respondent cancel the Sales Certificate issued by the 4th Respondent dated 12.12.2017, in favour of 3rd Respondent.

For Petitioners : Mr.R.T.S.Kannan
for Mr.S.Umapathy

For R1 and R2 : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

For R3 and R4 : Mr.P.Gurunathan
Additional Government Pleader

ORDER

This writ petition is filed by the petitioner aggrieved by the order passed by the 1st respondent dismissing the revision filed by the petitioner challenging the Sale Certificate issued in favour of the 3rd respondent.

2. It is the case of the petitioner that the father of the petitioner N.Rathinasamy, acted as President of 3rd respondent-Society from 31.10.1996 to 23.05.2001. A surcharge order was passed against him by the 2nd respondent directing him to pay a sum of Rs.24,23,740/- by order dated



W.P.No.20033 of 2023

06.04.2015. The said order was challenged in appeal by father of the petitioner in C.M.A.No.62 of 2005 and the same was dismissed.

3. The writ petition filed by the father of the petitioner was also dismissed confirming the order passed by the Co-operative Tribunal. Subsequently, the 4th respondent initiated execution proceedings and the ancestral properties of the family in which the petitioners are entitled to 2/3rd share along with their father was brought to sale and sold in open auction. Thereafter, the Sale Certificate was executed in favour of the 3rd respondent. Since the petitioners are having 2/3rd share in the property covered by the Sale Certificate, they preferred a revision before the 1st respondent and the same was dismissed in his proceedings in Na.Ka.No.8726/2018/SaPa, dated 14.11.2022. Aggrieved by the same, the present writ petition is filed by the petitioners.

4. The learned counsel appearing for the petitioners assails the order passed by the 1st respondent mainly on the ground that he failed to take into consideration a Deed of Partition dated 11.06.2002 entered between the father of the petitioners' N.Rathinasamy, his brother Janagarathinam and



W.P.No.20033 of 2023

and their father Nanjappa Gounder whereunder the property in question was allotted to the share of the petitioners' father in B-Schedule. It is the specific case of the learned counsel for the petitioners that when petitioners father got the property in a family partition, the petitioners, who are the daughters are entitled to 2/3rd share in the family property.

5. Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.P.Gurunathan, learned Additional Government Pleader for the respondents 3 and 4 submitted that the petitioners failed to produce any document before the Revisional Authority to establish the property in question was ancestral property and they have got 2/3rd share. Therefore, they prayed for dismissal of the writ petition by confirming the order passed in revision.

6. In support of the contention, the property in question is the ancestral property of the family and petitioners have got 2/3rd share in it, the registered Partition Deed entered between the father of the petitioners, his brother and petitioners' Grandfather dated 11.06.2002, is produced before this Court in the additional typed-set of papers dated 22.08.2023.



W.P.No.20033 of 2023

WEB COPY

7. A perusal of the same would suggest that the properties covered by Sale Certificate was allotted to the share of petitioners' father N.Rathinasamy under B-Schedule to the Partition Deed. Subsequently, there was a Lok Adalat Decree in Lok Adalat Case No.389/2017 on the file of the District Legal Services Authority, Erode, wherein the partition suit between the petitioners and their father in O.S.No.105 of 2017 on the file of District Munsif Court, Gobichettipalayam, was settled and Item-I of Sale Certificate was allotted to the share of the petitioners.

8. Therefore, the petitioners have got evidence to show that the property in question is the ancestral property of the petitioners family. However, as seen from the impugned order passed by the 1st respondent, the Partition Deed dated 11.06.2002 was not produced by the petitioners before the 1st respondent.

9. In such circumstances, this Court is inclined to set aside the order passed by the 1st respondent and remit the matter back to the file of 1st respondent to consider the claim of the petitioners afresh in the light of the



W.P.No.20033 of 2023

Partition Deed dated 11.06.2002 and pass fresh orders in revision within a period of three months from the date of receipt of copy of this order.

10. It is open to the petitioners to move the Revisional Authority for appropriate interim protection pending revision. If any such interim application is filed by the petitioners, the same shall be considered and orders shall be passed by the 1st respondent within a period of three weeks from the date of filing of application.

11. Accordingly, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

05.09.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm



W.P.No.20033 of 2023

To

WEB COPY

- 1.The Joint Registrar of Co-operative Societies
Erode Zone
Erode.
- 2.The Deputy Registrar of Co-operative Societies
Gobichettipalayam Circle
Gobichettipalayam.
- 3.The Secretary
Alukuli Primary Agricultural Co-operative Credit Society
Alukuli,
Gobichettipalayam Taluk.
- 4.The Sales Officer
Alukuli Primary Agricultural Co-operative Credit Society
Alukuli,
Gobichettipalayam Taluk.



WEB COPY



W.P.No.20033 of 2023

S.SOUNTHAR, J.

dm

W.P.No.20033 of 2023

05.09.2023