

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.R.P.No.1142 of 2012

K.Ramasamy (Died)

R.Thangavel

(2nd Petitioner brought on record
as LR of the deceased sole
petitioner vide order of Court
dated 04.04.2016 in M.P.No.2/2012
in CRP.No.1142/2012) ... Petitioner/Respondent

Versus

K.Natesan ... Respondent /Petitioner

This civil revision petition is filed against the order dated 05.08.2011 passed in Na.Ka.No.1552/2011/A2 in P.No.514 of 2008 on the file of Sub Divisional Executive Magistrate-Cum-District Revenue Officer, Salem.

For Petitioner : Mr.P.Jagadeesan

For Respondent : Mr.T.Murugamanickam

ORDER

This civil revision petition has been filed by the tenant against the dismissal of the application filed by him to scrap the evidence of the landlord, the respondent herein, recorded by the Revenue Court, Trichy and an order for taking of fresh evidence.

2. Heard the learned counsel appearing for the petitioner and Mr.T.Murugamanickam, the learned counsel appearing for the respondent. It is seen that the respondent/landlord filed an

application before the Authorised Officer (Revenue Divisional Officer) under Sections 3 (4) (a) read with Section 3(2) (aa) and (6) of the Tamil Nadu Cultivating Tenants Protection Act to evict the petitioner herein from the leased land.

3. Before the Revenue Court, when the matter was taken up for enquiry, the tenant had got apprehension about the Authorised Officer, who had to conduct the case. Therefore, he filed a transfer petition in Tr.C.M.P.No.485/2010. The said transfer petition was allowed transferring the matter to the Revenue Division Officer functioning at Salem District.

4. After the matter was transferred and pending before Revenue Division Officer, Salem, the petitioner took out an application to scrap the evidence of the landlord, which was recorded by the earlier officer, stating that the recording of evidence was made in pencil and subsequently it was recorded in green ink. The Revenue Court dismissed the said petition observing that there is no necessity to eschew the evidence of the landlord. The reason given by the Revenue Court cannot be accepted. When there is a suspicion or apprehension in the minds of the petitioner with regard to the conduct of the proceedings and recording of evidence, the same has to be wiped out at the earliest.

5. Moreover, the petitioner was convinced and thereafter only the transfer petition was ordered. This Court cannot ignore the contention of the learned counsel appearing for the petitioner that the evidence recorded by the then Revenue Officer was not in tact. Since, there was some doubts with regard to the evidence recorded by the earlier officer, to meet the ends of justice, it is appropriate to direct the Revenue Court to eschew the recorded evidence of the landlord. This order is passed only to wipe out the apprehension of the petitioner, as the parties should conduct the case without any mistrust and suspicion.

6. Merely because the evidence is directed to be eschewed, it cannot be construed that this Court accepts the case of the petitioner or disregards the contentions of the respondent. More particulars are required to be given by both the parties and therefore, the revision petition is allowed. Evidence already recorded is directed to be eschewed. The parties are directed to adduce fresh evidence and thereafter the Revenue Court is directed to pass appropriate orders on or before 30th September, 2016. Records are directed to be sent

forthwith to the Revenue Court. Accordingly the civil revision petition is disposed of. No costs. Consequently the connected M.P.No.1 of 2012 is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The Sub Divisional Executive Magistrate-Cum-District Revenue Officer, Salem.

Copy to

The Section Officer,
VR Section,
High Court, Madras-104. [16/09/2016]

+1cc to Mr.T.Muruga Manickam, Advocate Sr.20691
+1cc to Mr.P.Jagadeesan, Advocate Sr.21032

C.R.P.No.1142 of 2012

mg[co]
srg 03/08/2016

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