



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 03.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.R.P (MD) No.1802 of 2015

Sannasi

.. Petitioner/Petitioner/Appellant

Vs.

1.The District Revenue Officer cum
Additional District Executive Magistrate,
Karur,
Karur District.

2.The Special Deputy Collector (Revenue),
Trichy,
Trichy District.

3.The Tahsildar cum Tenancy Recording Officer,
Kulithalai,
Karur District.

4.Kumarasamy Pillai

5.The General Manager,
M/s.Kulithalai Cane Farms,
No.32, Mela Chinthamani,
Trichy.

6.K.S.Alamelu Ammal

7.Vellaidurai @ Kaliyappan

.. Respondents/Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, 1908 to call for the records pertaining to Na.Ka.C3/22256/2008, dated 13.01.2014 passed by the first respondent and set aside the same.

For Petitioner : Mr.M.Saravanan

For R - 4 : No appearance

For R - 7 : Mr.Raguvaran Gopalan

ORDER

This memorandum of Civil Revision has been directed against the order, dated 13.01.2014 and made in Na.Ka.C3/22256/2008 on the file of the first respondent-the District Revenue Officer cum Additional District Executive Magistrate, Karur.

2. The revision petitioner herein is the appellant before the first respondent, whereas respondents 4 to 7 are the respondents therein.



3. It is manifested from the records that the revision petitioner herein had filed a petition before the third respondent-the Tahsildar cum Tenancy Recording Officer, Kulithalai to register his name as tenant and to remove the name of the fourth respondent from the Tenancy Records in respect of S.F.No.106/1 measuring 1 acre. That petition was numbered as TR.No.12 of 1983. During the pendency of that petition, the revision petitioner had filed an application in I.A.No.1 of 2005 to amend the extent as 3 acre instead of 1 acre. It appears from the records that both the Interlocutory Application in I.A.No.1 of 2005 as well as the main petition in TR.No.12 of 1983 were allowed by the third respondent viz., the Tahsildar cum Tenancy Recording Officer, Kulithalai on 28.05.2007.

4. Challenging the order in TR.No.12 of 1983, the fourth respondent had filed an appeal before the second respondent-the Special Deputy Collector (Revenue), Trichy. That appeal was numbered as A.P.No.11 of 2005 and the same was allowed in favour of the fourth respondent on 29.04.2008. Having been aggrieved on the order passed by the second respondent, the revision petitioner had filed a revision petition before the first respondent viz., the District Revenue Officer cum Additional District Executive Magistrate, Karur.

5. In the meanwhile, it appears that the seventh respondent had filed a civil suit in O.S.No.42 of 2005 on the file of the learned District Munsif, Kulithalai as against the revision petitioner as well as against his legal heirs for the relief of permanent injunction claiming that he had purchased the property on 22.02.1999 under a registered sale deed and after his purchase, he had been enjoying the suit property as an absolute owner. While disposing the suit, the learned District Munsif, Kulithalai had recognized the enjoyment of the property by the seventh respondent, but he was not able to ascertain the right of cultivation, as claimed by the revision petitioner and only on that score, the suit was dismissed on 30.11.2009. Against which, the seventh respondent had filed an appeal in A.S.No.6 of 2010 before the learned Principal Subordinate Judge, Kulithalai.

6. It is significant to note here that citing the pendency of the appeal in A.S.No.6 of 2010 filed by the seventh respondent herein, the first respondent-the District Revenue Officer cum Additional District Executive Magistrate, Karur had proceeded to dismiss the revision petition on the ground of pendency of appeal in A.S.No.6 of 2010 in respect of the very same property. But the question of right of cultivation has not been decided by the first respondent. This has been fairly admitted by Mr.Raguvaran Gopalan, learned counsel appearing for the seventh respondent.

7. This Court has heard Mr.M.Saravanan, learned counsel appearing for the revision petitioner as well as Mr.Raguvaran Gopalan, learned counsel appearing for the seventh respondent.

8. Considering the nature of the representation and considering the fact that the question of right of cultivation has not been decided by the first respondent, as claimed by the revision petitioner, now this Court finds that the order passed by the first respondent in Na.Ka.C3/22256/2008, dated 13.01.2014 can be set aside and the revision



petition filed by the revision petitioner ie., Na.Ka.C3/22256/2008 can be remitted back to the file of the first respondent with a direction to decide the issue of right of cultivation, as claimed by the first respondent.

9. Accordingly, this Civil Revision Petition is allowed. The impugned order dated 13.01.2014 and made in Na.Ka.C3/22256/2008 passed by the first respondent is set aside and the revision petition filed by the revision petitioner in Na.Ka.C3/22256/2008 is remitted back to the file of the first respondent with a direction that the first respondent, after hearing both sides, shall decide the issue of right of cultivation, as claimed by the revision petitioner and dispose the revision petition within a period of two months from the date of receipt of a copy of this order. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The District Revenue Officer cum
Additional District Executive Magistrate,
Karur,
Karur District.
2. The Special Deputy Collector (Revenue),
Trichy,
Trichy District.
3. The Tahsildar cum Tenancy Recording Officer,
Kulithalai,
Karur District

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C.R.P (MD) No.1802 of 2015
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