

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2016

CORAM

THE HONOURABLE THIRU JUSTICE **M. DURAISWAMY**

C.R.P.(NPD)No.714 of 2014
and M.P.No.1 of 2014 and CMP No.9756 of 2016

Baby

... Petitioner

vs

- 1.K. Jayabalan
2. Shanmugasundaram
3. K.A. Muthusamy
4. S. Aruljothi
5. M. Thammanan
6. R. Marimuthu

.... Respondents

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the order dated 08.03.2013 made in MP No.48 of 2012 in O.P No.287 of 2010 (Erode) on the file of Special Deputy Collector, Revenue Court, Trichy.

For Petitioner : Mr.N. Manokaran

For respondents : Mr.E.C. Ramesh

ORDER

Challenging the order passed in I.A.No.48 of 2012 in O.P No.287 of 2010 on the file of Special Deputy Collector, Revenue Court, Tiruchi, the legal representative of the deceased cultivating tenant viz., K.K. Subramaniam has filed the above Civil Revision Petition.

2. The husband of the revision petitioner viz., K.K. Subramaniam filed an Original Petition in O.P.No.287 of 2010 under Sec.3(3) of Tamil Nadu Cultivating Tenants Protection Act before the Special Deputy Collector, Revenue Court, Trichy. During the pendency of the Original Petition, the tenant had died on 08.01.2012. On 10.02.2012, the Special Deputy Collector proceeded with the matter as though the tenant was alive and dismissed the petition. The factum of death was not brought to the notice of the Special Deputy Collector at the time of hearing the matter on 10.02.2012.

3. Thereafter, the revision petitioner, who is the wife of the deceased tenant, filed an application in I.A.No.48 of 2012 to set aside the order dated 10.02.2012 and to re-hear the original petition after impleading her. In the affidavit, filed in support of the petition, the

revision petitioner has stated that her husband had died on 08.01.2012 and that prior to his death, he had executed a Will in favour of her in respect of the petition land. The Special Deputy Collector dismissed the petition, finding that there is no landlord/tenant relationship between the revision petitioner and the landlord.

4. It is a settled position that any order passed as against a dead person is a nullity. That apart, the provisions of the Civil Procedure Code shall apply to the proceedings under the Tamil Nadu Cultivating Tenants Protection Act. Since on the date of passing of the order i.e., on 10.02.2012, the tenant was not alive, the same is liable to be set aside, since the order itself is nullity.

5. Accordingly, the order passed on 10.02.2012 in O.P No.287 of 2010 is set aside and the matter is remitted back to the Special Deputy Collector for fresh consideration. The Revenue Court is directed to implead the revision petitioner viz., Mrs.Baby, W/o Late K.K. Subramaniam as party in the proceedings and decide the matter afresh, after giving sufficient opportunity to both sides on merits and in

M. DURAISWAMY,J.,

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accordance with law, within a period of four months from the date of receipt of a copy of this order. With these observations, the Civil Revision Petition is allowed. No costs. Consequently, connected MP and CMP are closed.

08-11-2016

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Index:no
website:yes

To

The Special Deputy Collector, Revenue Court, Trichy.

CRP(NPD)No.714 of 2014