



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2016

CORAM

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P. (MD).No.284 of 2016(PD)

and

C.M.P. (MD).Nos.1143 and 1933 of 2016

A.Joseph

... Petitioner/Respondent/Landlord

Vs.

1.M.V.Manoharan

2.M.V.Chandran

3.M.V.Sakthivel

... Respondents/ Petitioners/Tenants

Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records in connection with T.C.T.P.No.7 of 2005 on the file of the Revenue Court, Madurai and to strike off the plaint and to allow the Civil Revision Petition and thus render justice.

For Petitioner

:Mr.M.Ajmalkhan Senior Counsel
for Mr.A.Arumugam

For Respondent

:Mr.N.Thiagarajan Senior Counsel
For Mr.R.Senthilkumar

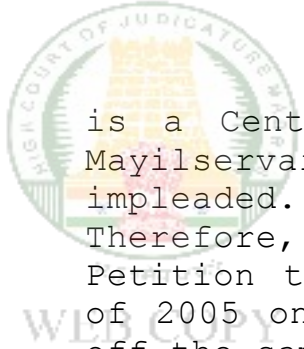
ORDER

This Civil Revision Petition has been filed to call for the records in connection with T.C.T.P.No.7 of 2005 on the file of the Revenue Court, Madurai and to strike off the same.

2.The petitioner is the landlord. The respondents are the legal heirs of one Mayilservai. The respondents filed T.C.T.P.No.7 of 2005 for permission to deposit the rent for the year 2004-2005.

3.According to the respondents, they are the legal heirs of one Mayilservai, who was a cultivating tenant. After his death, the respondents were recorded as cultivating tenants. The respondents paid rent properly. Earlier, the landlord received the rent. From 2004-2005, the petitioner, who is the subsequent purchaser refused to receive the rent. Therefore, they filed petition in T.C.T.P.No.7 of 2005 seeking for a direction to permit the respondents to deposit the rent from the year 2004-2005.

4.The petitioner filed a counter affidavit and stated that the respondents are not the cultivating tenants. The third respondent



is a Central Government Servant and the wife and daughter of Mayilservai, who is alleged to be cultivating tenants are not impleaded. The petitioner himself is cultivating the land. Therefore, the petitioner has filed the present Civil Revision Petition to call for the records in connection with T.C.T.P.No.7 of 2005 on the file of the Revenue Court, Madurai and to strike off the same.

5. According to the petitioner, the subsequent petition in T.C.T.P.No.44 of 2007 was dismissed on 06.05.2011. Therefore, T.C.T.P.No.7 of 2005, is not maintainable. Further, the respondents have made over their cultivating tenancy rights to one Murugeshwari, by a registered tenancy rights dated 14.03.2014. Thereafter, the petitioner filed O.S.No.16 of 2015 before the District Munsif Court, Madurai Taluk to declare the said deed as null and void and for permanent injunction. The said suit was decreed. Subsequent petition filed by the respondents in T.C.T.P.No.44 of 2007 for the very same cause of action between the very same parties, was dismissed by the Revenue Court. Therefore, in the circumstances, the respondents are not entitled to maintain T.C.T.P.No.7 of 2005, for the very same relief.

6. The learned Senior counsel appearing for the respondents filed counter and vacate stay petition and contended that T.C.T.P.No.44 of 2007 was dismissed for default. Similarly, the suit filed by the petitioner in O.S.No.16 of 2015 was decreed ex-parte. The respondents filed petition to set aside the exparte decree and the same is pending. After the death of their father Mayilservai, the respondents are shown as cultivating tenants in the concerned records. In the counter filed in T.C.T.P.No.7 of 2005, he admitted that the respondents are tenants and stated that there is arrears of rent by the respondents from the fasli year 1413 to 1415, which comes to 126 bags of paddy amounts to Rs.44,100/-. Trial of the T.C.T.P.No.7 of 2005 is over. The petitioner and the respondents filed their written arguments. At that time, the petitioner filed I.A.No.36 of 2015 to mark the copy of the made over deed, dated 14.03.2014 executed by the respondents to one Murugeshwari. The said I.A was dismissed on 18.12.2015. After completion of trial in T.C.T.P, it is posted for judgment. In the circumstances, the present civil revision petition is filed to strike off T.C.T.P.No.7 of 2015, as not maintainable.

7. I have heard Mr.M.Ajmalkhan Senior Counsel for Mr.A.Arumugam, learned counsel appearing for the petitioner and Mr.N.Thiagarajan Senior Counsel For Mr.R.Senthilkumar, learned counsel appearing for the first respondent and carefully perused the entire materials on record.

<https://hcservices.ecourts.gov.in/hcservices/>

8. From the materials it is seen that the respondents filed T.C.T.P.No.7 of 2005 for permission to deposit the rent from the



year 2004-2005 as they claimed to be the cultivating tenants, as the petitioner after purchasing the property, refused to receive the rent. According to the respondents, their father Mayilservai was a cultivating tenant during his life time and respondents were helping him in cultivation. After his death, the respondents were recorded as cultivating tenants in the concerned revenue records. It is also seen from the records that the enquiry in T.C.T.No.7 of 2005 is over and the learned counsel for the petitioner and the respondents have filed their written arguments and it is posted for judgment.

9. In the circumstances, the present C.R.P is filed to strike off the plaint in T.C.T.P.No.7 of 2005, is devoid of merits. The reason given by the petitioner that T.C.T.P.No.44 of 2007 for depositing of rent by the respondents, was dismissed and the respondents have made over their tenancy to one Murugeshwari, are not valid reasons for striking off T.C.T.P.No.7 of 2005 at this stage. The said petition was dismissed for default and it relates to subsequent period. Similarly, the deed of made over document was executed by the respondents long after the filing of T.C.T.P.No.7 of 2005 for permission to deposit the rent from the year 2004-2005. In the circumstances, the Civil Revision Petition is not maintainable.

In the result, the civil revision petition is dismissed. No costs. Consequently, the connected C.M.Ps are also closed.

Sd/-

Assistant Registrar(Record)

/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

Ns

To

The Revenue Court,
Madurai.

+1 cc to M/S.Ajmal Associates, Advocate, SR No.15073

+1 cc to Mr.R.Senthilkumar, Advocate, SR No.14893

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RG.GSV-PM/SAR-I 24.03.2016 3P/4C