

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2140 of 2009
& M.P.No.1 of 2009

Shankaran

.. Petitioner

Vs.

Roja Ayal

.. Respondent

PRAYER: Civil Revision Petition filed under Section 6B of the Tamil Nadu Cultivating Tenants (Protection) Act, 1955 and under Section 115 of C.P.C, against the fair and decreetal order dated 17.10.2008 passed in C.T.P.No.22 of 2003 on the file of the Revenue Court, Cuddalore, deleting the lands in S.No.240/3 measuring 0.26 cents from the petition filed by the Landlord.

For Petitioner : Mr.M.Sivavarthanan

For Respondent : M/s.R.Meenal

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 17.10.2008 passed in C.T.P.No.22 of 2003 on the file of the Revenue Court, Cuddalore, deleting the lands in

S.No.240/3 measuring to an extent of 0.26 cents from the petition filed by the Landlord under section 3(4a) of the Tamil Nadu Cultivating Tenants (Protection) Act, 1955.

2. The petitioner is a cultivating tenant of the suit property. According to the respondent, the petitioner did not pay the lease amount for the fasli from 1385 to 1412 in respect of S.Nos.119/1, 283/11 and 240/3. The petitioner has also not appeared before the authority. After considering the evidence let in by the respondent, the authority passed an order dated 20.03.2008, directing the petitioner to pay 441 kalam paddy to the respondent in four instalments.

3. The respondent subsequently filed a petition for an amendment to delete S.No.240/3, measuring to an extent of 0.26 cents. The authority concerned, by an order dated 17.10.2008, allowed the said petition on the ground that the petitioner has not filed any objection. The authority has also converted the arrears of lease amount equivalent to the money value and directed the petitioner to pay the same in four instalments.

4. Against that order dated 17.10.2008 made in C.T.P.No.22/2003, the present CRP has been filed by the petitioner.

5. The learned counsel appearing for the petitioner submitted that the petitioner was not given any opportunity to file his objection. The authority, without serving any notice to the petitioner, allowed the amendment petition and directed the petitioner to pay the amount, which is in violation of principles of natural justice. The learned Judge failed to see that the petitioner is a cultivating tenant for S.No.240/3 and the respondent/land lord filed a suit in O.S.No.64 of 2008 through one T.Natarajan, for permanent injunction restraining the petitioner from claiming any right and not to interfere with his peaceful possession and enjoyment of the property. The learned counsel appearing for the petitioner submitted that if the petitioner is not treated as the cultivating tenant in respect of S.No.240/3, then he will lose the protection given under Section 6B of the Tamil Nadu Cultivating Tenants (Protection) Act, 1955 and Revenue Court, Cuddalore has erred in correcting its own order.

6. The learned counsel appearing for the respondent submitted that the petitioner was set exparte in the petition and therefore, petitioner is not entitled to any notice in the amendment petition.

7. Heard both the parties and perused the materials available on record.

8. The respondent is the owner of the land. The petitioner is the cultivating tenant. The respondent filed a petition for eviction of the petitioner from the land on the ground of failure to pay the lease amount for the fasli from 1385 to 1412. The respondent has mentioned three Survey Numbers and the extent of land. The petitioner remained exparte and exparte order was passed. After such order, the respondent filed a petition for deletion of one survey number. The said application was ordered. According to the petitioner, without any notice to him, the said application was ordered.

9. The contention of the learned counsel appearing for the

respondent is that the petitioner remained exparte in the main petition and an exparte order was passed. Therefore, the contention that the petitioner is entitled to any notice in the amendment petition, has no merits.

10. The contention of the learned counsel for the petitioner is that by deleting the Survey Number, the status of the petitioner as a cultivating tenant in Survey No.240/2003 has been decided. By the amendment, the respondent has stated Survey number and in view of the nature of amendment, the authority has committed an irregularity in not ordering notice to the petitioner in the amendment petition on the ground that the petitioner has not filed any objection.

11. In view of the same, the order dated 17.10.2008 is set aside and the matter is remanded back to the authority and authority is directed to issue notice to both the parties and hear the matter and pass orders on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order.

V.M.VELUMANI,J.

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12. In the result, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

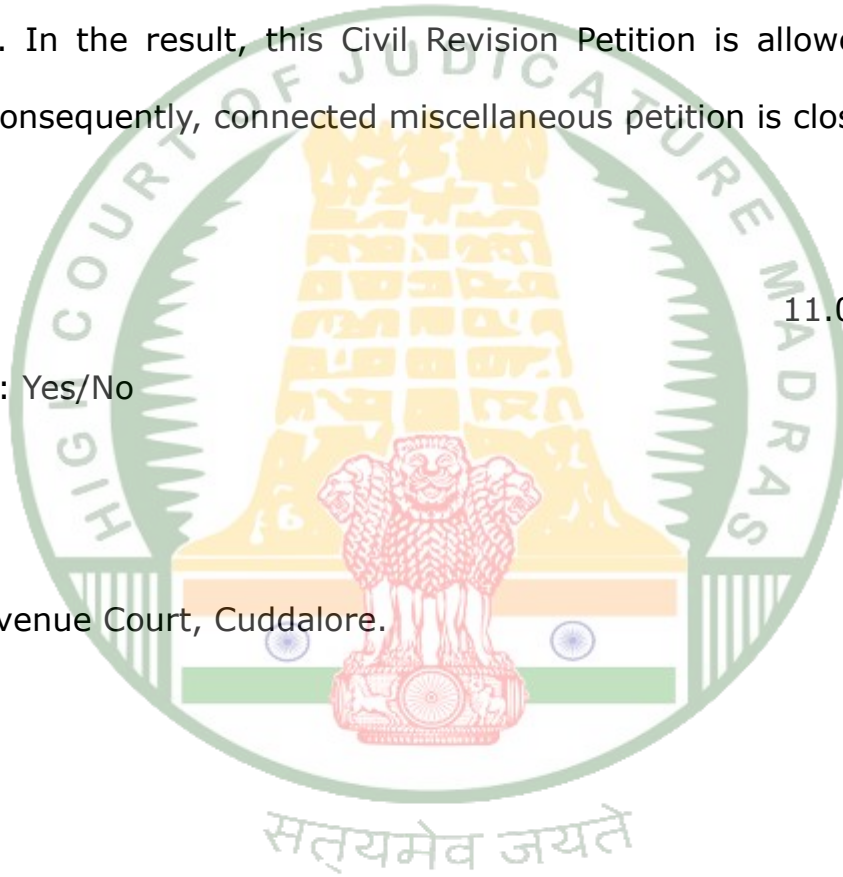
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To

The Revenue Court, Cuddalore.



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