

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WA.No.1406 of 2018
and CMP.No.11234 of 2018

C.Rajendran

...Appellant

Vs.

- 1.The District Revenue Officer,
Nagapattinam.
- 2.The Revenue Divisional Officer,
Mannergudi.
- 3.The Tahsildar,
Vedaraniam Post, Nagapattinam.
- 4.Sironmani
- 5.Sukanthi
- 6.Indira
- 7.Renuka
- 8.Jeyanthi
- 9.Dhanalakshmi
- 10.Fit Person
A/M Vedaraniam Swamy Temple Trust, Thethakudi North,
Vedaraniam.
- 11.Fit Person
A/M Alagiyanathaswamy Temple Trust
Vedaraniam.
- 12.Manikandan

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, to allow the writ appeal by setting aside the order of this Court dated 26.11.2007 passed in W.P.No.7862 of 1998.

Prayer in W.P.No.7862 of 1998:

Petition filed Under Article 226 of the Constitution of India, praying this Honourable Court to issue a Writ of Certiorarified Mandamus or any other Writ, Order, or Direction in the nature of a writ calling for the records on the file of the first respondent made in Tha.Pa.No.3/97 Ku.Vu.Si.Ma.I.4 dated 16/3/1998 and to quash the same and consequently direct the 3rd respondent to register the petitioner as cultivating tenant in Survey numbers mentioned in Item 1 to 19 in the schedule.

For Petitioners : Mr.V.Raghupathi

For R1 to R3 : Mr.A.N.Thambidurai
Special Government Pleader

J U D G M E N T

[Judgment of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ appeal is taken up for final disposal.

2. The appellant / writ petitioner has filed a petition before the 3rd respondent to registering him as a cultivating tenant in respect of the description of the lands give in Item Nos.1 to 19 in schedule which belong to 4th respondent and according to the appellant / writ petitioner, the 4th respondent had executed the Tenancy Agreement dated 12.06.1983. The 3rd respondent, vide order dated 10.09.1991, after going through the materials concluded that the appellant / writ petitioner did not produce any documents to show that he was cultivating the land in question as cultivating tenant and therefore, dismissed the same, vide order dated 10.09.1991. The petitioner, aggrieved by the same, filed an appeal before the 2nd respondent and it was also dismissed on 18.01.1993 and remanded the matter onceagain to the Tahsildar, to find out as to whether the appellant is in possession of the land and property. Accordingly, the 3rd respondent in pursuance to the order of remand, has conducted an enquiry and vide order 02.07.1996, has once again concluded that the appellant/writ petitioner has failed to produce any evidence to show that he is carrying on any actual cultivation. The petitioner, once again filed an appeal before the 2nd respondent,

who, vide detailed order dated 13.06.1997, found that the appellant / writ petitioner / tenant did not produce any evidence to prove his claim and therefore, confirmed the order of the 3rd respondent. The petitioner, aggrieved by the same, filed a revision before the 2nd respondent and vide order dated 16.03.1998, the 2nd respondent has confirmed the same.

3. Challenging the legality of the same, he has filed a writ petition and it was entertained and notices were ordered. The learned Judge, after considering the submission and on perusal of the materials has observed that it is for the writ petitioner/appellant to establish about his possession and contribution of his physical labour in respect of the property and all the authorities had concluded that the petitioner has miserably failed to do so and further observed that when such finding have been recorded by the authorities, this Court in exercise of jurisdiction under Article 226 of the Constitution of India, cannot interfere with the factual finding recorded unless or otherwise, it is established before this Court that the finding recorded before this Court was perverse based on no evidence.

4. The learned Judge, citing the said reasons, has dismissed the writ petition vide impugned order dated 26.11.2007. Challenging the legality of the same, the present appeal is filed.

5. Mr. Ravi, learned counsel appearing for the appellant has invited the attention of this Court to the orders passed by the authorities and would submit that without due and proper application to the mind to the relevant materials, has concluded that appellant / writ petitioner has failed to establish his case as to the cultivation of the land, being the cultivating tenant and since concurrent findings recorded by them are perverse, prays for interference.

6. This Court heard the submission of the learned counsel appearing for the respondent and he would submit that since concurrent findings recorded by the authorities below are based upon proper consideration of the materials placed, interference may not be warranted under Article 226 of the Constitution of India.

7. This Court paid its best attention to the rival submissions and also perused the materials placed before it.

8. A perusal of the orders passed by the respondents 1 to 3 would disclose that due and proper application of mind has been made to the materials placed and the said authorities, on further consideration and appreciation of records, had rightly

concluded that the petitioner has failed to prove his factual possession and contribution of physical labour and as such, he cannot be declared as cultivating tenant. The learned Judge has rightly observed that the findings recorded by the respondents 1 to 3 are concurrent in nature and this Court in exercise of jurisdiction under Article 226 of the Constitution of India, cannot interfere with the same, unless it is established that the findings are perverse in nature and based upon no evidence.

9. In the considered opinion of this Court, the authorities had reached the said conclusion on proper appreciation of the evidence and record and proper application of the relevant laws and as such, there is no perversity attached to the said findings. This Court on an independent application of the mind to the entire materials is of the considered view that there is no error, apparent or infirmity in the reason assigned by the learned Judge in dismissing the writ petition and finds, no merit in the writ appeal.

10. In the result, the writ appeal is dismissed, confirming the order dated 26.11.2017 made in W.P.No.7862 of 1998. However, there shall be no order as to costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The District Revenue Officer,
Nagapattinam.

2.The Revenue Divisional Officer,
Mannergudi.

3.The Tahsildar,
Vedaraniyam Post, Nagapattinam.

WA.No.1406 of 2018

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srg 19/07/2018