

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.27675 of 2012

and

M.P.Nos.2 & 3 of 2012 & 1 of 2013

S.K.Subramaniam

Petitioner

Vs.

The Assistant Executive Engineer,
Public Works Department,
(Water Spread Section),
Bhavanisagar - 638 451,
Coimbatore District.

Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Certiorarified Mandamus calling for the impugned letter No.க.எண்.கோ.8/2012 dated 04.09.2012 and quash the same and consequently, directing the first respondent to pass an order on petitioner's representation dated 15.09.2012.

For Petitioner : Mr.M.Saravanakumar

For Respondent : Mr.R.S.Selvam
Government Advocate

ORDER

This writ petition has been filed challenging the letter No.க.எண்.கோ.8/2012 dated 04.09.2012 and consequently, directing the first respondent to pass an order on petitioner's representation dated 15.09.2012 and seeking for renewal of lease in petitioner's name, which was originally granted to the petitioner's father Mr.Karuppanna Gounder.

2.It is the case of the petitioner that his father Karuppanna Gounder as lessee under the respondent has been in possession and enjoyment of the agricultural land comprised in Survey No.36/1B measuring an extent of 1.00 acre and in survey No.49/141 measuring an extent of 2.00 acres at Sirumugai Village. It is also his case that rent has been paid regularly by the petitioner's father till his death and thereafter, by the petitioner. It is also the case of the petitioner that his father died on 23.11.2006 leaving behind him, his aged mother along with two brothers and two sisters as his legal heirs. It is also the case of the petitioner that his father took pains to convert the land into a cultivable land, as, according to him, originally the land, at the time of lease,

was a barren land. According to the petitioner, he intimated his father's death to the respondent immediately after his death. According to him, the petitioner being one of the legal heirs of Karuppanna Gounder is entitled to renew the lease for a further period because the petitioner and his family members are in possession and enjoyment of the cultivable land for more than 55 years. According to the petitioner, to his shock and surprise without conducting any proper enquiry, the respondent by the impugned letter dated 04.09.2012 cancelled the lease standing in the name of the petitioner's father Karuppanna Gounder. According to him, the cancellation of the lease is arbitrary and illegal and further, as it has been issued in the name of a dead person and it is not binding on the petitioner. It is also the case of the petitioner that principles of natural justice have been violated by the respondent before issuing the impugned letter dated 04.09.2012.

3.A counter affidavit has been filed by the respondent, wherein, they have stated that the death of Karuppanna Gounder in the year 2006 was not intimated to them by the petitioner. Further, it is their case that the respondent had given the land to the petitioner's father Karuppanna Gounder measuring an extent of 3.00 acres of land for doing agricultural activities. The respondent has also in the counter affidavit extracted the various conditions of lease stipulated under the grant executed by the respondent in favour of the petitioner's father. According to the respondent, the petitioner has violated the terms and conditions of the lease as the petitioner has not intimated the death of his father, who died as early as on 23.11.2006 to the respondent. According to the respondent, even after the death of his father, the petitioner has been remitting the lease amount up to 2011. According to them, the petitioner is not entitled for renewal of lease for violation of the lease conditions.

4.Heard Mr.M.Saravanakumar, learned counsel appearing for the petitioner and Mr.R.S.Selvam, learned Government Advocate appearing for the respondent.

5.Admittedly, the petitioner is in possession of the larger extent of land measuring 3.00 acres in Sirumugai Village comprised in Survey No.36/1B and 49/141. Admittedly, the father of the petitioner, who was lessee under the respondent died as early as on 23.11.2006. This writ petition has been filed in the year 2012. It is the case of the petitioner that he had intimated the death of his father to the respondent immediately after his death through telegram on 04.12.2009. However, there is no proof to show that such an intimation was given to the respondent. However, it is the case of the respondent that no intimation was given by the petitioner about the death of his father on 23.11.2006 and illegally without obtaining the permission of the respondent, the petitioner continued to remain in the possession

unlawfully and has been paying the rent as if the father of the petitioner is alive. Further, it is their case that only on enquiry, it was found that the petitioner's father died in the year 2006 itself and only thereafter, they have issued the impugned letter cancelling the lease granted in favour of the petitioner's father Karuppanna Gounder.

6. Further, this writ petition has been filed by only one of the legal heirs of the deceased Karuppanna Gounder. Admittedly, there are other legal heirs, even according to the petitioner, who are not parties to this writ petition. This Court with the available records is not in a position to determine whether there is any dispute amongst the legal heirs of the deceased Karuppanna Gounder. If there is any dispute between them, the present writ petition cannot be filed by the petitioner alone as all of them have to give consent for renewal of the lease in favour of the petitioner alone, which was earlier standing in the name of the petitioner's father. It is the case of the respondent that the lease is only on temporary basis. According to them, the petitioner has violated the terms and conditions of the lease and hence, the petitioner is not entitled to renewal. Since disputed questions of fact are involved as seen from the above, the only remedy available to the petitioner is to file a civil suit for recovery of his alleged money.

7. For the foregoing reasons, this Court is of the considered view that there is no merit in this writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sms

To

The Assistant Executive Engineer,
Public Works Department,
(Water Spread Section),
Bhavanisagar - 638 451,
Coimbatore District.

+1cc to Mr.M.Saravanakumar , Advocate SR.No. 9639

+1 cc to Government Pleader Sr.No. 10390

W.P.No.27675 of 2012

and

M.P.Nos.2 & 3 of 2012 & 1 of 2013

A.SK(19/03/2020)