



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2020

WEB COPY

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THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (PD) (MD)No.1449 of 2015

N.Ekambaram : Petitioner / Petitioner / Landlord

.. Vs ..

Parthasarathy : Respondent / Respondent / Tenant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed in P.No.12 of 2007, dated 05.02.2008 on the file of the Revenue Court, Thanjavur.

For Petitioner :Mr.R.S.Prabhu

For Respondent :Mr.K.Govindarajan

ORDER

This Civil Revision Petition is directed against the order, dated 05.02.2008 in P.No.12 of 2007, on the file of the Revenue Court, Thanjavur.

2.Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondent.

3.The revision petitioner is the landlord and the respondent is the cultivating tenant in respect of an extent about 83 cents in S.No.73 in Umbalapadi Village, Papanasam Taluk, Thanjavur District. The revision petitioner filed a petition before the Revenue Court (Special Deputy Collector) for evicting the tenant for non payment of rent for the Fasli from 1400 to 1416. Though the petition was filed under the provisions of Tamil Nadu Cultivating Tenants Protection Act 1955, the Revenue Court has recorded as if the petition is filed under Section 19(3) of Act 57 of 1961.



4.The petitioner's Counsel submitted that the petitioner is entitled to collect 28 Kalams of paddy per Fasli and that the Revenue Court has wrongly fixed a sum of Rs.7725/- as arrears of rent, ignoring the fact that the tenant has to pay rent for the period from Fasli 1400 to 1416. The learned Counsel for the respondent has agreed that the Revenue Court has not passed a speaking order and the order is contrary to the provisions of the Act and several judicial precedents.

5.This Court is fully convinced that the order of Revenue Court, dated 05.02.2008 is un-sustainable, as it is cryptic and without any discussions. The contentions of the both parties has to be considered before arriving at the quantum of rent. In this case, absolutely, there is no discussion by the Revenue Court as regards the contentions of the respective parties and evidence and other materials. In the said circumstances, this Court has no other option, but to set aside the order of Revenue Court, dated 05.02.2008.

6.As a result, this Civil Revision Petition is allowed and the order of Revenue Court (Special Deputy Collector), Thanjavur, in P.No.12 of 2007, dated 05.02.2008 is set aside and the matter is remitted to the Revenue Court (Special Deputy Collector), Thanjavur, for fresh consideration on merits. The Revenue Court is directed to consider the case of rival parties and determine the rent and then fix liability after hearing submissions of the tenant as well as the landlord and pass appropriate orders on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

7.It is to be seen that the revision petitioner claims 28 Kalams per Fasli as rent. The tenant has contended that he has to pay 24 kalams of paddy per Fasli. However, the learned Judge has fixed the quantum, less than what was admitted by the tenant in the counter and therefore, this issue has to be considered by the Revenue Court. Though this issue was raised by the learned Counsel for the petitioner, the same can be decided by the Revenue Court uninfluenced by any of the observations made in this order. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1.The Special Deputy Collector,
Revenue Court, Thanjavur.

2.The Section Officer, (2 Copies)
V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.V.K. VIJAYARAGAVAN, Advocate (SR-17486[F] dated
18/09/2020)

+1 CC to M/s.K. GOVINDARAJAN, Advocate (SR-17659[F] dated
22/09/2020)

C.R.P. (PD) (MD)No.1449 of 2015
18.09.2020

cmr

SDS (29.09.2020) 3P-6C