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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.3410/2019 and CMP.Nos.21939 and 22133/2019

R.Kulantaivel

... Appellant

-vs-

1.The Commissioner,

HR & CE Department,

Uthamar Gandhiadigal Salai,

Nungambakkam, Chennai-600 034.

2.The Joint Commissioner,

HR & CE Administration Department,

Salem-1.

3.Arulmigu Mariamman and Karthirayaswamy

Temple, rep. by its Hereditary Trustee

Rathinammal, Arakhasanahalli Village,

Pennagaram Taluk, Dharmapuri District. ... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the Order of the learned Single Judge made in W.P.No.13460 of 2013 dated 22.10.2018.

Prayer in W.P.No.13460 of 2013:

Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the show cause notice in Notice NO.2099/2013(1)/A3 dated 11.3.2013 quash the same and forbear the respondents from evicting the petitioner except under the provisions of the Tamilnadu Public Trusts (Regulation and Administration of Agricultural Land) Act 1961.



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For Appellant : Mr.Arun Anbumani
for M/s.A.Arun

For Respondents : Mr.T.Arunkumar,
1 and 2 Government Advocate

For 3rd respondent: Mr.V.Srikanth

JUDGMENT

(Judgment of the Court was pronounced by T.RAJA.J)

This Writ Appeal has been directed against the impugned order passed in W.P.No.13460 of 2013 dated 22.10.2018 by a learned Single Judge of this Court.

2. Mr.Arun Anbumani, learned Counsel appearing for the appellant heavily contended that when the appellant's family has been cultivating the land-in-question from the year 1970, the 3rd respondent has been admittedly receiving the rents, recognizing them as cultivating tenants. While so, all of a sudden, the father of the appellant, namely, Rangasamy, passed away in the year 2012. Thereafter, till 2017, the legal heirs of the late Rangasamy, the appellant herein along with other legal heirs has been requesting the then hereditary Trustee, the 3rd respondent herein to accept the rents and continue to recognize them as cultivating tenants. Since the amount offered by the appellant, according to the 3rd respondent, was a small pittance, they refused to receive the same, as a result, apprehending the eviction at the hands of the respondents, the appellant has approached the Tahsildar, seeking an order to hold in his favour that he is a cultivating tenant under the Act. The said petition is also pending. In the meanwhile, when the appellant has sent the rents to the Assistant Commissioner that were also returned.

3. Learned Counsel for the appellant further contended that taking note of the non-receipt of the rents, now the appellant has been termed as an encroacher which is not permissible. The reason being that when it is an admitted case that the appellant's father late Rangasamy has been continuously paying the rents as a cultivating tenant, after his death in the year 2012, when the appellant being the legal heir has come forward to pay the rents continuously as a cultivating tenant,



refusing to accept the rents from the appellant cannot allow the respondents to call him as an encroacher. This vital fact has been completely overlooked by the learned Single Judge.

4. Learned Counsel for the appellant also contended that the appellant's father was already declared as a cultivating tenant by the Tahsildar in Tr.No.8/87. Therefore, calling the appellant who is the legal heir of the late Rangasamy as a rank trespasser is unjustifiable and now the appellant has also moved an application to consider him as a legal representative of the late Rangasamy and the same is also pending under the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Tamil Nadu Act 57 of 1961).

5. It is, at this stage, learned Government Advocate taking instructions from his Officer, namely, Mr.A.R.Prakash, Assistant Commissioner (HR & CE), Dharmapuri, who was also present before this Court today, submitted that the contention made by the learned Counsel for the appellant that the appellant has been paying the rents at the rate of Rs.300/- for 10 acres of lands per annum clearly shows that he is willing to pay the reasonable rent to the entire huge land of 10 acres. He has also clearly stated before us that if the appellant is coming forward to pay a reasonable rent of Rs.1,000/- per acre till the Tahsildar decides the status of the legal heirs, no prejudice would be caused to him and if a decision is arrived at on the status of the legal heirs as cultivating tenants, then, further action would be taken by the HR & CE Department to fix the fair rent as per law.

6. Learned Counsel appearing for the 3rd respondent submitted that when the appellant has not shown any bona fide in payment of reasonable rent, nothing wrong in ejecting him from the land-in-question belonging to the 3rd respondent.

7. At this stage, learned Counsel for the appellant requested us to fix Rs.500/- instead of Rs.1000/- as fair rent per acre.

8. Rejecting the same, we grant four weeks time from the date of receipt of a copy of this Order to the appellant to pay Rs.1,000/- per acre from 2017. On compliance of the said direction by the appellant, since the application filed by the appellant to accept him as a legal heir of late Rangasamy, who was already considered by the Tahsildar in Tr.No.8/87 as a cultivating tenant, has been pending for consideration, we leave



it open to the Tahsildar concerned to take up the matter and decide the same issue on merits and in accordance with law, within a period of eight weeks thereafter. Pursuant thereto, once a decision is taken by the Tahsildar, it is open to the appropriate authority to move the competent authority to decide the fair rent payable by the appellant. It is made clear that if the appellant has failed to comply with the direction of this Court stated supra, his Legal Heir application shall not be considered by the Tahsildar.

9. With the above observations and directions, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1.The Commissioner,
HR & CE Department,
Uthamar Gandhiadigal Salai,
Nungambakkam, Chennai-600 034.

2.The Joint Commissioner,
HR & CE Administration Department,
Salem-1.

W.A.No.3410/2019

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