



C.R.P. PD No.2923 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.PD No.2923 of 2019

and

C.M.P.Nos. 18928 of 2019

& 5392 of 2020

**K.Saminathan,
S/o. Kalimuthu**

... Petitioner

Versus

**L.Annammal,
W/o. K.Raju**

... Respondent

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to strike off the plaint in O.S.No.1130 of 2019 on the file of the 1st Additional District Munsif Court, Coimbatore by allowing this Civil Revision Petition.

For Petitioner : Mr.V.Anandhamoorthy

For Respondent : Mr. K.Myilsamy



ORDER

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(This case has been heard through video conference)

This Civil Revision Petition has been filed seeking to strike off the plaint in O.S.No.1130 of 2019 on the file of 1st Additional District Munsif Court, Coimbatore by exercising the power conferred under Art. 227 of Constitution of India.

2. Heard both sides.

3. The Revision Petitioner herein is the defendant in the suit in O.S.No. 1130 of 2019 filed by the respondent/plaintiff for the relief of permanent injunction and other consequential relief on the file of District Munsif Court, Coimbatore. The respondent/plaintiff also filed an application in I.A.No.2 of 2019 for the relief of temporary injunction and the same was granted by the trial court. Thereafter, the Revision Petitioner/defendant filed an application invoking Art. 227 of Constitution of India praying to strike off the plaint in O.S.No. 1130 of 2019 on the ground that the Respondent/plaintiff has not produced the orders passed by the Appellate



Authority dated 19.12.2014 and District Revenue Officer dated 26.03.2018

upholding the tenancy rights. The learned counsel appearing for Revision Petitioner/defendant would submit that the respondent/plaintiff suppressed the earlier proceedings and filed a suit fraudulently by-passing the proceedings of the court. Hence, he has filed an application invoking Art.227 of Constitution of India praying to strike off the plaint.

4. The learned counsel appearing for respondent/plaintiff would submit that the Revision Petitioner/defendant is a legal heir of one Kalimuthu, who said to be a cultivating tenant under the respondent/plaintiff's father Angan. But, in fact, the Revision Petitioner/defendant is not a cultivating tenant and he was employed as a Conductor in Tamil Nadu State Transport Corporation for the past 10 years and with an intention to grab the property, he has manipulated the document and also filed an application before the revenue authority to record him as a cultivating tenant before the Tahsildar, Mdukkarai and Record Officer (Tenancy Records), Madukkarai. Since the Revision Petitioner/defendant had caused interference in the respondent/plaintiff's enjoyment, an age-old



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lady, she approached the civil court and filed a suit, thereby, she prays that the Revision Petitioner/defendant has no right to file this Revision Petition for the reason that he suppressed the fact that he is employed as a conductor before the revenue authority. Further, the Revision Petitioner/defendant has not approached the court with clean hands. Hence, he prayed for dismissal of this revision petition.

5. By way of reply, the learned counsel appearing for Revision Petitioner/defendant would submit that the Revision Petitioner by invoking Sec.5(2) of Tamil Nadu Agricultural Land Records of Tenancy Rights Act, 1969 filed an application before the Tahsildar and Record Officer (Tenancy Records) in the year 2019 praying to record him as a cultivating tenant. As the said application is pending, the respondent/plaintiff suppressed the said fact and approached the civil court as if she is in enjoyment of the property. Therefore, the relief claimed by him in this revision petition is sustainable one as a legal heir of the deceased Angan. For that, he has relied upon the decision reported in **2012 SCC Online Mad. 2339** in the case of ***R.A.Gopalakrishnan and others vs. State of Tamil Nadu, rep. by its***



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Secretary, Department of Revenue Secretariat, Chennai and others.

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6. On coming to the facts of the instant case, it is an admitted fact that the Revision Petitioner/defendant is working as Conductor, but to attract the provisions of cultivating tenant, there has been a consistent course by the person, who claim himself as a cultivating tenant, one is that he must be a cultivating tenant within the meaning of the Act and he should be entitled to the benefits of the Act. Here, the Revision Petitioner/defendant is a conductor. To attract the said provision, the Revision Petitioner has to establish his contribution of physical labour in the cultivation of lands in possession. As per the decision laid down in the case of ***Angu @ Angammal vs. The Record Officer and Additional Tahsildar, Thanjavur and 3 others***, reported in ***1988 TNLJ 35***, wherein it has been held as follows :-

“In the instant case, it is common ground that the fourth respondent herein is a permanent employee of the Government as a teacher of a Government institution. Never it can be ever contemplated that a Government servant, who is in service to go to the field work in the field, thereby transferring himself as a 'cultivating tenant' as per the Act, in



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addition to the Government job which says that is a Government servant all the twenty four hours. Wherever he is, he is to be governed by the Government Servants Conduct Rules and other enactments including the Corruption Act. Under the circumstances, he never comes under the purview of Section 2(b) of the Tamil Nadu Cultivating Tenants Protection Act, 1962.”

Hence, if a person employed in the Government department, he cannot be a cultivating tenant for the reason that the said job is 24 hours service in the Government, but the learned counsel for Revision Petitioner contend that the said ratio would not apply to the present case for the reason that the Revision Petitioner is not a Government servant. But, admittedly, he is a Conductor in Tamil Nadu State Transport Corporation, which requires 18 hours of service. Therefore, he cannot contribute any physical labour to the field, which is the main ingredient to attract cultivating tenant. Moreover, in the application filed before the Revenue Officer, the Revision Petitioner has not stated about his status that he is working in the Tamil Nadu State Transport Corporation as Conductor. He approached the authority by suppressing his status that he is working as a Conductor. Furthermore, as on date the revision petitioner/defendant is not declared as a cultivating tenant



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by the revenue authority. Moreover, as discussed above, he is not declared as a cultivating tenant as required under the Act, 1969. Therefore, the reasons stated in this Revision Petition is unsustainable one to invoke Art. 227 of Constitution of India. Hence, this Civil Revision Petition is dismissed as no merit. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

27.10.2021

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
rpp

To

I Addl. District Judge,
I Addl. District Munsif Court,
Coimbatore.



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T.V.THAMILSELVI, J.

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