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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.23 of 2011

and

M.P.(MD)No.1 of 2011

S.Mani @ Subramani ... Petitioner

Vs.

1.The District Revenue Officer,
Tirunelveli.

2.The Special Deputy Collector Cum
Revenue Court,
Madurai.

3.The Tahsildar Cum Record Officer,
Palayamkottai Taluk,
Tirunelveli District.

4.P.Perumal

5.Murugambal ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order of the 1st respondent vide proceedings Ref. No-See.Ma.E4/1/2020 dated 15.11.2010 and quash the same.

For Petitioner :Mr.Niranjan S.Kumar
For Mr.V.Balaji

For Respondents :Mrs.S.Srimathy,
Special Government Pleader for R1 to R3
Mr.S.Meenakshi Sundaram, Senior Counsel
For Mr.R.Manimaran for R4 & R5.

ORDER

Heard the learned counsel for the petitioner, the learned Special Government Pleader for the official respondents and the learned senior counsel for the contesting private respondents.

2.The petitioner herein filed a petition under Tamil Nadu Act 10 of 1969. The case of the petitioner was that since his father's days, he has been expending his physical labour and cultivating the lands in question and that his name should be entered as a cultivating tenant in the relevant records. The prayer was hotly contested by the private respondents herein, who had purchased the lands from the previous owner vide registered sale deeds. To be fair to the petitioner, he did not question the title of the private

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respondents herein. All that he contended was that he was cultivating the land in question. The petition was dismissed by the Tahsildar Cum Record Officer vide order dated 06.05.2008. The third respondent gave a finding that the petitioner had not produced any material in support of his claim. It was further noted that even though a number of survey numbers had been included in Form-V, the private respondents were only concerned with some of the items and not all the items. Challenging the order passed by the third respondent, the petitioner filed an appeal before the Special Deputy Collector Cum Revenue Court. The appellate authority reversed the decision of the original authority and directed to enter the name of the petitioner in the record as a cultivating tenant. The private respondents moved a revision before the first respondent, who restored the order passed by the original authority. It is this, that is under challenge at the instance of the applicant in this writ petition.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and wanted this Court to set aside the impugned and restore the order passed by the first appellate authority.

4.Per contra, the learned senior counsel appearing for the private respondents would contend that the writ petition will have to be dismissed not only on merits but also in view of certain subsequent developments.

5.I carefully considered the rival contentions and went through the materials on record. The learned senior counsel for the private respondents has drawn my attention to the judgment and decree passed in O.S.No.285 of 2007 by the Principal District Munsif Court, Tirunelveli on 10.07.2013. That was a suit filed by the petitioner herein seeking the relief of injunction restraining the private respondents from dispossessing him except in the manner known to law. Before the Trial Court, the petitioner examined himself as P.W.1 and he also examined three other witnesses. On the side of the private respondents herein, one Paramasivam was examined as D.W.1. On the side of the petitioner, Exs.P1 to P8 were marked. On the side of the private respondents Exs.B1 to B34 were marked. After a detailed consideration of the evidence on record, the Trial Court even while dismissing the suit had given a categorical finding that the petitioner herein has not established his claim of possession and enjoyment over the suit lands. This judgment and decree passed by the Trial Court was affirmed in A.S.No.92 of 2013, dated 21.08.2014, on the file of Additional Sub Court, Tirunelveli. As on date, the judgment and decree holds good and it has not been challenged. Therefore, the petitioner herein is squarely bound by the aforesaid findings of the jurisdictional Civil Court.

6.That apart, as rightly pointed out by the learned senior counsel for the private respondents, even before the revenue

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authorities, the petitioner did not adduce any evidence. The petitioner who wanted to record his name as cultivating tenant ought to have stepped into the witness box and established his case. He did not do so. Instead some documents said to have been issued by the local Village Administrative Officer were marked. It has subsequently turned out that those documents are not genuine.

7.Be that as it may, the failure on the part of the petitioner to adduce evidence before the revenue authorities is sufficient to disentitle the petitioner to any relief. The order passed by the first respondent is well founded and it calls for no interference. In any event, in view of the subsequent judgment passed by the jurisdictional Civil Court, I am of the view that the petitioner is not entitled to any relief. The writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The District Revenue Officer,
Tirunelveli.

2.The Special Deputy Collector Cum
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Madurai.

3.The Tahsildar Cum Record Officer,
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Tirunelveli District.

+1 CC to M/s.V.BALAJI, Advocate (SR-3428[F] dated 05/02/2021)

+1 CC to M/s.R.MANIMARAN, Advocate (SR-3662[F] dated 08/02/2021)

W.P(MD)No.23 of 2011
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KG(CO)
KB(24.02.2021) 3P 6C

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