



W.P.No.25956 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.09.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25956 of 2014

M/s.Nanjappa Chettiar Charitable Trust
rep.by its President Mr.M.N.Muruganathan

..Petitioner

Vs.

1.The State of Tamil Nadu rep.by

Registration of Tenancy Officer cum Revenue Tahsildar,
Gobichettipalayam.

2.N.T.Gopikrishnan

...Respondents

Prayer: Writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent made in Ku.Pa. NO.5/2009 dated 20.7.2009 and quash the same and consequently direct the 2nd respondent to deliver vacant possession of the property situated in Old S.F.Nos.301, 302, 303, 304, 305, 272, 278, New S.F.No.33/1, 33/3, 35/1, 2, 3, 5, which is an extent of about 12.36 acres of land situated at Seyyampalayam Village Gobichettipalayam to this petitioner.

For Petitioner : Mrs.Selvi George

For RR1 : Mr.D.Ravichander

For RR2 : Mr.A.Palaniappan



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ORDER

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This petition has been filed for issuance of writ of Certiorarified Mandamus to call for the records of the 1st respondent dated 20.7.2009 and quash the same and consequently direct the 2nd respondent to deliver vacant possession of the property situated at Seyyampalayam Village, Gobichettipalayam, to this petitioner.

2. The case of the petitioner is that the property comprised in various survey numbers to an extent of 12.36 acres of fertile land at Seyyampalayam Karai Village, gobichettipalayam, belongs to the petitioner Trust, which is a public charitable trust. This Trust was originally formed by late Mr.P.S.Nanjappa Chettiar, in the year 1907 and the said lands were originally let out to various 9 tenants for cultivation and Mr.Ramasamy Gounder son of Mr.Chinnasamy Gounder of Nallagounderpalayam was appointed as an agent, who had helped the trust, to collect the lease from the tenants. Thereafter, the petitioner became the President of the Trust in the year 2008. While so, the petitioner has received a notice from the 2nd respondent, grandson of the agent Mr.Ramasamy Gounder, stating that he has been the tenant for the



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entire extent of wetlands of about 12.36 acres and the same is under his cultivation. It is alleged by the petitioner that the 2nd respondent had trespassed into the land without any authority to grab the land and therefore, the 2nd respondent was called upon to deliver the vacant possession of the property to the Trust vide notice dated 20.05.2013. However the 2nd respondent issued a reply vide his reply dated 18.06.2013, stated that his name has been registered as a cultivating tenant in the tenancy records in respect of the entire lease hold land as per the orders of the 1st respondent dated 20.07.2009. Challenging the said order of the 1st respondent, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that though the said impugned order is passed behind the back of the petitioner, as per Section 2(8)(i) of the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 (Act 10 of 1969), the Record Officer has to satisfy himself that the 2nd respondent is under personal cultivation in the said land and in the present case, even a bare perusal of the entire order reveals that no such statement were recorded with regard to the



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personal cultivation of the 2nd respondent. In the absence of any personal cultivation, registering the 2nd respondent's tenancy as cultivating tenant in the tenancy records is illegal and the same is not sustainable and therefore, the impugned order passed by the 1st respondent is liable to be set aside as it is in violation of Section 2(8)(i) of the said Act and further the said impugned order was passed behind the back of the petitioner, without giving any opportunity, which is clear violation of principles of natural justice and hence prays for allowing of this petition.

4. The learned counsel appearing for the 2nd respondent fairly conceded that no revenue records were produced before the Record Officer, however the petitioner trust himself entered lease agreement with the 2nd respondent, and such documents were produced before the Record Officer and based on which, the impugned order is passed.

5. This Court has carefully considered the rival submissions and



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also perused the materials available on record.

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6. As per Section 2(8)(i) of the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 (Act 10 of 1969), the Record Officer has to satisfy himself that the 2nd respondent is under personal cultivation in the said land. In the absence of any personal cultivation, registering the 2nd respondent's tenancy as cultivating tenant in the tenancy records is illegal and therefore, the impugned order passed by the 1st respondent is liable to be set aside.

7. For the reasons aforesaid, this Writ Petition is allowed and the impugned order passed by the 1st respondent made in Ku.Pa. NO.5/2009 dated 20.7.2009, is set aside and however liberty is granted to the 2nd respondent to file fresh application before the 1st respondent, if so advised, by producing all necessary documents in order to substantiate his claim under Section 2 (8) (i) and Section 9 of the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969, and if any such application is filed, the 1st respondent is directed to give liberty to the petitioner as well



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as the 2nd respondent and pass appropriate orders. No costs.
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15.09.2022

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To
The Registration of Tenancy Officer cum Revenue Tahsildar,
Gobichettypalayam.

M.DHANDAPANI..J.
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