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W.P.No.31645 of 20..

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.11.2022

Coram

The Honourable Mr.Justice M.DHANDAPANI

**W.P.No.31645 of 2017
and W.M.P.No.34761 & 34762 of 2017**

Chinna Pillai

...Petitioner

Versus

- 1.The Special Deputy Collector,
Revenue Court,
Thiruvarur.
- 2.The Executive Officer,
A/m.Abathsagayeswarar Swamy Temple,
Alandugi, Valangaiman Taluk,
Thiruvarur.
- 3.The Tahsildar,
Valagaiman Taluk,
Thiruvarur District.
- 4.The Village Administrative Officer,
Alangudi Village,
Valangaiman Taluk,
Thiruvarur.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the first respondent dated 30.10.2017 and made in E.P.No.15/2013 in P.T.No.172/2012 on the file of first respondent and quash the same.



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For Petitioner : Mr.M.Selvam
For Respondents – 1, 3 & 4 : Mr.T.K.Sarvanan,
Government Advocate
For Respondent – 2 : Mr.Karthikeyan,
Government Advocate

ORDER

The relief sought in this writ petition is to call for the records of the order passed by the first respondent in E.P.No.15 of 2013 in P.T.No.172/2012 dated 30.10.2017 and quash the same.

2. The case of the petitioner is that he is a cultivating tenant of the second respondent having entered into a Lease Agreement on 13.04.1964 in respect of Nanja land measuring to an extent of Acre 5.17 Cents comprised in S.Nos.472/1 & 484/83 at Alangudi Village. The said land is a fertile agricultural land. As per the Lease Agreement, petitioner should pay 1/5th of rice or 2/5th of any other grain or its worth as annual lease rent. Accordingly, the petitioner had been paying the lease rent as per the Lease Agreement without due.



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2.1. During the years 2012 & 2013, there was a crop failure and therefore, petitioner could not pay the lease rent, due to which, the second respondent filed a petition in P.T.No.172/2012 before the first respondent, praying to initiate eviction proceedings against the petitioner, pursuant to which, notices were ordered by the first respondent, however, the petitioner had not received any notice. The first respondent proceeded to enquire into the matter in the absence of the petitioner and conducted *ex-parte* enquiry in P.T.No.172/2012. Thereafter, the first respondent vide order dated 18.06.2013, directed the petitioner to pay the entire lease rent.

2.2. While so, the second respondent filed an Execution Petition in E.P.No.15 of 2013 before the first respondent, for eviction of petitioner. Even in this proceeding also, no notice was served on the petitioner. The first respondent vide order dated 30.10.2017, allowed the said E.P.No.15 of 2013 and directed the petitioner to evict the aforesaid land. Further, pursuant to the order passed by the first respondent in E.P.No.15 of 2013 dated 30.10.2017, eviction notice was served on the petitioner. Only after the receipt of said eviction notice, the petitioner came to know that the first respondent has initiated proceedings to evict him from the aforesaid land by



07.12.2017. Aggrieved over the same, petitioner has filed the present writ petition before this Court, for the relief stated *supra*.

3. The learned counsel for the petitioner submitted that subsequent to the issuance of eviction notice by the first respondent, petitioner has paid the entire lease rent to the second respondent and now, there is no due. Therefore, the learned counsel prayed that the eviction notice issued by the first respondent may be quashed and this writ petition may be allowed.

4. From a careful perusal of the records, it is seen that the petitioner got the subject land on lease from the second respondent. The petitioner has committed default in payment of lease rent for the years 2012 & 2013. Hence, the second respondent filed a petition in P.T.No.172 of 2012 before the first respondent, seeking to evict the petitioner from the subject land. The first respondent vide order 18.06.2013, directed the petitioner to pay the entire lease amount. Pursuant to the said order, the second respondent filed E.P.No.15 of 2013 before the first respondent, for execution of order dated 18.06.2013. Though the petitioner was very well aware of the filing of E.P.No.15 of 2013, he was not present for enquiry, before the first



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respondent. Therefore, the first respondent vide order dated 30.10.2017, allowed the said E.P and directed the concerned Revenue Inspector to evict the petitioner from the subject land. Aggrieved over the same, the petitioner is before this Court.

5. It is to be noted that the petitioner has filed the present writ petition challenging the eviction notice issued by the first respondent. Actually, the petitioner is aggrieved by the order passed by the first respondent in P.T.No.172 of 2012 dated 18.06.2013 and E.P.No.15 of 2013 dated 30.10.2017 respectively. So, he ought to have challenged the said orders before this Court, but, without doing so, he has challenged the eviction notice alone. Therefore, the relief sought by the petitioner cannot be granted by this Court.

6. For the foregoing reasons, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Speaking Order (or) Non-Speaking Order



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M.DHANDAPANI, J.

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