



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.8806 of 2012

and

M.P. (MD) Nos.1 of 2012 and 1 of 2013

WEB COPY

O.Duraisamy

... Petitioner

Vs.

1.The District Revenue Officer,
Theni.

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

3.The Tahsildar and Record Officer
of Agricultural Lands,
Uthamapalayam.

4.Dr.Periyathambi

... Respondents

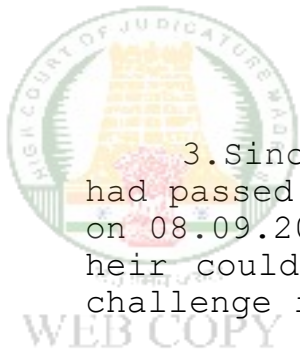
PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the 1st respondent in Na.Ka.No.22952/09/b4, dated 08.09.2011 and to quash the same.

For Petitioner	: Mr.A.R.M.Ramesh
For R1 to R3	: Mr.S.Shanmugavel Additional Government Pleader
For R4	: Mr.T.R.Subramanian

O R D E R

The present Writ Petition is filed challenging the order passed by the first respondent herein, in which the request of the petitioner's father to declare himself as a cultivating tenant of the land in dispute was rejected.

2.Admittedly, the petitioner's father one Ocha Thevar had applied for declaring himself as a cultivating tenant before the third respondent. The original authority had passed an order confirming the status of cultivating tenant of the petitioner's father. The said order was challenged by way of an appeal and the said order was confirmed by the second respondent herein. The order passed in appeal was challenged by the landlord, namely, the fourth respondent before the first respondent in revision. While the revision was pending before the first respondent, the petitioner's father Ocha Thevar had passed away.



3.Since the person who claimed the status of cultivating tenant had passed away, the revisional authority has closed the application on 08.09.2011, stating that after the death of Ocha Thevar his legal heir could not continue the proceedings. The said order is under challenge in the present Writ Petition.

4.As per the provisions of the Tamil Nadu Act 25 of 1955, as per the Section 2(aa) of Tamil Nadu Cultivating Tenants Protection Act, 1955, a cultivating tenant means a person who contributes his own physical labour or that of any member of his family in cultivation of any land belonging to another under a tenancy agreement. Hence, it is evident that unless a persons puts in his physical labour, contributes his own physical labour or the physical labour of a member of his family in the cultivation of the said land, he is not a cultivating tenant and his name cannot be recorded in the Act (X of 1969). When a person who has already applied or who has already been conferred with the status of cultivating tenant dies, the status also dies with him. The legal heirs have to independently establish their status as a cultivating tenant.

5.Hence, the order passed by the first respondent herein holding that after the death of Ocha Thevar, the petition no longer survives is legally sustainable. The petitioner is granted liberty to approach the original authority to file a fresh application to establish his status of cultivating tenant as per the provisions of the Act. The authorities shall dispose off the same without being influenced by the orders passed in the proceedings against the writ petitioner's father.

6.With the above observation, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

Tmg

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,
Theni.

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

3.The Tahsildar and Record Officer
of Agricultural Lands,
Uthamapalayam.

+1 CC to M/s.T.R. SUBRAMANIAN, Advocate (SR-26692[F] dated
20/06/2022)

+1 CC to M/s.SPL.GP (SR-27104[F] dated 21/06/2022)

+1 CC to M/s.A.R.M. ,RAMESH, Advocate (SR-27551[F] dated 22/06/2022
)

W.P. (MD) .No.8806 of 2012
20.06.2022

RD(29.06.2022) 3P 7C