



W.P.(MD)No.13274 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13274 of 2022

and

W.M.P.(MD)No.9426 of 2022

N.Senthil

... Petitioner

Vs

1.The District Revenue Officer and
Additional District Magistrate,
Madurai.

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

3.The Tahsildar,
South Taluk, Madurai,
Madurai District.

4.Parthasarathy

5.A.S.Ravikumar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the 1st respondent dated 14.03.2022 in Ne.Mu.No.53091/2021/G3 and the impugned order 2nd



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Respondent dated 22.11.2021 made in A.P.No.4/2020 and the impugned order passed by the 3rd Respondent dated 20.02.2020 made in Ne.Mu.No. 785/2019/D and to quash the said orders and consequently direct the 3rd respondent / original Authority to redo the entire exercise of conducting appropriate enquiry after issuing notice to petitioner as well as Respondents 4 and 5 in respect of record of tenancy rights of the petitioner relating to land bearing Survey No.21/2, 4/7A in patta No.59 having extent of 0.17.5 hectares, 0.05.5 Hectares, 0.03.0 hectares, 0.00.50 hectares and 0.17.5 hectares respectively which is standing in the name of K.Ramarao and in Survey No. 4/8B, 4/11A1, 21/6 in Patta No.18 which is standing in the name of N.V.Sabapathi Iyer, situated at Pirakudi Village, Viragunur Panchyat, Madurai South Taluk, Madurai, within a time that may be fixed by this Court.

For Petitioner : Mr.S.Balaji
For R1 to R3 : Mr.M.Prakash
Additional Government Pleader
For R4 & R5 : Mr.P.Saravana Kumar

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is in possession and enjoyment of the petition mentioned agricultural lands. His case is that the properties belonged to one K.Ramarao and N.V.Sabapathi and that they had given the same to the petitioner's grandfather Pitchaiambalam as cultivating tenant.



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Pitchaiambalam/the petitioner's grandfather executed the document dated 05.03.2004 in favour of the writ petitioner and the petitioner is cultivating the lands in question ever since. He moved the Tahsildar, Madurai, South for recording his tenancy. Since the Tahsildar did not act on his petition, the petitioner filed W.P.(MD)No.1713 of 2019. Vide order dated 08.02.2019, the said petition was directed to be disposed of. Even though the Tahsildar issued notices to the land owners, they did not choose to enter appearance. Without deciding the matter on merits, the Tahsildar summarily dismissed the petitioner's petition on 20.02.2020. Aggrieved by the same, the petitioner moved the appellate authority by filing A.P.No.4 of 2020. The appellate authority vide order dated 22.11.2021 dismissed the appeal. Challenging the same, the petitioner filed the revision petition before the District Revenue Officer, Madurai. The first respondent also by the impugned order dated 14.03.2022 confirmed the decision of the other authorities. Challenging the same, the writ petition has been filed.

3. The learned counsel appearing for the petitioner took me through the contents of the affidavit filed in support of the writ petition and contended that the impugned orders deserve to be quashed. He pointed out that the landlords did not choose to enter even after repeated issuance of notice. Only at the revisional stage, the legal heirs of the original landlords entered appearance.



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The fact that the petitioner is in possession and enjoyment of the property is beyond dispute. It is not the case of the respondents that the petitioner trespassed into the property. The version projected by the petitioner is very much probable. In such matters, the authorities have to apply only the rule of preponderance of probability. However, the authorities completely misdirected themselves in law as well as in facts. This is the submission of the learned counsel appearing for the writ petitioner.

4. Per contra, the learned Additional Government Pleader as well as the learned counsel appearing for the private respondents submitted that the impugned orders do not call for any interference.

5. I carefully considered the rival contentions and went through the materials on record. That the petitioner is in possession and enjoyment does not appear to be in doubt. The only question that calls for consideration is whether the petitioner can be recorded as a cultivating tenant. It is true that the tenancy agreement can be oral also. But before the authorities, the petitioner has not placed any convincing materials to show that the landlords recognised him as a cultivating tenant. It is not enough that a person is in possession and enjoyment of a agricultural land. He has to necessarily establish by adducing convincing evidence that the land owner inducted him as a tenant. In this case,



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admittedly, there is no written agreement. There is nothing to show that the petitioner or his grandfather Pitchaiambalam paid any lease arrears. No receipt issued by the landlords has been marked. This is a case where there is a complete paucity of material. That is why, as many as three authorities constituted under the relevant statute chose to hold against the writ petitioner. In exercise of jurisdiction under Article 226 of Constitution of India, the finding of fact arrived at by the authorities based on the material before them cannot be interfered with, unless if it is shown that the authorities adopted a perverse approach. In this case, the authorities have fully applied their minds. Therefore, I decline to interfere.

6. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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To

1.The District Revenue Officer and
Additional District Magistrate,
Madurai.

2.The Special Deputy Collector,



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Revenue Court,
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3.The Tahsildar,
South Taluk, Madurai,
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