



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD) No.18205 of 2019

and

W.M.P. (MD) Nos.14634 and 14635 of 2019

G.Vel

... Petitioner

Vs.

The Deputy Commissioner/Executive Officer,
Arulmigu Kallalagar Thirukovil,
Alagar Kovil,
Melur Taluk,
Madurai District.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to Na.Ka.No.547/2010/B1 dated 16.07.2019 and quash it and further direct the respondent to retain the petitioner as cultivating tenant to the respondent temple lands belonging the S.No.133/1 in Solaikuruchi revenue village of Vadipatti Taluk, Madurai District.

For Petitioner : Mr.K.K.Samy

For Respondent : Mr.V.Chandrasekar

ORDER

The petitioner has filed this writ petition for a Certiorarified Mandamus, calling for the records pertaining to Na.Ka.No.547/2010/B1 dated 16.07.2019, quashing the same and further directing the respondent to retain the petitioner as a cultivating tenant to the respondent temple land in S.No.133/1 situated at Solaikuruchi revenue village of Vadipatti Taluk, Madurai District.

2.The facts in brief of this case are that the petitioner's father, Late.Ganesan had entered into an agreement with the respondent on 29.05.1979 as a cultivating tenant and the rights of the petitioner's father as a cultivating tenant was protected under the provisions of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961.

3.After the demise of the petitioner's father, the case of the petitioner is that the petitioner's mother continued to carry on the activities on the land measuring an extent of 1 acre 46 cents that the petitioner's father. During the petitioner's



mother's life time, it appears that the land that was leased to the petitioner's father, which was used as a cultivating land by the petitioner's family, had certain drainage water, which resulted in issue of notice to the petitioner's mother on 24.09.2018 asking the petitioner's mother to vacate the land.

4.The petitioner's mother thereafter replied and submitted that she would ensure that such mistake will not happen in future. However, the respondent proceeded to issue another notice dated 14.12.2018 reiterating the contentions of the earlier notice dated 24.09.2018 and further threatened the petitioner's mother that the tenancy right in the land in question would be auctioned, to which also the petitioner's mother replied on 08.01.2019. Meanwhile, the petitioner's mother passed away on 20.03.2019. Thus, the petitioner continued in possession of the land.

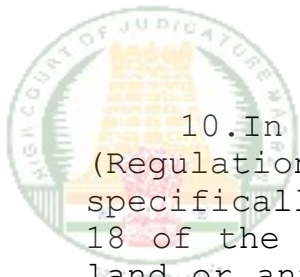
5.The petitioner has now challenged the impugned communication dated 16.07.2019 of the respondent on the ground that the respondent was incompetent to issue such notices. It is submitted that only the authorized officer as defined in Section 2(2) of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961, can take steps to evict the petitioner. It is further submitted that the petitioner is a cultivating tenant within the meaning of Section 2 (5) (ii) (b) of the aforesaid Act. It is submitted that the impugned communication of the respondent is without jurisdiction and is therefore liable to be quashed.

6.Opposing the prayer, the learned counsel for the respondent submits that as per Section 62 of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961, the Tamil Nadu Cultivating Tenants Protection Act, 1955 and the Tamil Nadu Cultivating Tenants (Payment of Fair Rent) Act, 1956 stood repealed.

7.It is further submitted that the petitioner has an alternate remedy under Section 21 of the HR & CE Act, 1959 and therefore, the petitioner should be directed to workout the remedy under the aforesaid provisions before the appropriate authority. It is therefore prayed that the writ petition is liable to be dismissed.

8.I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.

9.The impugned notice has recognized the petitioner as a cultivating tenant within the meaning of Section 2 (v) of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961, inasmuch as it seeks to terminate the lease. Therefore, the argument of the respondent on the strength of Section 62 of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961, cannot be countenanced. That apart, Section 62 of the Act only repeals Tamil Nadu Cultivating Tenants Protection Act, 1955 and Tamil Nadu Cultivating Tenants (Payment of Fair Rent) Act, 1956. It does not give an inference that the land belonging to the trust or an institution recognized under the provisions of the HR & CE Act, 1959 would be outside its purview.



10. In fact, Chapter III of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 specifically deals with the provisions relating to tenancy. Section 18 of the said Act provides a method for evicting a person holding land or any part thereof by or at the instance of the public trust. The Act contemplates a method for evicting a person by the authorized officer. Therefore, the impugned notice of the respondent is without jurisdiction and not in compliance with the provisions of the Act.

11. Further, the provisions of Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 is not in derogation of provisions of the Tamil Nadu HR & CE Act, 1959. When the law mandates a particular thing to be done in the particular manner, then it has to be done in the same manner as has held by the Hon'ble Supreme Court in the case of **State of Uttar Pradesh Vs. Singhara Singh and another** reported in **1963 AIR 358:1964 SCR (4) 485**. The aforesaid judgment has been followed by the Hon'ble Supreme Court and also by various High Courts.

12. This writ petition is therefore disposed of without any observation on the merits of the case as to whether the respondent temple can initiate proceedings to evict the petitioner from the land or not as the respondents have recognized the petitioner as a tenant in the impugned order. Therefore, the impugned proceeding initiated under the provisions of the HR & CE Act, 1959 shall not be proceeded. If the respondent temple wants to evict the petitioner from the land, appropriate proceedings will have to be initiated in accordance with law.

13. The writ petition stands disposed of, accordingly with liberty to the respondent to initiate appropriate proceeding in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl Side)

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Sub Assistant Registrar(CS)

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+1CC to M/s.V.CHANDRASEKAR, Advocate (SR-10247[F] dated 07/03/2022)

+1 CC to M/s.K.K.SAMY, Advocate (SR-10435[F] dated 07/03/2022)

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MGJ(28.03.2022) 3P 3C