



W.P.No.23457 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23457 of 2015

Jagadeeswari

...Petitioner

Vs.

1.Record of Tenancy Rights Officer
Cum Tahsildar,
Taluk Office,
Sirkali,
Nagapattinam District.

2.Charanraj

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 1st Respondent in Ni.Mu.Ku.Ovu.Pa.No.60/2014/A2 dated 18.02.2015 and quash the same.

For Petitioner : Mr.A.Muthukumar

For R1 : Mr.B.Jawahar

For R2 : Mr.S.Ravichandran



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ORDER

The order impugned passed by the 1st respondent in proceedings dated 18.02.2015 is under challenge in the present writ petition.

2. The learned counsel for the petitioner states that as per the order dated 14.03.2008 issued by the 1st respondent / Tahsildar, the petitioner was recorded as 'Cultivating Tenant' and therefore, the subsequent order passed by the Tahsildar behind the back of the petitioner is in violation of the principles of natural justice and therefore, the order impugned is liable to be quashed.

3. The learned counsel for the petitioner reiterated that the Civil Suit filed by the second respondent was dismissed for default and the Civil Suit filed by the writ petitioner is pending. When the parties are resorted to resolve the issues through Civil Court, the writ petition need not be entertained.

4. It is further contended by the learned Additional Government Pleader appearing on behalf of the second respondent that the petitioner has not exhausted the Appellate remedy under the Act and the petitioner has to



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approach the Revenue Divisional Officer, challenging the order passed by the Tahsildar. Thus, the writ petition is to be rejected.

5. The petitioner has submitted a copy of the order dated 14.03.2008, wherein the petitioner has been declared as 'Cultivating Tenant'. The order impugned passed by the Tahsildar reveals that the 2nd respondent is the 'Cultivating Tenant'.

6. This being the conflict between the parties, the first respondent/competent authority has to ascertain the facts and determine the issues in consonance with the provisions of the Act and Rules. Whether the parties are the cultivating tenants or not and whether they are entitled for the relief or not, are to be scrutinized with reference to the documents and by affording opportunity to the petitioner and the 2nd respondent and any other persons claiming that they are cultivating tenants. All these aspects are to be elaborately adjudicated. That apart, the parties have already approached the Civil Court. Those factors are also to be taken into consideration by the competent authorities.



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7. This being the factum established, the impugned order passed by the 1st respondent in proceedings dated 18.02.2015 is quashed and the matter is remanded back to the first respondent for fresh adjudication and to determine the issues on merits and in accordance with law by following the procedures as contemplated and by affording opportunity to all the parties concerned.

8. It is made clear that the order, declaring the writ petitioner as 'Cultivating Tenant' in proceedings dated 14.03.2008 and its validity shall be gone into by the 1st respondent for the purpose of deciding the issues. If the said order dated 14.03.2008 is found to be improper, then the said order is also to be cancelled by the competent authority. It is also made clear that the parties have to establish their rights independently irrespective of the orders already passed in their favour.

9. With these observations, the writ petition stands allowed. No costs.

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Index : Yes
Speaking order
Neutral Citation: Yes
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To

WEB COPY

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S.M.SUBRAMANIAM, J.

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