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WP No.10883 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-06-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.10883 of 2017

And

WMP No.11826 of 2017

S.R.Rangasamy

... Petitioner

Vs.

- 1.The District Revenue Officer/
Additional District Magistrate,
Coimbatore.
- 2.The Assistant Commissioner/
Revenue Court,
Tiruchirapalli.
- 3.The Tahsildar/
Tenancy Record Officer,
Coimbatore South Taluk,
Coimbatore District.
- 4.S.R.Ramasamy (Died)
- 5.R.Jayageetha
- 6.R.Jayasudha



7.R.Udhayakumar

[R-5 to R-7 substituted as LR's of the deceased
fourth respondent vide order of Court dated
02.08.2022 made in WMP No.19123 of 2022
in WP 10883 of 2017]

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned orders dated 26.12.2016 made in Na.Ka.17068/2012/E1 passed by the first respondent who confirmed the order dated 17.02.2012 made in Appeal No.4 of 2010 (Coimbatore) passed by the second respondent who confirmed the order dated 08.01.2010 made in T.R.No.10 of 2007 passed by the third respondent and quash the same.

For Petitioner : Mr.N.Manokaran

For Respondents-1 to 3 : Mr.D.Ravichander,
Special Government Pleader.

For Respondent-4 : Deceased. Steps Taken

For Respondents-5 to 7 : Mr.S.Karthikey Balan

ORDER

The Writ of Certiorari has been instituted questioning the validity of the order dated 26.12.2016 passed by the first respondent



confirming the order dated 17.02.2012 passed by the second respondent in Appeal No.4 of 2010.

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2. The petitioner states that the fourth respondent is his brother. Originally the father of the writ petitioner Mr.Rangae Gowder and the mother of the writ petitioner Tmt.Rangammal had purchased the land measuring to an extent of 1.04 acres in SF No.264/5, an extent of 4.58 acres in SF 264/3 and an extent 10.61 acres in SF No.265 and an extent 1.84 acres in SF 264/4, which is totally an extent of 18.07 acres in Thirumalaiyampalayam Village.

3. The grievance of the writ petitioner is that the fourth respondent, who is none other than his brother, claimed right as cultivating tenant and approached the Tahsildar for getting declaration. The Tahsildar conducted an adjudication and held that the fourth respondent is the cultivating tenant under the provisions of the Act.

4. An appeal was preferred and the Appellate Authority also confirmed the order passed by the Tahsildar declaring the status of the



fourth respondent as cultivating tenant. Thus the petitioner is constrained to move the present writ petition.

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5. The revision petition filed by the petitioner was also dismissed by the first respondent.

6. The learned counsel for the petitioner mainly contended that the documents produced by the fourth respondent would be insufficient to form an opinion that the fourth respondent is the cultivating tenant within the definition of Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969.

7. Mere production of Family Card or Certificate from the Village Administrative Officer would not confer any right on the cultivating tenant and beyond that the petitioner has to establish that he is actually cultivating the land by producing Adangal and other relevant records. Therefore, the Authorities have committed an error in passing the order in favour of the fourth respondent.



8. The learned counsel for the fourth respondent raised an objection by stating that all the three Authorities formed an opinion that the fourth respondent is the cultivating tenant. The fourth respondent had produced all relevant records to the satisfaction of the Authorities, including Adangal and therefore, the present writ petition is devoid of merits.

9. It is brought to the notice of this Court that the fourth respondent Mr.S.R.Ramasamy died on 22.03.2021 and therefore the legal heirs of the fourth respondent have to independently establish their right as cultivating tenants by producing all the relevant records.

10. The cultivating tenancyship is to be established by the persons concerned and in the present case, the person who established himself as cultivating tenant, is not more now and therefore, the legal heirs of the fourth respondent-deceased person, namely, Mr.S.R.Ramasamy, are bound to establish their case independently based on the documents and evidences available on record.



11. In this context, it is relevant to rely on the judgment of this Court in the case of **R.A. Gopalakrishnan vs. State of Tamil Nadu [(2012) 4 CTC 818]**, wherein in paragraphs 10 and 11, it has been observed as under:-

“10. As seen from the definition, it is inclusive. It includes the heir of any person whose name is already on record, if the heir contributes his own physical labour or that of any member of his family in the cultivation of such land. The other parts of the definition may not be relevant for our present discussion. Therefore, I am not dealing with the same.

11. By virtue of the definition contained in Section 2(8)(ii)(b), a person claiming to be a Tenant within the definition of the said sub-clause, should satisfy two things, namely—

- (i) that he is a heir of such person; and*
- (ii) that he contributes his own physical labour or that of any member of his family in the cultivation of such land.*

The definition clause uses the expression ‘heir’ and not the expression ‘legal heir’ or ‘legal representative’. The inclusion of the heir



of the deceased Tenant within the meaning of the expression is also made subject to the condition that he contributes his own physical labour. Therefore, all heirs or all legal heirs or all legal representatives may not be entitled to come within the definition of the term, if they do not satisfy the pre-condition prescribed under sub-clause (ii).”

12. In the case of **K.S.Myilsamy vs. The District Revenue Authority and Additional Judicial Magistrate, Coimbatore and Others [2022 (2) LW 162]**, wherein in paragraphs 21 and 22, it has been observed by this Court as under:-

“21. The term “Cultivating Tenant” has been defined u/s 2 (aa) of the Tamil Nadu Cultivating Tenants Protection Act and for better clarity, the same is quoted hereunder :-

“A person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under a tenancy agreement, express or implied.”

22. The petitioner claims that he is a



cultivating tenant and that previously his father had been cultivating the lands as a cultivating tenant from the year 1964 to 1972 till his demise. A careful perusal of the definition of "cultivating tenant" as found in Section 2 (aa) of the Tamil Nadu Cultivating Tenants Protection Act, reveals that the person, who claims such cultivating tenancy either should have contributed his own physical labour or by any member of his family in the cultivation of land belonging to another under a tenancy agreement. Sub-clause (a) of sub-section (ii) of Section 2 (aa) further prescribes that such persons would include any such person, who continues in possession of the land after the determination of the tenancy agreement and that the heir of such person, if the heir contributes his own physical labour or that of any member of the family in the cultivation of the lands."

13. In view of the principles considered by this Court in the judgments cited supra, the legal heirs of the original cultivating tenant-fourth respondent have to establish their right as cultivating tenants. Thus the order



passed by the Authorities lost its relevance on account of the death of the fourth respondent, who was declared as cultivating tenant. The said declaration dies with the person, who is no more now and therefore, the legal heirs have to establish their rights independently, since the scope of the definition is confined to the person, who has actually and physically contributed his labour for cultivating tenant.

14. Accordingly the orders impugned passed by the first respondent dated 26.12.2016 made in Na.Ka.17068/2012/E1 and the order dated 17.02.2012 passed by the second respondent made in Appeal No.4 of 2010 (Coimbatore) are quashed and the legal heirs of the fourth respondent, namely, respondents 5 to 7 are at liberty to approach the Competent Authorities and establish their case for securing declaration as cultivating tenant in the manner known to law. The petitioner is also at liberty to defend his case.

15. The learned counsel for the respondents 5 to 7 made a submission that the said respondents have already filed an application. If so, the Authorities Competent shall conduct an enquiry and pass appropriate



orders as expeditiously as possible.

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16. The Authorities while conducting adjudication with reference to the application filed by the respondents 5 to 7 shall consider the documents independently uninfluenced by the findings made in the order passed in the present writ petition.

17. With the above observations, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

30-06-2023

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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S.M.SUBRAMANIAM, J.

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