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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **R.VIJAYAKUMAR**

W.P.(MD)No.4673 of 2011

and

M.P.(MD)No.1 of 2011

K.Ganesan

....Petitioner

Vs

1.The Tahsildar cum Record Officer,
Tirunelveli Taluk, Tirunelveli District.

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

3.The District Revenue Officer,
Tirunelveli.

4.Jamluddin Hussain,
Muthavalli, Jamaludheen Thaikka,
Tirunelveli Town.

...Respondents

PRAYER: The Writ Petition filed under Article 226 of Constitution of India in the nature of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the third respondent herein dated 14.03.2011 made in R.P.No.2 of 2008 (See.Ma.No.2/2008), and to quash the same and consequently, to direct the first respondent herein to register the name of the petitioner as cultivating tenant for the



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lands measuring 1.20 acres comprised in S.No.336 (part) of Kandiaperi Village, Tirunelveli Taluk, Tirunelveli District.

For Petitioner	:Mr.G.Prabhu Rajadurai
For R1 to R3	:Mr.C.Satheesh
	Government Advocate
For R4	:Mr.M.P.Senthil

ORDER

The present Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking to quash the impugned order passed by the third respondent dated 14.03.2011 and for a direction to the first respondent to register the name of the Writ Petitioner as cultivating tenant for the lands measuring 1.20 acres comprised in S.No.336 (part) of Kandiaperi Village, Tirunelveli Taluk, Tirunelveli District.

2.Admittedly, the land in dispute belongs to a Mosque. The Writ Petitioner's father, Kali was originally recorded as a cultivating tenant of the land in dispute. While his father was alive, the Writ Petitioner had filed an application before the first respondent for recording himself as a cultivating tenant. The original authority by an order dated 10.10.2003



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rejected the application on the ground that K.Ganesan, the Writ Petitioner, cannot claim as a matter of right on the basis of inheritance from his father.

3.Challenging the same, the Writ Petitioner had filed an appeal before the second respondent herein. The second respondent, after interpreting the provisions of Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 (Act 10 of 1969), set aside the order of original authority and remitted the matter back to the first respondent herein. Challenging the said order, the landlord, namely, the Mosque, had approached the third respondent. The third respondent by the impugned order dated 14.03.2011 had set aside the order of remand and proceeded to hold that though Kali was a cultivating tenant, his son K.Ganesan, namely, the Writ Petitioner, was working in the Tamil Nadu Electricity Board till 2006, therefore, he cannot be considered to be a cultivating tenant. Challenging the same, the present Writ Petition has been filed.

4.According to the learned Counsel appearing for the Writ Petitioner, pending Writ Petition, the Writ Petitioner, namely, K.Ganesan had passed away.



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5.It is settled position of law that the status of cultivating tenant cannot be inherited by the legal heirs, unless they establish that they are cultivating the lands by their physical labour. Therefore, nothing survives to be adjudicated in the present Writ Petition. It is open to the legal heirs of K.Ganesan, to approach the first respondent by way of a fresh application to establish the fact whether they are cultivating tenants or not. In case, any such application is filed, the same shall be decided on merits and in accordance with law.

6.With the aforesaid observations, the Writ Petition stands closed. No costs. Consequently, connected miscellaneous petition is closed.

14.09.2023

Index : Yes/No
Internet : Yes/No

(1/2)

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To

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R.VIJAYAKUMAR, J.

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