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CRP(MD)Nos.713 to 715 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 02.09.2022
PRONOUNCED ON: 16.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)Nos.713 to 715 of 2021
and
CMP(MD)Nos.3863 and 8739 of 2021

1.Syed Ibrahim

2.Hakkim Sait

3.Mujaburr Rehuman

4.Illiyas

5.Amjath Begum

... Petitioners in
CRP(MD)No.713 of 2021

1.Syed Ibrahim

2.Mujaburr Rehuman

... Petitioners in
CRP(MD)Nos.714 and 715 of 2021

Vs

R.Vijaya Venkatesan @
Arul Vijayan

... Respondent in all petitions

PRAYER: Civil Revision Petitions filed under Section 115 of the Civil Produce Code, to set aside the order passed by the Special Deputy Collector (Revenue Court), Madurai in



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TCTP Nos.28 of 2012, 15 of 2016 and 1 of 2013 dated 04.03.2019 and 25.02.2019 and allow these civil revision petitions.

For Petitioners : No representation
For Respondent : Mr.P.Ganapathi Subramaniam

COMMON ORDER

These Civil Revision Petitions are filed as against the orders of the Special Deputy Collector (Revenue Court), Madurai in TCTP No.28 of 2012, dated 04.03.2019 and TCTP Nos.29 of 2012 and 1 of 2013 dated 25.02.2019.

2.All these civil revision petitions are pertaining to the cultivating rights of the petitioners/ tenants for the Survey Nos.108, 110 and 138/4 of Karupatti Village, Vadipatti Taluk, Madurai District. Since the issue and the parties involved in all these civil revision petitions are one and the same, all these civil revision petitions are disposed of by way of this common order. For the sake of convenience, the petitioners are referred to as tenants and the respondent is referred to as landlord.



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3. The case of the petitioners is that the petitioner's father one Sahul Hameed was a tenant of the lands in Survey Nos. 108/4, 110/1, 138/4 from the year 1999 and Sahul Hameed's name is recorded in the records of tenancy maintained by the Tahsildar, Vadiapatti in TR No. 4 of 1999, dated 12.01.2001. The petitioners' father was regular in payment of lease paddy of 60 bags [30 + 30] to the original landlady Rangammal without any default till the death of said Rangammal. The landlady Rangammal during her lifetime executed a settlement deed in favour of the respondent viz., R. Vijaya Venkatesan @ Arul Vijayan. When the petitioners' father was ready to offer the lease paddy of 30 bags for the Fasali year 1413- 1419 to the respondent, who is the current landlord, he refused to receive the same and therefore, the petitioners' father Sahul Hameed issued a legal notice on 18.06.2010 and also filed an application under Section 3 of the Tamil Nadu Cultivating Tenant Protection Act r/w Rule 3 before the Special Deputy Collector, (Revenue Court), Madurai in TCTP No. 36 of 2010. Pending the application, the respondent received the lease paddy for the fasali year 1412 - 1419. The application filed by Sahul Hameed had been dismissed on



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21.10.2012. The petitioners' father Sahul Hameed died on 03.05.2011. After the death of the petitioners' father, the respondent has filed an application in TCTP No.28 of 2012 for eviction with an allegation that the petitioners' father did not pay the lease paddy for more than 13 years. In fact, it is the respondent who refused to receive the lease paddy. Therefore, the petitioners have filed an application in TCTP No.15 of 2016 for depositing of lease paddy for the Fasali years 1421 - 1422, 1422 - 1423 and 1423 - 1424 and they have also filed an application in TCTP No.1 of 2013 for depositing of the lease paddy for the Fasali years 1419 - 1420 and 1420 - 1421.

4.It is further case of the petitioners that the petitioner's father was already recorded as tenant and therefore the petitioners are cultivating the land by using their physical labour and therefore, they are entitled to be recorded as cultivating tenants as per the Tamil Nadu Record of Tenancy Rights Act, 1969. They have also filed necessary applications for mutation of entries in the records of tenancy. The petitions also rely on the certificate issued by the Village Administrative Officer



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that these petitioners are cultivating the lands. The petitioners' father Sahul Hameed was already recorded as tenant in the tenancy register and the petitioners are the legal heirs of the said Sahul Hameed. The petitioners are entitled for mutation of entries in the tenancy records. The landlady refused to receive the lease paddy and therefore, the petitioners' father Sahul Hameed already filed an application before the Revenue Court in TCTP No.36 of 2010, wherein the respondent had agreed to receive the amount of Rs.16,380/- and accordingly, the same was dismissed. Thereafter, again the landlady refused to receive the lease amount and therefore, these petitioners were constrained to file applications in TCTP No.1 of 2013 and TCTP.No.15 of 2016 for depositing the lease paddy. Those applications were dismissed by the Revenue Court without appreciating the fact that these petitioners are cultivating tenants and they are cultivating the subject lands by using the physical labour. They are also prepared to deposit the lease paddy to the landord.

5.The case of the landlord is that the petitioners' father one Sahul Hameed was the cultivating tenant of



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Rangammal from the year 1999 and the lands are fertile lands, which produce two crops per year and as per the lease, the lessee has to pay 60 bags [30 bags per crop / bogum] and he has paid the particular year's lease paddy for the above mentioned properties to the landlady, which is 48 Marakkal measurement of paddy.

6. It is the further case of the landlord is that the said Sahul Hameed was irregular in payment of lease paddy to the landlady and he died in the year 2011. The tenants have not paid any rent for the lease and therefore, the tenants are liable to pay the rent for more than 13 years from the year 1999 - 2012. The tenants are also destroying the lands and therefore, they are liable to be evicted for their willful default of payment of rent for more than 13 years. The Revenue Court has allowed the application filed by the landlord for eviction and dismissed the applications filed by the tenants for depositing the rent before the Court. Aggrieved over the same the tenants filed these civil revision Petitions.



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7. The learned Counsel for the respondent/ landlord submits that the petitioners' father himself was irregular in payment of rent and these revision petitioners have not paid any rent to the landlord as well and they have destroyed the land and therefore, they are liable to be evicted as per law.

8. This Court considered the rival submissions and perused the materials placed on record.

9. The petitioners/ tenants claim that their father one Sahul Hameed was a tenant of one Rangammal, who died in the year 2012. During her lifetime she settled the properties in favour of the respondent / the present landlord. The respondent / the landlord filed an application for eviction under Section 3(4) (a) r/w 3(2) (aa) and 3(2) (b) of the Tamil Nadu Cultivating Tenants Protection Act in TCTP Nos. 28 of 2012. If the tenant does not pay the rent within a period of three months, after such rent becomes due, tenant is liable to be evicted as per Section 3(2) (aa) of the Act and if does not pay the rent, he will be seized to be a cultivating the land.



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10.The landlord / respondent claims that these petitioners are in arrears of lease for more than 13 years. The tenants claim that, erstwhile landlady Rangammal herself had refused to receive the lease paddy and therefore, their father Sahul Hameed himself during his lifetime filed an application in TCTCP No.36 of 2010 under Section 3 of the Act, to deposit the lease paddy and subsequently, the landlady received the rent for the fasali year 1418 - 1419 and therefore, TCTP NO.36 of 2010 has been dismissed by the Revenue Court on 21.12.2012. The landlord claims that TCTP No.36 of 2010 was dismissed in view of the death of Sahul Hameed. Admittedly Sahul Hameed died on 03.05.2011. However the order dated 21.12.2012 passed in TCTP.No.36 of 2010 is not placed before this Court. The tenants in their application in TCTP.No.1 of 2023 have admitted that they are liable to pay the lease for the fasali year 1420-1421 and also claim that they are not aware of the payment of the lease paddy for the fasali year 1419 - 1420 and claim that their father Sahul Hameed would have paid the lease paddy for the particular fasali year. They have filed an application in TCTP No.1 of 2013 seeking



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to permit to deposit the lease paddy for the year 1419 - 1420 and 1420 - 1421. The application was filed in the month of December 2012, after the application filed by the landlord for eviction on 24.07.2012.

11. In the counter filed in TCTP.No.28 of 2012, the tenants have claimed that the application in TCTP No.36 of 2010 was filed for deposit of lease paddy for the fasali year 1418 - 1419 and the landlady has refused to receive the rent for the fasali year 1418 - 1419 and thereafter, TCTP No.36 of 2010 was dismissed by the Revenue Court on 21.12.2012. It was further contended that the petitioners have paid the lease paddy for the fasali year 1419-1420, 1420-1421 and claimed that they are ready and willing to pay the lease rent for the fasali year 1419 - 1420 and 1420 -1421. Further the petitioners claims that for each fasali year 30 bags of paddy has to be paid and it is only a single crop cultivation. They also claim that when the application in TCTP No.36 of 2010 was pending and their father might have paid the lease paddy for the fasali year 1419 - 1420 and that application was dismissed that the landlady agreed to receive the lease paddy for the fasali



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year 1418-1419. However, the order passed in TCTP NO.36 of 2010 is not placed before this Court. Contrary to that the landlord claims that TCTP No.36 of 2010 was dismissed subsequent to the death of Sahul Hameed on 03.05.2011. Even as per the case of the tenants, the landlady Rangammal refused to receive the lease paddy for the fasali year 1418-1419 and therefore legal notice was issued on 18.06.2010. Thereafter the petitioners' father filed an application in TCTP No.36 of 2010 before the Revenue Court and that was also dismissed on 21.12.2012. Thereafter the subsequent application in TCTP No.1 of 2013 was filed by the petitioners claiming to be the present tenants, only in the year 2013 for depositing the lease paddy for the fasali year 1419-1420 and 1420-1421.

12.As per Section 3(2)(aa) of the Tamil Nadu Cultivating Tenant Protection Act, if the tenant does not pay the rent within three months, if such rent becomes due is liable to be evicted as per Section 3(2)(aa) of the said Act and therefore, the landlord is entitled to evict the cultivating tenant by filing an application under Section 3(4)(a) of the Act. Admittedly there is arrears of lease

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rent for more than three months and therefore, this Court is not inclined to interfere with the impugned orders. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently connected miscellaneous petitions are also dismissed.

16.03.2023

Internet : Yes / No

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To

The Special Deputy Collector (Revenue Court),
Madurai.



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B. PUGALENDHI, J.

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