



W.P.(MD) No.7329 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.7329 of 2023

and

W.M.P.(MD) Nos.6892 and 6893 of 2023

A.Letcham

.. Petitioner

Vs.

1.The District Collector,
Madurai.

2.The Tahsildar,
Vadipatti Taluk Office,
Madurai District.

3.The Assistant Commissioner,
HR & CE Department,
B1 Road, Ellis Nagar,
Madurai-625 016.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the second respondent in his proceedings in Na.Ka.No.A2/5049/2021 dated 26.04.2022 and quash the same and consequently direct the second



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respondent to consider the online application of the petitioner dated 24.09.2021 for registration of his name as a cultivating tenant without seeking no objection Certificate from the third respondent in accordance with the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act 1969 and Tamil Nadu Cultivating Tenants protection Act, 1955 within a time frame to be stipulated by this Court and consequently forbear the third respondent from interfering with the process of registering the petitioner's name as a cultivating Tenant by the second respondent herein for the land in Survey Nos.228/15 and 228/16 measuring one Acre at Vavidaimaruthur Village, Vadipatti Taluk, Madurai District.

For Petitioner : Mr.M.Sankar Ganesh

For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

This writ petition is filed for the issue of a Writ of Certiorarified Mandamus calling for the records of the second respondent in his proceedings dated 26.04.2022 in Na.Ka.No.A2/5049/2021, quash the same and direct the second respondent to consider the online application of the petitioner dated 24.09.2021 to register him as a cultivating tenant without insisting for No Objection Certificate from the third respondent



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in accordance with the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 (hereinafter referred to as “the Record of Tenancy Rights Act”) and the Tamil Nadu Cultivating Tenants Protection Act, 1955 (hereinafter referred to as “the Cultivating Tenants Protection Act”) within a time frame and to forbear the third respondent from interfering with the process of registering the petitioner's name as a cultivating tenant by the second respondent.

2. The facts, which have led to the filing of the writ petition are briefly set out hereunder. The petitioner would submit that his father was a tenant in respect of the agricultural lands comprised in S.Nos.228/15 and 228/16 measuring an extent of one Acre. This land was originally owned by one Chidambara Bharathi, who had created a charitable trust for the purpose of worshipping Arulmighu Muthalamman Kovil, which is a village temple. The trust was created under a trust deed dated 29.02.1952 and registered as Document No.266/1952. The founder Trustee had appointed four persons as trustees for the management and administration of the temple. The land was bequeathed to the temple and



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was given under tenancy to the petitioner's father Arumugam Servai. The tenancy records stood in the name of the petitioner's father as contemplated under the Record of Tenancy Rights Act and the Cultivating Tenants Protection Act.

3. The petitioner would submit that his father was forced to institute civil cases to injunct third parties who were attempting to interfere with his peaceful possession and enjoyment of the land by instituting the suits O.S.No.258 of 1985 and O.S.No.163 of 1987 and the two suits were decreed in favour of his father after contest and full trial. The petitioner's father had also deposited the tenancy amount to one of the trustees viz., Vellaiah Gounder as per the proceedings of the Revenue Court in P.C.T.P.No.215 of 1986 dated 30.12.1986. He was receiving the rent till his demise. The petitioner's father expired on 25.09.2003 and all the earlier Adangal Register, revenue records etc., showed his name as that of a tenant. However, all of a sudden, this entry has been removed which constrained the petitioner to send a detailed representation to respondents 1 and 2 on 18.09.2020. The first respondent passed an order



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dated 23.11.2020 directing the second respondent to enquire and pass orders upon the application of the petitioner to carry out necessary mutation. However, the second respondent had not taken any proactive steps in this regard. This has constrained the petitioner to file W.P.(MD) No.15623of 2021 on the file of this Court for a direction to the second respondent to comply with the order of the first respondent and pass orders on the representation dated 18.09.2020. The petitioner would submit that the second respondent is the competent authority under the said two Acts with the prefix Record Officer. This Court has passed the following order on 02.09.2021 in W.P.(MD) No.15623of 2021 :

“5. In the above facts and circumstances, without going into the merits of the matter, the petitioner is permitted to submit an application in the prescribed format seeking the relief claimed in the representation dated 18.09.2020. Such application shall be submitted by the petitioner within a period of two weeks from the date of receipt of a copy of this order by enclosing all relevant documents. Upon receipt thereof, the second respondent is directed to consider such application and dispose of the same by a reasoned order after providing a reasonable opportunity to the petitioner and the other legal heirs of the petitioner's father as indicated in the



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legal heirship certificate dated 17.05.2007. Such reasoned order shall be issued within a period of three months from the date of receipt of a copy of this order.”

4. It is the further case of the petitioner that after the passing of this order, he had once again approached the second respondent by applying both online and submitting a petition in person after which the second respondent had issued an enquiry notice dated 29.11.2021. Thereafter, the petitioner had issued notice to the other legal heirs of his father on 17.12.2021 and 03.03.2022. On all the dates, the petitioner and the other legal heirs were present before the second respondent and also given their statements to register the petitioner as the cultivating tenant. Despite receiving no objection from all of them, barring one Murugan, whose whereabouts were not known, the second respondent did not take any steps to record the petitioner as a cultivating tenant. All of a sudden, the second respondent issued a proceedings to the third respondent dated 26.04.2022 calling upon the third respondent to submit their no objection for recording the petitioner as a cultivating tenant. The petitioner would submit that he has been in uninterrupted possession and enjoyment of the



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land and was cultivating paddy thereon. All the documents have also been submitted for the scrutiny of the second respondent and having kept the application pending for so long, the second respondent's proceedings dated 26.04.2022 is without any legal basis. Therefore, the petitioner is before this Court.

5. The petitioner has provided proof that his father had been registered as a cultivating tenant in the records of the revenue authorities. Even in the earlier writ petition, no counter was filed stating that the petitioner has to obtain a no objection from the third respondent.

6. Heard the learned counsel on either side.

7. Admittedly, the petitioner's father has been recognised as a cultivating tenant and the petitioner is none else than the son and legal representative of the erstwhile cultivating tenant. The third respondent has not raised any objection with reference to the enjoyment of the property by the petitioner. In fact, Section 2(a)(a) of the Cultivating



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Tenants Protection Act provides the definition of a “cultivating tenant” to include the heir of any cultivating tenant, contributes his own physical, labour or that of his member or family to cultivate the land. Therefore, the insistence of a no objection is without any basis. Therefore, this Court has to necessarily, in the interests of justice, allow the writ petition by setting aside the impugned order dated 26.04.2022.

8. Accordingly, this Writ Petition is allowed, the impugned order dated 26.04.2022 is set aside and the second respondent is directed to consider the online application of the petitioner dated 24.09.2021 and if the second respondent entertains any doubt with reference to the request of the petitioner, it is well open to him to issue notice to all the concerned parties, particularly the third respondent, hear the petitioner as well as such parties and thereafter, pass orders. In case, there is no response or objection, then the authority shall forthwith record the petitioner as a cultivating tenant after following due process of law. The third respondent shall submit their objection or their consent within a period of two weeks from the date of receipt of a copy of this order. In case, the



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third respondent were to object to the grant of no objection to the petitioner, then in such a situation, the second respondent shall hear both sides, afford opportunity of personal hearing and pass orders within a period of four weeks from the date on which he receives the objection from the third respondent. No costs. Consequently connected miscellaneous petitions are closed.

03.04.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

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P.T.ASHA, J.

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