



CRP(MD)No.1451 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.01.2023

CORAM:

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

CRP(MD)No.1451 of 2022
and
CMP(MD)No.6005 of 2022

P.Tamilarasi

: Petitioner

Vs.

1.The District Revenue Officer cum
Additional District Executive Magistrate,
Madurai.

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

3.The Tahsildar,
Melur Taluk,
Madurai District.

4.K.Mohamed Ibrahim

5.K.Mohamed Aliyar

6.K.Sahul

: Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records relating to the order passed by the first respondent in Ni.Mu.No.1234/2018/G3, dated 12.01.2022 reversing the order of the second respondent in Me.Mu.13/2012, dated 03.07.2017 and the order of the third respondent in Na.Ka.No.11916/2010, dated 03.03.2011 and set aside the same.

For Petitioner : Mr.M.Kannan

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader
for R.1 to R.3

ORDER

This revision petition is filed as against the order passed by the first respondent / District Revenue Officer, Madurai, in Ni.Mu.No.1234/2018/G3, dated 12.01.2022.

2.The petitioner claiming to be a cultivating tenant has filed a petition as against the respondents 4 to 6 before the third respondent / Tahsildar to record her as a cultivating tenant with regard to the properties in S.Nos.287/1, 321/1, 322/13, 322/14, 322/15, 322/16 and 322/9A situated in Pattur, Alampatti Village, Melur Taluk, Madurai District, measuring to an extent of 8 acres. According to the



petitioner, the lands belong to one Kattubawa Rowther and were cultivated by the petitioner's father-in-law, Kattaiyan. After the demise of Kattaiyan, the petitioner's husband, Periyakaruppan, used to cultivate the lands, by giving half of the produce to the owners and also planted coconut trees in the properties.

3. According to the petitioner, her husband, Periyakaruppan, gone abroad for employment and thereafter, she is cultivating the lands as a cultivating tenant. Therefore, she approached the third respondent / Tahsildar to record her as a cultivating tenant. The third respondent, after getting a statement from the Village Administrative Officer, has recorded this petitioner as a cultivating tenant. As against that order, the respondents 4 to 6 have preferred an appeal before the second respondent / Special Sub Collector, Madurai. The second respondent dismissed the appeal and as against the same, the respondents 4 to 6 have preferred a revision petition before the first respondent / District Revenue Officer, Madurai. The first respondent, by order dated 12.01.2022, set aside the order passed by the Tahsildar dated 03.03.2011 and the order passed by the Special Sub Collector dated 03.07.2017. Aggrieved over the same, the petitioner has moved the instant revision petition.



4.Learned Counsel for the petitioner submitted that the first respondent has erroneously reversed the concurrent findings of the respondents 2 & 3, without considering the provisions of the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 and the Tamil Nadu Agricultural Lands Record of Tenancy Rights Rules, 1969. The third respondent / Record Officer has conducted an enquiry, in which, the fifth respondent, namely, Mohamed Aliyar, one of the legal heir of Kattubawa Rowther, appeared and claimed that he has been cultivating the lands after the demise of Kattubawa Rowther. However, the third respondent has passed an order in favour of this petitioner, based on the statement of the Village Administrative Officer. While so, the first respondent has passed the impugned order as if no opportunity was provided to the land owners.

5.He further submitted that the interest of the land owners has been sufficiently represented during the enquiry before the third respondent and therefore, the object of the beneficiary legislation cannot be defeated by taking a hyper technical objection as if the sixth respondent was not given an opportunity of hearing by the third respondent. The third respondent has conducted a detailed enquiry and recorded the statements of the witnesses and also the statements of the Village Administrative Officer, Pattur Village, the Zonal Deputy Tahsildar and



based upon the admissible evidence, the third respondent has passed the order recording the petitioner as a cultivating tenant. The Village Administrative Officer and the Zonal Deputy Tahsildar, based upon their enquiry conducted with the adjacent land owners and persons residing in the village, have clearly stated that the petitioner's ancestors have been cultivating the subject properties and the petitioner has also cultivated the properties by raising legumes. Therefore, he prayed for appropriate orders.

6.This Court paid it's anxious consideration to the submissions made by the petitioner's Counsel and also perused the available materials.

7.This civil revision petition is filed as against the orders passed by the first respondent / District Revenue Officer in the revision petition preferred by the respondents 4 to 6. The petitioner was recorded as a cultivating tenant by the third respondent / Tahsildar, which was also confirmed by the Special Sub Collector, Madurai. However, the revisional authority has set aside the orders that no document has been placed by the petitioner to substantiate her claim that she was a cultivating tenant of the subject properties.



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8. This Court, in the decision in ***V.Sellappan v. District Revenue Officer, Thanjavur and Others*** [1982 (1) MLJ 281], has recognized the powers of the revisional authority as follows:-

“6. ...Section 7 of the Act enables the Revisional Authority to examine the records and pass such orders as he may think fit. He is also conferred with 'suo motu' powers. Under Section 10 of the Act, even the Revisional Authority has the jurisdiction to entertain fresh evidence both oral and documentary. Hence, in Section 7 of the Act, it has been made more or less a second Appellate Authority. Hence, though in Section 7 of the Act, it is characterised as a 'Revision' in every sense, it has been made more or less a second Appellate Authority. The power being exercised is not akin to the usual revisional powers, wherein the Authority will be conferred only with the right to go into the legality or propriety of the decision arrived at in order or to find out as to whether there has been a proper exercise of jurisdiction vested and whether there has been any material irregularity in the order. Such restrictive qualifications not being found, necessarily the power under Section 7 of the Act has to be treated as a very wide power, which could be invoked for rendering justice, as the Revisional Authority 'may think fit'. Hence, it would not be correct to contend that the power of the Revisional Authority under this Act is circumscribed, so as to preclude him from granting such relief, as he may think fit.”



9. According to the petitioner, her father-in-law, Kattaiyan, was a cultivating tenant of the subject properties and after his demise, her husband, Periyakaruppan, was cultivating the lands and he had gone to abroad for employment purpose and thereafter, the petitioner is cultivating the lands. The petitioner further claimed that she is also paying half of the produce to the respondents 4 to 6, the legal heirs of Kattubawa Rowther. However, the petitioner has not substantiated any of her claim. Even for payment of produce or any payment of lease amount, the petitioner has not placed any records.

10. The third respondent / Tahsildar, though recorded that no land tax receipts were produced by this petitioner, proceeded to record her as a cultivating tenant based on the statement of the Village Administrative Officer alone. The Village Administrative Officer appears to have given a vague statement that on verification with the adjacent owners, he came to know that this petitioner was cultivating the land. Perusal of the order passed by the third respondent discloses that no notice was given to the respondents 4 to 6.

11. Admittedly, the sixth respondent was in abroad during the period and the respondents 4 & 5 are aged about 80 years old. The sixth respondent has not



preferred any appeal and the appeal before the Special Sub-Collector was preferred only by the respondents 4 & 5. The revision petition before the District Revenue Officer was preferred by all the legal heirs of Kattubawa Rowther. There is no observation in the order of the Tahsildar that any opportunity was provided to the land owners, ie., all the legal heirs of Kattubawa Rowther and that their submissions have been considered by him. The first appellate authority / Special Sub Collector has also observed that no documents have been placed by this petitioner in support of her claim that she is the cultivating tenant, however, he has observed that the petitioner is living in a corner of the subject property and that therefore, under the impression that this petitioner may be a cultivating tenant, has dismissed the appeal preferred by the respondents 4 & 5.

12.Neither the Tahsildar nor the Special Sub Collector has recorded that there was any inspection and there was any cultivation in the subject properties. Most of the subject properties belong to the sixth respondent / Sahul and admittedly, he was in abroad for the past fifteen years. The respondents 4 & 5 are more than eighty years old and are residing away from the subject properties. Taking advantage of the situation, the petitioner appears to have created a document and medowar her alleged cultivating right in favour of one Alagarsamy



for a consideration of Rs.3,00,000/- on 02.01.2009 and also redeemed the same on 23.10.2010, ie., even before the record of tenancy by the Tahsildar. She also went to the extent of lodging a criminal complaint as against the land owners in Crime No.102 of 2010 that they have abused her using her caste name. The case was subsequently closed as mistake of facts. The land owners have filed a suit in O.S.No.211 of 2010 before the District Munsif Court, Melur, for a permanent injunction and the same was dismissed. However, in appeal in A.S.No.105 of 2019, the learned Subordinate Judge, Melur, reversed the same by judgment dated 24.02.2021 and decreed the suit. The same holds good till date.

13. *In Re M.Chinnasamy v. Tenancy Record Officer and Another [2005 (1) MLJ 411]*, this Court has held that the authority should give ample opportunity to all the parties, not only to file their petitions seeking inclusion of their names in the Record of Tenancy but also to hear them properly for passing orders on merits and in accordance with law.

14. Considering the facts discussed supra; the judgment and decree passed by the Sub Court, Melur, in A.S.No.105 of 2019, dated 24.02.2021; and the ratio referred to supra, the revisional authority has passed the impugned order



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exercising the power under Section 7 of the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act and the same, in the opinion of this Court, does not warrant any interference.

Accordingly, this revision petition stands dismissed. No costs.
Consequently, connected miscellaneous petition stands closed.

Index : Yes / No
Internet : Yes
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B.PUGALENDHI, J.

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