



WP(MD)No.17728 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **17.10.2023**

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.17728 of 2021

and

W.M.P.(MD)Nos.14630 & 14631 of 2021

R.Palraj

...Petitioner

/Vs./

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The District Revenue Officer,
Madurai District,
Madurai.
- 3.The Tahsildar,
Thirumangalam Taluk,
Thirumangalam,
Madurai District.
- 4.The Special Deputy Collector,
Collector Office,
Department of Revenue,
Madurai.
- 5.N.Syed Appas
- 6.S.Aysha Beevi
- 7.V.Sarkarai

...Respondents



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PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent in Ne.Mu.No.65234/2012/G3 dated 04.12.2017 and the impugned order passed by the 4th respondent in Me.Mu.5/2008 dated 28.05.2012 and quash the same and consequently direct to the 1st and 2nd respondent to consider the petitioner's representation dated 18.08.2021.

For Petitioner : Mr.PR.Boomee Rajan

For Respondents : Mr.K.S.Selvaganesan (R1 to R4)
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the second respondent through proceedings dated 04.12.2017 confirming the order passed by the fourth respondent through proceedings dated 28.05.2012 and for a consequential direction to the first and second respondents to consider the representation made by the petitioner on 18.08.2021, wherein the petitioner has sought for the cancellation of the patta granted in favour of the seventh respondent and to issue patta in favour of the petitioner.



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2. The case of the petitioner is that he is the absolute owner of the subject property measuring an extent 5 acres and 8 cents. The petitioner had purchased this property from the 5th and 6th respondents through a registered sale deed dated 28.03.2005. According to the petitioner, he is cultivating the lands and he is a bonafide purchaser for consideration.

3. The further case of the petitioner is that the seventh respondent had filed a petition to declare him as a cultivating tenant before the third respondent. The third respondent through proceedings dated 04.03.2008 rejected the application filed by the seventh respondent. Aggrieved by the same, the seventh respondent filed an appeal before the fourth respondent. In this appeal, the petitioner was also added as the third respondent apart from the 5th and 6th respondents herein. The third respondent, on considering the entire facts came to a conclusion that the seventh respondent is entitled to be declared as cultivating tenant and accordingly, directed his name to be registered under Section 4(2) of the Tamil Nadu Agricultural Lands Record Of Tenancy Rights Act, 1969.

4. Aggrieved against the above order passed by the third respondent, the petitioner filed an appeal before the second respondent. The second respondent,



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after considering the entire facts of the case, came to a conclusion that there is no reason to interfere with the order passed by the third respondent and accordingly, the appeal filed by the petitioner was dismissed. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Heard Mr.PR.Boomee Rajan, learned counsel for the petitioner and Mr.K.S.Selvaganesan, learned Additional Government Pleader for the respondents 1 to 4.

6. The petitioner in this case is admittedly a purchaser of the properties from the 5th and 6th respondents. There was already a dispute between the 7th respondent, who was a tenant under the 5th and 6th respondents. When an attempt was made to vacate the 7th respondent, a suit came to be filed in O.S.No. 387 of 1996 before the District Munsif Court, Thirumangalam. During the pendency of the suit, an Advocate Commissioner was appointed and the report of the Advocate Commissioner clearly established the fact that the lands were under cultivation by the 7th respondent. After the filing of the report, the 7th respondent and 5th and 6th respondents came to a compromise and based on the same, the suit was closed.



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7. It seems that the 5th and 6th respondents had sold the property in favour of the petitioner in the year 2005. The dispute thereafter shifted between the petitioner and the 7th respondent. The 7th respondent wanted himself to be declared as cultivating tenant and accordingly, proceedings were initiated and the 2nd and 4th respondents have concurrently found that the 7th respondent is a cultivating land and accordingly, directed his name to be recorded under the Tamil Nadu Agricultural Lands Record Of Tenancy Rights Act, 1969.

8. The 7th respondent had filed a writ petition before this Court in WP(MD)No.24368 of 2019 for a direction to the Record Officer / Tahsildar to record the 7th respondent as a cultivating tenant in Patta No.2375 with respect to subject properties as per the Tamil Nadu Patta Passbook Act, 1983 and the Rules therein. When this writ petition was considered by this Court, this Court found that the name of the 7th respondent had already been directed to be recorded as cultivating tenant and therefore, granted liberty to the petitioner to challenge the order passed by the District Revenue Officer by way of filing a writ petition. It is pursuant to this order, the present writ petition has been filed before this Court.



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9. In the entire affidavit filed in support of this writ petition, the petitioner has nowhere stated about the filing of the suit in O.S.No.14 of 2018 before the Additional District Munsif Court, Thirumangalam challenging the proceedings of the second respondent dated 04.12.2017. In this suit, the 7th respondent had filed an application seeking for rejection of the plaint in IA No. 575 of 2018 and this application came to be dismissed by the Court below. Aggrieved by the same, the 7th respondent and others filed a civil revision petition in CRP(MD)No.430 of 2019 before this Court and this Court, by an order dated 10.03.2022 allowed the civil revision petition.

10. This fact was brought to the notice of this Court only by the learned counsel for the 7th respondent and the petitioner seems to have parallelly filed the present writ petition challenging the very same order, based on the liberty that was granted in WP(MD)No.24368 of 2019 by order dated 11.12.2019. This writ petition was subsequently withdrawn by the 7th respondent.

11. It is also seen from the records that subsequently Record Officer / Tahsildhar, through proceedings dated 12.12.2019 has added the names of the children of the 7th respondent as cultivating tenants under Section 5(2) of the



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Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 (Tamil Nadu Act 10 of 1969).

12. To start with, the present writ petition is liable to be dismissed on the ground of concealing the material fact before this Court by not revealing the filing of the suit in O.S.No.14 of 2018 challenging the proceedings of the second respondent dated 04.12.2017. This Court also carefully went through the order passed by the 2nd and 4th respondents. On carefully going through the same, this Court finds that the 2nd and 4th respondents have assigned sufficient reasons while directing the name of the 7th respondent to be recorded as cultivating tenant. The order does not suffer from any error of law on the face of the record.

13. This Court must keep in mind that it is not exercising an appellate jurisdiction to substitute its view to the view that has been taken by the 2nd and 4th respondents. This Court does not find any patent or apparent error even on facts and hence, this Court holds that the 2nd and 4th respondents have exercised their jurisdiction properly. In view of the same, the orders passed by the 2nd and 4th respondents falls beyond the scope of the issue of writ of certiorari and this Court does not find any ground to interfere with the same.



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14. In the light of the above discussion, this Court does not find any ground to interfere with the order passed by the 4th respondent, which was subsequently confirmed by the 2nd respondent and accordingly, the present writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are dismissed.

17.10.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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N.ANAND VENKATESH, J.

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Order made in
W.P.(MD)No.17728 of 2021

Dated:
17.10.2023