



W.P(MD)No.18703 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18703 of 2015

and

M.P.(MD)No.2 of 2015

1.Arumugam

2.Kaliyaperumal

... Petitioners

Vs.

1.The District Revenue Officer cum
Revision Authority of Record of Tenancy Rights,
District Collector Office,
Thanjavur.

2.Pushpam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent pertaining to in See.Tha.Ma.Pa.08/2012 H-3 dated 28.03.2015 and to quash the same as invalid and unlawful and directing him to record the petitioners as cultivating tenants of the agricultural land comprised in Survey No.366/2, Thiruvalanchuzhi Village, Kumabkonam Taluk, Thanjavur District.

For Petitioners : Mr.P.Sesubalan Raja

For Respondents : Mr.N.GA.Nataraj
Government Advocate for R1
: no appearance for R2



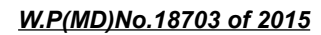
W.P(MD)No.18703 of 2015

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ORDER

Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the first respondent. Even though the second respondent has been served and her name is printed in the cause list, she has not chosen to enter appearance.

2. The petition mentioned lands belong to Sri Prahannayagi T.Vaithiyalingam Pillai Trust. One Muniyathan was cultivating the petition mentioned lands. The petitioners herein along with their brother Mahalingam filed petitions (Nos.3, 4 & 5 of 2002) before the Tahsildar, Kumbakonam for recording their names as cultivating tenants. The petitions were allowed on 29.11.2002. The said order has not been set aside. In the meanwhile one Lakshmiammal filed petition before the very same authority for entering her name as a cultivating tenant. The petition was dismissed on 19.06.2009. Challenging the same, Lakshmiammal filed an appeal before the Revenue Court, Thanjavur. It was allowed on 12.09.2014. The petitioners herein filed a revision before the District Revenue Officer, Thanjavur. The revision petition was dismissed. Questioning the same, the present writ petition came to be filed.



(i) So long as the order dated 29.11.2002 recording the names of the petitioners as cultivating tenants is holding the field, contra order could not be passed.

4. There is considerable merit in both the contentions. But there is one impediment. It is not in dispute that Muniyathan was originally a cultivating tenant. Muniyathan had two wives. Lakshmiammal was the second wife. When Muniyathan passed away, the petitioners filed petitions for recording them as cultivating tenants. They ought to have impleaded Lakshmiammal also as a party respondent. It was not a matter between the petitioners and that trust. Lakshmiammal had also a claim. The order dated 29.11.2002 was obtained behind the back of Lakshmiammal. Prima facie, it is in breach of the principles of natural justice. Lakshmiammal could not have obtained an order without impleading the trust. Thus, the course of action adopted by both the parties do not appear to be in order. Pushpam is none other than the daughter of Lakshmiammal. Since Lakshmiammal is no more, the contest will be between Pushpam on the one hand and the petitioners on the other. The other brother



W.P(MD)No.18703 of 2015

Mahalingam appears to be no more. His legal heirs shall be brought on record as party respondents. The landlord namely Sri Prahannayagi T Vaithiyalingam Pillai Trust shall also be impleaded as respondent. Thus, after enquiry of the stake holders ie., legal heirs of Muniyathan born to the first wife and the legal heirs born to the second wife and the landlord/Trust, final order shall be passed by the original authority on merits and in accordance with law.

5. In this view of the matter, the order impugned in the writ petition is set aside. The matter is remitted to the file of the Tahsildar, Kumbakonam / Record of Tenancy officer, Kumbakonam. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

07.09.2023

Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.



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W.P(MD)No.18703 of 2015

rmi

W.P(MD)No.18703 of 2015

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