



W.P(MD)No.22850 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22850 of 2019

and

W.M.P.(MD)Nos.19600 & 19601 of 2019

Balasubramanian

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Revenue Court/Deputy Collector,
Tirunelveli-09.

3.The Commissioner of City Police,
Tirunelveli City,
Tirunelveli-1.

4.S.Paul Selvakumar

5.S.Ramasubramanian

6.R.Thalavai Alagappan Mudhaliyar

7.Ramasamy Mudhaliyar

8.Saroja Anni

9.Renganadhan Mudhaliyar



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10. Shanmuganadhan Mudhaliyar

11. Chellammal Anni

12. T.S. Subramanian

13. A.S. Subbiah

... 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 relating to the impugned order passed by the 5th respondent ex preceding officer in his proceedings in may.mu.ma no..1.2019 dated 30.6.2019 as 2nd respondent revenue court and quash the same and remand the matter to the 2nd respondent/revenue court to be dealt with present presiding.

For Petitioner : Mr.P.Senthur Pandian

For Respondents : Mr.D.Gandhiraj
Special Government Pleader for R1 to R3

: Mr.P.Thiyagarajan for R4

: no appearance for R6, R10, R11 & R12

ORDER

Heard both sides.

2. The case on hand raises the question who should be recorded as a cultivating tenant in respect of S.No.293/1. The petitioner's father Shri.Chella Durai moved the jurisdictional Tenancy Tahsildar and obtained an order dated



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18.12.2015 in his favour. After passing away of Shri.Chelladurai, the petitioner entered his name in the place of his father. Questioning the same, the fourth respondent herein filed revision before the Special Deputy Collector, Tirunelveli. Vide order dated 30.04.2019, the order of the original authority was set aside. Since the disputes were pending before the Madurai Bench of Madras High Court, *status quo* ordered to be maintained. Questioning the same, the present writ petition came to be filed.

3. I am of the view that the allegations and counter allegations made by the parties need not be gone into. It is not in dispute that the property originally belonged to Seevalaperi Chathiram. The fourth respondent had laid rival claim that the chathiram authorities have recognized him as a cultivating tenant and issued receipt therefor and that he is in possession. Admittedly, when the petitioner's father Chelladurai filed petition before the tenancy Tahsildar, the fourth respondent was not shown as party. Therefore, interest of justice requires that the issue is resolved in the presence of the fourth respondent. It is true that the order passed in favour of the petitioner's father on 18.12.2015 was never challenged and that the fourth respondent entered the scene only when the petitioner got his name entered in the place of his father. The allegation of the fourth respondent is that the proceedings at the instance of the petitioner's



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father had taken place behind his back and that the Tenancy Tahsildar had passed the order even without conducting spot inspection. I do not want to go into the merits of the matter. The orders dated 18.12.2015 & 03.10.2017 are modified in respect of the petition mentioned survey No.293/1. The matter is remitted to the file of the original authority. The petitioner as well as the fourth respondent shall file independent applications for recognizing their respective claims. As and when such applications are filed, they will be disposed of together and on merits and in accordance with law. The order will be passed within a period of eight months thereafter. I make it clear that the orders dated 18.12.2015 & 03.10.2017 in favour of the petitioner are modified only to the extent mentioned above. They would remain intact in respect of the other survey numbers.

4. The Writ Petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

22.09.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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