



C.R.P.(MD).Nos.2068 & 2086 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 07.11.2023

Delivered on: 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.(MD)Nos.2068 and 2086 of 2017

C.R.P.(MD)No.2068 of 2017

N.Thirumalaisamy ... Petitioner / Petitioner

Vs.

1.Balasubramaniya Chettiyar (Died)

2.Jeyalakshmi

(R2 is brought on record as LR of the
deceased sole respondent vide Court
order, dated 19.07.2023, made in

CMP(MD)No.3308 of 2022) ... Respondents / Defendants

Prayer:-Civil Revision Petitions filed under Section 6B of Tamil Nadu
Cultivative Tenancy Protection Act r/w. Section 115 of the Code of Civil
Procedure, against the order dated 04.04.2017 passed in T.C.T.P.No.32 of
2007, on the file of the Revenue Court, Madurai.

For Petitioner : Mr. V.Arjun for
Mr. N.Vallinayagam

For Respondents : Mr. D.Venkatesh for R2
: R1 Died



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WEB C **C.R.P.(MD)No.2086 of 2017**

V.Muruganandam

... Petitioner / Petitioner

Vs.

1.Balasubramaniya Chettiyar (Died)

2.Jeyalakshmi

(R2 is brought on record as LR of the
deceased sole respondent vide Court
order, dated 19.07.2023, made in

CMP(MD)No.3305 of 2022)

... Respondents / Defendants

Prayer:-Civil Revision Petitions filed under Section 6B of Tamil Nadu
Cultivative Tenancy Protection Act r/w. Section 115 of the Code of Civil
Procedure, against the order dated 04.04.2017 passed in T.C.T.P.No.2 of
2010, on the file of the Revenue Court, Madurai.

For Petitioner : Mr. V.Arjun for
Mr. N.Vallinayagam

For Respondents : Mr. D.Venkatesh for R2
: R1 Died

COMMON ORDER

Both the Civil Revision Petitions are at the instance of the
petitioners, who filed T.C.T.P.Nos.2 and 32 of 2010, on the file of the
Revenue Court, Madurai, seeking permission of the Court to deposit the
rent for a period of 3 years and 32 years respectively.



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2. The said applications were resisted by the respondent (same landlord in both the revision petitions) on the ground that the petitioners were not cultivating tenants and in the absence of the same, they are indulging in cutting down trees and causing loss to the respondents / landlords.

3. The Revenue Court, after considering the respective pleadings and evidence let in by the parties, held that both the petitioners were not able to establish that they were cultivating tenants and proceeded to dismiss the said applications. The said orders passed by the Revenue Court, Madurai are under challenge in the above Civil Revision Petitions, mainly on the ground that the Revenue Court failed to see that the petition in T.C.T.P.No.32 of 2010 was originally filed by the petitioners' father viz., Nachimuthu Gounder and that he died during the pendency of the proceedings (ie. on 10.09.2013) and in T.C.T.P.No.2 of 2010 was originally filed by the petitioners' father viz., Vellaichamy Gounder and that he died during the pendency of the proceedings (ie. 03.02.2000).



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4. I have heard Mr. V.Arjun, learned counsel for the revision petitioner and Mr.D.Venkatesh, learned counsel for the second respondent. I have also paid my anxious and careful consideration to arguments advanced by the parties.

5. The learned counsel for the revision petitioner would state that apart from canvassing the grounds in the revision petition, which have been set out hereinabove, absolutely no prejudice would be caused to the respondent / landlord, if the petitions are allowed and the rents are deposited.

6. Per contra, the learned counsel for the second respondent would state that merely because the revision petitioners have been impleaded consequent to the death of the original cultivating tenant, they cannot claim to be cultivating tenants automatically. They have to satisfy the requirements of statute and the Revenue Court has rightly held that they have failed to establish their rights as cultivating tenants and dismissed the



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petitions.
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7. Having considered the contentions put forth by the respective counsel and having perused the records and the impugned order, it is seen that the father of the revision petitioners in both the Revisions was a cultivating tenant originally and petitions had been filed by them for deposit of rent and pending the same, they died and the revision petitioners brought themselves on record in the capacity of being a legal heir. The Tamil Nadu Cultivating Tenants Protection Act, 1955 (Act XXV of 1955), defines “Cultivating tenant” under Section 2. Section 2 (aa) of the Tamil Nadu Cultivating Tenants Protection Act, 1955 (Act XXV of 1955), is extracted hereunder for easy reference:

(aa) "cultivating tenant" -

(i) means a person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under a tenancy agreement, express or implied; and

(ii) includes-

(a) any such person who continues in possession of lire land after the determination of the tenancy



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agreement;

(b) the heir of such person, if the heir contributes his own physical labour or that of any member of his family in the cultivation of such land;

(c) a sub-tenant if he contributes his own physical labour or that of any member of his family in the cultivation of such land; or

(d) any such sub-tenant who continues in possession of the land riot withstanding that the person who sublet the land to such sub-tenant ceases to have the right to possession of such land; but

(iii) does not include a mere intermediary or his heir;

8. Thus, it is clear from the definition of “cultivating tenant” as seen from the above extracted portion that merely because, a person is a heir of a cultivating tenant, he does not automatically qualify under the definition of “cultivating tenant”, unless he contributes his own physical labour or that of member of his family in cultivating the land in question.

9. The Tamil Nadu Cultivating Tenants Protection Act, 1955 (Act XXV of 1955), enables a cultivating tenant to deposits rents under Section 3(a) of the Act, before the Court or the Revenue Divisional Officer,



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as the case may be, and present to the Court or the Revenue Divisional Officer an application in Form I, in person or through his authorised Agent. For such an application in Rule 3(1), the Court or the Revenue Divisional Officer, as the case may be, shall cause notice to the landlord and after hearing the landlord, the Court or the Revenue Divisional Officer, as the case may be, after taking evidence and making such enquiry, shall pass orders on the application in accordance with the provisions of the Act.

10. The learned counsel for the revision petitioners would rely on the decision of this Court in ***Balu Pillai @ Balasubramania Pillai V. Mahadevan*** reported in ***2010-1-LW-541***.

11. The learned counsel for the second respondent would rely on the decision of this Court in ***W.P.(MD)No.8806 of 2012, (O.Duraisamy V. The District Revenue Officer), dated 20.06.2022***.

12. In ***Balu Pillai's*** case, this Court held that the civil Court ceases to have any jurisdiction to decide the suit, but, if the civil Court comes to a decision that a party to the suit is not a cultivating tenant and is



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also not entitled to the benefits under the Tamilnadu Cultivating Tenants Protection Act, 1955, then the civil Court is entitled to entertain the suit filed by the landlord and held that the civil Court has got jurisdiction to decide the relationship of the parties concerned as to whether they are the cultivating tenants under the scope and ambit of the Tamilnadu Cultivating Tenants Protection Act, 1955 and grant the relief as sought for. Once it has come to the decision that the defendants are not cultivating tenants of the suit properties and that they are not entitled to protection under the aforesaid Act, then there is no embargo for the civil Court to decide the right of the person claiming to be a cultivating tenant. However, I am unable to see beyond how this decision would apply the facts of the present case, which stands on an entirely different footing.

13. In *Duraisamy's* case, this Court referring to Section 2(aa) of the Tamil Nadu Cultivating Tenants Protection Act, 1955, held that when a person, who has already applied or who has already been conferred with the status of cultivating tenant, dies, the status also dies with him. The legal heirs have to independently establish their status as a cultivating tenant. This ratio would squarely be applicable to the facts of the present



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case. As rightly found by the Revenue Court, the petitioners have not been able to establish, by adducing statutory evidence, that they have contributed their physical labour, either their own, or that of any member of the petitioners' family, in cultivating the lands belonging to the respondent. Therefore, in the absence of such proof, the petitioners are not entitled to have their names recorded as cultivating tenants and they cannot be permitted to deposit the rents.

14. The arguments of the learned counsel for the revision petitioners that no prejudice would be caused to the respondent / landlord, therefore, cannot be countenanced in the light of the mandatory statutory provisions discussed hereinabove. It is only a cultivating tenant, who can seek to deposit rents and not a legal heir or legal representative of a cultivating tenant. In view of the said position, the Revenue Court has rightly discussed the oral and documentary evidence available on record and come to a categorical finding that the petitioners failed to prove that they are cultivating tenants in the land and they have contributed their physical labour for cultivation in the subject land and rightly proceeded to dismiss the application.



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15. I do not find any perversity, infirmity or illegality in the orders of the Court below and the same do not warrant any interference.

16. In fine, both the Civil Revision Petitions are dismissed.

There shall be no order as to costs.

Internet : Yes
Index:Yes/No
Neutral Citation:Yes/No
Ls

01.12.2023

To

1. The Revenue Court,
Madurai.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.B.BALAJI,J.

Ls

order in
C.R.P.(MD)Nos.2068 and 2086 of 2017

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