



W.P.No.2594 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.03.2024

PRONOUNCED ON : 01.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

W.P.No.2594 of 2024 and
W.M.P.Nos.2844, 2843 and 3414 of 2024

Bagyam

....Petitioner

VS.

1. The District Revenue Officer,
Collectorate Buildings, Tiruppur.
2. The Special Deputy Collector,
Cum Revenue Court,
Old Buildings, Trichy.
3. The Land Tenancy Officer Cum Tahsildhar,
Madathukulam, Tiruppur District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the first respondent made in proceedings in Nu.Mu.01531/2022/J1 dated 30.10.2023 reversing the order passed by the second respondent made in Me.Mu.No.02/2018 dated 28.10.2021 thereby confirming the order passed by the third respondent made in proceedings in KU.PA.No.20/1998 dated 15.12.2017 and quash the same.

For Petitioner : Mr.V.Ramamoorthy for



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Mr.N.Umapathi

For Respondents : Mr.T.Arunkumar,
Additional Government Pleader

ORDER

This writ petition has been filed to quash the proceedings of the first respondent made in Nu.Mu.01531/2022/J1 dated 30.10.2023 reversing the order passed by the second respondent made in Me.Mu.No.02/2018 dated 28.10.2021 thereby confirming the order passed by the third respondent made in proceedings in KU.PA.No.20/1998 dated 15.12.2017.

2 The case of the writ petitioner in brief is that the writ petitioner involved in agricultural activities in the lands situated in S.No.95/1C to an extent of 2 Acres, in Jothampatti Village, Udumalpet Taluk, Tiruppur District as a cultivating tenant. She had entered into a lease agreement dated 17.06.1987 with the landlord for a period of 35 years and as per the said lease agreement, it is recited as that the petitioner should pay a sum of Rs.1,000/- to the landlord on Annual Lease basis every year and the Lease would commence from 17.06.1987 till 16.06.2022. The petitioner was very



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regular in making payment of the same and no receipt was given during the payment of lease amount every year. The landlord is in dominant position and when the petitioner insisted for issuance of the receipt, he informed the petitioner that he had given the land itself for cultivation and the petitioner should not insist for issuance of receipt and he used to accept the cash payment alone. The petitioner by taking into cordial relationship and being a cultivating tenant, she and her family members started cultivating the land by regularly making the annual lease rent without any default.

2.1 The petitioner and her family members have been enjoying the leased property till date and the said property is a manavari land and during rainy season, she used to grow short term crops and grazing cows and that her entire family was farming on the said property. There is a Well in the property, but there is no water for irrigation and the waste and compost required for farming in the said property throughout the year is produced by cattle and the said land is farmed using manure. The petitioner has produced the Fasli receipt for a period namely 1416, 1408, 1416, 1415, 1401, 1402, 1403, 1409, 1414, 1416, 1404, 1401, 1402, 1403, 1407, 1410, 1411 to show



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that the petitioner has been in peaceful possession and enjoyment of the property. The petitioner filed an application before the Agricultural Land Recording Officer cum Tahsildar on 27.10.1998 and the same has been adjourned on various occasions and ultimately the enquiry has been held on 15.12.2017. The third respondent passed an order on 15.12.2017 holding that the petitioner has not produced sufficient documents for more than 17 years and considering the long pendency of the case, he dismissed the claim made by the petitioner, against which, the petitioner filed an appeal before the second respondent, whereby the second respondent categorically held that the petitioner has produced the fasli receipt for a period commenced from 1401 to 1416 and came to the conclusion that there is no denial with regard to non-payment of rent and therefore it has been held that the petitioner has been regularly making the payment of rent and there is no sufficient evidence to show that the landlord is cultivating the same and the second respondent by order dated 28.10.2018 was pleased to set aside the order passed by the third respondent dated 15.12.2017 and directed to register the same in the agricultural land record tenancy register. Pursuant to the same, the third respondent has made an entry in the relevant register and



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directed the Village Administrative Officer to effect the changes in the revenue records by inserting the name of the petitioner and the same was duly effected and mutated in the name of the petitioner.

2.2 Aggrieved by the same, the landlord preferred revision before the first respondent, whereby the landlord took a stand that he has not been provided with an opportunity to receive the lease agreement and he has not been issued with any notice and the second respondent ought not to have been received the copy of the document rather than marking the originals. The first respondent had relied upon the statement given by the Village Administrative Officer stating that the lands is not in cultivation for more than 3 fasli years. Apart from that the first respondent has concluded that the petitioner has not produced the lease deed before the registering officer and the same was produced only before the appellate authority and therefore disbelieved the lease agreement and set-aside the order passed by the second respondent and concluded that the petitioner has not taken steps before the third respondent for depositing the rent and therefore he was of the opinion that the petitioner is not a tenant and allowed the revision by order made in



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NI.MU.01531/2022/J1 dated 30.10.2023, which is *exfacie* illegal. Hence the writ petition.

3 Learned counsel for the petitioner would submit that even though the landlord took a stand that the lease agreement is a fabricated one, but the execution of the document and signature contained therein has not been disputed by him, which itself amply proved the fact that the document is a valid one. More than 34 years the petitioner has been in peaceful possession and enjoyment of the property and the landlord did not choose to file any civil suit questioning the lease deed dated 17.06.1987 and further VAO had given a certificate to that effect that the petitioner is cultivating the maize crops and the same is also reflected in the fasli receipts and Adangal.

3.1 The second respondent categorically held that the petitioner has produced the fasli receipt for a period commenced from 1401 to 1416 and came to the conclusion that there is no denial with regard to non-payment of rent and therefore it has been held that the petitioner has been regularly making payment of rent and there is no sufficient evidence to show that the



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landlord is cultivating the same and hence the second respondent by order dated 28.10.2018 was pleased to set aside the order passed by the third respondent dated 15.12.2017 and directed to register the same in the agricultural record tenancy register.

3.2 Pursuant to the proceedings of the second respondent, the third respondent Land Recording Officer has made entry in the lease register and directed the VAO to effect changes in the revenue records by inserting the name of the petitioner and accordingly the same was duly effected and mutated in the name of the petitioner and the first respondent failed to consider the above fact. The first respondent passed the order relying on the statement made by the VAO, which is not even supplied to the petitioner before passing orders to substantiate the petitioner's case, which resulted in violation of principles of natural justice.

3.3 The learned counsel for the petitioner further contended that second respondent passed the order on 28.10.2021 and the revision to be filed within a period of 30 days , however, on a close perusal of the files, the



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landlord filed the revision beyond the limit i.e. only on 24.01.2022 and hence the revision filed by the landlord itself is liable to be dismissed in limine. Even though the first respondent passed the order based on the report of the VAO, no opportunity was provided to the petitioner to disprove the same, which is violation of principles of natural justice. Further, the first respondent, in the appellate stage, cannot conduct enquiry, if at all the same should be done in the presence of the petitioner. Therefore the impugned order is liable to be set aside.

4 The learned Additional Government Pleader for the respondents 1 to 3 would submit that the petitioner filed an application before the third respondent seeking to register her name in the Agricultural Land Tenancy Register as cultivating tenant. The third respondent after enquiry passed the order on 15.12.2012 rejecting the claim of the petitioner, against which, the petitioner filed an appeal before the second respondent. The second respondent set aside the order of the third respondent and directed the third respondent to register the name of the petitioner as cultivating tenant. Accordingly third respondent also made entry in the revenue records and



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mutated in the name of the petitioner. Aggrieved by the same, the landlord has filed revision before the first respondent and the stand took by the landlord before the first respondent is that opportunity was not given and the third respondent also recorded the statement of Village Administrative Officer, wherein, the Village Administrative Officer has stated that last 3 fasli years the land was not in cultivation. The first respondent found that the petitioner did not produce Lease Deed before the third respondent and same was produced only before the appellate authority namely the second respondent. The second respondent without giving opportunity to the landlord, erroneously passed the order and hence the first respondent rightly set aside the order of the second respondent and held that the petitioner, on the date of filing of application under the Tamil Nadu Cultivating Tenants Protection Act, 1956 (in short 'the Act'), did not deposit the rent arrears and also held that the petitioner is not a cultivating tenant. Therefore the writ petition is liable to be dismissed.



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5 Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record.

6 The specific case of the writ petitioner is that she entered into lease agreement with the landlord one Subramanian dated 17.06.1987 for a period of 35 years and the yearly rent was fixed at Rs.1000/-. Accordingly the writ petitioner took possession and was cultivating the land by contributing own physical labour. The petitioner made an application before the third respondent seeking to register her name as cultivating tenant in the relevant register. The third respondent, after due enquiry, dismissed the application, against which, the petitioner preferred an appeal before the second respondent. The second respondent, set aside the order passed by the third respondent and allowed the appeal and directed the third respondent to make necessary entry in the revenue records. Aggrieved against the order passed by the second respondent, the landlord filed revision before the first respondent under the Act. The first respondent made an elaborate enquiry and relying on the statement of the Village Administrative Officer, while the



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enquiry was conducted, found that the writ petitioner neither cultivating the land during the relevant point of time nor deposited the rent before the Tenancy Tahsildar as contemplated under the Act.

7 A careful perusal of the agreement dated 17.06.1987 said to have been executed between the petitioner and the landlord, it is seen that the said agreement is for the period of 35 years and yearly rent was fixed at Rs.1000/-. Now it is relevant to refer Section 107 of Transfer of Property Act, 1882, which is extracted hereunder:

“107. Leasees how made

A lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument.”

8 On reading of the above Section, it is clear that a lease of any immovable property from years to years or in term extending one year or reserving yearly rent can be made only by the registered instrument. In this case, a perusal of the above said agreement relied on by the writ petitioner shows that the lease period fixed as 35 years and rent also fixed per year



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Rs.1000/-, which requires registration as per Section 107 of the Transfer of Property Act and hence the agreement is not valid. Even otherwise a reading of the statement given by the concerned Village Administrative Officer during the enquiry, before the third respondent, clearly shows that the land was not cultivated for a last 3 fasli years. The relevant portion from the statement of the Village Administrative Officer is extracted hereunder:

மேற்படி புலமானது தற்போது விவசாய நடவடிக்கைகள் ஏதமின்றி தரிசு பூமியாக உள்ளது எனவும், இது குறித்து அருகில் உள்ள விவசாயிகளிடம் விசாரணை செய்த போது மேற்படி புலமானது கடந்த 10 ஆண்டுகளுக்கு மேலாக தரிசாக (புதர் மண்டிய நிலையில்) எனவும் மேலும் கடந்த 1430, 1431 மற்றும் 1432 ஆகிய மூன்று பசலிகளிலும் மேற்படி புலத்தில் விவசாயப் பணிகள் ஏதும் நடைபெறவில்லை எனவும் தெரிவித்துள்ளார்.

9 Further, as per Section 3(3) of the Act, the cultivating tenant has to deposit the rent in Court and in this case, no amount has been paid or deposited by the petitioner. Further the observation made by the first respondent, while passing the orders in the revision is that while making statement before the third respondent by the petitioner, she did not deposit the rent, which is mandatory and the lease period was 35 years which is in



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the year 1987 and now the 35 years also over and thereby period of tenancy also completed. However statement of the Village Administrative Officer reveals that the writ petitioner was not in possession and not cultivating the land by paying rent and she herself admitted that she has paid rent for certain period only, for which also there is no receipt or acknowledgment. The respondent also denied the agreement and lease and when that be the case, it is for the writ petitioner to prove that on the date of filing of application before the third respondent, the petitioner was cultivating the land by contributing her own physical labour.

10 Based on the order of the second respondent only, it was made entry in the said register and also village records. But on the date of filing of application before the third respondent, the writ petitioner did not produce any record even the lease agreement. She did not prove that she was cultivating the land during the relevant point of time and she was in possession and therefore in the above said circumstances, this Court finds that the writ petitioner has not substantiated the fact that on the date of filing of application before the third respondent she was cultivating the land and



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was in possession and she paid/deposited the rent, which is mandatory as contemplated under the Act.

11 For the foregoing observations and reasons, the writ petition stands dismissed. No costs. In view of the order passed by this Court in the main writ petition, the miscellaneous petition seeking to implead the proposed respondents in the main writ petition, is closed and other miscellaneous petitions are also closed.

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Index: Yes/No

Neutral citation : Yes/No

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P.VELMURUGAN, J.,

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Pre-Delivery Orders in
W.P.No.2594 of 2024 and
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