



C.R.P.(NPD).No.1280 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.1280 of 2020

and

C.M.P.No.7003 of 2020

1.Pradeep Kumar

2.Navaneethakannan

... Petitioners

VS

Suganya

... Respondent

Prayer: Civil Revision Petition is filed under Section 10 of the Puducherry Cultivating Tenants Protection Act, 1970, praying to set aside the Order dated 24.09.2018 (which is made ready and delivered on 05.05.2020) made in O.P.No.16 of 2018, on the file of Revenue Court, Karaikal.

For Petitioners : Mr.D.Ravichander
for M/s.P.Dinesh Kumar

For Respondent : Mr.R.S.Diwaagar



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the Revenue Court, Karaikal directing eviction of the petitioners herein from suit property treating them as 'Trespassers'.

2. According to the learned counsel for the petitioners, the order passed by the Revenue Court reads that the petitioners failed to prove their status as cultivating tenants and therefore, they should be treated as 'Trespassers', and the same is not sustainable in the light of the provision of Puducherry Cultivating Tenants Protection Act, 1970. The learned counsel further submitted that main object of Puducherry Cultivating Tenants Protection Act, 1970 is protection of cultivating tenants from indiscriminate eviction by the landlords. In the case on hand, the respondent has not made out any case for eviction of petitioners from the suit property. It is also submitted by the petitioners that the respondent is sister of the 1st petitioner and he filed a suit for partition claiming share in the subject matter of the dispute.



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3. Per contra, the learned counsel appearing for the respondent submitted that under Section 3 (2)(d) of the Puducherry Cultivating Tenants Protection Act, 1970, if a cultivating tenant wilfully denies the title of the landlord, he is liable to be evicted. In the case on hand, the petitioners denied the title of the respondent and therefore, they are liable to be evicted.

4. The respondent herein filed original petition in O.P.No.16 of 2018 on the file of the Revenue Court Cum Sub-Divisional Magistrate, Karaikal and the same is included in Page No.33 of the typed-set of papers. A reading of the same would suggest that the respondent made a representation to the Sub Collector (present Revenue Court) stating that she was owner of an extent of 2.15 acres of land comprised in R.S.No.363/4B bearing Patta No.5587 and an extent of 1.16 acres of land comprised in R.S.No.362/2A bearing Patta No.510 situated at Kurumbagaram Village, Thirunallar Taluk, Karaikal District. It was further claimed by the respondent that the petitioners made attempt to interfere with her peaceful possession and therefore, she sought for intervention of the authority concerned and take necessary legal action against the trespassers. Thereafter, the Court below issued summons to



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the petitioners under Section 4(5) of Puducherry Cultivating Tenants Protection Act, 1970 for enquiry.

5. The petitioners herein filed preliminary objection before the Court below stating that the copy of the petition filed by the respondent was not served on them. It was also contended by the petitioners that the respondent was not entitled to move the Revenue Court for protection of alleged status as cultivating landlord and such a prayer was not maintainable before the Revenue Court.

6. Thereafter, the matter was taken up for enquiry by the Revenue Court and impugned order was passed directing eviction of the petitioners from the disputed land.

7. A reading of the impugned order would suggest the Revenue Court had taken up following two points for consideration:-

“(a) Whether the petitioner is eligible and qualifying to be the Owner-Cum-Cultivator?”



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(b) Whether the Respondent is eligible and qualifying to be called as Cultivating Tenant for the petition mentioned Land?"

8. Though the expression 'Cultivating Tenant' is defined under Puducherry Cultivating Tenants Protection Act, 1970, the expression 'Owner-cum-Cultivator' is not at all defined under the said Act. There is no enabling provision under the Puducherry Cultivating Tenants Protection Act, 1970, enabling the Owner-cum-Cultivator to move the Revenue Court for protection of his or her status as a cultivating owner.

9. As far as the question whether the petitioners herein are cultivating tenants under the respondent is concerned, it is not the case of the petitioners that they are cultivating tenant of the property under the respondent. According to the petitioners, they filed a suit seeking partition of the share in the disputed land. Hence, they are claiming themselves as co-owners. The Revenue Court after observing that the petitioners are not cultivating tenants of the disputed land, proceeded to pass order of eviction treating them as trespassers.



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10. If the Revenue Court finds the petitioners are cultivating tenants and they had committed any act under Section 3 (2) of the said Act making them liable for eviction, the Revenue Court can pass an order for eviction of the cultivating tenants. However, if the Court finds that the petitioners are not cultivating tenants of the property, then it has no jurisdiction to proceed further and it cannot pass order of eviction of trespassers, which is within the domain of the Civil Court. Therefore, the impugned order passed by the Revenue Court ordering eviction of the petitioners, who are not cultivating tenants according to own finding of the Revenue Court, is liable to be set aside.

11. Accordingly, the Civil Revision Petition stands allowed by setting aside the order passed by the Revenue Court ordering eviction of the petitioners.

12. It is submitted by the learned counsel appearing for the petitioners that in pursuance of the impugned order, the petitioners have been evicted from the disputed land and the same has not been disputed by the learned



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counsel for the respondent. If the petitioners are dispossessed in pursuance of the order impugned in this revision, it is always open to the petitioners to seek restitution. No costs. Consequently, the connected civil miscellaneous petition is closed.

18.01.2024
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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The Revenue Court,
Karaikal.



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S.SOUNTHAR, J.

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