



W.P.No.11313 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

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THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.11313 of 2023

and

W.M.P.No.11196 of 2023

A.Shanmugam

... Petitioner

Vs.

- 1 Principal Secretary/Commissioner of Land Reforms,
Ezilagam,
Chepauk
Chennai-5.
- 2 The Appellate Authority/Special Deputy Collector,
Revenue Court
Tiruchirappalli (Camp Coimbatore).
- 3 The Tenancy Record Officer and Tahsildar,
Coimbatore North,
Coimbatore.
- 4 S.R.Manickam
- 5 S.K.Senthilvel
- 6 Marudhappan alias Prakash
- 7 Kamalathal



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8 Saraswathi

9 Sakunthala

10 Nalini

11 S.K.Anandamoorthi

12 R.Srinivasan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent by proceedings in A.P. No.4 of 2017 dated 07.03.2023 and quash the same and may be pleased to remand and direct the 2nd respondent to conduct denovo enquiry after receiving additional documents.

For Petitioner : Mr.M.Devaraj

For R1 to R3 : Mr.T.Arunkumar
Additional Government Pleader

For R4 to R6 &
R8 to R11 : Mr.V.Jayachandran

For R12 : Mr.R.Singaravelan
Senior Advocate
for Mr.A.E.Ravichandran

For R7 : Tapal returned (deceased)



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ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent by proceedings in A.P. No.4 of 2017 dated 07.03.2023 and to quash the same and to remand and direct the second respondent to conduct de-novo enquiry after receiving additional documents.

2. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the official respondents and the learned counsel appearing for the private respondents and perused the materials available on record.

3. Learned counsel for the petitioner submitted that the officer who was in-charge of the second respondent, was transferred and the present officer, from the Revenue Court, Madurai was appointed as in- charge of the Tiruchirappalli Revenue Court and she took charge of the second respondent on 23.02.2023. The present officer concerned did not give opportunity of personal hearing to address his arguments. It is



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clear violation of principles of natural justice. Further, in the impugned order, the officer has not mentioned the survey number and extent of land on which the petitioner owns and simply stated that the petitioner is not eligible for recording him as a “cultivating tenant”. Learned counsel for petitioner further submitted that he did not have any other land except the subject land.

4. Learned Senior Counsel appearing for the 12th respondent submitted that the TRO cum Tahsildar dismissed the T.R.No.1 of 2012 filed by the petitioner to record his name as “tenant”. Against the said order, the petitioner preferred an appeal before the Revenue Court, Tiruchirappalli in A.P.No.4 of 2017. The respondents have approached this Court for earlier disposal of the said appeal. Based on the direction of this Court, the second respondent herein has reserved the appeal for orders on 02.03.2023. Based on the written arguments and the records, detailed order has been passed by the second respondent on 07.03.2023. In the counter affidavit filed by the official respondents, it is stated that though order was passed on 07.03.2023, due to the typographical error,



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date of the order was mentioned as 02.03.2023. The petitioner is not eligible person for recording him as a “cultivating tenant”. Further, if the petitioner is aggrieved by the order of the appellate authority, he ought to have filed a Revision before the District Revenue Officer. Even in the impugned order, the appellate authority stated that if the petitioner is aggrieved by the order passed by the appellate authority, he could file a Revision before the competent authority, within a period of 90 days from the date of receipt of copy of that order. The writ petitioner, instead of filing revision, has filed the present writ petition.

5. Admittedly, the petitioner filed an application before the Tenancy Record Officer and Tahsildar, Coimbatore to record him as a “Cultivating tenant” for the land in question. The Tenancy Record Officer rejected his claim. Aggrieved by the same, he has filed an appeal before the second respondent. The second respondent passed the order on 07.03.2023. Challenging the same, the petitioner has filed the present writ petition on the ground of violation of principles of natural justice.



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6. Admittedly, the appeal was taken up for hearing on several occasions and both the parties have appeared and submitted their oral arguments and they have concluded the oral arguments on 29.04.2022. At request of the all the parties, the second respondent has granted time for filing written arguments. Subsequently, the petitioner and the respondents have also filed the written arguments. Thereafter, the officer who was in-charge of the office of the second respondent, was transferred and subsequently new officer was appointed as in-charge of the second respondent's office 23.02.2023 and final order came to be passed on 07.03.2023.

7. The main contention of the petitioner is that the officer who joined subsequently in the post of second respondent ought to have given opportunity to both the parties for addressing the arguments what was argued before her predecessor. Further, the private respondents have not filed their written arguments and at this stage, the officer who joined in the second respondent's office, should have given opportunity of hearing to both the parties and their counsel, afresh and passed the order. It is



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seen from the records, affidavit and counter affidavit, that the officer one who passed the order, did not hear the arguments and not issued notice to the parties to submit their arguments. Learned counsel for the respondents drew the attention of this Court that oral arguments and written arguments of both sides were submitted and the subsequent officer considering the written arguments submitted by both the parties passed the order. Admittedly, the subsequent officer did not hear the oral arguments personally. She should have issued notice to all the parties/counsel and after giving notice to them, the officer should have heard them and passed orders. But in this case, the same is absent. One of the cardinal principles of natural justice is justice is not only be done, at the same time it also appears to be done.

8. Under the above facts and circumstances, this Court set asides the impugned order passed by the appellate authority. The matter is remitted back to the appellate authority. Both the parties are directed to appear before the appellate authority namely the second respondent on 10.04.2024 and submit either oral or written arguments. On hearing the



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same, the second respondent is directed to pass orders on merits and in accordance with law, on or before 25.04.2024.

9. With the abovesaid directions, the Writ Petition is disposed of.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

26.03.2024

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy on 27.03.2024

To

- 1 Principal Secretary/Commissioner of Land Reforms,
Ezilagam,
Chepauk
Chennai-5.
- 2 The Appellate Authority/Special Deputy Collector,
Revenue Court
Tiruchirappalli (Camp Coimbatore).
- 3 The Tenancy Record Officer and Tahsildar,
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P.VELMURUGAN, J.

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