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WP.No.15694 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.15694 of 2023
and W.M.P.Nos.15176 to 15178 of 2023

N.Subramaniyan

.. Petitioner

Versus

1.The District Revenue Officer
Officer of the District Revenue
Thirupur

2.The Revenue Court Special Deputy Collector
(Revenue Court)
Thiruchirapallai

3.The Revenue Tahsildar cum
Tenancy Registration Authority
Palladam

4.P.L.Meenatchi Sundharam

5.N.M.Thangavel

6.R.Preetham

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order of the 1st respondent made in Ni.Mu.27613/2022/J1 dated 21/04/2023 and the consequential order of the 3rd respondent passed in Na.Ka.865/2020/A2 dated 12/05/2023 and to quash the same.



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For Petitioner : Mr.M.Rajasekhar

For Respondent : Mr.U.Baranidharan for R1 to R3
Additional Government Pleader
Mr.A.Prabhakaran for R4 to R6
for Mr.K.Muthur Ganesa Pandian

ORDER

Challenge has been made to the Revisional Authority directing the eviction of the petitioner from the land comprising 18.31 acres.

2. It is the case of the writ petitioner that the properties originally owned by Ramasivasamy Chettiar. The petitioner's father become a Lessee from the said Ramasivasamy Chettiar in the year 1955 onwards. After the death of the Ramasivasamy Chettiar, the petitioner's father was paying rents to the Ramasivasamy Chettiar's legal heirs from the year 1975 onwards. Ramasivasamy Chettiar sold the 1/3rd undivided share to the second respondent on 02.06.2010. Since, there was a threat of dispossession, the petitioner's father filed a suit in O.S.No.147/2014 for permanent injunction. During the pendency of the suit, remaining 1/3rd share of the legal heirs were also sold. The petitioner's father has filed an application under Section 4 of the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 (Act 10 of 1969) for registering Tenancy Rights over the land before the third respondent. The third respondent recognised the right of the petitioner and directed to pay



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the arrears of lease amount to the Revenue Court by order dated 03.10.2018.

Appeal has been filed as against the said order by the respondents 5 and 6, the Revisional Authority has now passed an order directing the petitioner to vacate the premises within a period of seven days. Challenging the said order, this writ petition.

3. Though various submissions made in this writ petition, the learned counsel for the petitioner mainly would submit that having found that the petitioner's father was not a cultivating tenant and even for non payment of rent, the authorities ought not to have passed an order for evicting the petitioner. The petitioner cannot be evicted except by following due process of law, i.e., only by execution petition they can be evicted. Hence, he submitted that if the respondents are directed to go for an execution, the petitioner has no grievance.

4. Heard both sides and perused the materials placed on record. By consent of both parties, this writ petition is taken up for final disposal.

5. Since the limited relief is sought for in this matter, though the petitioner claims cultivating tenants right, it is relevant to note that there is no



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evidence whatsoever available even before the authorities to show that the petitioner is contributing physical labour along with his father to claim that right. Be that as it may, the very affidavit filed by the petitioner in support of this writ petition indicate that only his father was inducted as a Lessee in the year 1955 and his father was never recorded his right as tenant under the Tamil Nadu Cultivating Tenants Protection Act, 1955. The dispute arose only after the sale of the property by some of the co-owners. For the first time in the year 2018, an application is filed before the authorities to register as Cultivating Tenant. Be that as it may, during the existence of the said lease, the father of the petitioner have relinquished all the rights namely tenancy right by way of registered deed executed by him in favour of the owners of the property on 30.11.2020, which has been placed before the Court. The same clearly shows that the father of the petitioner being the Lessee in the entire land has relinquished all the rights particularly lease hold rights after receipt of consideration of Rs.10 lakhs and he has also made it clear that after the registration of the document, he and his children will have no right whatsoever as the tenants of the property.

6. When the original Lessee himself has surrendered the right and executed the document, which is also registered and the tenancy has been



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surrendered by himself by written document, the petitioner being the legal heir cannot claim right as a cultivating tenant. Further, there was no evidence to show that the petitioner has contributed physical labour along with his father for cultivating the land. Such view of the matter, I do not find any infirmity in the order passed by the Revisional Authority holding that the petitioner is not a cultivating tenant.

7. Further, a notice has been issued by the Revisional Authority to evict the petitioner within a period of seven days. This Court is of the view that as the petitioner is not found to be cultivating tenant, certainly, they are liable to be evicted by following due process of law. Accordingly, the private respondents shall file necessary execution petition before the Revenue Court for eviction of the petitioner.

8. With the above, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

27.06.2024

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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N. SATHISH KUMAR, J.

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To

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