



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15.11.2024

Pronounced on :11.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

WP(MD)No.27217 of 2024

and

WMP(MD)Nos.23056 & 23057 of 2024

1.Sinnappayal

2.K.Moorthy

3.Kana Pandi

4.Sevuga Moorthy

... Petitioners

vs.

1. The Sub-Divisional Magistrate/The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Melur Taluk, Madurai District.

2.The Superintendent of Police,
Officer of the Superintendent of Police,
Madurai District.

3.The Tahsildar,
Office of the Tahsildar,
Melur Taluk,
Madurai District.

4.The Inspector of Police,
Melur Police Station,
Madurai District.



5.Nondisamy

6.S.Sridharan

7.Ramalingam

8.Vinoba

9.Sevugan @ Selva

10.Parameshwaran

11.Millpandi

...Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified, to call for the entire records connected with the order passed by the first respondent in மு.மு.எண்.6337/2024/சு, dated 07.10.2024, and set aside the same as illegal.

For Petitioners : Mr.R.Alagumani

For R1 to R3 : Mr.M.Muthumanikkam,
Government Advocate (Civil.Side)

For R4 : Mr.A.Thiruvadi Kumar
The Additional Public Prosecutor.

ORDER

This petition has been filed to quash the impugned order passed by the first respondent in மு.மு.எண்.6337/2024/சு, dated 07.10.2024.



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2. The petitioners' ancestors cultivated the lands comprised in S.Nos. 83/1, 83/3, 83/4, 315/9B4, and 85/4 at Puthusukkampatti Village and Chennakarampatti Village, which originally belonged to one Kameshwar Iyer. After his demise, the sixth respondent and the other legal heirs also acknowledged the petitioners' right to continue their tenancy over the properties based on their ancestors' agreements. Earlier, the petitioners have paid a sum of Rs.10,000/- to the sixth respondent for the purpose of cultivating paddy in the said lands. Further, they also had grown various trees like coconut, guava and orange etc., In such circumstances, the sixth respondent made an attempt to unlawfully evict the petitioners from the above said properties and tried to sell the properties to some other persons. As cultivating tenants, the petitioners and the other tenants refused to vacate the lands and filed a suit in O.S.No.162 of 2024 before the District Munsif Court, Madurai, seeking interim injunction not to evict them except by due process of law. The sixth respondent also made a complaint before the fourth respondent and the fourth respondent registered a case in Crime No.560 of 2024 under Section 164 of BNSS and referred the same to the first respondent. On the basis of the FIR and also considering the fact that there is impending law and order problem, the first respondent has passed



the impugned order against the petitioners and the private respondents on 07.10.2024. Challenging the same, the petitioners have filed this petition.

3. When the case came up for admission, the learned Additional Public Prosecutor appearing for the fourth respondent submitted that the petitioners have no *locus standi* for challenging the impugned order passed by the first respondent on the ground that they are the cultivating tenants and they have not produced any document to show that they are the cultivating tenants. The petitioners made a false claim and they filed a suit against the private respondents seeking interim injunction. In the said suit also, no document was filed. After considering all the aspects including the possibility of law and order problem, the first respondent passed the impugned order dated 07.10.2024. Hence, he seeks for dismissal of this petition.

4. This Court by considering the submission made by the learned Additional Public Prosecutor feels that there is no need to issue notice to the private respondents for the reason that the petitioners have not made out the case to quash the impugned proceedings passed by the first respondent.



5. The learned counsel appearing for the petitioners submitted that when a civil suit is pending before the civil Court, the first respondent has no jurisdiction to pass the impugned order dated 07.10.2024, and the petitioners are having right of protection under the Tamil Nadu Cultivating Tenants Protection Act, 1955. Hence, he seeks to allow this petition by setting aside the impugned order passed by the first respondent.

6. From the perusal of the entire records annexed with the documents, nothing is adduced before this Court to show that the petitioners are the cultivating tenants. Apart from that, without any document, they filed a suit in O.S.No.162 of 2024 before the District Munsif Court, Madurai, seeking interim injunction not to evict them except by due process of law. From the records produced before this Court, it shows that on 16.09.2024, the petitioners made an application before the third respondent for registration of their tenancy rights under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969. The requirements of said Act are that before claiming the right under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969, a person has to produce the agreement between him and the land owners. On the basis of the record, the Tahsildar would record that person as a cultivating



tenant. In this case, the petitioners have not produced any record to show that they are the cultivating tenants. Only on 06.09.2024, they made such a false claim before the third respondent. These types of fraudulent claims affected the land owners' right to property as enshrined in the constitution of India. The persons make such a false claim, which creates problem and also causes injustice to the land owners. In the present case also, they made a false claim. It is apparent from the document produced before this Court. Apart from that, even though the first respondent made an observation in the impugned order that the petitioners produced some records, this Court is unable to accept the same. Because only recently they submitted the application under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969, to record their names as cultivating tenants. There is nothing on record to show whether the crops on the land were cultivated by the petitioners.

7. In the said circumstances, the claim of the petitioners that they are the cultivating tenants is not based on any records. To show their possession as the cultivating tenant, they are trying to misuse the Revenue Administration. Therefore, as per the requirements of 164 BNSS, before a person claiming rights under 164 BNSS proceedings, they should be in



possession of the property prior to passing of the impugned order. In this case, this Court does not find any material to show that they are in possession of the property.

8. In the said circumstances, the first respondent had passed the impugned order in accordance with law against the petitioners by stating that they have no right to enter into the land. This Court find no reason to interfere with the order passed by the first respondent against the petitioners. It is made clear that this Court has not issued any notice to the private respondents, since this Court has not rendered any findings with regard to their entitlement. This Court is not satisfied with the submission made by the learned counsel for the petitioners that they are the cultivating tenants of the said lands on the basis of the records maintained under the Tamil Nadu Cultivating Tenants Record Act. Therefore, this writ petition filed by the petitioners is liable to be dismissed.

9. Accordingly, this Writ Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

.....11.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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K.K.RAMAKRISHNAN, J.,

dss

To

1. The Sub-Divisional Magistrate/The Revenue Divisional Officer,
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Melur Taluk, Madurai District.
2. The Superintendent of Police,
Officer of the Superintendent of Police, Madurai District.
3. The Tahsildar,
Office of the Tahsildar,
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4. The Inspector of Police,
Melur Police Station, Madurai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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