



WP(MD)No.27709 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2024

CORAM

THE HON'BLE MRS.JUSTICE N.MALA

W.P(MD)No.27709 of 2024
and WMP(MD)No.23515 of 2024

Kanthiah

...Petitioner

Vs.

1.The District Collector,
Tenkasi District.

2.The District Revenue Officer/Revisional Authority,
District Revenue Office,Tenkasi District.

3.The Revenue Divisional Officer,
Revenue Divisional Office,
Tenkasi District.

4.The Record Officer/Tahsildar,
Shencottai Taluk,
Tenkasi District.

5.Seethalakshmi

6.Shanmugan

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India to issue a writ of Certiorarified Mandamus calling for the records of the impugned order passed by the 2nd respondent herein in his proceedings in Ni.Mu.Si.M.No.2/2024 (I3/11970/2023) dated 13.08.2024 and quash the same as illegal further directing the fourth respondent herein to record the name of the petitioner in the tenancy register as cultivating tenant under the Tamilnadu Agricultural Land Record of Tenancy Right Act, 1969 with respect to the land in S.No. 334/5 to an extent of 29.0 ares (71.63 Cents) in Elathur Village, Senkottai Taluk, Tenkasi District forthwith and pass appropriate orders within a time stipulated by this Court.



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For Petitioner : Mr.D.Nallathambi
For R1 to R4 : Mr.A.Kannan
Additional Government Pleader

ORDER

This Writ Petition is filed for issuance of writ of mandamus directing the first respondent to cancel the patta, in Patta No.2184, issued by the second respondent in favour of the third respondent in respect of S.No.569/1A1A2 situated at Kesavasamuthiram Village, Pathamadi cheranmahadevi Taluk, Tirunelveli District, based on the petitioner's representation dated 13.09.2024, within the time stipulated by this Court.

2. After demise of the petitioner's grandfather Veeran, the petitioner's father was in possession and enjoyment of the subject property by engaging his own physical labour for cultivating the land on payment of pattam amount as fixed at the time of lease. The petitioner, after demise of his father, continued to cultivate the land as cultivating tenant and is in possession of the subject property. While so, the petitioner filed the application under Sections 4(2) and 5(2) of the Tamilnadu Agricultural Land Record of Tenancy Right Act, 1969, to record his name as cultivating tenant for the subject property. The fourth respondent, without providing sufficient opportunity of hearing to the



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petitioner, passed the order dated 07.12.2017, rejecting the petitioner's application. Aggrieved by the order of the fourth respondent, the petitioner preferred an appeal in A.P.No.6 of 2018, before the third respondent. The third respondent, recording that notice sent to the petitioner was returned as "unclaimed", dismissed the appeal by order dated 28.04.2023 and confirmed the fourth respondent's order. The petitioner preferred a revision before the first respondent. The first respondent relegated the power to the second respondent and the revision was taken on file as Revision Petition No.2 of 2024 after condoning the delay under Section 5 of the limitation Act. The respondent, vide the impugned order dismissed the revision petition on the ground that no lease agreement was entered between the landlord and the tenant/petitioner to show that the petitioner was a cultivating tenant and that there was no proof for payment of pattam amount. The petitioner hence left with no other remedy filed the Writ Petition for the aforesaid relief.

3. The learned counsel for the petitioner submitted that the second respondent did not issue any notice of enquiry and therefore, there was a total violation of principles of natural justice. Therefore, the learned



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be served on the person concerned in the following manner, namely:-(a)by delivering or tendering the notice, copy of (decision) (Substituted for 'decree' by G.O. Ms. No.206, Revenue, dated the 24th January 1972) of order to the person concerned or his counsel or authorized agent; or(b)by delivering or tendering the notice, copy of [decision] [Substituted for 'decree' by G.O.Ms. No.206, Revenue, dated the 24th January 1972.] or order to some adult member of the family or Secretary, Director or Principal Officer of the Company. Firm or Association; or(c)by sending the notice, copy of [decision] (Substituted for 'decree' by G.O.Ms. No. 206, Revenue, dated the 24th January 1972.) or order to the person concerned by registered post with acknowledgment; or(d)if none of the aforesaid modes of service is practicable by affixing the notice, copy of [decision] [Substituted for 'decree' by G.O.Ms.No.206, Revenue, dated the 24th January 1972] or order in some conspicuous part of the last known place of residence or business of the person, Company, Firm, or Association concerned".

7. According to the respondents 1 to 4, the notice was returned as "unclaimed". It is trite that if notice was returned as unclaimed, it is deemed to be served. But in the present case, the impugned order does not speak of the mode of service, but merely states that notice was



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returned unserved. Rule 16 extracted above clearly refers to the different modes of service. In the absence of any material that notice was served in the manner prescribed under the said rule, I am of the opinion that the respondents cannot contend that notice should be deemed to have been served. Therefore, I am of the view that the impugned order cannot be sustained on the ground of failure to issue notice as contemplated under Section 16 of the Tamil Nadu Agricultural Lands Record of Tenancy Right Rules, 1969. The impugned order is therefore set aside. The matter is remanded back to the second respondent for fresh enquiry. A direction is issued to the second respondent to issue notice as per Rule 16 of the Tamilnadu Agricultural Land Record of Tenancy Right Rules, 1969, provide opportunity of hearing to the petitioner and all interested persons and thereafter pass orders on merits and in accordance with law.

8. With the aforesaid direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

21.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
CM



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To,

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N.MALA,J.

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