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W.P.No.12048 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.Nos.12048 & 14143 of 2024

W.M.P.Nos.13155 & 15330 of 2024

A.Shanmugam

...Petitioner in
both W.P.'s

Vs

1.Principal Secretary/Commissioner of Land Reforms,
Ezhilagam, Chepauk, Chennai – 5

2.The Appellate Authority/Special Deputy Collector,
Revenue Court,
Tiruchirapalli – 1(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

8.Saraswathi

9.Sakunthala

10.Nalini



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11.S.K.Anandamoorthi

WEB CO 12.R.Srinivasan

...Respondents in
W.P.No.12048 of 2024

1.The Special Deputy Collector,
Revenue Court, (Camp Coimbatore)
Tiruchirapalli – 620 001.

2.R.Srinivasan

...Respondents in
W.P.No.14143 of 2024

PRAYER in W.P.No.12048 of 2024:-Writ Petition filed under Article 226 of the Constitution of India, pleased 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 12.04.2024 and quash the same and may be please to remand and direct the 2nd respondent to conduct denovo enquiry after receiving additional documents and pass orders in accordance with law.

PRAYER in W.P.No.14143 of 2024:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of E.P. No. 2 of 2024 pending on the file of the first Respondent Revenue Court Tiruchirappalli and quash the same and consequently forbear the respondents from disturbing the peaceful possession of this petitioner comprised in S.F.Nos. 206/1, 693/1, 693/2, 693/3, 722/1, 722/2, 722/3, 722/4 and 723 at Nanjundapuram Village, Coimbatore North Taluk.

In W.P.No.12048 of 2024:-

For Petitioner	: M/s.Chitra Sampath, Senior Counsel for Mr.V.Karthikeyan
For Respondents	: Mr.M.R.Gokul Krishnan (For R1 to R3) Additional Government Pleader



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Mr.V.Jayachandran (R4 to R6, R8 to R11)
Mr.V.Raghavachari, Senior counsel for
Mr.A.E.Ravichandran for R12

In W.P.No.14143 of 2024:

For Petitioner : M/s.Chitra Sampath, Senior Counsel for
Mr.V.Karthikeyan
For Respondents : Mr.M.R.Gokul Krishnan (For R1)
Additional Government Pleader
Mr.V.Raghavachari, Senior counsel for
Mr.A.E.Ravichandran for R2

COMMON ORDER

The Writ Petition No.12048 of 2024 is filed for a certiorarified mandamus to quash the order passed by the second respondent dated 12.04.2024 and remit the matter back to the second respondent for conducting denovo enquiry.

2.The main ground of challenge to the above impugned order was that petitioner was not given an opportunity of hearing before the impugned order was passed.

3.The facts which have culminated in the filing of the above Writ Petition is herein below set out:-

The impugned order which is the subject matter of challenge before this Court according to the petitioner is nothing but a repeat of the



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earlier order which has passed on 02.03.2023 and corrected as 07.03.2023. The impugned order appealed against the order passed by the third respondent rejecting the petitioner's request for modification of the entries in the Record of Tenancy Rights and to substitute the petitioner's name as the cultivating tenant in the place of his father. The petitioner would contend that his father was a cultivating tenant in respect of the lands which comprised in S.No.206/1, 693/1, 693/2, 693/3, 722/1, 722/2, 722/3, 722/4 and 723, Nanjundapuram village, Coimbatore North Taluk, Coimbatore. Under the predecessors in interest of respondents 4 to 11 he had been registered as a cultivating tenant and his name was registered in the Approved Record of Tenancy Rights Register and published in the Coimbatore District Gazette.

4.The petitioner would submit that his father was very regular in the payment of the rents. While so proceedings were initiated against him by the predecessor in interest of respondents 4 to 11 under the Tamil Nadu Cultivating Tenants (Payment of Fair Rent) Act, 1956, in F.R.P.No.56 of 1989 and the fair rent also came to be fixed. The said amounts were being paid regularly by his father and that apart both the petitioner as well as his father had contributed their physical labour for



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cultivating the lands. The petitioner would submit that now he is cultivating the lands with the help of his sons who are contributing their physical labour.

5.The petitioner would submit that his father had executed a Will dated 21.06.2000 bequeathing the tenancy rights in respect of the aforesaid lands in favour of the petitioner. The petitioner had after the death of his father filed T.R.No.1 of 2012 on the file of Tenancy Record Officer and Tahsildar, Coimbatore, for recording him as cultivating tenant in respect of the lands in question. The said application was vehemently opposed by respondents 4 to 11 and consequently by order dated 02.07.2013, the third respondent was pleased to allow the application.

6.Aggrieved by the said order, the respondents 4 to 11 filed W.P.No.29341 of 2013 and by order dated 25.04.2014, this Court was pleased to set aside the order of the third respondent and remit the matter back to the third respondent for fresh disposal.



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7. Pending these proceedings, respondents 4 to 11 had sold the lands in question to the twelfth respondent under a registered sale deed dated 12.07.2013. In fact, the sale was effected even before the filing of the Writ Petition. Aggrieved by the order passed in W.P.No.29341 of 2013, the petitioner herein was pleased to file Writ Appeal No.663 of 2014 and the Division Bench had confirmed the order of the Single Judge with modifications.

8. During the enquiry after the remand, the petitioner had filed I.A.No.1 of 2014 in T.R.No.1 of 2012 bringing to the notice of the tenancy record officer and Thasildar that respondents 4 to 11 had sold his land to the twelfth respondent in the year 2013 itself which had been suppressed before the Tenancy court. Therefore, they are not land owners. However, the third respondent proceeded to summarily reject the said application and rejected the petitioner's claim for registering him as a cultivating tenant.

9. Aggrieved by this order the petitioner had preferred A.P.No.15 of 2014 on the file of the second respondent and the second respondent by an order dated 23.01.2015 set aside the order of third respondent



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dated 03.07.2014 and remanded the matter again to the third respondent for fresh disposal after impleading the twelfth respondent. Once again by order dated 02.05.2017, the third respondent refused to modify the entries and substitute the petitioner's name in the record of tenancy rights. Against the said order, the petitioner had filed A.P.No.4 of 2017 before the Revenue Court. The enquiry in the above matter went on for several hearings whenever there was camp sittings in Coimbatore on Fridays. The learned counsels were given due intimation of the date of hearing through notice was addressed to the counsel of parties whenever there was a break in hearings and the petitioner's last hearing was on 23.09.2022 and it was posted for arguments. Thereafter, there was no hearing on account of vacancy of the Presiding Officer.

10. While so, on 06.03.2023, the petitioner all of a sudden came to learn that the appeal was being taken up for hearing on 02.03.2023 and neither the petitioner nor his counsel had received notice or intimation from the second respondent's office. Immediately on coming to know about the suit, the Writ Petitioner had immediately filed a reopen petition which he had through registered post on 06.03.2023 and through e-mail



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of the same date requesting the second respondent to reopen the appeal for arguments. The petitioner's came to learn that on 07.03.2023, the second respondent planned to have a camp sitting at Kulithalai on 07.03.2023 at 11.00 a.m, the application for re-open was filed. After receiving the petition the second respondent had assured that the matter would be looked into. However, the second respondent had simply corrected the date of the order as 07.03.2023 and retaining the earlier order and handed over a copy of the order. Therefore, the petitioner had filed W.P.No.11313 of 2023 and this Court was pleased to allow the Writ Petition and remit the matter back to the second respondent.

11.Once again after remand, the very same order has been reiterated by the second respondent. Meanwhile, the suit had been filed by the petitioner against the twelfth respondent on the file of the II Additional Sub Court, Coimbatore for injunction. The suit was decreed on 15.07.2014 and the same was also confirmed in A.S.No.114 of 2014 on the file of the III Additional District Judge, Coimbatore and the matter is now pending before this Court in Second Appeal. Despite all these orders, the main grievance of the petitioner is that he was not heard before the impugned order was passed and that apart the second



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respondent ought not to have passed orders especially when the suit was pending. Therefore, the petitioner is before this Court.

12.The counter affidavit has been filed by the second respondent *inter alia* contending that the petitioner is deliberately protracting the proceedings by filing one petition after the other. The second respondent would further contend that the rents from 2005 has not been paid at the enhanced rate and on account of this default the appropriate authority had not registered the father of the petitioner as a cultivating tenant. The second respondent would further contend that there was no explanation for the non payment of the rents. The second respondent would further submit that the impugned order is a well considered order. The authority has clearly recorded the reasons for the same. It is also contended by the second respondent that though the matter had been remanded only for filing written arguments or making early submissions the petitioner has filed additional documents and thereafter the matter was reserved for passing final order and the order came to be passed on 12.04.2024, after taking into consideration all the documents that had been filed on the side of the petitioner. The second respondent would further submit that the petitioner who is already in default of the rent is not entitled to be



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recorded as a cultivating tenant. That apart, the petitioner is himself a landlord owning over 30.55 acres which he had during the pendency of the proceedings, settled it in favour of his children. The settlement deeds had come into existence only to get over the defence raised that the petitioner is not entitled to record as a cultivating tenant as he owns extensive lands. Therefore, they sought for a dismissal of the Writ Petition.

13.The twelfth respondent had also filed a detailed counter setting out the sequence of the dates and events and would submit that the order impugned is a well considered order. Both the original authority as well as the appellate authority have held that the petitioner cannot be recorded as a cultivating tenant as he owns more than 30.55 acres of land and he has omitted to make a mention about the same. Further he has put up construction in the cultivable lands and therefore misused the land. That apart, there is no proof of payment of rent from 1982 to 1997 and under Section 60 of the Tamil Nadu Land Reforms Act, ceiling area of 5 standard acres has been fixed for cultivating tenant. Therefore, the petitioner has come forward with the Writ Petition.



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14. Heard the learned counsel on either side and perused the records.

15. The main complaint on the side of the petitioner was that they had not been given adequate opportunity to put forward their case particularly when the earlier order had also been set aside only on the ground that the petitioner has not been heard. The learned counsel would rely upon the judgment of the *Hon'ble Supreme Court in 1990 4 SCC 594 S.N.Mukherjee Vs. Union of India*, where the Hon'ble Supreme Court has observed that reasons need not be recorded for an order passed by a confirming authority confirming the findings and sentence. He would submit that in the instant case the appellate authority was concurring with the order passed by the original authority and therefore, there was no necessity for the appellate authority to go through each and every ground that had been raised and give reasons for the same. He would also submit that the petitioner has not filed proof of payment of rents and they have also not proved personally and physical exerting their labour on the land which is a Sine-Quo-Non for being declared a cultivating tenant. A mere reading of the impugned order passed by the second respondent would indicate that there is no independent



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application of mind on the part of the second respondent. After narrating the earlier orders passed by the revenue authorities as well as this Court, the second respondent held that in none of these proceedings the original cancellation has been questioned and it has not been set aside. The order would read as follows:-

மேலே குறிப்பிட்டுள்ள அனைத்து நீதிபரீபாலனங்களிலும் மாண்புமிகு சென்னை உயர்நீதிமன்ற தலைமை நீதிபதி அடங்கிய அமர்வோ அல்லது தனி நீதிபதி அமர்வோ கோயம்புத்தூர் வடக்கு வட்டாட்சியர் அவர்களால் பிறப்பிக்கப்பட்ட உத்தரவினையோ அல்லது மேல்முறையீட்டு அலுவலர் ஆன தனித்துணை ஆட்சியர் வருவாய் நீதிமன்றம், திருச்சி அவர்களால் பிறப்பிக்கப்பட்ட உத்தரவினையோ எந்தவித குறக்கீடும் செய்யவில்லை என்பது மேற்கண்ட உயர்நீதிமன்ற உத்தரவின் அடிப்படையில் தெரியவருகிறது.

16.In the earlier Writ Petitions of this Court, it is clearly and categorically stated that the impugned order has been set aside in W.P.No.11313 of 2023 which is filed to quash the earlier order in A.P.No.4 of 2017 dated 07.03.2023. The learned Judge after hearing parties as in paragraph No.8 is stated as follows:-



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8. Under the above facts and circumstances, this Court set aside 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 same, the second respondent is directed to pass orders on merits and in accordance with law, on or before 25.04.2024.

17. Under the above facts and circumstances, this Court is setting aside the impugned order and remitting the matter back to the Appellate Authority. On the very face of the impugned order it is clear that the second respondent has failed to even pursue the order passed by this Court when remitting the matter back to him from its correct perspective. The fact remains that the petitioner's father had been recognized as cultivating tenant and while he was so occupying the land the predecessors in interest of respondents 4 to 11 had initiated proceedings for fixation of fair rent and the same was also fixed. On his father's demise the petitioner has taken out the application for recording him as a tenant in the place of his father as he was personally involved in the cultivation and maintenance of the land. Further the land owners have



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not taken any proceedings to evict the petitioner from the property in the manner known to law either on the ground of non payment of rent or on the ground that the petitioner is not personally cultivating the land. In the petition filed by the petitioner for recording him as cultivating tenant, the respondents 5 to 12 have taken the plea of non payment of rent and that the petitioner owns other lands. In fact, the second respondent has not taken into consideration the settlement deeds that have been executed in favour of his children by the petitioner and his wife. As already submitted the reading of the order clearly shows that neither the documents that have been submitted nor the arguments made have been taken into consideration and it is only based on the earlier orders that the impugned order has been passed. This is totally contrary to the order passed by this Court in W.P.No.11313 of 2023, wherein this Court has clearly stated that on 10.04.2024, both parties are to be present before the second respondent and submit either oral or written arguments and on the basis of these arguments, the second respondent had directed to pass orders on merits on or before 25.04.2024. Therefore, the Writ Petition is allowed, and the matter is remitted back to the second respondent for fresh consideration. It is made clear that the Appellate Authority shall not once again pass a non-speaking order by simply extracting the orders



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of the lower authority as well as the orders passed by this Court but shall pass a speaking order stating reasons as to why he is passing such order.

The said exercise shall be completed within a period of one month from the date of receipt of copy of this order. There is no necessity for a fresh hearing since elaborate written arguments and documents are already before the authority concerned.

18.W.P.No.14143 of 2024 is filed challenging the order passed in E.P.No.2 of 2024 which is an execution proceedings initiated pursuant to the order that is impugned in W.P.No.12048 of 2024. Since that W.P.No.12048 of 2024 is allowed, this Writ Petition consequently is also allowed as the execution proceedings pursuant to the order of the second respondent in A.P.No.4 of 2017. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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P.T.ASHA, J.

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To

- 1.Principal Secretary/Commissioner of Land Reforms,
Ezhilagam, Chepauk, Chennai – 5
- 2.The Appellate Authority/Special Deputy Collector,
Revenue Court,
Tiruchirapalli – 1(Camp Coimbatore)
- 3.The Tenancy Record Officer and Tahsildar,
Coimbatore North, Coimbatore.

W.P.Nos.12048 & 14143 of 2024
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