

(1988) 02 MAD CK 0067
In the Madras High Court

Sofi Samas Thaikkal

APPELLANT

Vs

The District Revenue Officer and Others

RESPONDENT

Date of Decision : 11-02-1988

Acts Referred:

Citation : (1988) 2 LW 42 : (1988) 2 MLJ 375

Hon'ble Judges : Swamikkannu, J

Bench : Single Bench

Judgement

Swamikkannu, J.—This is a writ petition filed by Safi Somas Thaikkal, Thanjavur, represented by its Trustee, for quashing the order made by the District Revenue Officer, Thanjavur, the second respondent herein in R.P.No. 97 of 1979 dated 10.1.1981.

2. It is inter alia stated in the affidavit sworn to T.H. Miajan, the trustee of the petitioner Thaikkal, that the 4th respondent herein T.K. Nagappan filed an application before the Record Officer during the year 1975 for recording his name as tenant in the approved Record of Tenancy rights in respect of an extent of 0-68 cents in T.S.No. 3678 of Keraikollai village of Thanjavur District belonging to the petitioner herein. The Record Officer, Thanjavur passed orders in Form V No. 575/75, dated 16.4.1976 for inclusion of the name of the 4th respondent Nagappan as tenant in the suit lands. Against the said order of the Record Officer Thanjavur, the petitioner herein filed an appeal before the Appellate Authority, the Revenue Divisional Officer, Thanjavur. The Appellate Authority in the Appeal Petition No. 14/76, dated 25-7-1977 remanded the case to the trial court for fresh enquiry and disposal. Accordingly the Record Officer and Additional Tahsildar, Thanjavur held enquiries afresh and in his case No. 1454/77, dated 2-11-1978 passed orders including the name of the first respondent in the record of Tenancy Rights in the place of the previous tenant Thiru Sivasankaran. Against that the petitioner herein preferred an appeal to the Appellate Authority and District Revenue Officer, Thanjavur. The Revenue Divisional Officer, Thanjavur, by his order dated 20.8.1979 dismissed the appeal in A.P.No. 5 of 1979. Against the

order of dismissal of the Revenue Divisional Officer, Thanjavur, the petitioner filed a revision petition R.P.No. 97 of 1979 before the Revisional Authority and District Revenue Officer, Thanjavur. The case put forward on behalf of the petitioner was that the 4th respondent was in heavy arrears of rent to the petitioner and he could not pay off the arrears and hence surrendered the lease. After the surrender by the 4th respondent, the petitioner herein is cultivating the lands personally. But it was contended on behalf of the 4th respondent that he is continuously cultivating the lands and that he did not surrender the lands as claimed by the petitioner. The District Revenue Officer, who heard the Revision Petition, on an erroneous view of the matter, dismissed the Revision Petition. He accepted the case of the 4th respondent that he is continuously cultivating the lands in dispute and that he is entitled to have his name entered in the village Record of Tenancy Rights. Since the petitioner has no other alternative remedy to pursue the matter further, he has come forward, with this writ petition.

3. It is contended on behalf of the petitioner herein that the District Revenue Officer has erred in holding that the 4th respondent is a tenant and that he is entitled to have his name entered in the village records. In any event, according to the petitioner, the District Revenue officer ought to have held that the 4th respondent was not cultivating the lands and that he is not entitled to any indulgence.

4. The point for consideration is, whether there is any infirmity in the impugned order.

5. It is seen that when the matter was enquired by the Record Officer, P.W.1 and P.W.2 were examined on behalf of the petitioner. On the respondents side, R.W.1 Nannujan and R.W.2 Miyajan Sahib were examined. A Court witness was also examined by name Apparajan. Five documents were produced before the authorities. They were taken into consideration. The entire evidence, both oral and documentary, had been taken into consideration and it was held that the name of Sivasankaran had to be deleted and the name of the petitioner therein viz., T.K. Nagappan, had to be included as tenant in the Record of Tenancy Rights. In appeal in A.P.No. 5 of 1979 dated 20.3.1979, the Appellate Authority, viz., the Revenue Divisional Officer, Thanjavur had confirmed the order of the Record Officer, saying that there is no proof to show that the tenant has surrendered the lands in question and even Thangamuthu Nattar was not examined by the appellant to prove his contention. According to the Appellant Authority, not even a single witness speaks to the surrender of the lease lands and hence it saw no reason to interfere with the order already passed by the Record Officer. On revision in R.P.No. 97 of 1979, the District Revenue Officer, Thanjavur in his order dated 10-1-1981 came to the conclusion that there is no force in the contention of the revision petitioner, viz., the Tahikkal represented by its trustee Miajan, that the suit land is under the personal cultivation of the petitioner. In the circumstances stated, the revisional authority found no reason to interfere with the orders of the Revenue Divisional Officer, Thanjavur passed in

his A.P.No. 5 of 1979 dated 20.8.1979. Accordingly the revision petition was dismissed.

6. Mr. V. Kunchithapatham, learned Counsel for the petitioner, submits that the authorities below have not properly appreciated the evidence available on record. A careful scrutiny of the Record Officer shows that the entire evidence had been taken into consideration and the decision was arrived at by the Record Officer, which in turn on facts was confirmed by the Appellate Authority. The revisional authority has also found no defect in the order of the Appellate Authority. Under the circumstances, on a finding of fact, when there is concurrent finding this Court cannot have any jurisdiction to interfere with the same, while exercising the writ jurisdiction. This is fortified by the general principles of law laid down by the Supreme Court that the High Court does not normally interfere with findings of fact unless they are based on no evidence or inadmissible evidence or on misreading of evidence or ignorance of material evidence or unless the finding is one of jurisdictional fact, or is based on extraneous considerations or suffers from some other legal infirmity, or there has been violation of principles of natural justice or it is arbitrary or capricious, or involves mixed question of law and facts. Following faithfully the above well established principles, this Court finds no merit in the writ petition.

7. The writ petition is, therefore, dismissed.