
(1997) 04 MAD CK 0040
In the Madras High Court

V. Kunchithapatham

APPELLANT

Vs

Ramamoorthy Padayachi

RESPONDENT

Date of Decision : 25-04-1997

Acts Referred:

Citation : (1997) 2 MLJ 492

Hon'ble Judges : A.R. Lakshmanan, J

Bench : Single Bench

Judgement

A.R. Lakshmanan, J.—Heard Mr. R. Srinivasan for petitioner and Mr. T. Susindran for respondent.

2. This revision is directed against the order of the learned Special Revenue, Divisional Officer, Kumbakonam dated 11.2.1995 passed in P. No.

76 of 1994 on his file. The Special Revenue Divisional Officer without conducting any enquiry as contemplated u/s 3(4)(b) of the Tamil Nadu

Cultivating Tenants Protection Act (25 of 1955) and under Rule 3(vii) of the Rules, passed the order impugned in this revision.

3. I have gone through the order, which is in the form of a cyclostyled order. The order passed would only reveal the total non-application of mind

on the part of the Special Revenue Divisional Officer, Revenue Court. He is not justified in passing such an order arbitrarily without considering the

case of the respective parties in its proper perspective. It is contended by Mr. R. Srinivasan, that the court below has lost sight of the fact that the

landlord has claimed the quantum at 80 kalams per fasli and the respondent in his counter has admitted the quantum payable for fasli at 52 kalams

less 7 kalams working out to 45 kalams per fasli, i.e., 4 1/2 kalams per mah, whereas the officer on his own finding has fixed the quantum at 2 1/2

kalams per mah without any material to support his findings. As rightly pointed out by the learned Counsel for the petitioner, the officer has equally erred in not conducting the enquiry and by examining the petitioner and the respondent and also marking of documents so as to arrive at his findings and withholding of the opportunity is against the principles of natural justice and against the directions given in the Act and also by the several judgments of this Court made earlier. It is also pointed out by the learned Counsel for the landlord that though the claim was made by the landlord for 8 years, the Revenue Court has allowed the claim for 3 years for the reason best known to itself. The Government had stalled the recovery of arrears due by the tenants to the landowners by the proclamation of ordinance from time to time, which is followed by Acts and in 1994 had wiped out the earlier arrears due by the tenant, if 1/4 of the total arrears is deposited by August, 1994 and in the instant case, the tenant had not availed this benefit and consequently, he is liable to pay the arrears for previous 8 faslis in all. The order of the lower court is totally unjust and unsound and therefore, the same is liable to be reversed by this Court by directing the Revenue Court to give opportunity to both parties to examine witnesses, mark documents and on completion of the trial, consider the rival claims of both parties, with reference to the evidence let in both oral and documentary and pass orders on merits. It is thoroughly improper and illegal on the part of the Revenue Court to use the printed form and fill up the blanks and issue the same as if the claims of both parties have been considered and orders passed. The order does not at all deal with the rival contentions. This Court as time and again issued directions not to use the cyclostyled form and to conduct the enquiry as contemplated by Section 3(4)(b) of the Act and Rule 3(vii) of the Rules. Such a direction has been ignored and the directions given by this Court has not been followed at all. Therefore, I have no hesitation in setting aside the order impugned in this revision and to remit the matter to the same Authority with a direction to dispose of the same afresh and on the merits as indicated above on or before the end of August, 1997, after giving opportunity to both parties.

4. The C.R.P. is disposed of accordingly. In view of the order passed in the main C.R.P. the C.M.P. is dismissed. No costs.