

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.12863 of 2010
and M.P.No.1 of 2011

M.Mahalakshmi

... Petitioner

Vs.

1. The Principal Secretary and Commissioner of
Land Administration,
Ezhilagam,
Chepauk, Chennai - 600 005,

2. Additional Chief Secretary to Government and
Director of Survey and Settlement,
Chennai - 600 005.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the orders passed by the first respondent herein in Rc.No.K1/35364/2008 dated 18.05.2010 confirming the order of the second respondent in Rc.No.H1/7004/05 dated 06.11.2008 and quash the same consequently direct the respondents to issue transfer of patta from the name of petitioner's mother namely deceased Muthukannu to petitioner's name after having altered classification of land from unassessed waste land into cultivable land.

For Petitioner : Mr.A.Panneerchelvam

For Respondents : Mr.R.A.S.Senthilvel,Addl.Govt.Pleader

ORDER

Before the respondents, the petitioner made a request for patta under Act No.26 of 1948 in respect of the land measuring an extent of 37 acres 50 cents in Old survey No.75, and New Survey No.310/1 Part, situated in Naval Pattu village, Trichy Taluk, Trichy District. The said request was rejected by the 2nd respondent and confirmed by the 1st respondent on the ground of delay and as barred by limitation.

2. Learned Senior Counsel appearing for the petitioner submitted that the issue involved in this writ petition is no longer res integra and reliance has been made by the learned Senior Counsel on an order passed by this Court in W.P.No.7856 of 2013 dated 27.06.2014 involving a similar issue, wherein orders have been passed after taking note of the earlier decision.

3. In the above decision dated 27.6.2014 in W.P.No.7856 of 2013, this Court was pleased to hold as under:

"6. Admittedly, the request made by the petitioners has not been considered on merits. The impugned order does not indicate as to whether any claim by the third party has crept in. Therefore, this Court is not inclined to go into the said issue. Considering the very same issue, this Court in W.P.No.4980 of 2012 dated 09.03.2012, was pleased to

pass the following order, after placing reliance upon the earlier decisions:

“4.Learned counsel for the petitioner at the outset would refer to the impugned order dated 31.01.2012, wherein his request for grant of patta has been summarily rejected on the ground that any application filed beyond 20.08.1987 would be rejected as time barred. He also points out that when a similar order of rejection was questioned by a person like that of the petitioner herein before this Court, this Court by a detailed order, set aside the same and remanded the matter to the authorities concerned with a direction to consider the application without reference to the delay. Therefore, he submits that this order is liable to be interfered with.

5.I find that the rejection has been made only on the ground that the application has been filed beyond the time. In this connection I refer to the order passed by this Court on 21.02.2012 in W.P.No.3989 of 2012, wherein this Court had an occasion to deal with a similar order of rejection and set aside the order, after finding that the Tamilnadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, does not prescribe any time limit for filing a claim petition for the purpose of issuance of patta. Therefore, when the application filed by the petitioner herein for patta has been rejected as it is time barred, the order suffers from patent irregularity. Further the order of rejection has been passed without hearing the petitioner concerned.

6. Therefore, in the light of the order passed by this Court on 21.02.2012 in W.P.No.3989 of 2012, this Writ Petition is allowed. The impugned order dated 31.01.2012 is set aside and the matter is remanded to the first respondent with a direction to consider the application afresh and in accordance with law after affording opportunity to the petitioner, within a period of eight weeks from the date of receipt of copy of a order, without rejecting on the same ground of limitation once again.

The writ petition is allowed in the above terms. Consequently connected miscellaneous petition is closed. No costs."

7. In the light of the decision referred supra, the order impugned in this writ petition is set aside and the petitioner is directed to resubmit the papers within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the second respondent is directed to decide the application on merits and in accordance with law within a period of twelve weeks thereafter. It is made clear that this Court has not expressed any opinion on the merits of the matter. The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

4. Therefore, considering the above decision, this writ petition is allowed on the very same terms. No costs. Consequently, the connected miscellaneous petition is closed.

02.09.2015

Index:Yes/No
Internet:Yes
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To

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Land Administration,
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Chepauk, Chennai - 600 005,
2. Additional Chief Secretary to Government and
Director of Survey and Settlement,
Chennai - 600 005.

M.M.SUNDRESH,J.

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W.P.No.12863 of 2010

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