

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.4588 of 2014

Parvathi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By the Secretary to Government,
Revenue Department,
Fort St. George, Chennai - 600 009.

2.The District Collector,
Udhagamandalam,
The Nilgiris District.

3.The Revenue Divisional Officer,
Coonoor, The Nilgiris.

4.The Tahsildar,
Coonoor Taluk,
Nilgiris District.

5.The Revenue Inspector,
Coonoor Rural Village,
The Nilgiris District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of certiorarified mandamus to call for the records relating to the proceedings of the second respondent made in Rc.Lr.No.U2/54595/2009, dated 17.09.2012 and quash the same and direct the second respondent to reconsider the petitioner's case based on the representation dated 08.01.2014 and grant patta to the land in S.No.118/6, measuring 2.60 acres in Katteri Village (Vasambapallam) and pass such further orders.

For Petitioner : Mr.M.Venkatachalapathy, SC
for M/s.M.Devaraj

For Respondents : Ms.P.Rajalakshmi, GA

O R D E R

The petitioner is a widow of an Ex-serviceman. Seeking assignment of the land, the petitioner's husband made a representation on 25.04.2003. It was followed by another representation dated 10.12.2009. On non-consideration of the said representations, the petitioner approached this Court. This Court, in W.P.No.25216 of 2009, dated 17.12.2009, passed the following order:

"In view of the limited prayer now sought by the learned counsel for the petitioner, this writ petition is disposed of by directing the second respondent to consider and pass orders on the petitioner's representation dated 10.12.2009 in accordance with law, following the procedure contemplated under the relevant rules and after affording reasonable opportunity to all the parties concerned, within a period of twelve weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected Miscellaneous Petition is closed."

2. Pursuant to the above said order, the petitioner made further representation dated 10.04.2010. Thereafter, the order impugned herein has been passed on 17.09.2012. In the impugned order, it has been stated that as per the Government Order, in G.O.Ms.No.1168, Revenue Department, dated 25.07.1989, the petitioner's request cannot be considered and the petitioner is having lands in Adigaratty and Hulical Villages to an extent of 1.50 acres, which has not been disclosed.

3. Learned Senior counsel appearing for the petitioner submitted that the Government Order does not have application to the case on hand. The respondent, who passed the impugned order, has relied upon the report of the Tahsildar, Coonoor, behind the back of the petitioner. The petitioner was not given an opportunity of personal hearing to contravene the same.

4. Learned Government Advocate appearing for the respondents, based on the counter affidavit filed by the third respondent, reiterated the grounds which form basis of the order impugned herein.

5. Admittedly, two reasons which form basis of the order impugned herein were not known to the petitioner. Therefore, this Court is of the view that the petitioner, in all fairness, ought to have given an opportunity by the second respondent before passing the impugned order. In such view of the matter, this Court is inclined to set aside the impugned order. Accordingly, the same is

set aside. The petitioner is at liberty to give a detailed representation to dispute the factual recording, qua, ownership of the lands in Adigaratty and Hulical Villages. The petitioner also can demonstrate that the Government Order in G.O.Ms.No.1168, Revenue Department, dated 25.07.1989, does not apply to her case. The petitioner is at liberty to file such representation within a period of four weeks from the date of receipt of a copy of this order. On receipt of such representation, the second respondent shall pass appropriate orders within a period of six weeks thereafter. Needless to mention that the parties are directed to maintain the status-quo till the final order to be passed by the second respondent.

6. In fine, for the reasons cited above, the writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/
Sub Asst. Registrar

rkM

To

1.The Secretary to Government,
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Nilgiris District.

5.The Revenue Inspector,
Coonoor Rural Village,
The Nilgiris District.

1 cc to Mr.M. Devaraj, Advocate, Sr. 45296
1 cc to Government Pleader, Sr. 45409

KM (CO)
kk 9/9

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