

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.23197 of 2015

1 Sundaram
S/o.Subbaiyya

2 S.Lakshmi
W/o.Sundaram

3 S.Gopi
S/o.Sundaram

4 S.Kala
D/o.Sundaram

5 S.Sujatha
D/o.Sundaram

6 S.Priya
D/o.Sundaram

7 J.Kannammal
W/o.Janakiraman

8 J.Suresh
S/o.Janakiraman

9 J.Kalpana
D/o.Janakiraman

10 J.Govindaraj
S/o.Janakiraman

... Petitioners.

WEB COPY
Vs

1 The Additional Chief Secretary
and the Commissioner of Land Administration
Chepuak, Madras-600 005.

2 The Director of Survey and Settlement
Chepauk, Madras-600 005.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorari to call for the records in Letter No. K1/13946/2015 dated 24.06.2015 on the file of the 1st respondent in confirming the proceedings of the 2nd respondent in R.O.C. E1/2081/2013 dated 24.04.2015 and quash the same as illegal incompetent and unconstitutional.

For Petitioners : Mr.V.Raghavachari

For Respondents : Mrs. P. Rajalakshmi
Govt. Advocate

ORDER

The petitioner made an application to the second respondent seeking ryotwari patta and cancellation of the registration made in respect of the property situated in different survey numbers in Madharpakkam Village, Gummidipoondi Taluk of Tiruvallur District. As the application filed was not decided on merits but dismissed on the ground of limitation, a writ petition was filed before this Court. By an order dated 27.06.2014 in W.P.No.7856 of 2013 this Court passed an order therein on 27.06.2014 holding as under:-

"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".

Thereafter, by a speaking order, the second respondent rejected the application of the petitioner. An appeal was filed against the said order before the first respondent. By letter dated 24.06.2015 the appeal was rejected on the ground that there is no provision for a statutory appeal and the order passed by the second respondent being only in compliance of the order passed by this Court and there cannot be any further adjudication statutorily. Challenging the said order passed, the present writ petition has been filed.

2. Learned counsel for the petitioner would submit that the reasoning of this Court while setting aside the order of the second respondent on the earlier occasion in W.P. No. 7856 of 2013 would in all four corners be applicable to first respondent as well. When once the second respondent has decided the matter on merits, then automatically, the first respondent has to decide it in the same manner. Thus, the reliance based on the Government order dated 29.06.1987 cannot be sustainable in law.

3. Learned Government Advocate based on the counter affidavit submitted that the time limit to decide appeal has been satisfactorily explained in the Government Order in G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987 and therefore no interference is required.

4. At the time of passing the order in W.P.No.7856 of 2013, this Court has taken note of the earlier order passed and directed the second respondent to decide the matter on merits, without rejecting it on the ground of delay and laches. Significance to the effect of the order is that the second respondent is the competent authority to decide. Thus, if the second respondent is the competent authority to decide, then the first respondent would automatically become the competent Appellate Authority to consider the merits of the order passed by the second respondent. Therefore, the rationale behind the order dated 24.06.2015 passed by the first respondent cannot be accepted. In other words, the first respondent ought to have decided the matter on merits instead of rejecting it on the ground of no jurisdiction. Accordingly, the order impugned dated 24.06.2015 is hereby set aside. The first respondent is directed to pass appropriate orders on the appeal filed by the petitioners against the order of the second respondent dated 24.04.2015 within a period of twelve weeks, from the date of receipt of a copy of this order. It is needless to state that before passing appropriate final orders, the first respondent is required to issue notice to the petitioners and hear them.

5. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

smi

-s/d-

Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

- 1 The Additional Chief Secretary
and the Commissioner of Land Administration
Chepuak, Madras-600 005.
- 2 The Director of Survey and Settlement
Chepauk, Madras-600 005.

vs (co)
prk7/12

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