IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25-03-2015

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.28827 of 2012

1 TMT.S.NIKILA DEVI
W/O.LATE SHANMUGA SUNDARA GRAMANI
NO.2/18, PILLAIYAR KOIL STREET
T.NAGAR (WEST)
CHENNAI-17. Petitioner

Vs

1 THE PRINCIPAL SECRETARY AND
COMMISSIONER SURVEY AND SETTLEMENT
CHENNAI- 5. Respondent

Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for records relating to the respondent proceedings made in O.Mu.11/6188/12 dated 23.07.2012 and quash the same and direct the respondent to grant Ryothwari patta as per provisions of Act 26/48 in favour of the petitioner for the lands comprised in Survey Nos.73/1 over an extent of Ac.0.40 cents 73/2 over an extent of Ac.0.48 cents 74/2 extent of acre 1.14 cents 77/3 extent acre 1.99 cents 77/4 acre 0.19 cents of Siruvanoor Village and Survey Nos.115/2 an extent of acre 2.42 cents and 122/5 an extent of acre 5.00 cents of Vedanginallur Village Tiruvallore Taluk and District.

For petitioner :: Mr. M. Muthappan
For respondents :: Mr. V. Jaya Prakash Narayanan, AGP

ORDER

Heard Mr.M. Muthappan, learned counsel for the petitioner and Mr. V. Jaya Prakash Narayanan, learned Additional Government Pleader for the respondents.

2. The prayer sought for in this writ petition is for a writ of certiorarified mandamus calling for records relating to the respondent proceedings made in O.Mu.11/6188/12 dated 23.07.2012 and quash the same and direct the respondent to grant Ryotwari patta as per provisions of Act 26/48 in favour of the petitioner for the lands comprised in Survey Nos.73/1 over an extent of Ac.0.40 cents 73/2 over an extent of Ac.0.48 cents 74/2 extent of acre 1.14 cents 77/3 extent acre 1.99 cents 77/4 acre 0.19 cents of Siruvanoor Village and Survey Nos.115/2 an extent of acre 2.42 cents and 122/5 an extent of acre 5.00 cents of Vedanginallur Village Tiruvallore Taluk and District.

3. The learned counsel for the petitioners submits that in an identical situation, this Court has passed an order in W.P.Nos.6886 of 2010 and 24604 of 2012 dated 28.04.2010 and 24.09.2012 respectively. The relevant portion of the order dated 24.09.2012 reads as follows :

> "... the impugned order is set aside, with a direction to the respondent to issue notice to the petitioner and consider his objections including the question of condonation of delay and pass fresh orders, within a period of eight weeks from the date of receipt of a copy of this order.
>
> 6. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed."

4. The petitioner's case is identical to the case referred supra and the petitioner would state that without conducting any enquiry and without even considering as to whether G.O.Ms.No.714, Commercial Taxes Department, dated 29.06.1987 would be applicable to the case of the petitioners, the impugned order is passed.

5. Hence, following the earlier passed by this Court, the writ petition is allowed and the impugned order is set aside and the matter is remanded back to the respondent with a direction to issue notice to the petitioner and consider their objections and pass fresh orders within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(R)

//True Copy//

Sub Assistant Registrar

glp

To

1 THE PRINCIPAL SECRETARY AND
COMMISSIONER SURVEY AND SETTLEMENT
CHENNAI- 5

+ 1 cc to M/s. M. Muthappan, Advocate SR.16951
+ 1 cc Government Pleader Sr.16976

SKV(CO)
EU 10.04.2015