

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.1487 of 2016

M.Gokulakrishnan

... Petitioner

Vs.

1. The Secretary,
Government of Tamil Nadu,
Revenue Department,
Chennai-9.
2. The Commissioner of Land
Administration,
Chepauk, Chennai-9.
3. The Collector,
Kancheepuram District,
Kancheepuram.
4. The Cantonment Executive Officer,
Office of the Cantonment Board,
St. Thomas Mount,
Chennai-16.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents herein to consider the petitioner's representation dated 20.5.2014 in the light of the order passed in W.P.No.5231 of 1979 dated 21.2.1986 and G.O.Ms.No.557, Revenue Department dated 7.9.1994.

For Petitioner : Mr.N.Viswanathan

For Respondents : Mr.M.Dig Vijaya Pandian,
Additional Government Pleader

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondents herein to consider his representation dated 20.5.2014 in the light of the order passed in W.P.No.5231 of 1979 dated 21.2.1986 and G.O.Ms.No.557, Revenue Department dated 7.9.1994.

2. The case of the petitioner, in nutshell, is set out hereunder:-

(a) The petitioner purchased a land measuring to an extent of 1 acre and 29357 sq.ft. comprised in S.No.1467/2 along with superstructure therein measuring to an extent of 17000 sq.ft. bearing Door No.1/21, G.S.T. Road, Chennai-16 of Parangimalai Village, Tambaram Taluk, Kancheepuram District under a sale deed dated 31.3.2010 registered as document No.634 of 2010 in the office of the Joint Sub Registrar-II, Saidapet. After purchase, the fourth respondent transferred the revenue records in his name.

(b) Originally, the said property was leased out to one Seshgiri Rao, who had obtained leasehold rights over the land from East India Company. The said Seshagiri Rao transferred the leasehold right in favour of one Lakshmanadas and the lease amount was paid by the said Lakshmanadas to the third respondent herein. The said lease expired on 20.11.1939 and after expiry of the said lease, it was renewed for a further period of 20 years i.e., from 20.11.1939 till 20.11.1959 as per G.O.Ms.No.387 Revenue dated 25.1.1957. The said Seshagiri Rao transferred the leasehold right and sold the super structure in favour of one Sathyanarayana Moorthy in the year 1958. The said Sathyanarayana Moorthy filed a writ petition before this Court in W.P.No.5231 of 1979 to issue ryotwari patta on the ground that two similarly placed persons had obtained ryotwari patta. The said writ petition was allowed on 21.2.1986. Despite the same, the first respondent failed to take steps to assign the land in favour of Sathyanarayana Moorthy. Later, the said Sathyanarayana Moorthy has transferred the leasehold rights in the year 1982 in favour of M/s.Century Motors Private Limited and the said M/s.Century Motors Private Limited was in possession and enjoyment of the property and constructed a commercial car show room and workshop as per the sanctioned plan obtained from the fourth respondent.

(c) M/s.Century Motors Private Limited mortgaged the property in favour of the erstwhile Bharath Overseas Bank and the said bank subsequently got merged with Indian Overseas Bank for availing credit facilities. Since M/s.Century Motors Private Limited failed to pay the loan amount due to the Indian

Overseas Bank, recovery proceedings were initiated before the Debt Recovery Tribunal-II, Chennai and the said property was auctioned by the Debt Recovery Tribunal-II, Chennai on 19.4.2007 and one P.K.Peer Mohammed, the highest bidder, purchased the property and sale certificate was also issued in his favour and the same was registered as document No.2211 of 2007 dated 9.7.2007 in SRO, Alandur. The said P.K.Poor Mohammed sold the property in favour of one M/s.A.K.R.Viyapaar Limited and from the said M/s.A.K.R.Viyapaar Limited, the petitioner purchased the property on 31.3.2010 and after purchase, the petitioner is in possession and enjoyment of the same.

(d) The petitioner has invested huge money for the development, addition, alteration, modification and interior decoration of the existing building. Further, he made a representation on 25.5.2014 to the first respondent requesting him to assign the land in his favour as per the order made in W.P.No.5231 of 1979 dated 21.2.1986. In the meantime, the first respondent issued G.O.Ms.No.557 dated 7.9.1984 for assignment of the lands to the occupants. Hence, the petitioner requested the first respondent to consider his request based on the order made in W.P.No.5231 of 1979 dated 21.2.1986 and as per G.O.Ms.No.557 dated 7.9.1984. The first respondent, by his letter dated 11.6.2014 instructed the second respondent to examine the request of the petitioner that he is willing to pay the land cost fixed by the Government, immediately. In spite of the same, the second respondent failed to consider his request to assign the land in his favour. However, the petitioner is in possession and enjoyment of the property as absolute, undisputed and exclusive owner.

(e) In these situation, the respondents 2 and 3 along with RTO Officer are illegally attempting to dispossess the petitioner from the property. Hence, the petitioner filed a suit in O.S.No.912 of 2012 before the Additional District Munsif Court, Alandur and obtained interim injunction in I.A.No.1935 of 2012 restraining the respondents therein from interfering with his possession over the property excluding 89 cents which was allotted to RTO, Meenambakkam. Against the said order, the petitioner filed CRP No.3087 of 2013 before this Court and this Court granted interim injunction restraining the respondents therein from interfering with his peaceful possession and enjoyment of the property in respect of 89 cents out of 1 acre 29357 sq.ft. comprised in S.No.1467/2 in Parangimalai Village, Tambaram Taluk, Kancheepuram District.

(f) Thereafter, the petitioner requested the respondents to grant patta in his favour and the respondents considered his request and issued letter to make necessary mutations in his name in the records of the Cantonment Board pertaining to the

property tax and water charges. In fact, on 13.5.1997, the Revenue Divisional Officer, Chengalpattu recommended to assign the land in favour of the previous land owner. Since the petitioner is the present owner, he is entitled for assignment of the land in his favour. In this regard, he made a representation dated 20.5.2014 to the respondent herein. But, till date, no action was taken on the said representation. Hence, the present petition.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

4. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the petitioner to give a copy of the representation dated 20.5.2014 to the first respondent along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider the said representation and pass appropriate orders, as per G.O.Ms.No.557, Revenue Department dated 7.9.1994, by affording an opportunity of personal hearing to the petitioner, within a period of eight weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Secretary,
Government of Tamil Nadu,
Revenue Department,
Chennai-9.

2. The Commissioner and Land
Administration,
Chepauk, Chennai-9.

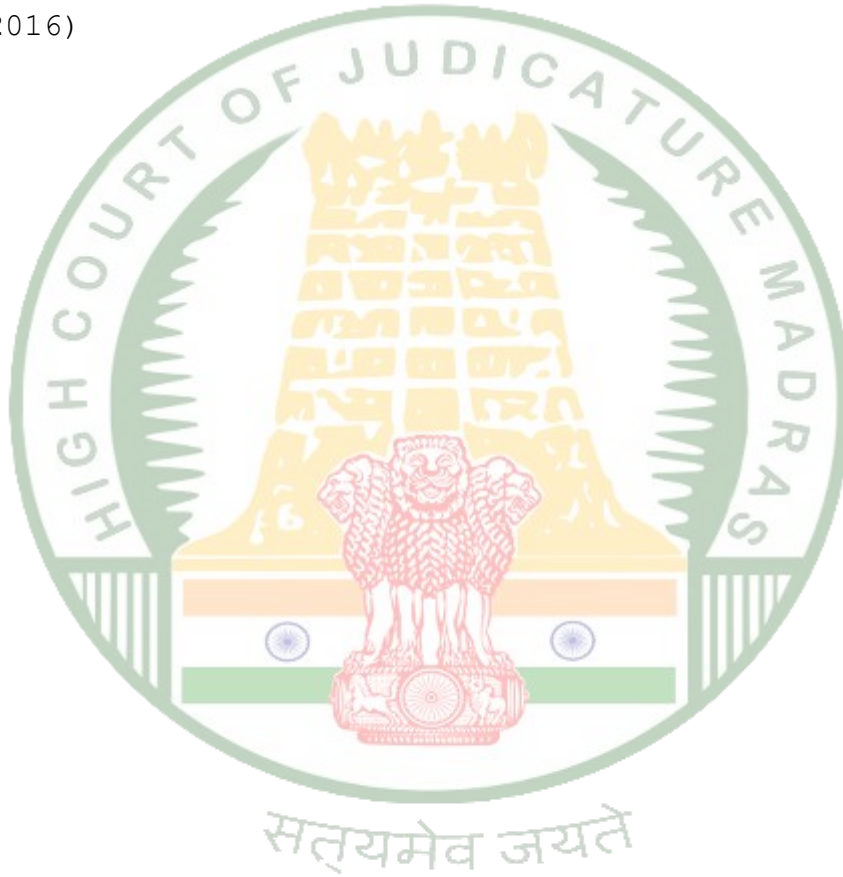
3. The Collector,
Kancheepuram District,
Kancheepuram.

4. The Cantonment Executive Officer,
Office of the Cantonment Board,
St. Thomas Mount, Chennai-16.

+lcc to Mr.N.Viswanathan, Advocate, S.R.No.6971
+lcc to the Government Pleader, S.R.No.6906

W.P.No.1487 of 2016

MG(CO)
CA(15/02/2016)



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