

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.15805 of 2016

J.Sathiyabama

... Petitioner

vs.

1.The Principal Secretary to
Government,
Home, Prohibition and Excise
Department,
Secretariat, St.George Fort,
Chennai - 9.

2.The Principal Secretary to Government,
Revenue Department,
Secretariat, St. George Fort,
Chennai - 9.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing both the respondents to consider the petitioner's representation dated 9.2.2016 in accordance with law.

For Petitioner : Mr.E.Om Prakash
for M/s.Ramalingam Associates

For Respondents : Mr.P.Sanjay Gandhi,
Addl. Govt. Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to consider her representation dated 9.2.2016 in accordance with law.

3. The case of the petitioner, in brief, is as follows:-

(a) The land measuring to an extent of 6 ½ cents out of 14 cents comprised in Survey No.320/2B belonging to the first respondent and the land measuring to an extent of 1 cent comprised in Survey No.320/2C belonging to the second respondent at Padi Village, Ambattur Taluk, were leased to one V.M.Chacko as per G.O.Ms.No.841 Revenue Department dated 11.5.1988. After leasing out, still there were balance of land measuring to an extent of 7 ½ cents in S.No.320/2B and 1 cent in S.No.320/2C.

(b) Originally, the land measuring to an extent of 14 cents comprised in S.No.320/2B owned by the first respondent was earmarked for construction of Police Station and it was kept vacant. While so, the said V.M.Chacko, the adjacent land owner, has encroached the said land measuring to an extent of 6 ½ cents comprised in S.No.320/2B and 1 cents comprised in S.No.320/2C owned by the respondent and had put up a shopping complex in the said land clubbing his patta land in S.No.1177/1A along with the land owned by the respondents. On coming to know about the same, the respondents had initiated legal proceedings against him and the said V.M.Chacko requested them to lease over the encroached land. Considering his request, the respondents leased out the said property admeasuring 7 ½ cents for a period of three years and fixed the annual lease rent as Rs.12,600/- vide G.O.(Ms).No.841 Revenue Department dated 11.5.1988.

(c) Subsequently, the said V.M.Chacko neither paid the lease rent nor renewed the lease on its expiry. Further, the said lands belonged to the respondents were illegally sold by him to his tenant one Ponsingh through registered sale deed dated 2.1.1998 vide document No.12 of 1998. After coming to know of the same, the Government has directed the Tahsildar, Ambattur to lodge a criminal complaint as against the said V.M.Chacko and his tenant Ponsingh. Pursuant to the same, the Government had initiated eviction proceedings also. Challenging the same, the said Ponsingh filed series of writ petitions and the same were disposed of by this Court by common order dated 16.2.2010.

(d) In these circumstances, the Tahsildar of Ambattur has recommended a fresh lease proposal for the balance land owned by the respondents, without considering the Court order, previous rejection of lease and pending criminal proceedings regarding encroachment made by the said Ponsingh. As of now, the lands measuring to an extent of 7 ½ cents comprised in S.No.320/2B and 1 cent comprised in S.No.320/2C owned by the respondents are remaining vacant. Hence, the petitioner made a representation dated 9.2.2016 to the respondents expressing her willingness to take the said lands on lease for a minimum period of 15 years to construct a multi brand two wheeler showroom and service station. She has also offered to pay a sum of Rs.20,00,000/- as an average lease rent per annum. However, the respondents have not considered her request so far. Hence, left with no other

alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the respondents to conduct an enquiry on the representation made by the petitioner dated 9.2.2016, by affording an opportunity of personal hearing to the petitioner as well as to the other necessary parties, if any, and pass appropriate orders / take appropriate action, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to merits of the claim projected by the petitioner and it is for the respondents to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.
sbi

s/d-

Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

1.The Principal Secretary to
Government,
Home, Prohibition and Excise
Department,
Secretariat, St.George Fort,
Chennai - 9.

2.The Principal Secretary to Government,
Revenue Department,
Secretariat, St. George Fort,
Chennai - 9.

+ 1 cc to M/s.Ramalingam & Associates, SR 27257

gjII(co)
prk2/6

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