

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.2501 of 2016

M/s.Aruna Constructions (India) Ltd.
rep. by its Director M.P.Purushothaman ... Petitioner

vs.

The Government of Tamil Nadu,
rep. by its Secretary,
Revenue Department,
Fort St. George, Chennai-9. ... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondent to dispose of the representation filed by the petitioner dated 22.1.2015 and the reminder dated 8.10.2015 in the light of the orders passed in W.P.No.25337 of 2006 and W.P.No.25631 of 2007.

For Petitioner : Mr.J.Ravindran

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

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondent to dispose of its representation dated 22.1.2015 and the reminder dated 8.10.2015 in the light of the orders passed by this Court in W.P.No.25337 of 2006 and W.P.No.25631 of 2007.

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

(a) The land measuring to an extent of 4 acres and 22,059 sq.ft. in Survey No.421 of St. Thomas Mount Village, Saidapet Taluk (Now known as Alandur Taluk), Kancheepuram District was transferred by a lease deed by the then East India Company to one Amoo Chetty on 23.4.1869. After the demise of Amoo Chetty,

the said land was in possession and enjoyment of his son Chakkarai Chetty. The said land was leased out to Chakkarai Chetty by a lease deed dated 25.6.1923. In the said lease deed, it has been stated that the lessee has got the right to sell, transfer and assign its rights to third parties after getting prior approval of the Officer.

(b) After the death of the said Chakkarai Chetty, his son Rengaswamy, who was in possession of the property, sold his right, title and interest to one W.H.L.Remington on 12.1.1940 after getting permission from the Executive Officer, Cantonment of St. Thomas Mount dated 24.11.1939. After the death of W.H.L.Remington on 1.8.1944, his wife Alice Mould Remington sold the right, title and interest to one Sajjan Rai Sowcar after getting permission letter dated 28.10.1947. After the death of Sajjan Rai Sowcar, his wife Uma Rao Sowcar sold the right, title and interest to one William Russel Green on 9.1.1957 after getting permission letter dated 17.12.1956.

(c) The lease by the then East India Company was for 50 years from 1869 and the same expired on 1919. Thereafter, the lease was further renewed under document dated 25.6.1923 and the renewed lease also expired on 1969. Thereafter, by a Will of William Russel Green, one T.A.Lynsdale was appointed as the Sole Executor and power of attorney holder of the landed property. The said leasehold rights of the said land was transferred by T.A.Lynsdale to M/s.Aruna constructions, represented by its Managing Director, the petitioner herein on 30.8.1990 and the petitioner is in absolute possession and enjoyment of the same. The said landed property is neither in possession nor used by the Government since 1869. The said partnership firm has now been converted into public limited company on 26.2.1996 and therefore, the company is in possession and enjoyment of the same.

(d) While so, the petitioner company applied for issuance of patta and the same was rejected by the Assistant Settlement Officer, Thiruvannamalai. Hence, the petitioner approached this Court by filing a writ petition in W.P.No.2264 of 1991 and this Court, by an order dated 25.2.1991, directed the Assistant Settlement Officer, Thiruvannamalai, to pass orders within four weeks from the date of receipt of a copy of that order, after giving due opportunity to the petitioner. Pursuant to the said order, after a detailed enquiry, the Assistant Settlement Officer, Thiruvannamalai, granted patta in respect of the land in question on 18.3.1991 in favour of the petitioner.

(e) While so, the Special Commissioner and the Commissioner of Land Administration, by suo motu invoking his power under Section 7(1) and 7(c) of the Tamil Nadu Lease Holds Abolition and Conversion into Ryotwari Act 1963, took up the matter for investigation and by proceedings dated 25.11.1993,

came to the conclusion that the order of the Assistant Settlement Officer was without jurisdiction as the lease in question is time barred in respect of the land. Aggrieved by the said order, the petitioner preferred a revision petition before the respondent on 17.12.1993. In the said revision, it was expected that the first respondent would pass an order to issue patta in respect of the land by taking into consideration the Government Order bearing G.O.Ms.No.557, Revenue Department, dated 7.9.1994, wherein the Government had issued guidelines to regularise the lapsed lease of Pallavaram and St. Thomas Mount in as many as 31 cases. However, the authorities passed an order dated 27.1.2000, wherein the revision petition filed by the petitioner was dismissed. The said order was served on the petitioner nearly after five years. Thereafter, the petitioner filed a writ petition in W.P.No.25337 of 2006 before this Court to set aside the order dismissing the revision petition. After that, the petitioner filed another writ petition in W.P.No.25631 of 2007 to consider the additional grounds raised in the revision petition. In the said writ petition, this Court directed the respondent to consider the additional grounds before passing the order. But, till date, no order has been passed.

(f) While so, without prejudice to their rights, the petitioner sought assignment of land by paying the market price. In this regard, the petitioner filed W.P.No.32718 of 2004 requesting assignment of land as recommended by the authorities and this Court, by order dated 23.4.2008, directed the Government to assign the land in favour of the petitioner. Against the said order, the Government filed an appeal in W.A.No.67 of 2009 and the Division Bench of this Court disposed of the said appeal directing them to pass orders on the petitioner's revision taking into consideration the earlier recommendations in favour of the petitioner for assignment. However, till date, the said revision has not been disposed of. In this regard, the petitioner made several representations. But, the respondent has not taken any action on the said representations. Hence, the petition.

3. Learned counsel appearing for the petitioner submitted that earlier this Court by order dated 14.12.2006 in W.P.No.25337 of 2006 directed the respondent to dispose of the revision petition dated 17.12.1993 afresh, after affording adequate opportunity to the petitioner, within three months from the date of receipt of a copy of that order. In spite of the same, till date, the revision petition was not disposed of. Hence, the petitioner made a representation dated 8.10.2015 and the same was also not considered. Thus, he seeks a direction to the respondent to dispose of the representation dated 8.10.2015.

4. I have heard the learned Additional Government Pleader, who has taken notice on behalf of the respondent.

5. 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 8.10.2015 to the respondent within a period of two weeks from the date of receipt of a copy of this order, along with a copy of this order and on receipt of the same, the respondent is directed to dispose of the said representation on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioner, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Secretary to Government
Government of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai-9.

+1 cc to Government Pleader High Court
Madras sr.6891/16

+1 cc to Mr.J.Ravindran Advocate sr.6758/16

सत्यमेव जयते

W.P.No.2501 of 2016

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