IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.17630 of 2012
and
W.M.P.No.1 of 2012

K.Bhagyalakshmi
W/o.Rangaswamy,
Nagalapuram Village,
Thuraiyur Taluk,
Trichy District.

Rep. by her Power of Attorney Holder
Mr.P.Vijayaraghunathan,
No.13/A-13, Selai Ramaswamy Street,
Kancheepuram,
Kancheepuram District. ... Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary,
Revenue Department,
Fort St.George,
Chennai-600 009.

2. The Commissioner for Land Administration,
Echilagam, Chepauk,
Chennai-600 005. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 2nd respondent to regularize the assigned land in S.No.396/5, Kottaiyur Village, Thuraiyur Taluk, Trichy District to an extent of 3.04 acres of land to the petitioner.

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For Petitioner : Mr.R.Abdul Mubeen

For respondents : Mr.V.S.Ramesh, Govt.Advocate

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, directing the 2nd respondent

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to regularize the assigned land in S.No.396/5, Kottaiyur Village, Thuraiyur Taluk, Trichy District to an extent of 3.04 acres of land, to the petitioner.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows:-

2.1.The petitioner was assigned with a land measuring to an extent of 3.04 acres in Suvey No.396/5 of Kottaiyur Village, Thuraiyur Taluk by the respondents, vide proceedings No.R.DIS.DAR.312/79 dated 29.06.1970. From the date of assignment, the petitioner is in continuous enjoyment and possession of the said land. The petitioner is cultivating the said land by engaging labours. The petitioner invested a huge amount to develop the said land by applying loans from Co-Operative Land Development Bank.

2-2.While so, the Revenue Officer without conducting any enquiry had proceeded to cancel the assignment made in favour of the petitioner alleging that the petitioner was not cultivating the said land and issued a Notice to the petitioner asking to show cause as to why the assignment should not be cancelled on the ground of non-cultivation and suppression of material fact about the employment of the petitioner and her husband. The petitioner had submitted a detailed explanation to the show cause notice. But, without considering the petitioner's explanation, the 2nd respondent had cancelled the assignment of the land to the petitioner and passed a non-speaking order dated 22.11.1995. Aggrieved over the same, the petitioner preferred an Appeal before the 1st respondent on 28.12.1995; which was dismissed by the 1st respondent. Challenging the same, the petitioner had filed a writ petition in W.P.No.4250 of 1997 before this Court. In the said writ petition, by order dated 08.03.2005, this Court quashed the impugned orders passed by the respondents and directed the respondents to regularize the land in question in favour of the petitioner, subject to the condition that the petitioner pays the value of the land viz., guideline value available in the Sub-Registrar Office as on the date of the impugned order. In the said order dated 08.03.2005, this Court has further directed the respondents to inform the petitioner about the actual guideline value as on the date of the impugned order passed by the 2nd respondent and immediately, on receipt of such communication, the petitioner shall deposit the entire amount as fixed by the authorities, within a period of four months from the date of receipt of such communication. Inspite of the said order dated 08.03.2005 passed by this Court, the respondents failed to comply with the order passed by this Court and the petitioner's request was not considered. Hence, on 29.06.2011, the petitioner sent a representation to the respondents to inform the value of the land to be paid; but the petitioner's

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representation had not been considered by the respondents. Hence, the petitioner again filed a writ petition in W.P.(MD). No.11979/2011 before this Court seeking to direct the respondents to inform the actual guideline value of the subject property. In the said writ petition, on 10.11.2011, the 2nd respondent had informed the guideline value of the subject property as Rs.10,800/- to the Court.

2-3.Thereafter, as per the order of this Court in W.P.No.4250 of 1997 dated 08.03.2005, the petitioner sent a Demand Draft for Rs.32,832/- towards the value of the allotted land at the rate of Rs.10,800/- per acre, for 3.04 acres, on 24.02.2012 ie., within the period of four months from the communication. Inspite of the receipt of the said Demand Draft, the 2nd respondent has not regularized the assignment of the land in favour of the petitioner. Hence, the petitioner has come forward with the present writ petition.

3.The 2nd respondent has filed a counter, opposing the prayer of the petitioner, contending that the petitioner has given false representation before the enquiry officer in respect of her income derived by her. The petitioner has suppressed the facts in respect of her husband's profession and monthly income. The petitioner has not cultivated the land assigned to her on free of cost and hence, she breached the condition imposed for the assignment. Only landless and poor person who are likely to engage themselves in direct cultivation are eligible for assignment. The term residents mean people who live or own land in the village, whether or not they own a house in it. In such a manner the petitioner is not a resident of Kottaiyur Village. Thus, the respondents sought for dismissal of the writ petition.

4.Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

5.In an earlier writ petition in W.P.No.4250 of 1997 by order dated 08.03.2005, this Court has directed the respondents to regularize the land in favour of the petitioner subject to the condition that the petitioner shall pay the value of the land. Since the respondents had not informed the value of the land to be paid by the petitioner, subsequently another writ petition was filed by the petitioner, in which the 2nd respondent informed the value of the land to the Court as Rs.10,800/- per acre. Thereafter, the petitioner paid a sum of Rs.32,832/- towards the value of the allotted land at the rate of Rs.10,800/- per acre, for 3.04 acres, on 24.02.2012, through a demand draft.

6.When there is a specific direction from this Court to the respondents to regularize the assignment of land in favour

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of the petitioner in the earlier writ petition and when the petitioner has also paid the value of the land, the respondents ought to have regularized the assignment of land in favour of the petitioner. Instead of doing so, the respondents are opposing the prayer of the petitioner by assigning the reasons as stated above, in their counter.

7.In my considered opinion, had the respondents felt that the petitioner is not entitled for the regularization of assignment of land, they ought to have filed an appeal as against the order passed by this Court in W.P.No.4250 of 1997 dated 08.03.2005. Now, by taking a different stand, they cannot refuse to regularize the assignment of land in favour of the petitioner.

8.Hence, the respondents are directed to regularize the assignment of the subject land in favour of the petitioner within a period of six weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

[ssv]

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Secretary,
   State of Tamil Nadu
   Revenue Department,
   Fort St.George,
   Chennai-600 009.

2. The Commissioner for Land Administration,
   Echilagam, Chepauk,
   Chennai-600 005.

+ 1 cc to Mr.R.Abdul Mubeen, Advocate SR 17160

scd(co)
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