IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.7188 of 2018 and
WMP.No.8924 of 2018

Revi Mohan .. Petitioner

-vs-

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

2. The Assistant Commissioner,
Urban Land Ceiling, Alandur.

3. The Tahsildar,
Tambaram, Chennai.

4. The Commissioner,
Tambaram Muncipality,
Tambaram, Chennai. .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the 3rd respondent to restore the revenue records in the name of the petitioner in respect of the properties in Survey No.114/4 and in Survey No.38/4 at Kadaperi Village, Tambaram Taluk in terms of the order of this Court passed in W.P.No.15401/2002 dated 09.07.2010.

For Petitioner :: Mrs.Hema Sampath,
Senior Counsel
for M/s.M.Naraayanaswamy

For Respondents :: Mr.D.Surya Narayanan,
Addl. Govt. Pleader

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ORDER

Mr.Revi Mohan, claiming to be the owner of the lands covered in Survey No.114/4 and in Survey No.38/4 at Kadaperi Village, Tambaram Taluk, has come to this Court seeking to issue a Writ of Mandamus, directing the 3rd respondent herein, namely, the Tahsildar, Tambaram, Chennai, to restore the revenue records in his name in respect of the aforesaid lands, on the basis of

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the order passed by this Court in W.P.No.15401/2002 dated 09.07.2010.

2. Learned Senior Counsel appearing for the petitioner submitted that the lands covered in Survey No.114/4 and in Survey No.38/4 at Kadaperi Village, Tambaram Taluk were notified as excess lands as per Tamil Nadu Urban Land Ceiling and Regulation Act, 1978 (hereinafter referred to as, 'the Act'). The original owner for the said lands is Mr.Mohan. Since he died, the petitioner, being his legal heir, has become the owner of the said properties. As there was no notice given under Section 11(5) of the Act and subsequently, the Act itself was repealed w.e.f. 16.6.1999, as per the Repealing Act, in respect of the lands against which possession had been taken as on the date of coming into force of the Repealing Act, all further proceedings shall stand terminated and the lands will resume to the erstwhile owner.

3. The learned Senior Counsel for the petitioner further submitted that since the petitioner was able to satisfy this Court by producing various receipts for payment of Tax, more particularly, the latest receipt dated 7.3.2017 along with various electricity bills including the last one dated 14.01.2018 and also a copy of the Small Scale Industries Registration Certificate showing that the petitioner has been carrying on the business of manufacturing of bricks in the aforesaid lands, this Court accepting the case of the petitioner that he has been in possession of the lands and the physical possession of the lands has not been taken on 27.09.1993, has held that the petitioner is entitled to the benefit of the Saving Clause of the Repealing Act and finally, the entire proceedings initiated against the father of the petitioner was quashed and a direction also was given to the revenue authorities to restore the name of the petitioner in the revenue records in respect of the said lands.

4. The learned Senior Counsel for the petitioner also submitted that in spite of the said order passed on 09.07.2010, till date, the direction given to the respondents to restore the name of the petitioner in the revenue records has not been made. Therefore, the learned Senior Counsel seeks to issue further direction in this matter by allowing the present Writ Petition.

5. In reply, the learned Additional Government Pleader appearing for the respondents submitted that as against the order dated 9.7.2010 passed in W.P.No.15401 of 2002, quashing the entire proceedings against the father of the petitioner with a consequential direction to the revenue authorities to restore the name of the petitioner in the revenue records, a Writ Appeal S.R.No.79642/2015 was filed during March, 2015, after a lapse

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of 5 long years.

6. Opposing the same, the learned Senior Counsel for the petitioner submitted that in the normal course, this type of belated appeal will not be listed for hearing.

7. When the order dated 9.7.2010 has been passed by this Court in W.P.No.15401 of 2002 quashing the proceedings initiated against the father of the petitioner with a further direction to the revenue authorities to restore the name of the petitioner in the revenue records, so far as the properties in Survey No.114/4 and in Survey No.38/4 at Kadaperi Village, Tambaram Taluk are concerned, this Court finds that there is no other order passed against the said order dated 9.7.2010. Therefore, the said order dated 9.7.2010 has become final. Hence, the present Writ Petition is allowed with a consequential direction to the respondents to comply with the direction given by this Court in W.P.No.15401 of 2002 dated 9.7.2010, within a period of four weeks from the date of receipt of a copy of this Order. It is made clear that if the W.A.Sr.No.79642/2015 which was filed for condonation of delay is subsequently allowed and the writ appeal is also allowed, it is for the respondents to work out the same in the manner known to law. However, they need not unnecessarily wait for the listing of the above said Writ Appeal S.R. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS-VI)

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Sub Assistant Registrar

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To

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

2. The Assistant Commissioner,
Urban Land Ceiling, Alandur.

3. The Tahsildar,
Tambaram, Chennai.

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4. The Commissioner,
Tambaram Muncipality,
Tambaram, Chennai.

+1cc to Mr.M.NARAYANASWAMY Advocate, S.R.No.26691
+1cc to the Government Pleader, S.R.No.27708

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