BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **13.11.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.(MD)No.1211 of 2019

W.A.D.Thompson,
Rep. by its Power of Attorney Agent,
S.A.F.Ahamed Gnaniyar ... Appellant

Vs.

1.The Secretary to Government,
Revenue [Urban Land Ceiling] Department,
Chepauk, Chennai.

2.The Principal Secretary / Commissioner
of Urban Land Ceiling and Urban Land Tax,
Chepauk, Chennai.

3.The Assistant Commissioner,
(Urban Land Ceiling), Tirunelveli,
Presently office shifted to
O/o the Assistant Commissioner,
Urban Land Tax, Madurai.

4.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli-1. ... Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to allow the writ appeal and set aside the order passed in W.P.(MD)No.364 of 2019, dated 17.06.2019.

Prayer in WP(MD). 364/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to convert the classification of land from Surplus into Patta land in respect of the land to an extent of western 15 cents on the northern side out of total extent of 10.18 acres situated in S.No.26 at Melapalayam Village, Tirunelveli District and issue patta in pursuant to the order passed in W.P.No.3998/12 and W.P.No.6444/2013 dated 18-02-14.

For Appellant : Mr.H.Arumugam
For Respondents : Mr.A.Angappan
Government Advocate

JUDGMENT

[Judgment of this Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.H.Arumugam, learned Senior Counsel for the appellant and Mr.A.Angappan, learned Government Advocate for the respondents. By consent on either side, this writ appeal is taken up for final disposal.

2. This appeal is directed against the order in W.P.(MD) No.364 of 2019, which was disposed of along with another connected writ petition in W.P.(MD)No.25438 of 2018, wide common order dated 17.06.2019.

3. The prayer sought for by the appellant in the writ petition was to convert the classification of the land saying as surplus into patta land prior to the proceedings initiated under the provisions of the Tamil Nadu Urban Land Ceiling Regulation Act, 1978. The petitioner had earlier approached this Court and filed W.P.(MD)No.3998 of 2012 and 6444 of 2013 and the essential relief sought for in the writ petitions, was to declare that the proceedings initiated under the said Act stood abated, consequently the land should be shown as patta land and the revenue entry should be modified or deleted.

4. The writ petitions were allowed by order dated 18.02.014 along with the other connected writ petitions, where similar relief was sought for. Though the order was passed by the learned Single Bench on 18.02.2014, the respondent did not take immediate steps to challenge the same. But appears to have filed writ appeal with the delay and ultimately the writ appeal was numbered as W.A.(MD)No.511 of 2019. The Hon'ble Division Bench by judgment, dated 12.06.2019 has dismissed the writ appeal. In the light of the dismissal of the writ appeal, the order passed in the writ petition stood confirmed and consequential proceedings initiated under the Act stood abated and the appellant was entitled for grant of patta, for which purpose, necessary changes have to be made in the revenue records.

5. Before the learned writ Court, the respondents took a stand that, since the writ appeal filed by the respondents was dismissed on 12.06.2019, the respondents will comply with the order passed in the writ appeal on 18.02.2014. This has been recorded by the learned single Bench in paragraph 3 of the impugned order. However, the writ petition was dismissed on the ground that it is a second round of litigation.

6. In our considered view, the petition is not a second round of litigation, because the issue in the earlier round of litigation was challenging the validity of the proceedings initiated under the

Act declaring the land owned by the appellant as surplus. Now the appellants seeks for consequential relief. Therefore, in our opinion, this writ petition could not have been dismissed on the ground that this is a second round of litigation.

7. The learned Government Advocate appearing for the respondents would submit that the respondents have filed Special Leave Petition against the judgment, dated 12.06.2019 passed by the Hon'ble Division Bench. However, there is nothing on record to show that Special Leave Petition has been filed or pending before the Hon'ble Supreme Court. As noticed above, the writ petition was allowed on 18.02.2014 and the respondent did not take any effective steps to challenge the order immediately, but there was a delayed challenge and that was also ended in failure by judgment, dated 12.06.2019. Therefore, necessarily the respondent should process the request made by the petitioner, obtain appropriate orders from the respondents 1 and 2 and effect necessary changes. However, whatever proceedings are initiated by the respondents would be subject to the outcome of the Special Leave Petition stated to have been filed before the Hon'ble Supreme Court.

8. In the light of the above, this writ appeal is allowed and the order passed in the writ petition is set aside and a direction is issued to the fourth respondent to submit necessary proposal through proper channel for rectification of entries in the revenue records and place the same before the second respondent within a period of six weeks from the date of receipt of a copy of this order. Upon receipt of the same, the second respondent shall consider and pass appropriate proposal to the first respondent for issuing appropriate orders. This direction shall be complied by the second respondent within a period of eight weeks from the date on which, the proposal is received from the Tahsildar through proper channel. The first respondent is directed to consider the proposal and pass appropriate orders within a period of twelve weeks therefrom. Once again, we make it clear that all the proceedings initiated by the respondents will be subject to the outcome of the Special Leave Petition stated to have been filed before the Hon'ble Supreme Court. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Secretary to Government,
Revenue [Urban Land Ceiling] Department,
Chepauk, Chennai.

2.The Principal Secretary / Commissioner
of Urban Land Ceiling and Urban Land Tax,
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4.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli-1.

+1 CC to Spl.GP (SR-98406[F] dated 14/11/2019)
+1 CC to Mr.H.ARUMUGAM, Advocate (SR-98604[F] dated 15/11/2019)

ORDER MADE IN
W.A.(MD)No.1211 of 2019
13.11.2019

_MK (28.11.2019) 4P 7C