



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.9632 OF 2019

AND

W.M.P.NO.10250 OF 2019

A.D.Venkatasubramanyan

...Petitioner

Vs.

1. The Principal Secretary to Government
Department of Revenue and
Disaster Management
State of Tamil Nadu
Chennai - 600 009.
2. The Principal Commissioner and
Commissioner of Land Reforms
"Ezhilagam", Chepauk,
Chennai - 600 005.
3. Assistant Commissioner of Urban Land and
Competent Authority of urban land ceiling
Alandur Area,
E-153, Karuneegar Street, Adambakkam,
Chennai - 600 088.
4. The Tahsildar,
Tambaram Taluk,
Tambaram,
Chennai - 600 045.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents to make necessary changes in the Revenue Records in the name of the petitioner with respect to the land comprised in Survey No.495/1B over an extent of 0.56.00 ares in Perumbakkam Village, Tambaram Taluk within time prescribed by this Court.



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For petitioner : Mr.M.Muthappan
For respondents : Mr.V.Veluchamy
Government Advocate

ORDER

This writ petition has been filed for a mandamus to direct the respondents to make necessary changes in the Revenue Records in the name of the petitioner with respect of the land comprised in the S.No.495/1B over an extent of 0.56.00 ares in Perumbakkam Village, Tambaram Taluk within a time frame.

2.The case of the petitioner is that he has acquired a land comprised in S.No.495/2 over an extent of 0.43 cents and S.No.495/1 over an extent of 1.52 acres in Perumbakkam Village, Tambaram Taluk by Settlement Deed dated 05.09.1986 and thereafter, he submitted a lay out plan and then MMDA now known as CMDA has approved the lay out plan as PPD/L.O./87/88, the said approval was informed by the Member Secretary MMDA to the Commissioner, St.Thomas Mount Panchayat Union by letter dated 10.05.1988.

3.The petitioner submits that the Village of Perumbakkam was brought under the purview of Tamil Nadu Urban Land Ceiling Act 1978, pursuant to the same, the Urban Land Ceiling Authority initiated proceedings under the provisions of the above said Act and declared his land as excess land and issued a notification to this effect.

4.The petitioner further submits that the above said action was challenged by him in W.P.No.21916 of 2003 by virtue of Section 5(3) of the Act, the petitioner is entitled to the right of protection of the land, besides he is in continuous possession and the possession of the land has not been taken as contemplated under the provisions of the said Act and hence, he is entitled protection of this land as per Tamil Nadu Urban Land Ceiling Repeal Act 20 of 1999.

5.According to the petitioner, this Court allowed the writ petition by order dated 17.11.2009, the State has preferred an appeal before the Division Bench of this Court in W.A.No.2259 of 2011 and the said Writ Appeal was dismissed by the Division Bench of this Court by Order dated 02.12.2011 and aggrieved by the said order, the State has preferred a S.L.P and the same was also dismissed on the ground of delay and also on merits.



6.The petitioner submits that at time of the initiation of Urban Land Ceiling Proceedings, the Revenue Record has been changed with respect to his land as Government land and hence, he made a representation on 24.06.2015 to make necessary changes in the Revenue Records pursuant to the Order of this Court as well as the Supreme Court but till date, there is no response from the respondent.

7.The petitioner has no other alternative remedy except to approach this Court under Article 226 of the Constitution of India. Hence, the writ petition filed.

8.The learned Government Advocate for the respondents filed a counter wherein it has been stated that the proposals were received from the Commissioner of Urban Land Ceiling and Urban Land Tax to implement the orders of this Court, the proposal of the Commissioner of Urban Land Ceiling and Urban Land Tax is under active examination of the Government level and necessary orders will be issued.

9.It is further stated in the counter that with regard to the averments raised by the petitioner in Paragraph Nos.5 and 6 of the affidavit, during the process of acquisition, changes have been carried out in the name of the Government in the Revenue Records. Soon on receipt of the orders of the Hon'ble Supreme Court of India, proposal has been received from the Principal Secretary/Commissioner of Urban Land Ceiling and Urban Land Tax and the same is under active consideration of the Government to comply the Court order.

10.Heard, learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials available on record.

11.The relevant paragraphs of the order passed by the learned Single Judge of this Court in W.P.No.12650 of 2010 dated 17.06.2010 is extracted hereunder:

"4.Considering the above facts and circumstances, I direct the second respondent to consider the representation of the petitioner dated 16.4.2010 for making necessary changes in the revenue records pertaining to his land, pursuant to the orders passed by this Court in W.P.No.21916 of 2003 dated 17.11.2009 on merits and in accordance with law.

5.The Writ petition is ordered accordingly. No costs. Consequently, connected M.P.No.1 of 2010 is closed."



12.The relevant paragraphs of the judgment of the Division Bench of this Court in W.A.No.2259 of 2011 dated 02.12.2011 is extracted hereunder:

"9.In the decision reported in the case of SMT.ANGOORI DEVI v. STATE OF U.P. & ORS. (JT 2000 (SUPPL.1) SC 295), the Hon'ble Supreme Court has held as follows:-

" 2.These cases relate to the interpretation of different provisions of the Urban Land (Ceiling and Regulation) Act. During the pendency of these appeals in this Court, the Urban Land (Ceiling and Regulation) Act has been repealed by Act 15 of 1999 and the State of U.P. also has adopted the same by a Resolution. In view of the provisions contained in Section 3 of the Repealing Act and the fact that the possession of the vacant land has not been taken over by the State Government, which is asserted by the counsel appearing for the appellants and is also apparent from the interim orders passed by this Court, the question for consideration no longer survives.

3.Further, under Section 4 of the Repealing Act all proceedings under the Act must be held to have abated. In that view of the matter, we do not think it necessary to proceed with this matter. These appeals stand disposed of accordingly."

Following the aforesaid order, a Division Bench of this Court, where one of us is a member (ELIPE DHARMA RAO, J.), has allowed the writ appeal by order dated 21.6.2010 (E.D.R.J. & K.K.S.J), IN W.A.No.998 of 2010.

10.In view of the appeal of the Act, 1999 on 16.6.1999, all the proceedings are abated and any order passed subsequent to 16.6.99 is without jurisdiction. In such circumstances, the order passed by the learned single Judge is confirmed and the writ appeal is dismissed. Consequently, the connected M.P. is also dismissed. However, there shall be no order as to costs."

13.The relevant portion of the judgment of the Hon'ble Supreme Court in S.L.P Appeal (C) No...../2015 in CC No.6556/2014 dated 23.03.2015 is extracted hereunder:

"The Special leave petition is dismissed on the ground of delay as also on merits."



14. In view of the above facts and circumstances of the case and considering the submission made by the petitioner and considering the aforesaid judgments of the learned Single Judge, Hon'ble Division Bench and the Hon'ble Supreme Court, this Court is of the view that the writ petition is allowed by directing the Authorities to pass appropriate orders based on the aforesaid judgments within a period of 12 weeks from the date of receipt of a copy of this order.

15. With the above observations and direction, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

dk/pam

To

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Tambaram,
Chennai - 600 045.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.50946

+1cc to the Government Pleader, S.R.No.51545

W.P.No.9632 of 2019

GJ(CO)

RLP(23/12/2021)