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W.P.No.31520 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.31520 of 2016
and W.M.P.No.27354 of 2016

K.Mohansundaram

... Petitioner

Vs.

1.The Secretary to the Government,
Revenue Department,
Fort St.George,
Chennai – 600 009.

2.The Commissioner of Survey & Settlement,
Survey House,
Chepauk,
Chennai – 600 005.

3.The Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai – 600 005.

4.The Commissioner of Land Survey & Land Reforms,
Chepauk,
Chennai – 600 005.

5.The District Collector,
Kancheepuram District,
Kancheepuram.



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6.The Revenue Divisional Officer,
Tambaram Division,
Tambaram,
Chennai – 600 045.

7.The Tahsildhar,
Alandur Taluk,
Nanganallur,
Chennai – 600 061.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for all the records relating to the impugned order Na.Ka.Ee2/5314/2007 dated 27.06.2016 passed by the Commissioner of Survey and Settlement, Chennai-5, the second respondent herein, and quash the same, and to consequently direct the Secretary to the Government of Tamil Nadu, Revenue Department, the first respondent herein, to initiate action for inclusion of the petitioner's property of land measuring 4000 square feet (398.06 sq.metres) bearing Plot No.16, Mount Poonamallee Main Road, Old Survey No.435/1, New Survey No.435/1B (Very old Survey No.48) of St.Thomas Mount, Alandur Taluk, Kancheepuram District, in the Schedule-I or II of the Tamil Nadu Levy of Ryotwari Assessment on Free Hold Lands, 1972, and for issuance of patta in petitioner's name in respect of the said property.

For Petitioner : Mr.J.Thilagaraj

For Respondents : Mr.V.Manoharan,



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Additional Government Pleader

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ORDER

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus to quash the impugned order Na.Ka.Ee2/5314/2007 dated 27.06.2016 passed by the second respondent and to consequently direct the first respondent to initiate action for inclusion of the petitioner's property of land measuring 4000 sq.ft., (398.06 sq. mts) bearing Plot No.16, Mount Poonamalle Main Road, Old Survey No.435/1, New Survey No.435/1B (Very old Survey No.48) of St. Thomas Mount, Alandur Taluk, Kancheepuram District in the Schedule-I or II of the Tamil Nadu Levy of Ryotwari Assessment on Free Hold Lands, 1972 and for issuance of patta in favour of the petitioner in respect of the subject property.

2. The case of the petitioner is that he is the owner of the above said property. Thereafter, in the year 1972 an enactment called the Tamil Nadu Levy of Ryotwari Assessment on Free Hold Lands, 1972 (hereinafter called the Free-Hold Act) was passed by the Government of Tamil Nadu. Unfortunately, the petitioner's property was not included under the Free Hold



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Act for the reason that it was wrongly claimed by the Revenue Authorities as lease hold lands. Whileso, the Government of Tamil Nadu has issued a Government Order in G.O.Ms.No.577 of the Revenue Department dated 07.09.1994, directed the third respondent herein to send a detailed report about the petitioner's land for inclusion under the purview of the Free Hold Act. However, no action was initiated and the request for issuance of patta in the name of petitioner was also not considered. Therefore, the petitioner has filed a writ petition in W.P.No.19893 of 2007 before this Court, seeking for issuance of patta as per the provisions of the Free Hold Act. This Court, by its order dated 12.04.2012, directed the second respondent to consider the petitioner's application dated 23.04.2007, pursuant to which, the second respondent had passed an order in Na.Ka.Ee2/5314/2007 dated 27.06.2016 and rejected the petitioner's claim seeking patta on the ground that the petitioner's property has not been included in the above said Act. Challenging the same, the present writ petition.

3. The learned counsel for the petitioner submitted that though the petitioner has made a representation dated 23.04.2007 before the second



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respondent seeking patta in his favour and inclusion of the subject property under the purview of the above said Act, the same was rejected by the second respondent vide order dated 27.06.2016. Hence, this Court may issue direction to the second respondent to decide whether the subject property is entitled for inclusion under the purview of the Tamil Nadu Levy of Ryotwari Assessment on Free Hold Lands Act 1972 (Tamil Nadu Act 31 of 1973) and pass appropriate orders within the time frame that may be stipulated by this Court.

4. The learned Additional Government Pleader appearing for the respondents submitted that admittedly, the petitioner has filed a writ petition in W.P.No.19893 of 2007 seeking a writ of mandamus for issuance of settlement patta as per provisions of free hold Act and the same was disposed of by this Court vide order dated 12.04.2012 directing the second respondent to consider the petitioner's application and pass appropriate orders, pursuant to which, an enquiry was conducted by the second respondent and based on the outcome of the said enquiry, the second respondent rejected the petitioner's claim seeking Patta vide order dated 27.06.2016. Challenging the same, the petitioner has come up with the present Writ Petition. He further submitted that, the



inclusion of the subject property under the purview of the above said Act requires Government decision and the proposals are being sent by Collector, Kancheepuram through third respondent which is under process and will be sent to Government at the earliest.

5. Heard the learned counsel on either sided and perused the materials placed on record.

6. The petitioner filed this writ petition against the refusal of the second respondent to include the petitioner's property under the Free Hold Act. However, the fact remains that already the District Collector had forwarded the proposal to the Government for inclusion of the property of the petitioner under the purview of the abovesaid Act and the decision of the Government is pending. In view of the above, this Court is inclined to direct the first respondent to take a decision with regard to the inclusion of the petitioner's land within the purview of the Free Hold Act and pass appropriate orders on the reference made by the District Collector within a period of six months from the date of receipt of a copy of this order.



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7. With the above direction, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking Order : Yes/No

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M.DHANDAPANI,J.

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