BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8230 of 2024
and
W.M.P.(MD)No.7486 of 2024

M.Kumaran ... Petitioner

Vs.

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

2.The District Collector,
Trichy District,
Trichy.

3.The District Revenue Officer,
Trichy District, Trichy.

4.The Revenue Divisional Officer,
Trichy, Trichy District.

5.The Tahsildar,
Thiruverumbur,
Trichy District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct respondents to implement the order passed by the 1st respondent in his proceedings

Rc.No.G1/57088/93 and 6851/94 dated 29.10.2001 and consequently issue patta to the petitioner in the land in S.No.35/27 admeasuring 2280 sq.ft, Kumbakkudy Village, M.G.R. Nagar, Trichy District, in terms of the proceedings of the 3rd respondent in Na.Ka.A2/52284/2001 dated 05.01.2018 within a time frame fixed by this Court.

For Petitioner : Mr.B.Saravanan, Senior Counsel,
For Mr.D.Kirubakaran

For Respondents : Mr.P.Thambi Durai,
Government Advocate.

ORDER

Heard the learned senior counsel for the writ petitioner and the learned Government Advocate for the respondents.

2.One A.Xavier who is a similarly placed person filed W.P.(MD)No.7129 of 2022. It was allowed by me in the following terms:-

> *"2.The petition mentioned land was originally assigned free of cost. As per terms of the assignment, the land could not have been alienated. However, contrary to the terms of assignment condition, the assignee had sold the property in the year 1991 in favour of*

R.Thavamani. When the breach of the assignment terms came to light, the assignment itself was cancelled on 16.09.1993 and 27.12.1993. Challenging the cancellation, the original assignee filed an appeal before the Commissioner of Land Administration. Even when this appeal was pending, the said purchaser sold the property in favour of the writ petitioner herein on 04.03.1998.

3.The appeal filed before the Commissioner of Land Administration was disposed on 29.10.2001 in the following terms:-

> *"In the above circumstances, while concluding the entire facts of the case, it is clear that the land assignments made free of cost to the appellants are found to be irregular and that some of the appellants have violated the conditions of free assignment. However, since it was brought to notice that in most of the assigned lands, buildings have been constructed, it is not fair to cancel the assignment after a long span of time which will make the issue more complicated. In order to avoid much complication to this issue, it is fair to reassign the land to the person actually in possession of the property after verifying their eligibility and on collection of double the market value of the land wherever the occupation are not eligible or assignment free of cost. In the above circumstances, I remit the case back to the DRO for fresh disposal after field verification of each and every as observed above."*

4.Thereafter, the Tahsildar, Tiruchirappalli took up the matter and called upon the writ petitioner if he is willing to take the property on payment of twice the market value as fixed by the Government. The petitioner gave his consent. Even though the Commissioner of Land Administration remanded the matter to the District Revenue Officer, the matter was not finalized. Therefore, the petitioner and others gave a fresh representation to the Commissioner of Land Administration. On 23.02.2007, the Commissioner of Land Administration sent a strongly *worded letter to the District Collector, Trichirappalli, in the following terms:-*

> *3. I would like to inform that even though orders were passed in the year 2001, so far no action was taken by the District Revenue officer to implement the orders which resulted in filling of petitions by so many persons who constructed houses in the land requesting patta after implementing the order of the Special were forwarded to the District Revenue officer in the ref. fifth and eighth cited for immediate action and the District Revenue officer was requested in the ref. sixth cited to report immediately the reason why no action was and to send the current status of action taken report before 25.01.06. Even though the District Revenue Officer was reminded demi officially in ref 9th and 10th cited, not even and interim reply was received for the past one year. It is highly regrettable.*

5.This nudged the district revenue authorities to take some action. The market value was finalized as Rs.73/- per sq. ft only in September 2009 by the Tahsildar, Tiruchirappalli. Even thereafter, the final step was not taken. Whileso, in the year 2018, the District Revenue Officer, Tiruchirappalli decided to revisit the issue of valuation. The petitioner has been sending one representation after another and since it did not elicit any favourable response, the present writ petition came be filed.

6.After hearing the learned counsel on either side, I am more than satisfied that the Commissioner of Land Administration, Chepauk, Chennai had indicated in the year 2001 itself as to how the matter should be resolved. She had specifically directed the District Revenue Officer, Tiruchirappalli to fix the market value and alienate the same in favour of the writ petitioner, if he is willing to take it at twice the market value. When the petitioner had given consent, the exercise of valuation should have been expeditiously carried out and pucca patta shall be *issued. That was not done only in the year 2009, and that to after nudging from the Commissioner of Land Administration, the valuation was fixed. Even thereafter the petitioner was not called upon to remit the consideration. It took another nine more years but then the District Revenue Officer, Tiruchirappalli decided to enhance the market value. This was clearly incorrect. When once the market value was fixed, the District Revenue Officer could not have once again enhanced it in the year 2022. Therefore, the writ petitioner is entitled to the relief sought for.*

7.The District Revenue Officer, Tiruchirappalli is directed to issue communication to the writ petitioner quantifying the amount payable by the writ petitioner as fixed in the year 2009. Since the said amount ought to have been remitted by the writ petitioner in the year 2009 itself, he is obliged to pay interest. Considering the lapse of time and taking note of overall facts and circumstances particularly the gross delay exhibited by the officials, the interest payable by the writ petitioner is fixed at 4% per annum. After the writ petitioner pays the amount as fixed by the first respondent together with interest with effect from 01.09.2009, the fifth respondent shall issue patta in respect of the petition mentioned property in favour of the writ petitioner. The third respondent shall issue the communication as mentioned above within a period of four weeks from the date of receipt of a copy of this order. After payment of amount as quantified above, the fifth respondent shall issue patta in favour of the writ petitioner within a period of twelve weeks thereafter.”

3.Questioning the same, the authorities filed W.A.(MD)No.310 of 2023. The writ appeal was dismissed by the Hon'ble Division Bench. On 27.03.2023. Challenging the same, S.L.P.No.13168 of 2023 was also filed before the Hon'ble Supreme Court. It was dismissed on 10.07.2023.

4.Since I am more than satisfied that the factual matrix obtaining in this case is same, this writ petition is also allowed on the same lines. No costs. Consequently, connected miscellaneous petition is closed.

12.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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G.R.SWAMINATHAN, J.

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