

Sophy Vs. the Tahsildar

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Court : Kerala

Decided On : Feb-04-2013

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : Sophy

Respondent : The Tahsildar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON MONDAY, THE 4TH DAY OF FEBRUARY 2013 15TH MAGHA 193 WP(C).No. 27665 of 2012 (G)

----- PETITIONER(S): ----- 1. SOPHY, AGED 2 YEARS W/O. LATE JOSE, PULLAN HOUSE, CHATTUPARA KARA & POST MANNAMKANDAM VILLAGE, ADIMALI, DEVIKULAM TALUK IDUKKI DISTRICT.

2. SONIA D/O. LATE JOSE, PULLAN HOUSE, CHATTUPARA KARA & POST MANNAMKANDAM VILLAGE, ADIMALI, DEVIKULAM TALUK IDUKKI DISTRICT.

3. PAUL J.PULLAN S/O. LATE JOSE, PULLAN HOUSE, CHATTUPARA KARA & POST MANNAMKANDAM VILLAGE, ADIMALI, DEVIKULAM TALUK IDUKKI DISTRICT. BY ADVS.SRI.MATHEW JOHN (K) SRI.DOMSON J.VATTAKUZHY
RESPONDENT(S): ----- 1. THE TAHSILDAR DEVIKULAM, PIN-685 513.

2. THE VILLAGE OFFICER MANNAMKANDAM, ADIMALI-685 561. BY GOVERNMENT PLEADER SMT. SUSHEELA R. BHATT THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-02-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 27665 of 2012 (G) APPENDIX PETITIONER(S) EXHIBITS P1 : COPY OF THE PARTITION DEED NO.595/1989 OF SRO, DEVIKULAM, DTD.8.3.1989. P2 : COPY OF THE REPORT DTD.9.11.2012 OBTAINED BY THE PETITIONERS. P3 : COPY OF THE EXTRACT OF BASIC TAX REGISTER. P4 : COPY OF THE EXTRACT OF THANDAPER ACCOUNT. P5 : PHOTOGRAPH OF THE PROPERTY. P5(a): PHOTOGRAPH OF THE PROPERTY. P6 : COPY OF THE DATA BANK PREPARED BY THE LOCAL LEVEL MONITORY COMMITTEE. P7 : COPY OF THE PETITION BY THE PETITIONER BEFORE THE TAHSILDAR, DTD.12.11.2012. RESPONDENTS' EXHIBITS : NIL /TRUE COPY/ P.A. TO JUDGE P.R. RAMACHANDRA MENON, J.

----- W.P.(C). 27665 of 2012
----- Dated this the 4th day of February, 2013
JUDGMENT The petitioners are owners of the property having an extent of 33.97 Ares comprised in Block No.5 in R.S.No.627/3 of Mannamkandam Village. According to the petitioners, the said property is remaining as a 'Purayidom' (dry land) for more than 25 years and quite a lot of improvements such as coconut palms, jack fruit trees and so many other plants and vegetations are effected therein. It is stated that, an age old building is also situated therein and that the property is no more lying as a wet land or paddy land. The petitioners place reliance on Ext.P2 report of the Village Officer, whereby the factual position as to the physical nature of property in question has been certified in favour of the petitioner. Reference is also made to the particulars of the Data Bank Register, as borne by Ext.P6, whereby the reclamation effected is given as of more than 'ten years' ago.

2. The learned counsel submits that, the petitioners have W.P.C. No. 27665 of 2012 -2- constructed a residential building in the property. Nature of the property is reflected from Ext.P5 photographs and it is covered by relevant documents including Exts. P2 and P6. The application preferred by the petitioners by way of

Ext.P7 to correct the entries in the BTR is liable to be entertained by the 1st respondent, submits the learned counsel.

3. Heard the learned Government Pleader as well.

4. No counter affidavit has been filed from the part of the respondents. Going by the pleadings and materials on record, this Court finds that, the 1st respondent is liable to consider Ext.P7 application preferred by the petitioners in the light of Ext.P2 report made by the Village Officer, entries in the Data Bank as borne by Ext.P6 and also in the light of the law declared by this Court in *Shahanaz Shukoor v. Chelannoor Grama Panchayat* (2009 (3) KLT 899), *Praveen v. Land Revenue Commissioner* (2010 (2) KLT

617) and also in *Jafarghan v. K.A. Kochumakkar & Others* (2012 (1) KLT 491). Ext.P7 shall be considered and appropriate orders shall be passed by the 1st respondent, after giving an opportunity of hearing to the W.P.C. No. 27665 of 2012 -3- petitioner at the earliest, at any rate within 'six weeks' from the date of receipt of a copy of this judgment. The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the 1st respondent for further steps.
P.R. RAMACHANDRA MENON, JUDGE. Kp/-

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