

Kathrina Vs. State of Kerala

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Court : Kerala

Decided On : Jan-31-2013

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

Appellant : Kathrina

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON THURSDAY, THE 31ST DAY OF JANUARY 2013 11TH MAGHA 193 WP(C).No. 3920 of 2012 (L)
----- PETITIONER(S): ----- 1. KATHRINA, W/O. KURIAKOSE, ILLAPPUNKAL HOUSE, KOTTEKKAD, CHITTUR, AGALI, PALAKKAD.

2. KURIAKOSE, S/O. KURIAKOSE, ILLAPPUNKAL HOUSE, KOTTEKKAD, CHITTUR, AGALI, PALAKKAD. BY ADV. SRI.VINOD KUMAR.C.
RESPONDENT(S): ----- 1. STATE OF KERALA, REP. BY SECRETARY, REGISTRATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. THE SUB REGISTRAR, AGALI SUB REGISTRAR OFFICE, AGALI, MANNARKKAD, PALAKKAD-678 001. BY SR. GOVT. PLEADER MR.GEORGE MECHERIL. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION

ON 31-01-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: rs. WP(C).No. 3920 of 2012 (L) APPENDIX PETITIONER'S EXHIBITS:- EXT.P1 TRUE COPY OF POSSESSION CERTIFICATE OF 1ST PETITIONER DT. 03-12-2011. EXT.P2 TRUE COPY OF POSSESSION CERTIFICATE OF 2ND PETITIONER DT. 03-12-2011. EXT.P3 TRUE COPY OF TAX RECEIPT DT. 21-05-2011 OF 1ST PETITIONER. EXT.P4 TRUE COPY OF TAX RECEIPT DT. 21-05-2011 OF 2ND PETITIONER. RESPONDENT'S EXHIBITS:- NIL. //TRUE COPY// P.A. TO JUDGE rs. P.R. RAMACHANDRA MENON J.

~~~~~ W.P.(C) No. 3920 of 2012  
~~~~~ Dated, this the 31st day of January, 2013  
JUDGMENT Whether the second respondent is justified in insisting to produce NOC from the Revenue Department and Forest Department for registering a sale deed, is the question to be considered in this writ petition.

2. The petitioners are owners of the property having an extent of 1 acre and 75 cents of land comprised in Survey No. 1335 of Agaly village, in Palakkad district; which was purchased by them as per the document bearing No. 313/1991 dated 22.04.1991 of SRO Agaly. The petitioners are enjoying the said property ever since then, also remitting necessary tax before the concerned authority, as borne by Exts. P1 and P2 possession certificates and Exts. P3 and P4 tax receipts. By virtue of the compelling circumstances, the petitioners want to alienate the said property and when appropriate steps were pursued in this regard, they were W.P.(C) No. 3920 of 2012 :

2. : given to understand that the second respondent is insisting for production OF 'NOC' from the Revenue Department and Forest Department for registration of the conveyance deed. It was in the said circumstances, that the petitioner has approached this Court for appropriate relief.

3. When the matter came up for consideration on 05.03.2012, on the basis of the submission made by the learned Government Pleader that the petitioner is still to approach the second respondent for registration of document, the following interim order was passed . "Post after three weeks at the request of the learned counsel

for the petitioners, to enable the petitioners to present their documents for registration in view of submission by the learned Government Pleader that the documents have not yet been produced for registration".

4. Today, when the matter came up for further consideration, the learned counsel for the petitioners submits that the petitioners have already approached the second respondent with the relevant deed, pursuant to the above W.P.(C) No. 3920 of 2012 :

3. : interim order. But the second respondent is still insisting to produce 'NOC', stating that registration is being made only on the basis of NOC to be issued by the concerned department. The learned counsel submits that the stand taken by the second respondent is contrary to the relevant provisions of law and the binding judicial precedents, particularly the law declared by this Court in *Selvam Vs. State of Kerala* (2010 (1) KLT 508).

5. Heard the learned Government Pleader as well.

6. Considering the facts and circumstances, this Court finds that the second respondent does not have any power, competence or authority to insist for production of 'NOC' from the Revenue or Forest Department for causing registration of a conveyance, if conveyance is otherwise proper. In the said circumstance, the petitioner is entitled to succeed. There will be a direction to the second respondent to register relevant deed on production of the same and satisfaction of all the other requirements in tune with the relevant provisions of the W.P.(C) No. 3920 of 2012 :

4. : Registration Act/Rules, without insisting for 'NOC' from the Revenue Department or Forest Department. The Writ Petition is disposed of. Sd/- P. R. RAMACHANDRA MENON, (JUDGE) kmd

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