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Suchithran Vs. Pious Thomas

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Court : Kerala

Decided On : Oct-07-2013

Judge : Honourable Mr.Justice K.M.Joseph

Appellant : Suchithran

Respondent : Pious Thomas

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.M.JOSEPH & THE HONOURABLE MR. JUSTICE A.HARIPRASAD MONDAY, THE7H DAYOF OCTOBER201315TH ASWINA, 1935 WA.No. 1178 of 2013 ---------- AGAINST THE

JUDGMENT
IN WP(C) 29912/2012 of HIGH COURT OF KERALA DATED0304-2013 & AGAINST THE

ORDER
IN RP4202013 of HIGH COURT OF KERALA DATED1006-2013 ..... APPELLANT(S)/4TH RESPONDENT IN WPC: ---------- SUCHITHRAN, S/O.MURUGANKUTTY, RESIDING AT EDACHIRA HOUSE NENMARA.P.O, KOLLENGODE, PALAKKAD. BY ADV. SRI.P.R.VENKETESH

RESPONDENT(S)/PETITIONERS & RESPONDENTS13 IN WPC: ---------- 1. PIOUS THOMAS, S/O.P.T.THOMAS, RESIDING AT PUNNELIPARAMBIL HOUSE THAZHEKKAD.P.O, KOMBIDIYAMAKKAL, THRISSUR-680697.

2. THOMAS JOHN, S/O.P.T.JOHNSON, RESIDING AT PUNNELIPARAMBIL HOUSE THAZHEKKAD.P.O, KOMBIDIYAMAKKAL, THRISSUR-680697.

3. THE TAHSILDAR, CHITTUR, TALUK OFFICE, CHITTUR PALAKKAD-678101.

4. THE VILLAGE OFFICER, MUTHALAMADA II VILLAGE, MUTHALAMADA, CHITTUR TALUK PALAKKAD DISTRICT-678507.

5. THE DISTRICT COLLECTOR, PALAKKAD-678001. R3TO R5 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR. R1 & R2 BY ADV. SRI.JACOB SEBASTIAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON0710-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: K.M.JOSEPH & A.HARIPRASAD, JJ.

---------- W.A.No.1178 of 2013 ---------- Dated, this the 7th day of October, 2013

JUDGMENT

K.M.Joseph, J.

Appellant is the 4th respondent in the writ petition. The writ petition was filed by respondents 1 and 2 seeking the following reliefs: "to issue a writ in the nature of mandamus commanding the respondents 1 and 2 to collect tax and issue a possession certificate to the petitioner in respect of their property covered by Exts.P1 to P12." 2. Briefly put, the case of the writ petitioners is as follows: Petitioners are in absolute ownership and possession of an extent of about 14 acres of land in Sy.Nos.198/4 of Muthalamada II Village. Petitioner's property is not involved in any dispute with the Government. There is no prohibitory order from any Court of Law or authority restricting petitioners' enjoyment of the property in any manner. The second W.A.No.1178 of 2013 2 respondent is refusing to

collect tax and issue a possession certificate upon the extraneous influence exerted by some third parties.

3. According to the writ petitioners, essentially the basic tax has not been collected and possession certificate has not been granted on the basis of pendency of civil suit relating to the property. There is a civil suit filed for partition. Appellant is one of the plaintiffs. Learned Single Judge disposed of the writ petition by issuing the following directions. "In the said circumstances, the petitioners are set at liberty to file necessary application for effecting mutation before the concerned respondent; upon which, the same shall be considered and appropriate orders shall be passed, effecting necessary correction in the Revenue Records in accordance with Transfer of Registry Rules and shall accept basic tax accordingly. If any application is filed for issuance of possession certificate, it shall be considered and necessary certificate shall be issued, subject to satisfaction of necessary norms/requirements. It is made clear W.A.No.1178 of 2013 3 that, this shall be subject to the outcome of O.S.No.874 of 2012 pending before the Sub Court, Palakkad." 4. We heard the learned counsel for the appellant, learned counsel for the writ petitioners and also the learned Government Pleader.

5. Learned counsel for the writ petitioners brings to our notice that basic tax has been accepted in their names pursuant to the impugned order but mutation has been refused on the strength of the order dated 12.8.2013 noting that the writ petitioners possess only tenancy rights and jenmam rights have not been obtained from the Tribunal. Learned counsel for the appellant would submit that the land in question is a rocky land and there is no possibility of the writ petitioners starting a farm and there are other reasons. He points out pendency of the civil suit. He apprehends that if developmental activities are undertaken, the impugned judgment will stand in the way of the appellant raising a contention that it may not be proceeded with.

6. As far as mutation is concerned, we notice that mutation is not effected as things stand. No doubt, according to the writ petitioners they intend to carry the matter in appeal in W.A.No.1178 of 2013 4 appropriate proceedings in which the appellant would also be made a party, it is submitted. We record the said

submission. We dispose of the writ appeal making it clear that the impugned judgment will not stand in the way of the appellant making appropriate interlocutory applications before the Civil Court in which O.S.No.874 of 2012 is pending against the writ petitioners seeking such orders as he may be advised to seek in the event of the writ petitioners proceeding to carry out any activities which he considers detrimental to his rights. (K.M.JOSEPH) JUDGE. (A.HARIPRASAD) JUDGE. MS

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