

Sainaba and Others Vs. Srirangan and Others

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Court : Kerala

Decided On : Oct-05-2013

Judge : Honourable Mr.Justice S.Siri Jagan

Appellant : Sainaba and Others

Respondent : Srirangan and Others

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON SATURDAY, THE 5TH DAY OF OCTOBER 2013 13TH ASWINA, 1935 WP(C).No. 18125 of 2013 (M) ----- PETITIONER:-: ----- SANJAY KUMAR PILLAI, FLAT NO.7CD, OJAS APRTMENT, MULLASSERI CANAL ROAD, ERNAKULAM - 682 011, PERMANENTLY RESIDING AT: KARAKKATUKUNNEL HOUSE, RANNY PERUNAD P.O., PATHANAMTHITTA. BY ADV. SRI.MVS.NAMBOOTHIRY RESPONDENTS:-: ----- 1. THE REVENUE DIVISIONAL OFFICER FORT KOCHI - 682 002.

2. THE TALUK TAHSILDAR, TALUK OFFICE, PARUR - 683 513.

3. THE VILLAGE OFFICER, VILLAGE OFFICE, ALANGAD - 683 515. ADDL.R4 IMPEADED ADDL.R4. THE DISTRICT COLLECTOR, ERNAKULAM. IMPEADED AS PER

ORDER

DATED 28.13 IN IA.NO.10451/13. BY SPL.GOVERNMENT PLEADER (REVENUE) SRI. P.K. SOYUZ THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05.10-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 18125 of 2013 (M) -----
APPENDIX PETITIONER'S EXHIBITS: ----- EXHIBIT P1. TRUE COPY OF SALE DEED NO.1703/07 OF ALANGAD SUB REGISTRY. EXHIBIT P2. TRUE COPY OF SALE DEED NO.1704/07 OF ALANGAD SUB REGISTRY. EXHIBIT P3. TRUE COPY OF SALE DEED NO.3262/07 OF ALANGAD SUB REGISTRY. EXHIBIT P4. TRUE COPY OF THE PERMIT ISSUED TO THE PETITIONER BY THE KADUNGALLOOR GRAMA PANCHAYATH. EXHIBIT P5. TRUE COPY OF THE APPLICATION DATED 18.08.2012 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT. EXHIBIT P6. TRUE COPY OF THE CERTIFICATE ISSUED BY THE AGRICULTURAL OFFICER, KRISHI BHAVAN, KADUNGALLUR TO THE PETITIONER. EXHIBIT P7. TRUE COPY OF THE LETTER DATED 26.07.2012 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER. EXHIBIT P8. TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT. RESPONDENTS' EXHIBITS: NIL ----- /TRUE COPY/ P.S. TO JUDGE cl P.R. RAMACHANDRA MENON, J.

..... W.P.(C).No.18125 of 2013
..... Dated this the 5th day of October, 2013

JUDGMENT

The case of the petitioner is that the property covered by Exts.P2 and P3 belonging to the petitioner is not a 'paddy land' or 'wet land' as envisaged under Sections 2(xii) or 2 (xviii) of Act 28 of 2008. Even though the property is a dry land with much improvements therein, it happens to be described as 'Nilam' in the BTR. The request made by the petitioner before the first respondent by filing Ext.P8 has not yielded any positive result and hence the writ petition, for directing the first respondent to effect necessary correction in the BTR, based on Ext.P6 certificate showing the property as dry land/'paramba'.

2. Heard the learned Special Government Pleader for the respondents, who submits on instruction that the property has not been included as paddy land or wet land in the draft Data Bank Register prepared by the concerned authorities.

3. The law is now settled that, if the petitioner's property is not included in the Data Bank Register, Act 28 of 2008 cannot have any application as held by this Court in *Jaffarkhan v. Kochumarakkar* (2012 (1) KLT491).

4. In such circumstances, the claim of the petitioner for W.P.(C).No.18125 of 2013 enabling him to make use of the property for purposes other than agricultural purpose has necessarily to be dealt with under the relevant provisions of the Kerala Land Utilization Order. In the said circumstances, the petitioner is relegated to approach the additional 4th respondent by filing necessary representation in this regard and, if such a representation is filed within two weeks, from the date of receipt of a copy of this judgment, the same shall be considered and appropriate orders shall be passed in the light of Clause 6 of KLU and also in the light of the observations made by a Division Bench of this Court in *Praveen v. Land Revenue Commissioner* (2010(2) KLT617 after giving an opportunity of hearing to the petitioner. The proceedings shall be finalized at the earliest and at any rate, within two months from the date of receipt of a copy of this judgment.

5. The petitioner shall produce a copy of this judgment along with copy of the order in I.A.No.10451/2013 before the additional 4th respondent for further steps. The writ petition is disposed of. Sd/- P.R. RAMACHANDRA MENON, JUDGE. cl

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