

Nabeesa Vs. the Tahsildar

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Court : Kerala

Decided On : Oct-30-2013

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

Appellant : Nabeesa

Respondent : The Tahsildar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON WEDNESDAY, THE 30TH DAY OF OCTOBER 2013 8TH KARTHIKA, 1935 WP(C).No. 24110 of 2013 (K) ----- PETITIONER : ----- NABEESA, D/O.NAMBIATH MARAKKAR, AGED 68 YEARS, POMBRADESAM ELUMBILASSERI AMSOM, KARIMPUZHA VILLAGE OTTAPALAM TALUK, PALAKKAD DISTRICT BY ADV. SRI.JACOB SEBASTIAN RESPONDENT(S) : ----- 1. THE TAHSILDAR OTTAPALAM, PALAKKAD DISTRICT, PIN 679101.

2. THE VILLAGE OFFICER KARIMPUZHA VILLAGE, PALAKKAD DISTRICT, PIN 679513.

3. THE TALUK LAND BOARD MANNARKAD, PALAKKAD DISTRICT, PIN 678582. R1 TO R3 BY GOVT. PLEADER SMT. LILLY K.T. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/10-2013, THE

COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Mn ...2/-
WP(C).No. 24110 of 2013 (K) ----- APPENDIX
PETITIONER(S)' EXHIBITS : ----- EXHIBIT P1 COPY
OF PURCHASE CERTIFICATE NO.97/1980 OF THE LAND TRIBUNAL,
SREEKRISHNAPURAM. EXHIBIT P2 COPY OF REGISTERED SALE DEED NO.
789/1993 OF THE S.R.O., MANNARKAD. EXHIBIT P3 COPY OF THE BASIC
TAX PAID RECEIPT DATED 255/2009 ISSUED BY THE 2D RESPONDENT.
EXHIBIT P4 COPY OF THE

JUDGMENT

OF THIS HON'BLE COURT DATED 186/2009 IN WPC NO.26227/2008. EXHIBIT
P5 COPY OF THE

JUDGMENT

DATED 311/2010 IN WPC NO. 21093/2010. EXHIBIT P6 COPY OF THE

JUDGMENT

DATED 54/2013 IN WPC NO.3820/2013 OF THIS HON'BLE COURT.
RESPONDENT(S)' EXHIBITS : NIL -----
//TRUE COPY// P.S. TO JUDGE Mn P.R. RAMACHANDRA MENON, J.

..... W.P.(C)No. 24110 Of 2013
..... Dated this the 30th October, 2013

JUDGMENT

The petitioner has approached this Court with the following prayers: "i) issue a writ in the nature of mandamus commanding the respondents 1 and 2 to collect from the petitioner basic tax in respect of 5 cents of land in Sy.No.139/16A1 of Karimpuzha Village in Ottappalam Taluk, belonging to her, covered by Exts.P2 and P3 and issue her a possession certificate. ii) issue such other writ, order or direction which are deemed fit and proper on the facts and circumstances of the case and in the interest of justice. " 2. The learned Counsel for the petitioner submits that the title came to the hands of the petitioner by virtue of Ext.P2 sale deed of SRO Mannarkkad from the vendor, who obtained the same as per Ext.P1

patta dated 06.05.1980. It is stated that the petitioner was enjoying the property also satisfying the tax as borne by Ext.P3 tax receipt. But later, it was refused to be accepted, referring to some Ceiling cases, which made the W.P.(C)No. 24110 Of 2013 2 petitioner to approach this Court by filing this writ petition,.

3. The learned Counsel for the petitioner submits that the property belonging to the petitioner is not at all a subject matter in any ceiling case and that, even if the property is the subject matter of any ceiling case, the remedy, as provided under Section 85(8) of the Kerala Land Reforms Act is available to petitioner.

4. The learned Government Pleader pointed out that the property came to be transferred to the hands of the petitioner fraudulently and that the same forms subject matter of Ceiling Proceedings. The learned Government Pleader also asserts that, possession of the property was never handed over to the petitioner and that the same has always been with the declarant.

5. After hearing both the sides, the writ petition is disposed of, directing the 2nd respondent/Village Officer to accept the land tax in respect of the property covered by Ext.P2, as was being accepted earlier. However, it is made clear that, this will not bar the way of the respondents in proceeding against the parties/properties in accordance with the relevant provisions of W.P.(C)No. 24110 Of 2013 3 law and acceptance of tax will be subject to the outcome of the Ceiling Proceedings. The issue with regard to possession is left open. P.R.RAMACHANDRA MENON
JUDGE Ik