

O. Mohanan Vs. Radhakrishnan

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Court : Kerala

Decided On : Nov-08-2013

Judge : Honourable Mr.Justice K.Surendra Mohan

Appellant : O. Mohanan

Respondent : Radhakrishnan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN FRIDAY,THE8H DAY OF NOVEMBER201317TH KARTHIKA, 1935 WP(C).No. 26544 of 2013 (P)

----- PETITIONER: ----- JONARIN PIGMENTS PRIVATE LIMITED, REPRESENTED BY ITS MANAGING DIRECTOR, A.A.JOSEPH, VETTIKKAT TOWER, 1ST FLOOR, PALARIVATTOM, KOCHI-682 025. BY ADVS.SRI.P.RAMAKRISHNAN, SRI.C.ANIL KUMAR. RESPONDENTS : ----- 1. THE ASST.PROVIDENT FUND COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANIZATION, SUB REGIONAL OFFICE, BHAVISHYANIDHI BHAVAN, KALOOR, KOCHI-682 017.

2. STATE BANK OF INDIA, KALOOR BRANCH, KALOOR, KOCHI-682 017, REPRESENTED BY ITS BRANCH MANAGER. R1 BY DR.S.GOPAKUMARAN NAIR, SENIOR ADVOCATE, ADV. SRI.A.RAJASIMHAN,S.C, R2 BY SRI.THOMAS JAMES MUNDACKAL, S.C. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON0811-2013, THE COURT ON THE

SAME DAY DELIVERED THE FOLLOWING: Prv. W.P.(C).NO.26544/2013-P:
APPENDIX PETITIONER'S EXHIBITS: P1 : COPY OF THE

ORDER

NO.KR/KC/19635/ENF-III(4)/2013/9076 DTD.5.8.2013 PASSED BY THE1T
RESPONDENT. P2 : COPY OF LETTER DTD.19.9.2013 SUBMITTED BY THE
PETITIONER TO THE1T RESPONDENT. P3 : COPY OF THE NOTICE
DTD.10.10.2013 ISSUED BY THE1T RESPONDENT TO THE PETITIONER. P4 :
COPY OF MEMORANDUM OF APPEAL DTD.21.10.2013 SUBMITTED BY THE
PETITIONER BEFORE THE E.P.F APPELLATE TRIBUNAL. P5 : COPY OF THE
LETTER DTD.23.10.2013 SUBMITTED BY THE PETITIONER BEFORE THE1T
RESPONDENT. RESPONDENTS' EXHIBITS: NIL. //TRUE COPY// P.A. TO
JUDGE. Prv. P.R. RAMACHANDRA MENON, J.

..... W.P.) No. 26544
OF2013..... Dated this the 1st February,
2013

JUDGMENT

The petitioner has approached this Court with the following prayers: "i. issue a writ of certiorari or other appropriate writs, orders or directions to call for the records leading upto Exhibit P6 and to quash the same. ii. issue a writ of mandamus or other appropriate writs, orders or directions commanding the first respondent to correct the entry in the basic tax register by considering Exhibit P5 in the light of law laid down by this Hon'ble Court in Jalaja Dileepan's case as well as on the basis of ground realities as expeditiously as possible at any rate within a time frame to be fixed by this Hon'ble Court. iii. issue a writ to declare that the stand taken by the 1st respondent that the power to correct any entry in the basic tax register vests with the District Collector is unsustainable and contrary to the law laid down by this Hon'ble Court in Jalaja Dileepan's case. iv. Render such other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case." W.P.) No. 26544 OF20132 2. The learned Counsel for the petitioner submits that the property owned, possessed and enjoyed by the petitioner is actually a dry land, though the same has been described as 'Nilam' in

the Revenue records. The petitioner had filed Ext.P5 application before the first respondent for changing the classification, but the same came to be rejected as per Ext.P6 communication stating that the matter comes within the power and jurisdiction of the District Collector and thus relegating the petitioner to approach the District Collector, if at all the grievance is to be redressed, which in turn is under challenge in this writ petition.

3. During the course of hearing, the learned Counsel for the petitioner submits that by virtue of the dictum laid down by this Court in 2012(3) KLT333(Jalaja Dileep vs. Revenue Divisional Officer), it is none other than the first respondent, who is having the jurisdiction and competency to consider the issue.

4. The learned Government Pleader appearing for the respondents submits that, in the Data Bank Register, the property has been shown as 'reclaimed land'. The specific case of W.P.) No. 26544 OF20133 the petitioner is that the property does not come within the purview of the Kerala Conservation of Paddy Land and Wet Land Act, 2008.

5. In view of the ruling rendered by this Court in the decision cited supra, this Court finds that the matter requires to be re-considered by the first respondent, by conducting an inquiry, including spot inspection and calling for a report from the concerned officials. Accordingly, Ext.P6 is set aside and the first respondent is directed to re-consider the matter and take a decision on merits, in accordance with law, at the earliest, at any rate, within 'six' weeks from the date of receipt of a copy of the judgment, of course, after giving an opportunity of hearing to the petitioner. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the first respondent for further steps. The writ petition is disposed of. P.R.RAMACHANDRA MENON JUDGE Ik

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