

George Joseph Vs. State

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Court : Kerala

Decided On : Oct-30-2013

Judge : Honourable Mr. Justice a.V.Ramakrishna Pillai

Appellant : George Joseph

Respondent : State

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI WEDNESDAY, THE 30TH DAY OF OCTOBER 2013 8TH KARTHIKA, 1935 WP(C).No. 9937 of 2007 (G) ----- PETITIONER(S): ----- SRI. GEORGE JOSEPH, PROPRIETOR, ORION HOTEL, LIGHT HOUSE BEACH, VIZHINJAM KOVALAM, THIRUVANANTHAPURAM. BY ADVS.SRI.SIBY MATHEW SRI.A.A.MOHAMMED NAZIR RESPONDENT(S): -----

1. STATE OF KERALA, REP.BY THE CHIEF SECRETARY TO THE GOVT., GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM.

3. THE REVENUE DIVISIONAL OFFICER, THIRUVANANTHAPURAM.

4. THE TAHSILDAR, NAYYATTINKARA.

5. THE VILLAGE OFFICER, VIZHINJAM VILLAGE OFFICE, TRIVANDRUM. BY SR.GOVERNMENT PLEADER SMT.SAREENA GEORGE THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON3010-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: tss W.P.(C) NO. 9937/2007 APPENDIX PETITIONERS EXHIBITS P1:- COPY OF BUILDING PERMIT NO.29/83-84 DTD. 2.7.1983. P2:- COPY OF RELEVANT EXTRACT OF APPLICATION SUBMITTED BY THE PREDECESSOR OF THE PETITIONER BEFORE THE TRIDA AND COUNTER SIGNED BY THEM. P3:- COPY OF PROCEEDINGS DTD. 7.10.1988 ISSUED BY THE TRIDA. P4:- COPY OF GO (RT) NO.2589/1988/LAD, DTD. 27.7.1988. P5:- COPY OF PLAN APPROVED BY THE TRIDA FOR THE EXPANSION. P6:- COPY OF PHOTOGRAPHS OF THE FRONT PORTION OF THE HOTEL BELONGING TO THE PETITIONER. RESPONDENTS EXHIBITS NIL TRUE COPY P.S. TO JUDGE tss A.V.RAMAKRISHNA PILLAI, J ----- W.P.(C) No.9937 of 2007 ----- Dated this the 30th day of October, 2013

JUDGMENT

The petitioner is aggrieved by the initiation of proceedings under the Land Conservancy Act against him by the respondents.

2. According to the petitioner, no notice as contemplated under Section 12 of the aforesaid Act has been served upon him before initiating action against him.

3. The petitioner is the proprietor of a hotel situated in Kottukal Village near Kovalam.

4. According to the petitioner, the property where the hotel is situated was purchased by his father in the year 1992. In fact, the predecessor of the petitioner constructed a hotel in the year 1983 as per Ext.P1 permit granted by the local authority.

5. According to the petitioner, he made an application to TRIDA for extension and construction of the first and second floor of the existing building and the WPC No.9937 of 2007 2 same was granted as per Ext.P3.

6. According to the petitioner, the Government also granted exemption for the construction of the first and second floor as per Ext.P4. Ext.P5 is the plan produced by the petitioner for making additional construction. He has produced Ext.P6 photographs also. According to the petitioner, in the meanwhile the respondents took steps to forcibly demolish the front portion of the hotel on the ground that the building was constructed encroaching an area having a width of 2 feet on the puramboke land. Allegedly, seven pillars on which the front portion of the hotel is resting is sought to be demolished by the proceedings initiated by the respondents.

7. The respondent State has filed a counter, but it is not clear from the counter whether a valid notice under Section 12 of the Land Conservancy Act has been served on the petitioner.

8. Therefore, this Court feels that it is only just and proper to grant an opportunity to the petitioner to ventilate his grievance before the 4th respondent. Therefore, this writ petition is disposed of directing the WPC No.9937 of 2007 3 4th respondent to issue a notice as contemplated under Section 12 of the Land Conservancy Act.

9. On receipt of the notice, the petitioner shall be at liberty to file his objections before the authority concerned and adduce evidence in support of his claim. If ultimately it is found that any portion of the hotel run by the petitioner is in the property of the Government, he shall be at liberty to file a representation before the authority concerned to obtain a lease or licence, as the case may be, with regard to that particular portion. Reserving that right, this petition is disposed of.
sd/-A.V.RAMAKRISHNA PILLAI JUDGE css/ true copy P.S.TO JUDGE