

Vincy Cherian Vs. State of Kerala

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Court : Kerala

Decided On : Jan-29-2014

Judge : Hon'Ble the Chief Justice Dr. Manjula Chellur

Appellant : Vincy Cherian

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HON'BLE THE CHIEF JUSTICE DR. MANJULA CHELLUR & THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE WEDNESDAY, THE 29TH DAY OF JANUARY 2014 9TH MAGHA, 1935 RP.No. 50 of 2014 () IN WA.2090/2004
----- AGAINST THE

JUDGMENT

IN WA20902004 of HIGH COURT OF KERALA. REVIEW PETITIONER(S)/APPELLANTS: ----- 1. VINCY CHERIAN S/O.CHERIAN, ELANJIKKAL HOUSE VENKAYPARA ESTATE ANAVIRATTI VILLAGE DEVIKULAM TALUK.

2. TONY CHERIAN S/O.CHERIAN, ELANJIKKAL HOUSE VENKAYPARA ESTATE ANAVIRATTI VILLAGE DEVIKULAM TALUK.

3. GEORGE CHERIAN S/O.CHERIAN, ELANJIKKAL HOUSE VENKAYPARA ESTATE ANAVIRATTI VILLAGE DEVIKULAM TALUK.

4. VIANNEY CHERIAN S/O.CHERIAN, ELANJIKKAL HOUSE VENKAYPARA ESTATE ANAVIRATTI VILLAGE DEVIKULAM TALUK.

5. JOSEPH CHERIAN S/O.CHERIAN, ELANJIKKAL HOUSE VENKAYPARA ESTATE ANAVIRATTI VILLAGE DEVIKULAM TALUK.

6. THOMAS CHERIAN S/O.CHERIAN, ELANJIKKAL HOUSE VENKAYPARA ESTATE ANAVIRATTI VILLAGE DEVIKULAM TALUK.

7. MERINA CHERIAN D/O.CHERIAN, ELANJIKKAL HOUSE VENKAYPARA ESTATE ANAVIRATTI VILLAGE DEVIKULAM TALUK.

8. KOCHURANI CHERIAN D/O.CHERIAN, ELANJIKKAL HOUSE VENKAYPARA ESTATE ANAVIRATTI VILLAGE DEVIKULAM TALUK. BY ADV. SRI.JOHNSON MANAYANI RESPONDENT(S)/RESPONDENTS: ----- 1. STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT SECRETARIAT TRIVANDRUM.

2. THE CARDAMOM SETTLEMENT OFFICER DEVIKULAM³ THE TAHSILDAR, TALUK OFFICE DEVIKULAM. BY GOVERNMENT PLEADER SMT. SUSHEELA BHAT THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 2901-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Manjula Chellur, C.J.

& A.M. Shaffique, J.

===== R.P. No. 50 of 2014 in W.A. No. 2090 of 2004 ===== Dated this, the 29th day of January, 2014.

ORDER

Shaffique, J.

This review petition is filed by the appellants, inter alia, contending that certain grounds urged by the appellants have not been considered by this Court.

2. It is contended by the appellants that the appellant's predecessor-in-interest were in possession of the property and they were cultivating the same. They have also parted with portion of the consideration for assignment and in between certain orders were passed by the revenue authorities. Such issues have not been considered by this Court in the impugned judgment, is the main ground raised.

3. Having gone through the averments in the writ petition as well as the judgment of the Supreme Court with reference to the matter by which the case had been remanded back to this Court, we find that all the issues, which were germane for consideration in the appeal, have been considered and no grounds are made out warranting interference in the form of a review. R.P. No. 50 of 2014 in W.A. No. 2090 of 2004 -:

2. :- 4. Learned counsel for the appellants submits that since they were in possession of the property for a substantially long period, though not under 1935 Rules, they are entitled for assignment of land under the law applicable under the present law. In fact, the learned Single Judge, while dismissing the original petition, has observed that the dismissal of the original petition will not stand in the way of the petitioners in moving for assignment of land on lease for cardamom cultivation under the 1961 Rules or for assignment of land on registry under the Kerala Land Assignment (Regulation of Occupations of Forest Lands Prior to 1.1.1997) Special Rules, 1993. While confirming the judgment of the learned Single Judge, we expressed the opinion that no grounds are made out to set aside the judgment of the learned Single Judge and we had only dismissed the appeal. In that event, it cannot be said that the petitioners are not entitled for the directions issued by the learned Single Judge in the original petition. In the result, the review petition is disposed of clarifying that despite the dismissal of the writ appeal, the appellants will be entitled to seek assignment of land under any other law in force, if they are legally R.P. No. 50 of 2014 in W.A. No. 2090 of 2004 -:

3. :- entitled for the same, including the rules specified in the judgment of the learned Single Judge. Sd/- Manjula Chellur, Chief Justice. Sd/- A.M. Shaffique, Judge. Tds/ [True copy] P.S to Judge.