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Mariam Vs. State of Kerala

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Court : Kerala

Decided On : Feb-17-2014

Judge : Honourable Mr.Justice P.N.Ravindran

Appellant : Mariam

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN MONDAY,THE17H DAY OF FEBRUARY201428TH MAGHA, 1935 WP(C).No. 28656 of 2013 (F) ---------- PETITIONER: ---------- MARIAM, THETTIKOTTU VEEDU, VALAYANCHIRANGARA, AIRAPURAM VILLAGE, PERUMBAVOOR. BY ADVS.SMT.K.P.SANTHI, SMT.BEENA JOHN, SRI.R.JAYAKRISHNAN (MUTHUKULAM), SMT.K.VINAYA. RESPONDENTS: ---------- 1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

2. THE DISTRICT COLLECTOR, ERNAKULAM - 682 030.

3. TAHSILDAR, KUNNATHUNAD TALUK, ERNAKULAM - 683 544.

4. THE VILLAGE OFFICER, MAZHUVANNOOR - 686 689. BY SR.GOVERNMENT PLEADER SRI. K.C. VINCENT. THIS WRIT PETITION

(CIVIL) HAVING COME UP FOR ADMISSION ON1702-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Prv. W.P.(C).NO.28656/2013-F: APPENDIX PETITIONER'S EXHIBITS: EXHIBIT P1: TRUE COPY OF THE APPLICATION DATED1301.2010 AS PER RULE5OF LAND ASSIGNMENT ACT AND RULES. EXHIBIT P2: TRUE COPY OF THE REPORT DATED1702.2010 OF THE4H RESPONDENT. EXHIBIT P3: TRUE COPY OF THE REPORT DATED1801.2010 OF THE VILLAGE OFFICER, AIRAPURAM. EXHIBIT P4: TRUE COPY OF THE RESOLUTION DATED2311.2010 OF MAZHUVANNOOR PANCHAYAT. RESPONDENTS' EXHIBITS: NIL. //TRUE COPY// P.A. TO JUDGE. Prv. P.N.RAVINDRAN, J.

---------- W.P.(C) No.28656 of 2013 ---------- Dated this the 17th day of February, 2014

JUDGMENT

The prayer in this writ petition is for a writ in the nature of mandamus commanding the third respondent to assign 50 cents of land comprised in Re.Sy.No.352/10 of Mazhuvannor Village, Kunnathunad Taluk to the petitioner. The petitioner also seeks a declaration that she is entitled to such assignment under rule 5 of the Kerala Land Assignment Rules 1964. The main contention raised in the instant writ petition is that the petitioner and her predecessor-in- interest have been in continuous and uninterrupted possession of the aforesaid lands but notwithstanding the said fact, the petitioner's application for assignment which was submitted on 13.1.2010 is kept pending.

2. When the writ petition came up for hearing today, Sri.K.C.Vincent, learned Senior Government Pleader appearing for the State of Kerala submitted with reference to G.O.(MS)280/2011/RD dated 27.7.2011 that assignment of land on patta will be given only to landless and for self-housing, that the petitioner's family is in possession of 2.83 ares of land and therefore, the petitioner cannot be granted assignment of the land in question. A copy of W.P.(C) No.28656/2013 2 Government order was made available to me for perusal. The said government order discloses that in order to ensure that there is a uniform policy for land assignment and to curb the tendency of the ineligible to get lands assigned,

assignment on registry will be given only to landless and for self-housing and that assignment to persons other than landless persons who are eligible under the Kerala Land Assignment Act for personal housing, will be on lease basis.

3. In the instant case, the petitioner has in the application submitted by her for assignment stated that her family is not in possession of any extent of land. On the other hand, in Ext.P3 the very report relied on by the petitioner it is stated that her family is in possession of 2.83 acres of land and she is residing therein. In such circumstances, I am of the opinion that the only relief that can be granted to the petitioner is an order directing the Tahsildar before whom Ext.P1 application for assignment is pending, to consider the same and pass orders thereon expeditiously. I accordingly dispose of the writ petition with a direction to the third respondent Tahsildar to consider the request made by the petitioner in Ext.P1 application and pass orders thereon expeditiously and in any event within an outer limit of three months from the date on which the petitioner produces a certified copy of this judgment W.P.(C) No.28656/2013 3 along with a copy of the writ petition complete in all aspects before him. The third respondent shall if he is not the competent authority forward the application to the appropriate authority and that authority shall comply with the said direction within three months from the date of receipt of the application. P.N.RAVINDRAN, (JUDGE) vps

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