

Sunilkumar Vs. State of Kerala

Sunilkumar Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1133357

Court : Kerala

Decided On : Feb-28-2014

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

Appellant : Sunilkumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON FRIDAY,THE28H DAY OF FEBRUARY20149TH PHALGUNA, 1935 WP(C).No. 5886 of 2014 (I)

----- PETITIONER: ----- SUNILKUMAR, AGED33YEARS, S/O.SUKUMARAN, BABY SADANANM, POLACHIRA P.O., CHIRAKKARA VILLAGE, KOLLAM TALUK, KOLLAM DISTRICT. BY ADVS.SRI.C.RAJENDRAN SRI.K.R.RANJITH SMT.R.S.SREEVIDYA RESPONDENTS: ----- 1. STATE OF KERALA, REPRESENTED BY THE SECRETARY, REVENUE DEPARTMENT, SECRETARIAT,THIRUVANANTHAPURAM-695 001.

2. THE DISTRICT COLLECTOR, COLLECTORATE, KOLLAM-691 001.

3. REVENUE DIVISIONAL OFFICER, COLLECTORATE, KOLLAM-691 001.

4. VILLAGE OFFICER, POOTHAKULAM VILLAGE, KOLLAM-691 001.

5. SUB INSPECTOR OF POLICE, PARAVOOR POLICE STATION, KOLLAM-691 301.

6. ASHOKAN PILLAI, S/O.VASU PILLAI, PANDARAVILA PUTHEN VEEDU, KALAYKODE P.O., PARAVOOR, KOLLAM-691 301. R1 TO R5 BY SENIOR GOVERNMENT PLEADER SMT.M.S.RAJASREE THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON2802-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Msd. WP(C).No. 5886 of 2014 (I)

----- APPENDIX PETITIONER(S)' EXHIBITS:
----- EXHIBIT-P1: A TRUE PHOTOCOPY OF THE RELEVANT PORTION OF THE REGISTRATION CERTIFICATE. EXHIBIT-P2: A TRUE PHOTOCOPY OF THE INSURANCE CERTIFICATE. EXHIBIT-P3: A TRUE PHOTOCOPY OF THE MAHAZAR OF THE LAND PREPARED BY THE VILLAGE OFFICER. EXHIBIT-P4: A TRUE PHOTOCOPY OF THE INJUNCTION

ORDER

ISSUED BY THE VILLAGE OFFICER RESTRAINING THE RECLAMATION OF THE PORTION OF THE LAND. EXHIBIT-P5: A TRUE PHOTOCOPY OF THE MAHAZAR PREPARED BY THE VILLAGE OFFICER, SIGNED BY TWO ATTESTING WITNESSES. EXHIBIT-P6: A TRUE PHOTOCOPY OF THE SKETCH PREPARED BY VILLAGE OFFICER OF THE PORTION OF THE LAND. EXHIBIT-P7: A TRUE PHOTOCOPY OF THE RELEVANT PORTION OF THE THANDAPER REGISTER OF THE LAND. EXHIBIT-P8: A TRUE PHOTOCOPY OF THE SEIZURE MAHAZAR PREPARED BY THE VILLAGE OFFICER. RESPONDENT(S)' EXHIBITS: ----- NIL //TRUE COPY// P.A.TO JUDGE. Msd. P.R. RAMACHANDRA MENON, J.

----- W.P.C. No.5886
OF2014----- Dated this the 28th day of February, 2014.

JUDGMENT

The petitioner is stated as aggrieved of Ext.P4 order passed by the 4th respondent, ordering restoration of the property as paddy land, invoking the power and procedure under Section 13 of Act 28 of 2008. The case of the petitioner is that, there is absolutely no rhyme or reason for having passed Ext.P4 order, in so

far as the property concerned is a 'garden land', having reclaimed years prior to the commencement of Act 28 of 2008.

2. The learned counsel for the petitioner submits that the petitioner has not committed any offence, but has only given on hire the vehicle bearing No.KL-23-156, which is a JCB, to the 6th respondent, who is the owner of the land. It is also the case of the petitioner that, the land in question is not a 'paddy land' or 'wet land' as defined under Section 2(XII) or 2(XVIII) of Act 28 of 2008, but is a 'garden land' having reclaimed years back. The learned counsel further points out that the request made by the petitioner to release the vehicle is still to be acted upon and W.P.C.No.5886 of 2014 2 hence this writ petition.

3. Heard the learned Government Pleader as well.

4. Considering the facts and circumstances, the petitioner is set at liberty to file a proper application before the 2nd respondent, pointing out the facts and figures forthwith, upon which, the same shall be considered and appropriate orders shall be passed with regard to the interim custody of the vehicle, within 'two weeks' from the date of receipt of the application. The adjudication proceedings shall be finalised, with notice to the petitioner and also to the 6th respondent, at the earliest, at any rate, within 'two months' from the date of receipt of a copy of this judgment. Petitioner shall produce a copy of this judgment, along with a copy of this writ petition before the 2nd respondent, for further steps. The writ petition is disposed of. P.R. RAMACHANDRA MENON, JUDGE W.P.C.No.5886 of 2014 3
sp

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com