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Rajendran Vs. State of Kerala

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Court : Kerala

Decided On : Sep-17-2014

Judge : Honourable the Ag.Chief Justice Mr.Ashok Bhushan

Appellant : Rajendran

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN & THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE WEDNESDAY, THE17H DAY OF SEPTEMBER201426TH BHADRA, 1936 WA.No. 1241 of 2014 IN WP(C).24689/2013 ---------- AGAINST THE

JUDGMENT
IN WP(C) 24689/2013 DATED1701-2014 ..... APPELLANTS/PETITIONERS : ---------- 1. RAJENDRAN, AGED42YEARS, S/O.SANTHA, RESIDING AT PUTHUVAL PUTHEN VEEDU, MUTTATHARA, VALLAKADAVU P.O., THIRUVANANTHAPURAM.

2. PRAMEELA, AGED35YEARS, W/O.RAJENDRAN, RESIDING AT PUTHUVAL PUTHEN VEEDU, MUTTATHARA, VALLAKADAVU P.O., THIRUVANANTHAPRUAM. BY ADVS.SMT.MAJIDA.S SRI.REJI.A.RASHEED SRI.AJIKHAN.M RESPONDENTS/RESPONDENTS : ----------

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

2. TALUK OFFICER, TALUK OFFICE, THIRUVANANTHAPRUAM - 695 001.

3. VILLAGE OFFICER, MUTTATHARA VILLAGE, THIRUVANANTHAPURAM - 695 008. BY SR.GOVERNMENT PLEADER, SRI.P.I. DAVIS. THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON1709-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: ASHOK BHUSHAN, Ag.C.J.

& A.M. SHAFFIQUE, J.

- W.A. No. 1241 OF2014- Dated this the 17th day of September, 2014

JUDGMENT
Ashok Bhushan, Ag.C.J.

Heard learned counsel for the appellants and learned Government Pleader.

2. This writ appeal has been filed against the judgment dated 17.01.2014 passed in W.P.(C) No. 24689 of 2013. The writ petition was filed by the appellants seeking disposal of Ext.P1 application filed by them for assignment of land. But that prayer was rejected by learned Single Judge. The stand of the Government is that the petitioners jointly hold two cents of patta land in Aruvikkara village. It is stated that petitioners wrongly claimed in their application that they had no land. Learned Single Judge after hearing the parties noted the fact that the application filed by the petitioners did not mention that they have two cents of land, but it was admitted before the Court that the said two cents of land has already been sold, that too after filing the writ petition.

3. By considering the facts and circumstances of the case the learned Single Judge was of the view that the WA No. 1241 of 2014 -:2:- petitioners have not approached the Court with clean hands and no indulgence is called for at the instance of the petitioners. The writ petition was dismissed with costs of Rs.5,000/- which was directed to be remitted to the Kerala State Mediation and Conciliation

Centre.

4. Learned counsel for the appellants/petitioners submitted that, it is true that in the application submitted for assignment, there was no mention that the petitioners are having two cents of land. It is submitted that petitioners were illiterate persons and they had disclosed the said fact to the person who filled the application, but the same was not mentioned. It is submitted that petitioners were waiting for disposal of their application for long period and nothing was done.

5. Learned Government Pleader supported the judgment of the learned Single Judge and submitted that no error was committed by this Court in declining any relief to the petitioner, in view of the concealment of relevant facts.

6. After hearing learned counsel for the parties we are of the view that learned Single Judge has rightly refused to WA No. 1241 of 2014 -:3:- exercise the discretionary jurisdiction in favour of the petitioners who have not disclosed all relevant facts in the application for assignment.

7. We, thus, are not inclined to interfere with the judgment of the learned Single Judge dismissing the writ petition. However, we are of the view that, in any event the petitioners make a fresh application giving all relevant details, the same may be considered in accordance with law. The costs of Rs.5,000/- is modified and reduced to Rs.500/-(Rupees five hundred only), looking to the facts and circumstances of the present case, especially the fact that petitioners claim to be working as coolies and do not possess sufficient means to pay the cost. The Writ Appeal is dismissed subject to the observation made as above. Ashok Bhushan, Acting Chief Justice. A.M. Shaffique, Judge. ttb/17/09 WA No. 1241 of 2014 -:4:-

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