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Narayanan P vs State of Kerala

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Court : Kerala

Decided On : Jan-09-2025

Judge : Honourable Mr. Justice T.R.Ravi

Appeal No. : WP(C)/5369/2023

Appellant : Narayanan P

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH THURSDAY, THE 25TH DAY OF JULY 2024 / 3RD SRAVANA, 1946 WP(C) NO. 5369 OF 2023 PETITIONER: NARAYANAN P AGED 62 YEARS S/O RAMANKUTTY NAIR (LATE) MANDOLI HOUSE, EDAKKUNNY POST, THAIKKATTUSSERY, THRISSUR DISTRICT, THRISSUR, PIN - 680306 BY ADVS. ASOK KUMAR K.P. RASMI NAIR T. RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY THE PRINCIPAL SECRETARY TO REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM DISTRICT, PIN - 695001 2

THE DISTRICT COLLECTOR FIRST FLOOR, CIVIL STATION, AYYANTHOLE, THRISSUR, PIN - 680003 3 THE TAHSILDAR, THRISSUR TALUK OFFICE, THRISSUR CHEMBUKKAVU, THRISSUR DISTRICT, PIN - 680020 4 THE VILLAGE OFFICER AVINISSERY VILLAGE OFFICE, AVINISSERY POST, THRISSUR DISTRICT, THRISSUR, PIN - 680313

WP(C) No.5369 of 2023 2 5 ADDL.R5 THE TALUK LAND ASSIGNMENT COMMITTEE FOR THRISSUR TALUK, REPRESENTED BY ITS CONVENER, THE TAHSILDAR THRISSUR TALUK, TALUK OFFICE, PALACE ROAD, THRISSUR, PIN: 680020 [ADDL.R5 IS IMPLEADED AS PER ORDER DATED BY ADV. DEEPA V., G.P. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) No.5369 of 2023 3

JUDGMENT

Petitioners father late Ramankutty Nair filed Ext.P2 application before the 3rd respondent for assignment of 43 cents of land which was in his possession in his favour. The 3 rd respondent rejected the said application as per Ext.P9 order. The petitioner challenged Ext.P9 before this Court in WP(C)No.17581/2013. This Court as per Ext.P14 judgment disposed of the writ petition setting aside Ext.P9 and directed the 3rd respondent-Tahasildar to place the matter before the Taluk Land Assignment Committee for a decision. Since, the 3 rd respondent failed to refer the application for assignment to the Taluk Land Assignment Committee, who is the 5 th additional respondent in this writ petition, the petitioner again approached this Court by filing WP(C)No.19697/2020. This Court disposed of the said writ petition as per Ext.P15 judgment with a direction to the 2 nd respondent to constitute an appropriate Taluk Land Assignment Committee, if it has not already been constituted. There was a further direction to the committee to consider and disposed of the petitioners application for assignment, after hearing, within four

months thereafter. Thereafter, the petitioner filed a Review Petition as RP No.589/2022 to review

WP(C) No.5369 of 2023 4 Ext.P15 judgment on the ground that the Taluk Land Assignment Committee had already been constituted and their report had been

forwarded to the District Collector. This Court disposed of the Review Petition as per Ext.P16 order clarifying Ext.P15 judgment, that if the report of the Taluk Land Assignment Committee has already been placed before the District Collector, then the District Collector shall take a decision based on the said report. The 2 nd respondent passed Ext.P17 order rejecting Ext.P13 application. Thereafter, the 3rd respondent as per Ext.P20 communication directed the petitioner to vacate the land. It is challenging Exts.P17 and P20, this writ petition has been preferred.

2. I have heard Sri. Asok Kumar, the learned counsel for the petitioner and Smt. Deepa V, the learned Government Pleader.

3. As per Rule 12 of the Kerala Land Assignment Rules, the

Taluk Land Assignment Committee is the competent authority to take a decision on the application for assignment. There was a specific direction by this Court in Exts.P15 and P16 to the 2 nd respondent- District Collector to constitute an appropriate Taluk Land Assignment Committee and based on the directions of the said committee, to take a decision on the application for assignment filed by the

WP(C) No.5369 of 2023 5 petitioner. But, thereafter, it was noticed that the Taluk Land Assignment Committee has already prepared report and placed it before the District Collector. Thus, the District Collector was supposed to take a decision based on the said report. However, Ext.P17 would show that the District Collector-2 nd respondent did not take into account the report of the Taluk Assignment Committee at

all, while passing Ext.P17 order. According to the petitioner, the report submitted by the Taluk Land Assignment Committee is in his favour. Since the District Collector did not take into consideration the report of the Taluk Land Assignment Committee and failed to comply with the directions in Exts.P15 and P16 orders,

Ext.P17 order cannot be sustained. Accordingly, it is set aside. Consequently, Ext.P20 is

also set aside. The District Collector is directed to re-consider Ext.P13 application for assignment filed by the petitioner and take a decision, in accordance with law, after hearing the petitioner and taking into account the report, if any, filed by the Taluk Land Assignment Committee, within a period of three months from the

date of receipt of a copy of this judgment. If the 5 th additional respondent -Taluk Land Assignment Committee did not take any decision on the application of the petitioner, they are directed to take WP(C) No.5369 of 2023 6 a decision and submit a report to the 2nd respondent. The 2nd respondent thereafter, shall take a decision on Ext.P13, after hearing the petitioner as aforementioned.

The writ petition is disposed of as above. Sd/- DR. KAUSER EDAPPAGATH JUDGE AJ WP(C) No.5369 of 2023 7 APPENDIX OF WP(C) 5369/2023 PETITIONER EXHIBITS EXHIBIT P-1 A TRUE COPY OF THE RECEIPT OF REMITTANCE OF LEASE & LICENSE FEE DATED 23.05.2013 EXHIBIT P-2 A TRUE COPY OF THE APPLICATION DATED NIL SUBMITTED TO THE 3RD RESPONDENT BY THE PREDECESSOR OF THE PETITIONER EXHIBIT P-3 A TRUE COPY OF THE CHECK-LIST REPORT BY THE VILLAGE OFFICER SUBMITTED TO THE 3RD RESPONDENT EXHIBIT P-4 A TRUE COPY OF THE MAHAZAR DATED 14.10.2009 PREPARED BY THE 4TH RESPONDENT AND SUBMITTED TO THE 3RD RESPONDENT EXHIBIT P-5 A TRUE COPY OF THE SKETCH PREPARED BY THE 4TH RESPONDENT EXHIBIT P-6 A TRUE COPY OF THE EXTRACT OF BASIC TAX REGISTER PERTAINING TO SY. NO.168/3 OF AVINISSERY VILLAGE DATED NIL EXHIBIT P-7 A TRUE COPY OF THE DECISION OF THE AVINISSSERY GRAMA PANCHAYAT DATED 11.11.2009 EXHIBIT P-8 A TRUE COPY OF THE NOTICE PUBLISHED UNDER RULE 12 (1) DATED 15.10.2010 BY THE 3RD RESPONDENT EXHIBIT P-9 A TRUE COPY OF THE ORDER NO. C-4-32610/2009 DATED 11.04.2013 OF 3RD RESPONDENT EXHIBIT P-10 A TRUE COPY OF THE GOVERNMENT ORDER G.O.(MS) NO. 280/2011/RD DATED 27.07.2011 EXHIBIT P-11 A TRUE COPY OF THE MINUTES OF THE LA COMMITTEE DATED 19.06.2014 EXHIBIT P-12

A TRUE COPY OF THE GOVERNMENT ORDER NO. G.O

(MS) 163/2020 REV. DATED 19.6.2020

EXHIBIT P-13 A TRUE COPY OF THE APPLICATION BY THE PETITIONER DATED NIL WP(C) No.5369 of 2023 8 EXHIBIT P-14 A TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP (C) 17581/2013 DATED 12.02.2016 EXHIBIT P-15 A TRUE COPY OF THE JUDGEMENT OF THIS HON'BLE COURT IN WP (C) NO. 19697/2020 DATED 20.01.2022 EXHIBIT P-16 A TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN RP NO. 589/2022 DATED 19.07.2022 EXHIBIT P-17 A TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT DATED 17.01.2023 EXHIBIT P-18 A TRUE COPY OF THE PHOTOGRAPH OF THE SHED IN DILAPIDATED CONDITION EXHIBIT P-19 A TRUE COPY OF THE JUDGMENT REPORTED IN BHASKARA PILLAI V. STATE OF KERALA 1991(2) KLT EXHIBIT P-20 A TRUE COPY OF THE LETTER NO.TLKTSR/2630/2022- C4(1) DATED 24.1.2023

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