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Joy Paul, vs State of Kerala,

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Court : Kerala

Decided On : Mar-28-2025

Judge : Honourable Mr. Justice Harisankar V. Menon

Appeal No. : WP(C)/18341/2023

Appellant : Joy Paul,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON FRIDAY, THE 28TH DAY OF MARCH 2025 / 7TH CHAITHRA, 1947 WP(C) NO. 18341 OF 2023 PETITIONER: JOY PAUL, AGED 55 YEARS, S/O. N.T PAUL, NADAKKAL HOUSE, PANDINJATTU BHAGAM DESOM, ATHIRAMPUZHA P.O, KOTTAYAM DISTRICT, PIN - 686562 BY ADV. C.K.SHERIN RESPONDENTS: 1 STATE OF KERALA, REP. BY SECRETARY TO GOVERNMENT DEPARTMENT OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 THE REVENUE DIVISIONAL OFFICER, REVENUE DIVISIONAL OFFICE, FORT KOCHI, ERNAKULAM, PIN - 682001 3 THE LOCAL LEVEL MONITORING COMMITTEE, MULAMTHURUTHY

GRAMA PANCHAYAT, REPRESENTED BY ITS CONVENER, THE AGRICULTURAL OFFICER, KRISHI BHAVAN, MULAMTHURUTHY, ERNAKULAM DISTRICT, PIN - 682314

4 THE VILLAGE OFFICER, MULAMTHURUTHY VILLAGE, ERNAKULAM DISTRICT, PIN - 682314 BY ADVS. SRI.K.P.JAYACHANDRAN SRI.ASHWIN SETHUMADHAVAN, SR.GP. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is before this Court in the third round of litigation, with respect to an application filed by him in Form No.5 of the Kerala Conservation of Paddy Land and Wetland Act, 2008. In the first two rounds, the applications were rejected, and pursuant to the orders issued by this Court, the impugned orders were set aside, directing the matter to be reconsidered. Thereafter, Ext.P7 is issued by the Revenue Divisional Officer (RDO), after making reference to the report of the KSREC (Ext.P8) and finding that the property is seen as fallow land and hence the application cannot be considered. It is in such circumstances that the captioned writ petition is filed by the petitioner.

2. Heard Smt.C.K.Sherin, the learned counsel for the petitioner and Sri.Ashwin Sethumadhavan, the learned Senior Government Pleader.

3. The facts are not in dispute. A reading of Ext.P7 would

show that the report of the KSREC had shown that the property was actually landlocked and was seen as fallow. It is already found by this Court in Niyas v. District Collector, Palakkad [2023 KHC 9342], that the mere description of the property as fallow is not the relevant consideration while considering an application filed in Form-5 as above. In the light of the afore, especially in the light of the specific contention raised by the learned counsel, Smt.Sherin, that the property was landlocked, which is also seen as admitted in the impugned order at

Ext.P7, I am of the opinion that the order at Ext.P7 cannot be sustained.

4. Resultantly, the order at Ext.P7 would stand set aside.

The Revenue Divisional Officer/the competent Authority is directed to consider the Form-5 application filed by the petitioner afresh, specifically taking note of the law laid down by this Court in Sudheesh U. v. Revenue Divisional Officer, Palakkad [2023

(2) KHC 505] and Niyas v. District Collector, Palakkad [2023

KHC 9342] as expeditiously as possible, at any rate, within a period of three weeks from today. This writ petition is disposed of as above. Sd/- HARISANKAR V. MENON JUDGE anm APPENDIX OF WP(C) 18341/2023 PETITIONERS EXHIBITS Exhibit P1 TRUE COPY OF SALE DEED REGISTERED AS DOC. NO. 2474/2007 DATED 30.06.2007 Exhibit P2 TRUE COPY OF THE TAX RECEIPT DATED 05.06.2023 Exhibit P3 TRUE COPY OF THE FORM 5 APPLICATION DATED 30.03.2021 Exhibit P4 A TRUE COPY OF THE JUDGMENT DATED 08.04.2021 IN WPC NO. 9040/2021 Exhibit P5 A TRUE COPY OF THE PROCEEDINGS ISSUED BY THE 3RD RESPONDENT DATED 25.10.2021 Exhibit P6 A TRUE COPY OF THE JUDGMENT DATED 17.03.2022 IN WP(C) NO. 28549/2021 Exhibit P7 TRUE COPY OF THE ORDER DATED 23.02.2023 ISSUED BY THE 2ND RESPONDENT Exhibit P8 A TRUE COPY OF THE KSREC REPORT DATED 01.08.2022 Exhibit P9 PHOTOGRAPHS SHOWING THE NATURE AND LIE OF THE PROPERTY RESPONDENTS EXHIBITS Exhibit R2(a) TRUE COPY OF THE ORDER NO RDOCHN/10564/2022-SUIT DATED 23-02-2023

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