

Nice Mathew vs State of Kerala

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Court : Kerala

Decided On : Jan-08-2024

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : WP(C)/476/2024

Appellant : Nice Mathew

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
MONDAY, THE 8TH DAY OF JANUARY 2024 / 18TH POUSHA, 1945
WP(C) NO. 476 OF 2024 PETITIONER: NICE MATHEW,AGED 60
YEARS S/O T.T.MATHEW, THAKADIYIL HOUSE, GANGOTHRI
NAGAR, PUTHUR, PALAKKAD DISTRICT, PIN - 678005 BY ADVS.
V.M.KRISHNAKUMAR P.R.REENA RESPONDENTS: 1 STATE OF
KERALA REPRESENTED BY SECRETARY, DEPARTMENT OF
FOREST AND WILDLIFE, SECRETARIAT, THIRUVANANTHAPURAM
DISTRICT, PIN - 695001 2 CUSTODIAN OF FOREST OFFICE OF
CUSTODIAN OF FOREST, ARANYA BHAVAN COMPLEX,
OLAVAKKDE, PUTHUPPARIYARAM, OLVAKKODE P.O. PALAKKAD

DISTRICT KERALA STATE, PIN - 678002. SPECIAL GOVERNMENT
PLEADER T.P.SAJAN THIS WRIT PETITION (CIVIL) HAVING COME
UP FOR ADMISSION ON 08.01.2024, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING: W.P.(C).No.476 of 2024 2 VIJU
ABRAHAM,J ----- W.P.(C).No.476 of 2024
----- Dated this the 8th day of January, 2024

JUDGMENT

Petitioner has approached this Court seeking a direction to the 2nd respondent to consider and pass orders on Exts.P7 and P8, after affording an

2. It is contended that in respect of the property possessed by the petitioner, a notification has been issued under the Kerala Private Forest (Vesting and Assignment) Act, 1971 dated 28.4.2021 whereby the entire 45.97 Acres of land in Survey No.176/8 of Muthalamada-I Village was shown as vested forest.

3. The specific case of the petitioner is that

the land in Survey No.176 of Muthalamada I Village especially 45.97 Acres of land is a cultivated land as on the date of commencement of Kerala Private Forest (Vesting and Assignment) Act, and inclusion of the aforesaid land in the vested forest notification is obviously a mistake. Petitioner relying on rule 3 of the Kerala Private W.P.(C).No.476 of 2024 3 Forest (Exemption from Vesting) Rules 1974, submitted Exts.P7 and P8 representations before the 2nd respondent contending that the inclusion of 45.97 acres of land is due to an inadvertent mistake committed while publishing Ext.3 notification.

4. Heard the learned Special Government Pleader

for Forest, who upon instruction submitted that a decision on Exts.P7 and P8 will be taken in accordance with law, after affording an After hearing both sides, I am inclined to dispose of the writ petition with a direction to the 2nd respondent to consider and pass orders on Exts.P7 and P8 representations submitted by the

petitioner, after affording an opportunity of being heard and to finalize the proceedings within an outer limit of 3 months from the date of receipt of a copy of this judgment. sd/- VIJU ABRAHAM, JUDGE pm W.P.(C).No.476 of 2024 4 APPENDIX OF WP(C) 476/2024 PETITIONER'S EXHIBITS Exhibit P1 TRUE COPY OF THE SALE DEED NO.728/1/07 OF KOLLAMKODE SUB REGISTRY DATED 15.03.2007 Exhibit P2 TRUE COPY OF THE SALE DEED NO.729/1/2007 OF KOLLAMKODE SUB REGISTRY DATED 15.03.2007 Exhibit P3 TRUE COPY OF THE NOTIFICATION NO.B2- Exhibit P4 TRUE COPY OF RELEVANT PORTION OF SURVEY DEMARCATION SKETCH OBTAINED BY THE PETITIONER UNDER RIGHT TO INFORMATION ACT Exhibit P5 TRUE COPY OF THE VILLAGE SKETCH OF SURVEY NUMBER 176 OF MUTHALAMADA VILLAGE Exhibit P6 TRUE COPY OF THE MAHZAR PREPARED BY THE FORESTER, FOREST RANGE OFFICE, OLAVAKKOD IN OR.NO.2/2009 DATED 02.02.2009 Exhibit P7 TRUE COPY OF THE REPRESENTATION DATED 21.11.2018 FILED BY THE PETITIONER AND Exhibit P8 TRUE COPY OF THE REPRESENTATION DATED 20.12.2023 FILED BY THE PETITIONER AND Exhibit P9 TRUE COPY OF THE PROCEEDINGS PUBLISHED BY THE DISTRICT COLLECTOR NO.G-4-

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