

Thomas vs State of Kerala

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Court : Kerala

Decided On : Jan-31-2024

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : WP(C)/17693/2023

Appellant : Thomas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA,
1945 WP(C) NO. 17693 OF 2023 PETITIONER: THOMAS AGED 45
YEARS PLATHOTTATHIL,POOZHITHODE, CHEMPANODA VILLAGE,
KOYILANDYTALUK,KOZHIKKODE DISTRICT, PIN - 673528 BY ADVS.
SANTHARAM.P REKHA ARAVIND P.G.GOKULNATH RESPONDENTS:

1 STATE OF KERALA REP.BY ITS CHIEF SECRETARY, GOVT. OF
KERALA, GOVT.SECRETARIAT, THIRUVANANTHAPURAM, PIN -
695001 2 THE PRINCIPAL SECRETARY, FOREST AND WILDLIFE(F)
DEPARTMENT GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM, PIN - 695001 3 THE CHIEF WILD LIFE

WARDEN FOREST HEADQUARTERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM, PIN - 695014 4 THE DIVISIONAL FOREST
OFFICER DIVISIONAL FOREST OFFICE, ERANHIPPALAM,
KOZHIKKODE DISTRICT, PIN - 673020 BY ADV GOVERNMENT
PLEADER

OTHER PRESENT: SPL.GP - T.P.SAJAN THIS WRIT PETITION (CIVIL) HAVING
COME UP FOR ADMISSION ON 31.01.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: W.P.(C).No.17693 of 2023 2 VIJU ABRAHAM,J
----- W.P.(C).No.17693 of 2023 ----- Dated this the
31st day of January, 2024

JUDGMENT

Petitioner has approached this Court seeking a direction to consider his claim as
per Ext.P3 Government order.

2. Petitioner contended that petitioner is residing in Chembanod Village of
Koyilandy Taluk in Kozhikkode district and his family includes his wife, 2 daughters
and a son who are married.

Petitioner is in possession of unsurveyed land which is numbered as 1/3004 of
Chambanoda Village with an extent of 89 ares and 1/3006 of Chembanoda Village
with an extent of 32 ares. There is a residential house in the said property and
other members include his wife, 2 daughters and son. He also possess an extent
of 2 ares of property in the locality, devolved on him as the legal heir of

his deceased unmarried brother. Ext.P1 i

that the petitioner is residing there. While so, Ext.P3 Government Order was
issued in furtherance of a project proposal submitted by the Forest and Wildlife
Department for rehabilitation of the settlers to outside the forest area and as per
the said Government Order they will be given 15 lakhs per family irrespective of
the land holding. Thereupon, petitioner submits Ext.P4 request before the 4th
respondent, which was duly received as is evident from Ext.P5 acknowledgment
receipt.

3. The learned Special Government Pleader for

Forest would submit that they are following the guidelines, which is produced as Ext.R4(a) and relies on Clause 2.4 which mandates that in case of a non resident eligible family, the compensation will be limited to one eligible family, even if there are major son/daughter, etc. in the family. Petitioner relying on the very same scheme produced as Ext.R4(a) submits that major son/daughter (over 18 years) irrespective of his/her married status will be treated as a separate eligible families. Now the only objection W.P.(C).No.17693 of 2023 4 raised by the learned Government Pleader is that the petitioner is not residing there and therefore he cannot be granted the benefit and can only be treated as one unit. In answer to the same, the petitioner has produced Exts.P6 certificate issued by the Village Officer which would show that the petitioner is residing there from 1978 to 2021 and he has moved from the said location only due to

the threat from wildlife. Ext.P7 is the certificate issued by the local authority which also shows that there is a house in the said property from 2013 onwards and property tax has been paid in respect of the said house. After hearing both sides, the writ petition is disposed of with a direction to the 4 th respondent to consider and pass orders on Ext.P4 request made by the petitioner taking into consideration Exts.P6 and P7 documents produced by the petitioner after affording an opportunity of being

heard to the petitioner. Petitioner will be free to produce all the documents to substantiate that he is residing there in the property before the W.P.(C).No.17693 of 2023 5 issuance of Ext.P3 Government Order along with an argument note and the same shall also be duly considered while taking a decision in this regard. A decision in this regard shall be taken within a period of 2 months from the date of receipt of a copy of this judgment. Petitioner would submit that at the time of filing of Ext.R4(c) application, a mistake has crept in regarding the description of the property and prayed that he may be permitted to correct the same. It is made clear

that the petitioner shall be permitted to make necessary corrections in the application. sd/- VIJU ABRAHAM, JUDGE pm W.P.(C).No.17693 of 2023 6
APPENDIX OF WP(C) 17693/2023 PETITIONER'S EXHIBITS Exhibit P1 A TRUE

COPY OF RATION CARD ISSUED IN THE NAME OF PETITIONER'S WIFE NIL
DATED Exhibit P2 A TRUE COPY OF TEXT MESSAGE OF ELECTRICITY BILL
ISSUED TO PETITIONER NIL DATED Exhibit P3 A TRUE COPY OF G.O(RT.)
NO. Exhibit P4 A TRUE COPY OF REPRESENTATION SUBMITTED BY
PETITIONER BEFORE 4TH RESPONDENT DATED 06.03.2023 Exhibit P5 A
TRUE COPY OF ACKNOWLEDGEMENT RECEIPT OF EXHIBIT P4 ISSUED ON
09.03.2023 RESPONDENT ANNEXURES Annexure R4(a) True copy of the
guidelines for the relocation project Annexure R4(d) True copy of the report of
Special Tahsildar dated 18.6.2022 Annexure R4(e) True copy of the photograph of
the house plot in the project area of the petitioner Annexure R4(b) True copy of the
application submitted by the petitioner for 80 cents of property Annexure R4(c)
True copy of the application submitted by the petitioner for 2.20 acres of property
PETITIONER EXHIBITS Exhibit P6 True copy of certificate issued by Village
Officer, Chembanoda dated 16.08.2023. W.P.(C).No.17693 of 2023 7 Exhibit P7
True copy of certificate of residence issued by ChakkittaparaPanchayath dated
25.07.2023

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