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Pathrose vs State of Kerala

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Court : Kerala

Decided On : May-31-2024

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : WP(C)/5353/2024

Appellant : Pathrose

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYAISHTA, 1946 WP(C) NO. 5353 OF 2024 PETITIONERS: 1 PATHROSE AGED 63 YEARS S/O. DEVASSEY, KUMBAKAPPILLY HOUSE, CHERUKUNNAM, 2 RAJENDRAN M.N AGED 68 YEARS S/O. NARAYANA PILLAI, MANIVELIKUDI HOUSE, CHERUKUNNAM, 3 BALACHANDRAN NAIR S/O. PARAMESWARAN NAIR, VADAKKUNNATHU HOUSE,

4 JOLLY JOHN AGED 60 YEARS W/O. SUNNY PAUL, KATTARUKUDIYIL HOUSE, CHERUKUNNAM, ASAMANNOOR (P.O), KUNNATHUNAD TALUK,ERNAKULAM DISTRICT, 5 BABU KURIAKOSE S/O. KURIAKOSE, MEKKAMALIL HOUSE,

CHERUKUNNAM, 6 SHAJI SEBASTIAN S/O. DEVASSEY, CHITTAYAM HOUSE, CHERUKUNNAM, ASAMANNOOR (P.O), KUNNATHUNAD TALUK, ERNAKULAM DISTRICT, 7 SREENIVASAN V.M AGED 58 YEARS S/O. MADHAVAN NAIR, PADICKAPIRATHU HOUSE, CHERUKUNNAM, WP(C) NO. 5353 OF 2024 2 8 SYAMALA V.M AGED 65 YEARS D/O. VAIKATTU MADHAVAN NAIR, PADICKAPIRATHU HOUSE, 9 SARASWATHY AMMA AGED 80 YEARS W/O. NARAYANAN NAIR, VADAKUNNATHU HOUSE, CHERUKUNNAM, DISTRICT, PIN - 683549 10 ALYAMMA RAJAN AGED 76 YEARS W/O. RAJAN MECKAMALIL HOUSE, CHERUKUNNAM, 11 BABY PETER S/O E.P.PATHROSE, EDAPULAVAN, CHERUKUNNAM, ASAMANNCOR (P.O), KUNNATHUNAD TALUK, EMAKULAM DISTRICT, BY ADVS. SAJI VARGHESE KAKKATTUMATTATHIL N.K.KARNIS AMALENDU A. RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE SECRETARY, PUBLIC WORKS DEPARTMENT, SECRETARIATE, THIRUVANANTHAPURAM, PIN - 695001. 2 THE CHIEF EXECUTIVE OFFICER 3 THE PROJECT DIRECTOR 4 THE DISTRICT COLLECTOR COLLECTORATE KAKKANAD, ERNAKULAM, PIN - 682021. SRI.K.V MANOJ KUMAR, SC SMT.DEEPA NARAYANAN, GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.05.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 5353 OF 2024 3

JUDGMENT

The petitioners have approached this Court seeking a direction to the 4th respondent not to acquire the land of the petitioners without considering Ext.P6 objection.

2. The learned Standing Counsel appearing for respondents 2 and 3 submits that the objection now raised is premature inasmuch as 4(ii) notification has not been published.

3. The learned counsel appearing for the petitioners submits that

they have a grievance regarding alignment and have preferred Ext.P7 request in this regard before the 3rd respondent. After hearing both sides, this writ petition is disposed of with a direction to the 3rd respondent to take up Ext.P7 and to pass appropriate orders thereon in accordance with law after affording an opportunity of being heard to the 1st petitioner alone as agreed by the learned counsel appearing for the petitioners that the 1 st petitioner will represent all other petitioners in the hearing. A decision shall be taken within an outer limit of four weeks. Sd/- VIJU ABRAHAM JUDGE Sru WP(C) NO. 5353 OF 2024 4 APPENDIX OF WP(C) 5353/2024 PETITIONERS EXHIBITS Exhibit P1 ROUGH SKETCH SHOWING THE LIE AND NATURE OF THE EXISTING ROAD AND THE PROPERTY AND THE BUILDING OF THE PETITIONERS. Exhibit P2 TRUE COPY OF THE COMPLAINT DATED 14.12.2022 BY THE CHERUKUNMAM RESIDENTS' ASSOCIATION. Exhibit P3 TRUE COPY OF THE RESOLUTION OF THE GRAMA SABHA DATED 02.02.2023. Exhibit P4 A TRUE COPY OF THE NOTIFICATION DATED 27.05.2023 ISSUED BY THE GOVERNMENT. Exhibit P5 TRUE COPY OF THE JUDGMENT DATED 07.12.2023 IN W.P.(C).NO.22596/2023. Exhibit P6 TRUE COPY OF THE OBJECTION SUBMITTED BY THE PETITIONERS. Exhibit P7 TRUE COPY OF THE REPRESENTATION DATED 19.02.2024 SUBMITTED BY THE PETITIONERS TO THE 3RD RESPONDENT.

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