A Jayakrishnan vs the Tahsildar

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SooperKanoon Citation : sooperkanoon.com/1308289

Court : Kerala

Decided On : Feb-29-2024

Judge : Honourable Mr.Justice Murali Purushothaman

Appeal No. : WP(C)/5393/2024

Appellant : A Jayakrishnan

Respondent : The Tahsildar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN THURSDAY, THE 29TH DAY OF FEBRUARY 2024/10TH PHALGUNA, 1945 WP(C) NO. 5393 OF 2024 PETITIONER: A. JAYAKRISHNAN AGED 59 YEARS S/O. AYYAPAN NAIR, NANDANAM VEEDU, THODUPUZHA, PIN - 685 584. BY ADVS. MATHEW JOHN ABY J. AUGUSTINE RESPONDENT: THE TAHSILDAR TALUK OFFICE, THODUPUZHA IDUKKI, PIN - 685 584. SR.GP. - SMT.K.AMMINIKUTTY THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is in absolute ownership and possession of an extent of 35.65 Ares of land comprised in Re.Sy. No.51 (old Sy. No.4/10) in Block No.63 of Kumaramangalam Village.

2. The petitioners mother obtained Ext.P3 order

under Clause 6(2) of the Kerala Land Utilisation Order, 1967 (for short, KLU Order) for utilising the aforesaid land for other purposes. The petitioner thereafter submitted Ext.P4 application before the respondent Tahsildar under Section 6A of the Kerala Land Tax Act, 1961 (for short, the Act, 1961) in Form A requesting to re-assess the Basic Tax and to make necessary entries in the Basic Tax Register. The grievance of the petitioner is that Ext.P4 is not so far considered by the Tahsildar. Accordingly, the petitioner has filed this writ petition.

3. Heard the learned counsel for the petitioner and the learned Government Pleader for the respondent.

4. This Court has considered the issue of

reassessment of land tax on the basis of the orders obtained under the KLU Order, in the judgment in Mary Abraham v. State of Kerala and others [2020 (4) KLT 448]. This Court held that once enabling order is passed under Rule 6(2) of the KLU Order, permitting conversion of the land, the earlier entries in the BTR showing the land as Nilam, Paddy Land, etc. will become superfluous and redundant and the competent Revenue officials like the Tahsildar are obliged under law to make a fresh assessment of the property under Section 6A of the Act, 1961.

5. A Division Bench of this Court also considered

the said issue in District Collector, Ernakulam and others v. Fr.Jose Uppani and others [2020 (4) KLT 612] and held that when an applicant has secured orders under the KLU Order prior to the cut-off date on which Section 27A was introduced to the Kerala Conservation of Paddy Land and Wetland Act, 2008, the competent Revenue officials are bound to consider the

subsequent application submitted under the provisions of the Act, 1961.

6. Since the nature of the land was permitted to

be changed pursuant to the passing of an order under the KLU Order, the competent authority is bound to re- assess the rate of Basic Tax in respect of the land and to make necessary entries in the Basic Tax Register, after verifying the veracity/genuineness of the permission obtained under the KLU Order and the status of the land, if necessary. Accordingly, the writ petition is allowed. The respondent is directed to consider Ext.P4 application in Form A submitted by the petitioner, in accordance with law and pass appropriate orders thereon, within a period of two months from the date of receipt of a copy of this judgment. Sd/- MURALI PURUSHOTHAMAN JUDGE SPR

APPENDIX

PETITIONERS EXHIBITS:- EXHIBIT P1 TRUE COPY OF A LAND TAX RECEIPT NUMBERED KL06040203057/2023 DATED 20.04.2023. EXHIBIT P2 TRUE COPY OF THE REPORT DATED 29.07.1998 BEARING NO. A9-11799/98. EXHIBIT P3 TRUE COPY OF THE ORDER PASSED BY THE RDO DATED 14.08.1998. EXHIBIT P4 TRUE COPY OF THE APPLICATION ALONG WITH THE COVERING LETTER DATED 03.01.2024. EXHIBIT P5 TRUE COPY OF THE RECEIPT EVIDENCING THE FILING OF THE APPLICATION DATED 05.01.2024.

RESPONDENTS EXHIBITS: NIL.