

V.Mohammed vs the Tahsildar

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Court : Kerala

Decided On : May-31-2024

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/36507/2017

Appellant : V.Mohammed

Respondent : The Tahsildar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYAISHTA, 1946 WP(C)
NO. 36507 OF 2017 PETITIONER: V. MOHAMMED AGED 55 YEARS
S/O. ALAVI, VATTAPARAMBIL HOUSE, KAYILIAD P.O., (VIA)
CHALAVARA (VIA), SHORANUR-679 122. BY ADVS. SRI.BINOY
VASUDEVAN SMT.K.J.ANITHA RESPONDENTS: 1 THE TAHSILDAR
OTTAPPALAM TALUK, TALUK OFFICE, OTTAPPALAM P.O.-679 101.
2 THE ASSISTANT EXECUTIVE ENGINEER (KANJIRAPPUZHA
IRRIGATION PROJECT), OFFICE OF THE K.P.I.P., CANAL SUB
DIVISION NO.2, CHERPULASSERY, PALAKKAD DISTRICT-679 503.

3 SPECIAL TAHSILDAR (LA) KANJIRAPPUZHA IRRIGATION PROJECT, MANNARKAD, PALAKKAD DISTRICT-678 582. 4 THE DISTRICT SURVEY SUPERINTENDENT AND LAND RECORDS CIVIL STATION, PALAKKAD-678 001. 5 THE VILLAGE OFFICER, CHALAVARA VILLAGE CHALAVARA P.O., OTTAPPALAM TALUK-679 505. BY ADV. SRI.RIYAL DEVASSY, GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.05.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- W.P.(C) No.36507 of 2017
----- Dated this the 31st day of May, 2024

JUDGMENT

The above writ petition is filed with the following prayers: i. Issue a Writ of Certiorari or other appropriate writs, orders or directions to call for the records leading to Exhibit P17 and to quash the same.

ii. Issue a writ of mandamus or other appropriate writs, orders or directions commanding the 1st respondent to rectify the anomaly contained in the survey records with respect to the petitioner's property in survey number 79/7 of Chalavara village by taking into consideration the contentions in Exhibits-P-9 and P-10 and also the report in Exhibit P-16 as expeditiously as possible at any rate within a timeframe to be fixed by this Honourable Court.

iii. Issue a writ to declare that Exhibit-P17 is vitiated by violation of principles of natural justice. iv. Render such other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case. SIC

2. This writ petition is pending before this

Court from 2017 onwards. No interim order is passed in this case. The petitioner challenged Ext.P17 order. Admittedly the petitioner has got a right of appeal against Ext.P17. If that be the case, I think, this writ petition need not be retained here. Without expressing any opinion on merit, the petitioner can be allowed to challenge Ext.P17 by filing appeal before the appellate authority. Therefore, this writ petition is disposed of with the following directions:

1. The petitioner is free to challenge Ext.P17 by filing appropriate appeal before the appellate authority, within a period of 30 days from the date of receipt of a copy of this judgment.

2. If, such an appeal is received, the appellate

authority will consider the same and pass appropriate orders in it, after giving an opportunity of hearing to the petitioner, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of the appeal.

3. All the contentions raised by the petitioner in

this writ petition are left open. Sd/- P.V.KUNHIKRISHNAN nvj JUDGE APPENDIX OF WP(C) 36507/2017 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF DOCUMENT NO.118/99 OF S.R.O.CHERPLASSERY. EXHIBIT P2 TRUE COPY OF THE PURCHASE CERTIFICATE ISSUED IN RESPECT OF THE PETITIONER'S MOTHER. EXHIBIT P3 TRUE COPY OF DOCUMENT NO.3337 OF 1998 OF S.R.O.CHERPLASSERY. EXHIBIT P4 TRUE COPY OF THE LAND TAX RECEIPT IN FOR THE YEAR 1999-00. EXHIBIT P4(A) TRUE COPY OF THE LAND TAX RECEIPT IN FOR THE YEAR 2005-06. EXHIBIT P4(B) TRUE COPY OF THE LAND TAX RECEIPT IN FOR THE YEAR 2006-07. EXHIBIT P4(C) TRUE COPY OF THE LAND TAX RECEIPT IN FOR THE YEAR 2007-08.. EXHIBIT P4(D) TRUE COPY OF THE LAND TAX RECEIPT IN FOR THE YEAR 2008-09. EXHIBIT P4(E) TRUE COPY OF THE LAND TAX RECEIPT IN FOR THE YEAR 2009-10. EXHIBIT P4(F) TRUE COPY OF THE LAND TAX RECEIPT IN FOR THE YEAR 2010-11. EXHIBIT P4(G) TRUE COPY OF THE LAND TAX RECEIPT IN FOR THE YEAR 2011-12. EXHIBIT P4(H) TRUE COPY OF THE LAND TAX RECEIPT IN FOR THE YEAR 2012-13. EXHIBIT P4(I) TRUE COPY

OF THE LAND TAX RECEIPT IN FOR THE YEAR 2013-14. EXHIBIT P5 TRUE COPY OF THE NOTICE DATED 26-12- 1994 ISSUED BY THE SPECIAL TAHSILDAR, LAND ACQUISITION. EXHIBIT P6 TRUE COPY OF THE RELEVANT PAGES OF THE FIELD MEASUREMENT BOOK. EXHIBIT P7 TRUE COPY OF THE REVISED SKETCH IN RESPECT OF NEW SURVEY NO.162. EXHIBIT P8 TRUE COPY OF THE LAND TAX RECEIPT IN FOR THE YEAR 2014-15. EXHIBIT P9 TRUE COPY OF THE REPRESENTATION DATED 27-03-2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT. EXHIBIT P10 TRUE COPY OF THE REPRESENTATION DATED 20-08-2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT. EXHIBIT P11 TRUE COPY OF THE REPORT PREPARED BY THE VILLAGE OFFICER AND SUBMITTED BEFORE THE SECOND RESPONDENT. EXHIBIT P12 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT. EXHIBIT P13 TRUE COPY OF THE REPLY GIVEN BY THE 3RD RESPONDENT. EXHIBIT P14 TRUE COPY OF THE JUDGMENT DATED 29- 11-2016 IN WP(C)NO.33300 OF 2016 OF THIS HON'BLE COURT. EXHIBIT P15 TRUE COPY OF THE REPORT OF THE JOINT INSPECTION. EXHIBIT P16 TRUE COPY OF THE COMMUNICATION DATED

16-6-2017 ISSUED BY THE ASSISTANT EXECUTIVE ENGINEER K.P.I.P. SUB DIVISION I, OTTAPALAM TO EXECUTIVE ENGINEER, K.P.I.P.DIVISION, KANJIRAPUZHA.

EXHIBIT P17 TRUE COPY OF THE ORDER

NO.H.3/2015/4875/9/400 DATED 15-9-2017 ISSUED BY THE FIRST RESPONDENT. RESPONDENTS EXHIBITS :NIL //TRUE COPY// PA TO JUDGE

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