

Geetha.E.S vs State of Kerala

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Court : Kerala

Decided On : Aug-07-2024

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : WP(C)/28078/2024

Appellant : Geetha.E.S

Respondent : State of Kerala

Judgement :

..1..

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
WEDNESDAY, THE 7TH DAY OF AUGUST 2024 / 16TH SRAVANA,
1946 WP(C) NO. 28078 OF 2024 PETITIONERS:

1 GEETHA.E.S AGED 49 YEARS, W/O. PUSHPA KUMAR, MEDAYIL
VEEDU, KUNNATHUKAL, KARAKONAM POST,
THIRUVANANTHAPURAM DISTRICT, PIN - 695504 2 ALEX JOHN.T
AGED 61 YEARS, S/O. THOMPSON, MATHA BHAVAN,
KUNNATHUKAL, KARAKONAM POST, THIRUVANANTHAPURAM

DISTRICT, PIN - 695504 3 VIJAYA KUMAR.D AGED 51 YEARS, S/O. DEVANESAN ALIAS DIVAKESHAVAN, VARUVILA THUNDUTHATTU, KADAYA PUTHENVEEDU, KUNNATHUKAL, KARAKONAM POST, THIRUVANANTHAPURAM DISTRICT, PIN - 695504

BY ADVS. AJIT G ANJARLEKAR G.P.SHINOD GOVIND PADMANAABHAN ATUL MATHEWS GAYATHRI S.B. RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY ITS SECRETARY, PUBLIC WORKS DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM DISTRICT, PIN - 695001 2 PROJECT DIRECTOR KRFB - PMU, OFFICE OF THE PROJECT DIRECTOR, ..2.. KRFB -PMU, BSNL OFFICE BUILDING, DOORSANCHAR BHAVAN, PMG, THIRUVANANTHAPURAM DISTRICT, PIN - 695003 3 EXECUTIVE ENGINEER KRFB-PMU DIVISION, THIRUVANANTHAPURAM, OFFICE OF THE EXECUTIVE ENGINEER, KRFB-PMU DIVISION, THIRUVANANTHAPURAM DISTRICT, PIN - 695003 B.S.SYAMANTHAK, GP K.V.MANOJ KUMAR, SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07.08.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: ..3..

JUDGMENT

The petitioners challenge Ext.P24 hearing notice issued by the 3rd respondent to the 1st petitioner.

2. In Ext.P24 notice, it is alleged that the 1 st petitioner has

encroached into the puramboke land. The 1 st petitioner was directed to appear before the 3rd respondent within three days from the date of receipt of the notice with necessary documents and to show cause why she shall not be evicted from the puramboke land.

3. I have heard Sri.G.P.Shinod, the learned counsel

appearing for the petitioners, Sri.B.S.Syamanthak, the learned Government Pleader as well as Sri.K.V.Manoj Kumar, the learned Standing Counsel appearing for respondent Nos. 2 and 3.

4. The learned counsel for the petitioners submits that the

3rd respondent has absolutely no jurisdiction to issue Ext.P24 notice. The learned counsel further submits that even though it is stated in the Ext.P24 notice that the alleged encroachment into the puramboke land by the 1 st petitioner was found in the survey ..4.. conducted by the Taluk Surveyor, no notice was given to the petitioners before conducting the survey. It is further submitted that, the details of the said survey or the report or plan were also not furnished to the petitioners. According to the learned counsel, those details and records are necessary to give an explanation to Ext.P24 notice. Having heard the learned counsel for the petitioners as well as the learned Government Pleader and the learned Standing Counsel, this writ petition is disposed of as follows:

(i) The 3rd respondent is directed to furnish all the records relating to the survey conducted by the Taluk Surveyor, within a week from today to the petitioners.

(ii) The 3rd respondent shall fix a date of hearing after one week of the receipt of the supply of the documents mentioned above.

(iii) On the date of hearing, the petitioners shall appear before the 3rd respondent and furnish their explanation to Ext.P24 notice. ..5..

(iv) The 3rd respondent shall thereafter take a

decision, in accordance with law, after hearing the petitioners. Sd/- DR. KAUSER EDAPPAGATH JUDGE APA ..6.. APPENDIX OF WP(C) 28078/2024 PETITIONER EXHIBITS EXHIBIT P1 A TRUE COPY OF THE TAX RECEIPT DATED 08.06.2023 ISSUED BY KUNNATHUKAL VILLAGE OFFICE TO THE FIRST PETITIONER. EXHIBIT P2 A TRUE COPY OF THE SURVEY SKETCH PERTAINING TO THE PROPERTY OF THE FIRST PETITIONER EXHIBIT P3 A TRUE COPY OF THE RECEIPT NO: 1220100769/G010906 DATED 01/06/2022 ISSUED BY THE KUNNATHUKAL GRAMA PANCHAYAT EXHIBIT P4 A TRUE

COPY OF THE RECEIPT DATED 25/02/2023 ISSUED BY KUNNATHUKAL GRAMA PANCHAYAT PERTAINING TO BT/KP 13/403 C EXHIBIT P5 A TRUE COPY OF THE RECEIPT DATED 25/02/2023 ISSUED BY KUNNATHUKAL GRAMA PANCHAYAT PERTAINING TO BT/KP 13/403 D EXHIBIT P6 A TRUE COPY OF THE RECEIPT DATED 25/02/2023 ISSUED BY KUNNATHUKAL GRAMA PANCHAYAT PERTAINING TO BT/KP 13/403 E EXHIBIT P7 A TRUE COPY OF THE TAX RECEIPT DATED 21.10.2023 ISSUED BY KUNNATHUKAL VILLAGE OFFICE TO THE SECOND PETITIONER EXHIBIT P8 A TRUE COPY OF THE LICENSE DATED 02.08.2006 ISSUED BY THE KUNNATHUKAL GRAMA PANCHAYAT. EXHIBIT P9 A TRUE COPY OF THE LICENSE DATED 26.05.2011 ISSUED BY THE KUNNATHUKAL GRAMA PANCHAYAT. EXHIBIT P10 A TRUE COPY OF THE SURVEY SKETCH PERTAINING TO THE PROPERTY OF THE SECOND PETITIONER. EXHIBIT P11 A TRUE COPY OF THE TAX RECEIPT DATED 21.10.2023 ISSUED BY KUNNATHUKAL VILLAGE OFFICE TO THE FIRST PETITIONER ..7.. EXHIBIT P12 A TRUE COPY OF THE SURVEY SKETCH PERTAINING TO THE PROPERTY OF THE THIRD PETITIONER EXHIBIT P13 A TRUE COPY OF THE RECEIPT DATED 14.12.2022 PERTAINING TO WARD NO: 13 ROOM NO: 407 ISSUED BY THE KUNNATHUKAL GRAMA PANCHAYAT EXHIBIT P14 A TRUE COPY OF THE RECEIPT DATED 14.12.2022 PERTAINING TO WARD NO: 13 ROOM NO: 407/A ISSUED BY THE KUNNATHUKAL GRAMA PANCHAYAT EXHIBIT P15 A TRUE COPY OF THE RECEIPT DATED 14.12.2022 PERTAINING TO WARD NO: 13 ROOM NO: 408 ISSUED BY THE KUNNATHUKAL GRAMA PANCHAYAT EXHIBIT P16 A TRUE COPY OF THE RECEIPT DATED 14.12.2022 PERTAINING TO WARD NO: 13 ROOM NO: 409/A ISSUED BY THE KUNNATHUKAL GRAMA PANCHAYAT EXHIBIT P17 A TRUE COPY OF THE NOTICE DATED 31/10/2023 ISSUED BY THE 3RD RESPONDENT TO THE FIRST PETITIONER . EXHIBIT P18 A TRUE COPY OF THE NOTICE DATED 31/10/2023 ISSUED BY THE 3RD RESPONDENT TO THE SECOND PETITIONER EXHIBIT P19 A TRUE COPY OF THE NOTICE DATED 31/10/2023 ISSUED BY THE 3RD RESPONDENT TO THE THIRD PETITIONER. EXHIBIT P20 A TRUE COPY OF THE JUDGMENT DATED 22/11/2023 OF THIS HONOURABLE COURT IN WPC NO: 38761 OF 2023 EXHIBIT P21 A TRUE

COPY OF THE REPRESENTATION DATED THE 3RD RESPONDENT EXHIBIT P22 A TRUE COPY OF THE NOTICE DATED 05/12/2023 ISSUED BY THE 3RD RESPONDENT TO THE 1ST PETITIONER. EXHIBIT P22(a) A LEGIBLE COPY OF EXHIBIT P 22. EXHIBIT P23 A TRUE COPY OF THE REPRESENTATION DATED THE 3RD RESPONDENT (WITHOUT ENCLOSURES) ..8.. EXHIBIT P24 A TRUE COPY OF THE NOTICE DATED 26/07/2024 ISSUED BY THE 3RD RESPONDENT TO THE 1ST PETITIONER. EXHIBIT P25 A TRUE COPY OF THE POSTAL COVER IN WHICH EXHIBIT P24 WAS RECEIVED. EXHIBIT P26 A TRUE COPY OF THE JUDGMENT DATED 01/03/2019 OF THIS HONOURABLE COURT IN WPC NO: 4583 OF 2019. EXHIBIT P27 A TRUE COPY OF THE CIRCULAR/GUIDELINES DATED EXHIBIT 27(a) A LEGIBLE COPY OF EXHIBIT P27.

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