

Thomas vs State of Kerala

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Court : Kerala

Decided On : May-31-2023

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/17424/2023

Appellant : Thomas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
WEDNESDAY, THE 31ST DAY OF MAY 2023 / 10TH JYAISHTA, 1945
WP(C) NO. 17424 OF 2023 PETITIONER THOMAS AGED 55 YEARS
S/O VAREETH.C.D, CHERUVATHOOR HOUSE, N OW RESIDING AT
DINESH APARTMENTS, NEAR SHIVA TEMPLE,
WADAKKANCHERY.P.O, THRISSUR DISTRICT VS., PIN - 680582 BY
ADVS. K.R.ARUN KRISHNAN DEEPA K.RADHAKRISHNAN JISSMON
A KURIAKOSE SANAL C.S RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY ITS SECRETARY,
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,

THIRUVANANTHAPURAM, PIN - 695001 2 DISTRICT COLLECTOR
THRISSUR, HAVING ITS OFFICE AS COLLECTORATE,
AYYANTHOLE, THRISSUR DISTRICT, PIN - 680003 3 REVENUE
DIVISIONAL OFFICER THRISSUR, HAVING ITS OFFICE AS
COLLECTORATE, AYYANTHOLE, THRISSUR DISTRICT, PIN - 680003
4 LOCAL LEVEL MONITORING COMMITTEE ,(REPRESENTED BY ITS
CONVENOR, AGRICULTURAL OFFICER), KRISHIBHAVAN,
WADAKKANCHERY MUNICIPALITY, KUMARANELLOOR.P. O,
THRISSUR, PIN - 680590 5 AGRICULTURAL OFFICER
KRISHIBHAVAN, WADAKKANCHERY MUNICIPALITY,
KUMARANELLOOR.P. O, THRISSUR, PIN - 680590 SMT. Amminikutty-
Sr.G.P THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON

31.05.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

Dated this the 31st day of May, 2023 The petitioner, who is owner of 6.7 Ares of land in Wadakkanchery Village of Thalappilly Taluk in Thrissur District, has filed this writ petition seeking to direct the 3rd respondent to consider and pass orders on Ext.P4 application within a time frame to be fixed by this Court.

2. The petitioner states that he is owner of 6.7 Ares of

land situated in Survey No.121/106 of Wadakkanchery Village, Thalappilly Taluk in Thrissur District. The land is a garden land. It is not cultivated with paddy. It is not fit for paddy cultivation either. However, the land is included in the Data Bank and is described as paddy land in Revenue records also.

3. The petitioner wants to use the land for other

purposes. Hence, the petitioner filed Ext.P4 application in Form- 5, invoking Rule 4(d) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008. The application was filed on 22.10.2022. The application is not disposed of so far.

Unless the application is considered expeditiously, the petitioner will be put to untold hardship and loss, contends the petitioner.

4. The Government Pleader representing the

respondents resisted the writ petition. The Government Pleader controverted all material allegations made by the petitioner, in the writ petition. The Government Pleader, however, submitted that since the petitioner has invoked a statutory remedy under the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008, the application submitted by the petitioner can be considered by the competent authority in accordance with law, provided the application is received, is complete in all respects and is supported by all necessary documents.

5. I have heard the learned counsel for the petitioner and the learned Government Pleader representing the respondents.

6. The petitioner is owner of 6.7 Ares of land situated in

Survey No.121/106 of Wadakkanchery Village, Thalappilly Taluk in Thrissur District. The land is included in the Data Bank of paddy land and wetland prepared under Section 5(4)(i) of the Kerala Conservation of Paddy Land and Wetland Act, 2008. According to the petitioner, the land owned by him is neither paddy land nor wetland. The land is not suitable for paddy cultivation. The petitioner wants to use the land for other purposes and hence he has filed an application in Form-5 seeking to remove the land from Data Bank.

7. The Form-5 application has been filed by the

petitioner invoking his statutory right under Rule 4(d) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008. The application being a statutory application, the competent authority has a legal duty to consider the application in accordance with law, within a reasonable time. The writ petition is therefore disposed of directing the 3rd respondent-Revneue Divisional Officer to consider Ext.P4 Form-5 application submitted by the petitioner if the same is received, supported by all requisite documents and paying prescribed fee, if any, and to pass orders thereon in accordance with law, within a period of three months.

Sd/- N.NAGARESH JUDGE hmh APPENDIX OF WP(C) 17424/2023
PETITIONER EXHIBITS Exhibit-P1 A TRUE COPY OF SALE DEED NO. 75/2012
OF SRO WADAKKANCHERY DATED 06-01-2012 Exhibit-P2 TRUE COPY OF
TAX RECEIPT DATED 17-9- 2022 IN THE NAME OF PETITIONER Exhibit-P3
TRUE COPY OF THE RELEVANT PAGE OF THE DATA BANK PUBLISHED IN
THE GAZETTE ISSUED BY THE AGRICULTURAL OFFICER,
WADAKKANCHERY KRISHI BHAVAN Exhibit-P4 TRUE COPY OF
APPLICATION DATED 22-10- 2022 SUBMITTED BY THE PETITIONER
RESPONDENTS EXHIBITS : NIL

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