

Jijith vs the State of Kerala

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Court : Kerala

Decided On : May-31-2023

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/17524/2023

Appellant : Jijith

Respondent : The 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. 17524 OF 2023 PETITIONER JIJITH AGED 24 YEARS S/O
PANDARAPPARAMBIL RAJAN, RESIDING IN THE ADDRESS
PANDARAPPARAMBIL HOUSE, IRINJALAKUDA P O, THRISSUR
DISTRICT, PIN - 680121 BY ADV G.SREEKUMAR (CHELUR)
RESPONDENTS:

1 THE STATE OF KERALA REPRESENTED BY THE SECRETARY TO
THE GOVERNMENT, REVENUE DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM P O,

THIRUVANANTHAPURAM DISTRICT, PIN - 695001 2 THE REVENUE
DIVISIONAL OFFICER OFFICE OF THE REVENUE DIVISIONAL
OFFICER, MINI CIVIL STATION, IRINJALAKUDA P O, THRISSUR
DISTRICT, PIN - 680121 3 THE AGRICULTURE OFFICER OFFICE OF
THE AGRICULTURE OFFICER, PORATHISSERY AGRICULTURE
OFFICE, PORATHISSERY P O, THRISSUR DISTRICT, PIN - 680121

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 3.34 Ares of land in Porathissery Village of Mukundapuram Taluk in Thrissur District, has filed this writ petition seeking to direct the 2nd respondent to consider and pass orders on Ext.P2 application within a time frame to be fixed by this Court.

2. The petitioner states that he is owner of 3.34 Ares of

land situated in Survey No.1063/PT1 of Porathissery Village, Mukundapuram 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.P2 application in Form- 5, invoking Rule 4(d) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008. 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 3.34 Ares of land situated

in Survey No.1063/PT1 of Porathissery Village, Mukundapuram 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 with a direction to

the 3rd respondent-Agricultural Officer to forward a report to the 2nd respondent-Revenue Divisional Officer within a period of one month, if the report is not already forwarded. The Revenue Divisional Officer shall pass orders on Ext.P2 Form-5 application on the basis of the report of the Agricultural Officer, within a further period of two months.

Sd/- N.NAGARESH JUDGE hmh APPENDIX OF WP(C) 17524/2023
PETITIONER EXHIBITS ExhibitP1 A TRUE COPY OF THE GAZETTE
NOTIFICATION DATED 19.01.2021 PUBLISHED BY THE GOVERNMENT.
ExhibitP2 A TRUE COPY OF THE APPLICATION SUBMITTED BY THE
PETITIONER WITH ANNEXURE, SUBMITTED BEFORE THE 2ND
RESPONDENT DATED NIL. ExhibitP3 A TRUE COPY OF THE
COMMUNICATION BY THE

REVENUE DIVISIONAL OFFICER, IRINJALAKUDA TO THE DIRECTOR,
KERALA STATE REMOTE SENSING AND ENVIRONMENT CENTRE DATED
27.09.2022. RESPONDENTS EXHIBITS : NIL

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