

Peter vs State of Kerala

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Court : Kerala

Decided On : Jun-08-2023

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/18467/2023

Appellant : PETER

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
THURSDAY, THE 8TH DAY OF JUNE 2023 / 18TH JYAISHTA, 1945
WP(C) NO. 18467 OF 2023 PETITIONERS: 1 PETER AGED 62 YEARS,
S/O PAILY THETTAYIL HOUSE, ANGAMALY P.O, PIN - 683572 2
RAJESH AGED 50 YEARS, S/O. VASU, EEUMAKKATTUKUDY
HOUSE, MATTOOR P.O KALADY, ERNAKULAM, PIN - 683574 3
JOLLY AGED 58 YEARS, W/O ANTONY MANUVELIPARAMBIL,
KARAYAMPARAMBU, KARUKUTTY P.O., ERNAKULAM DISTRICT,
PIN - 683576 BY ADV MEREENA.J.JOSEPH RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY, REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001 2 THE LAND REVENUE COMMISSIONER COMMISSIONERATE OF LAND REVENUE, PUBLIC OFFICE BUILDING, MUSEUM JUNCTION, THIRUVANANTHAPURAM, PIN - 695 001 3 THE DISTRICT COLLECTOR CIVIL STATION, KAKKANAD, ERNAKULAM, PIN - 682 030 4 THE REVENUE DIVISIONAL OFFICER OFFICE OF THE REVENUE DIVISIONAL OFFICER FORT KOCHI, PIN - 682 001 5 THE AGRICULTURAL OFFICER KRISHI BHAVAN, ANGAMALY, PIN - 683 572

6 THE AGRICULTURAL OFFICER KRISHI BHAVAN, MOOKKANNOOR, ERNAKULAM DISTRICT, PIN - 683 577 7 THE AGRICULTURAL OFFICER KRISHI BHAVAN, KARUKUTTY, ERNAKULAM DISTRICT, PIN - 683 576 BY ADV SMT.DEVISREE - GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 8th day of June, 2023

The 1st petitioner is owner of 3.64 Ares of land in Angamaly Village, the 2nd petitioner is owner of 14.8 Ares of land in Mookkannoor Village and the 3 rd petitioner is owner of 7.34 Ares of land in Karukutti Village of Aluva Taluk in Ernakulam District. The petitioners have approached this Court seeking to direct the 4th respondent-Revenue Divisional Officer to consider and pass orders on Exts.P1 to P4 applications, within a time frame.

2. The 1st petitioner states that he holds 3.64 Ares of land in Survey Nos.332/5-3 and 332/5-4 of Angamaly Village

of Aluva Taluk in Ernakulam District. The 2nd petitioner states that he holds 14.8 Ares of land in Survey No.83/11-2 and 83/3-2 of Mookkannoor Village of Aluva Taluk in Ernakulam District. The 3rd petitioner states that she holds 7.34 Ares of land in Survey Nos.325/4-10 and 325/4-11 of Karukutty Village of Aluva Thaluk in Ernakulam District. The lands are garden lands. However, it have been described as Nilam in the Data Bank and Revenue records.

3. The petitioners would state that the properties of

the petitioners are not paddy a land and are not suitable for paddy cultivation. The petitioners want to use the land for other purposes. Hence, petitioners 1 and 2 filed Exts.P1 and P2 Form-5 applications respectively, invoking the provisions of Rule 4(d) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008 for removing the lands from the Data Bank. The 3rd petitioner also submitted Exts.P3 and P4 applications in Form-6 before the Revenue Divisional Officer, invoking the provisions of Rule 12(1) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008 to make necessary changes in the nature of lands in the Basic

Tax Register. Applications were filed on 29.05.2023, 05.06.2023 and 24.05.2023 respectively. Unless the applications are considered expeditiously, the petitioners will be put to untold hardship and loss, contend the petitioners.

4. The Government Pleader representing the

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

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

6. The 1st petitioner states that he holds 3.64 Ares of land in Survey Nos.332/5-3 and 332/5-4 of Angamaly Village

of Aluva Taluk in Ernakulam District. The 2nd petitioner states that he holds 14.8 Ares of land in Survey No.83/11-2 and 83/3-2 of Mookkannoor Village of Aluva Taluk in Ernakulam District. The 3rd petitioner states that she holds 7.34 Ares of land in Survey Nos.325/4-10 and 325/4-11 of Karukutty Village of Aluva Thaluk in Ernakulam District. According to the petitioners, the lands are not paddy land or wetland. In order to use the land for other purposes, petitioners 1 and 2 have submitted Exts.P1 and P2 applications for removal of the land from the Data Bank and the 3rd petitioner submitted Exts.P3 and P4 applications for change of nature of the land in Revenue records.

7. Exts.P1 to P4 applications are made by the petitioners invoking the provisions contained in the Kerala Conservation of Paddy Land and Wetland Act, 2008 and the

Rules made thereunder. As the petitioners have invoked statutory remedies, the competent authority, namely the 4th respondent, is bound to consider the applications within a reasonable time and take a decision thereon, in accordance with law. In the facts of the case, the writ petition is disposed of directing the 4th respondent-Revenue Divisional Officer to consider Exts.P1 to P4 applications submitted by the petitioners and take a decision thereon, within a period of three months. Sd/- N.NAGARESH JUDGE ded APPENDIX OF WP(C) 18467/2023 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE FORM 5 APPLICATION FILED BY THE 1ST PETITIONER IN RESPECT OF THE PROPERTY COVERED IN SURVEY NO.332/5-3 AND SURVEY NO.332/5-4 OF ANGAMALY VILLAGE DATED 29/5/2023 Exhibit P2 TRUE COPY OF THE APPLICATION FILED BY THE 2ND PETITIONER UNDER FORM 5 IN RESPECT OF THE PROPERTY COVERED BY SY.NO 83/11-2 AND SURVEY NO.83/3-2 OF MOOKKONNAR VILLAGE DATED 5/6/2023 Exhibit P3 TRUE COPY OF THE FORM 6 APPLICATION FILED BY THE 3RD PETITIONER IN RESPECT OF THE PROPERTY COVERED BY SY.NO Exhibit P4 TRUE COPY OF THE FORM 6 APPLICATION FILED BY THE 3RD PETITIONER IN RESPECT OF THE

PROPERTY COVERED BY SY.NO

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