Seenath vs State of Kerala,

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SooperKanoon Citation : sooperkanoon.com/1377192

Court : Kerala

Decided On : Aug-25-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : WP(C)/24302/2023

Appellant : Seenath

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 22554 OF 2023 PETITIONER: MOHAMMEDALIAGED 53 YEARSS/O. MAMMU HAJI, RESIDING AT MAILAPURAM HOUSE, KARUVARAKUNDU AMSOM CHERUPU DESOM, KERALA ESTATE PO, NILAMBUR, MALAPPURAM, PIN - 676525 BY ADVS.V.V.SURENDRANP.A.HARISH RESPONDENTS: 1 STATE OF KERALAREPRESENTED BY SECRETARY, (REVENUE) SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 THE TAHSILDARTALUK OFFICE, NILAMBUR, PIN - 676525 3 THE VILLAGE OFFICERKERALA ESTATE VILLAGE, MALAPPURAM, PIN -

676525 SMT. DEEPA V. GOVT. PLEADER. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.08.2023, ALONG WITH WP(C).24302/2023, 25499/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P (C) Nos.22554, 24302 & 25499/2023 -2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 24302 OF 2023 PETITIONER/S: SEENATHAGED 45 YEARSW/O. MOHAMMEDALI, RESIDING AT MAILAPPURAM HOUSE, KARUVARAKUNDU AMSOM, CHERUPU DESOM, KERALA ESTATE PO, NILAMBUR, MALAPPURAM - 676525., PIN - BY ADVS.V.V.SURENDRANP.A.HARISH RESPONDENT/S: 1 STATE OF KERALA, REPRESENTED BY SECRETARY, (REVENUE) SECRETARIAT, THIRUVANANTHAPURAM., PIN - 695001

2 THE TAHSILDAR,TALUK OFFICE, NILAMBUR, PIN - 676525 3 THE VILLAGE OFFICER,KERALA ESTATE VILLAGE, MALAPPURAM, PIN - 676525 SMT. DEEPA V. GOVT. PLEADER. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.08.2023, ALONG WITH WP(C).22554/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P (C) Nos.22554, 24302 & 25499/2023 -3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 25499 OF 2023 PETITIONER/S: MOHAMMED ALIAGED 54 YEARSS/O. MAMMU HAJI, RESIDING AT MAILAPURAM HOUSE, KARUVARAKUNDU AMSOM CHERUPU DESOM, KERALA ESTATE PO, NILAMBUR, MALAPPURAM, PIN - 676525 BY ADV V.V.SURENDRAN RESPONDENT/S: 1 STATE OF

KERALAREPRESENTED BY SECRETARY, (REVENUE) SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 THE TAHSILDAR,TALUK OFFICE, NILAMBUR, PIN - 676525 3 THE VILLAGE OFFICERKERALA ESTATE VILLAGE, MALAPPURAM -, PIN - 676525 SMT. DEEPA V. GOVT. PLEADER. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.08.2023, ALONG WITH WP(C).22554/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P (C) Nos.22554, 24302 & 25499/2023 -4

JUDGMENT

The petitioners have filed these writ petitions seeking a direction to the respondents 2 and 3 to effect mutation and to accept land tax with respect to the properties of the petitioners. It is the case of the petitioners that the mutation is not being effected and the land tax is not being accepted from them on the ground that the lands purchased by them are part of lands which were earlier exempted from ceiling provisions as plantations and fragmentation is illegal.

2. Heard the learned counsel for the petitioners and the learned

Government Pleader for the respondents. Reliance is placed by the learned counsel for the petitioner on the judgment of this court in W.P. (C)No.24502/2021 and that in W.P.(C)No.28548/2022. The learned Government Pleader has no case that the issues raised in these writ petitions are different from what was considered in W.P.(C)No.24502/2021 and that W.P.(C)No.28548/2022 was disposed of in the following manner;

> 2. The petitioner seeks that she be allowed to remit land tax on the property in question; while the respondents refuse it on the ground that an Estate, of which the extents were earlier part of, is sought to be now fragmented and that the petitioner is attempting to convert the nature of the property in violation of the exemption being enjoyed by it under Section 81 of the Kerala Land Reforms Act.

3. I have examined the earlier judgments of this Court and there is no

doubt that two different Benches have found that the issues projected in this writ petition cannot stand in the way of the respondents allowing the petitioner to remit the land tax or to seek enjoyment of the property purchased by them. W.P (C) Nos.22554, 24302 & 25499/2023 -5

4. In the afore circumstances and following the judgment of this

Court in W.P(C)No.15935 of 2020 and connected matters and W.P(C)No.20675 of 2019 & connected matters, I allow this writ petition and direct the competent respondent to allow the petitioner's request for transfer of Registry of the property concerned and/or for remittance of Land Tax on it, without any avoidable delay. Needless to say, I leave full liberty to the competent Authorities to take any action against the property concerned, if it is found that any conversion is made thereon in violation of Section 81 of the Kerala Land Reforms Act or if any other provisions of law are violated.

3. The judgment of this Court in W.P.(C)No.28548/2022 was

rendered in similar circumstances, wherein this Court following the judgment

in W.P.(C)No.24502/2021 directed the respondent Village Officer to accept land tax and to issue tax receipt to the petitioners. I do not find any reason to take a different view.

4. In the result, the writ petition is allowed. The 3 rd respondent

Village Officer is directed to accept land tax as and when the petitioners tender the same and to issue tax receipt to the petitioners in respect of the properties of the petitioners that are subject matter of these writ petitions. The respondents shall ensure that the petitioners are permitted to pay tax through online mode. This will be without prejudice to right of the State / its officers in initiating any action in accordance with the law against the properties in question. Sd/- GOPINATH P. JUDGE AMG W.P (C) Nos.22554, 24302 & 25499/2023 -6 APPENDIX OF WP(C)

24302/2023 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE DOCUMENT NO. 1853/2008 OF MELATTOOR SUB REGISTRY DATED 28.03.2008 Exhibit P2 TRUE COPY OF THE DOCUMENT NO. 2717/2012 OF MELATTOOR SUB REGISTRY DATED 04.05.2012 Exhibit P3 THE TRUE COPY OF THE LAND REVENUE RECEIPT DATED 14.07.2022 FOR 1.2586 HECTORS OF LAND Exhibit P4 THE TRUE COPY OF THE LAND TAX RECEIPT DATED 14.07.2022 FOR 0.7085 HECTORS W.P (C) Nos.22554, 24302 & 25499/2023 -7 APPENDIX OF WP(C) 25499/2023 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE DEED OF ASSIGNMENT AND SALE DOCUMENT NO. 1934/2006 OF KARUVARAKUNDU SUB. REGISTRY DATED 27.04.2006 Exhibit P2 A TRUE COPY OF THE KRAYA CERTIFICATE NO. MANJERRI IN S M PROCEEDING NO. 1077/2006 DATED 20.10.2006 IN FAVOUR OF THE PETITIONER Exhibit P3 A TRUE COPY OF THE LAND REVENUE RECEIPT ISSUED BY THE 3RD RESPONDENT DATED 29.07.2022 W.P (C) Nos.22554, 24302 & 25499/2023 -8 APPENDIX OF WP(C) 22554/2023 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE DOCUMENT NO. 1471/1998/1 OF MELATTOOR SUB REGISTRY EXECUTED BY ABOOBACKER IN FAVOUR OF THE PETITIONER DATED 06.05.1998 Exhibit P2 A TRUE COPY OF THE LAND REVENUE RECEIPT DATED 14.07.2022 ISSUED BY THE 3RD RESPONDENT