

Thomas vs the District Collector

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Court : Kerala

Decided On : Aug-01-2023

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/24468/2023

Appellant : Thomas

Respondent : The District Collector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
TUESDAY, THE 1ST DAY OF AUGUST 2023 / 10TH SRAVANA, 1945
WP(C) NO. 24468 OF 2023 PETITIONER: THOMAS AGED 72 YEARS
S/O. CHEEKKUTTY, KOLENCHERY HOUSE, KALARIPARAMBU,
PAPPINIVATTOM, MATHILAKAM, THRISSUR, PIN - 680 685. BY
ADVS. SHAKTHI PRAKASH MUHASIN K.M. FARHANA K.H.
RESPONDENTS:

1 THE DISTRICT COLLECTOR FIRST FLOOR, CIVIL STATION,
AYYANTHOLE, THRISSUR, PIN - 680 003. 2 THE REVENUE
DIVISIONAL OFFICER IRINJALAKUDA REVENUE DIVISIONAL

OFFICE, MINI CIVIL STATION, CHEMMANDA ROAD, IRINJALAKUDA, THRISSUR, PIN - 680 125. 3 THE TAHSILDAR KODUNGALLUR TALUK OFFICE, 1ST FLOOR, MINI CIVIL STATION, STAR NAGAR, KODUNGALLUR, THRISSUR, PIN - 680 664. 4 THE AGRICULTURAL OFFICER SREENARAYANAPURAM KRISHI BHAVAN, PORIBASAR, KODUNGALLUR, THRISSUR, PIN - 680 668. 5 THE DIRECTOR KERALA STATE REMOTE SENSING AND ENVIRONMENT CENTRE, VIKAS BHAVAN, THIRUVANANTHAPURAM, PIN - 695 033. BY ADV SMT. AMMINIKUTTY K-SENIOR GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON

01.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 1st day of August, 2023 The petitioner, who is owner of 12.75 Ares of land in Block No.7 of Padinjare Vemballur Village of Kodungallur Taluk in Thrissur District, has filed this writ petition seeking to direct the 2nd respondent-Revenue Divisional Officer to consider and pass orders on Ext.P3 application within a time frame to be fixed by this Court.

2. The petitioner states that he is owner of 12.75 Ares

of land situated in Survey No.53/1-1 of Padinjare Vemballur Village, Kodungallur Taluk in Thrissur District, out of which 11.95 Ares of land is garden land. It is not cultivated with paddy. It is not fit for paddy cultivation either. However, the land is included in Data Bank and is described as 'Nanja' in Revenue records also.

3. The petitioner wants to use the land for other

purposes. Hence, the petitioner filed Ext.P3 application in Form-5, invoking Rule 4(4D) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008. The application was filed on 15.06.2023. 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 12.75 Ares of land situated

in Survey No.53/1-1 of Padinjare Vemballur Village, Kodungallur Taluk in Thrissur District, out of which 11.95 Ares of land is garden land. 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(4D) 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 4th respondent-Agricultural Officer to forward a report to the 2nd respondent-Revenue Divisional Officer within a period of one month. The 2nd respondent-Revenue Divisional Officer shall pass orders on Ext.P3 Form-5 application on the basis of the report of the 4th respondent-Agricultural Officer,

within a further period of two months.

Sd/- N.NAGARESH JUDGE AMR APPENDIX OF WP(C) 24468/2023
PETITIONERS EXHIBITS Exhibit P1 TRUE COPY OF THE TAX RECEIPT
DATED 28.05.2022. Exhibit P2 TRUE COPY OF THE RELEVANT PAGES OF
PUBLISHED DATA BANK OF SREENARAYANAPURAM GRAMA PANCHAYATH
DATED 14.09.2020. Exhibit P3 TRUE COPY OF THE FORM 5 APPLICATION
DATED 15.06.2023 SUBMITTED BY THE PETITIONER BEFORE THE 2ND
RESPONDENT. Exhibit P4 TRUE COPY OF THE RECEIPT DATED 15.06.2023
EVIDENCING THE PAYMENT OF FEE FOR FORM 5 APPLICATION.

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