

Koshy Eapen vs State of Kerala

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Court : Kerala

Decided On : Aug-01-2023

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/24890/2023

Appellant : Koshy Eapen

Respondent : State of Kerala

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. 24890 OF 2023 PETITIONER: 1 KOSHY EAPEN AGED 67
YEARS S/O LATE DR.EAPEN DOOR NO.1437, 6TH FEET
ROAD,H.A.L.2ND STAGE, BANGALORE, KARNATAKA STATE, PIN -
560 008. 2 SUNITHA KOSHY AGED 63 YEARS W/O KOSHY EAPEN,
DOOR NO.1437, 6TH FEET ROAD,H.A,L.2ND STAGE,BANGALORE,
KARNATAKA STATE, PIN - 560 008 BY ADVS. C.K.JAYAKUMAR
E.SHEENA RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY,
DEPARTMENT OF REVENUE, GOVT
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001. 2 REVENUE
DIVISIONAL OFFICER OFFICE OF THE REVENUE DIVISIONAL
OFFICER, KB JACOB ROAD, FORT KOCHI, ERNAKULAM, PIN - 682
001. 3 AGRICULTURAL OFFICER KRISHI
BHAVAN, KUNNUMPURAM, KAKKANAD, PIN - 682 030. 4 VIILAGE
OFFICER VAZHAKKALA VIILAGE, KAKKANAD, ERNAKULAM
DISTRICT, PIN - 682 021. BY ADV SMT. AMMINIKUTTY K-
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 petitioners, who are owners of 6.27 Ares of land in Vazhakkala Village of Kanayannur Taluk in Ernakulam District, have filed this writ petition seeking to direct the 2nd respondent-Revenue Divisional Officer to consider and pass orders on Ext.P5 application within a time frame to be fixed by this Court.

2. The petitioners state that they are owners of 6.27 Ares

of land situated in Re-Survey No.103/1-6-2 of Vazhakkala Village, Kanayannur Taluk in Ernakulam 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 Data Bank and is described as 'Nilam' in Revenue records also.

3. The petitioners want to use the land for other purposes. Hence, the petitioners filed Ext.P5 application in Form-5, invoking Rule 4(4D) of the Kerala Conservation of Paddy Land and Wetland

Rules, 2008. The application was filed on 23.05.2023. The application is not disposed of so far. Unless the application is 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 application submitted by the petitioners 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 petitioners and the learned Government Pleader representing the respondents.

6. The petitioners are owners of 6.27 Ares of land situated

in Re-Survey No.103/1-6-2 of Vazhakkala Village, Kanayannur Taluk in Ernakulam 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 petitioners, the land owned by them is neither paddy land nor wetland. The land is not suitable for paddy cultivation. The petitioners want to use the land for other purposes and hence they have filed an application in Form-5 seeking to remove the land from Data Bank.

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

invoking their 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 3rd 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.P5 Form-5

application on the basis of the report of the 3rd respondent-Agricultural Officer, within a further period of two months.

Sd/- N.NAGARESH JUDGE AMR APPENDIX OF WP(C) 24890/2023
PETITIONERS EXHIBITS Exhibit P1 THE TRUE COPY OF THE SALE DEED REGISTERED AS NUMBER 2710/2014 SRO, THRIKKAKARA EXECUTED ON 14/08/2014. Exhibit P2 THE TRUE COPY OF THE BASIC TAX RECEIPT NO.KL07021608341/2023 IN RESPECT OF THE PROPERTY DATED 13/05/2023 ISSUED BY THE 4TH RESPONDENT VILLAGE OFFICE. Exhibit P3 THE TRUE COPY OF THE POSSESSION CERTIFICATE DATED 7/08/2014 ISSUED BY THE 4TH RESPONDENT VILLAGE OFFICE. Exhibit P4 THE TRUE COPY OF THE RELEVANT PAGE OF THE DATA BANK IN RESPECT OF VAZHAKKALA VILLAGE ISSUED BY THE SECRETARY, THRIKKAKARA MUNICIPALITY DT.3/02/2021. Exhibit P5 THE TRUE COPY OF THE APPLICATION FOR CONVERSION DT.23.05.2023

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