

Subhodayan vs the District Collector

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Court : Kerala

Decided On : Jun-01-2023

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/21072/2015

Appellant : Subhodayan

Respondent : The District Collector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN THURSDAY, THE 1ST DAY OF JUNE 2023 / 11TH JYAISHTA, 1945 WP(C) NO. 21072 OF 2015 PETITIONER: SUBHODAYAN AGED 63 YEARS S/O. MADHAVAN, COIR WORKER, RESIDING AT MAZHUVANCHERY, CHARAMANGALAM MURI OF THANNEERMUKKAM SOUTH VILLAGE, MUHAMMA P.O, CHERTHALA 688 525 BY ADVS. SRI.T.JAYAKRISHNAN SRI.R.KRISHNAKUMAR CHERTHALA RESPONDENTS:

1 THE DISTRICT COLLECTOR COLLECTORATE, ALAPPUZHA 688 001 2 THE CHIEF ENGINEER ROADS

DIVISION, THIRUVANANTHAPURAM 695 001 3 THE EXECUTIVE ENGINEER OFFICE OF THE EXECUTIVE ENGINEER, PUBLIC WORKS DEPARTMENT, ALAPPUZHA 688 001 4 THE ASSISTANT ENGINEER OFFICE OF THE ASSISTANT ENGINEER, P.W.D BUILDINGS SECTIONS, CHERTHALA 688 524 5 THE TAHSILDAR THALUK OFFICE, CHERTHALA 688 524 6 THE VILLAGE OFFICER THANNERMUKKAM SOUTH VILLAGE, MUHAMMA P.O 688 525 BY ADVS. GOVERNMENT PLEADER GOVERNMENT PLEADER SRI.RIYAL DEVASSY-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 21072 OF 2015 2

JUDGMENT

The petitioner impugns Ext.P8 proceedings of the Additional Tahsildar, Cherthala, addressed to the District Collector, Alappuzha, whereby, he has requisitioned the latter to verify if the property in question is in the possession of the petitioner, so as to facilitate the payment of compensation for its acquisition.

2. Sri.R.Krishnakumar - learned counsel appearing for the

petitioner, vehemently argued that the various records and documents produced by his client in this writ petition would ineluctably show that the property in question had already been taken possession of by the State or its functionaries; and therefore, that Ext.P8 is not merely irrelevant, but mischievous. He argued that Ext.P8 has been issued by the Tahsildar only to delay the payment of compensation to his client; and therefore, prayed that the same be quashed and said Authority be directed to disburse to his client all eligible compensation for acquisition of the land mentioned in Ext.P7 report, within a time frame to be fixed by this Court.

3. Sri.Riyal Devassy - learned Government Pleader, very

pertinently and to a pointed question from this Court, conceded that the land in question has already been utilized for the construction of a road for public purpose and therefore, that Ext.P8 would not have any WP(C) NO. 21072 OF 2015 3 real consequence. He, however, added that the acquisition of the property has not been completed yet and therefore, that the compensation of the land, as claimed by the petitioner, cannot be immediately disbursed. He sought time for the competent Authority to act as per law, de hors Ext.P8; and thus prayed that this writ petition be so ordered.

4. When I examine the materials available on record and assess

it on the basis of the submissions made by the rival parties, it is apodictic that there can be even no whisper of a suggestion that the land in question is now in the possession of the petitioner. It has certainly been taken possession of by the competent Authority and a road has been constructed on it. Axiomatically, the request made by the Tahsildar, through Ext.P8, to the District Collector, is certainly untenable and without purpose.

5. It is hence without doubt that the competent Authorities must

now finalize the acquisition and issue necessary orders/Award in favour of the petitioner, granting him compensation; and for this purpose Ext.P7 report will also have to be looked into. In the afore circumstances, I allow this writ petition and quash Ext.P8; consequently, directing the competent respondents to immediately take steps for completion of the acquisition of the land in WP(C) NO. 21072 OF 2015 4 question, adverting to Ext.P7 and after affording necessary opportunities of being heard to the petitioner; thus culminating in an appropriate order/Award as per the statutory Scheme, thus leading to the disbursement of the eligible amounts to him, which shall all be done not later than eight months from the date of receipt of a copy of this judgment. This writ petition is thus disposed of. Sd/- DEVAN RAMACHANDRAN JUDGE MC/1.6 WP(C) NO. 21072 OF 2015 5 APPENDIX OF WP(C) 21072/2015 PETITIONER EXHIBITS EXHIBIT P1 A TRUE COPY OF DECREE PASSED IN O.S NO COURT, CHERTHALA EXHIBIT P2 A TRUE COPY OF LETTER DTD 22-09-2011 ISSUED BY THE 2ND RESPONDENT EXHIBIT P3 A TRUE COPY OF LETTER DTD 6-1-2012 ISSUED BY THE 3RD RESPONDENT

EXHIBIT P4 A TRUE COPY OF LETTER DATED 14-05-2012 ISSUED BY THE PRINCIPAL SECRETARY TO THE 1ST RESPONDENT EXHIBIT P5 A TRUE COPY OF COMMUNICATION FROM 3RD RESPONDENT TO THE 2ND RESPONDENT EXHIBIT P6 A TRUE COPY OF G.O(RT) NO 1945/12/PWD DTD 21-11-2012 EXHIBIT P7 A TRUE COPY OF REPORT PREPARED BY THE THALUK SURVEYOR DATED 18-05-2011 ALONG WITH THE PLAN PREPARED BY HIM EXHIBIT P8 A TRUE COPY OF LETTER ISSUED BY THE 5TH RESPONDENT DATED 20-05-2015 EXHIBIT P9 A TRUE COPY OF DECREE AND PLAN APPENDED TO THE DECREE IN O.S NO 407/2001 OF MUNSIFF'S COURT CHERTHALA DATED 12-1-2005 EXHIBIT P10 A TRUE COPY OF TAX RECEIPT DATED 20-04-1994 EVIDENCING PAYMENT OF BASIC TAX BY THE PETITIONER IN T.P NO 8816 BEFORE THANNERMUKKAM SOUTH VILLAGE

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