

Alias P.M, vs State of Kerala,

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Court : Kerala

Decided On : Jun-16-2022

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/281/2022

Appellant : Alias P.M,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN THURSDAY,
THE 16TH DAY OF JUNE 2022 / 26TH JYAISHTA, 1944 WP(C) NO.
281 OF 2022 PETITIONER/S: ALIAS P.M, AGED 71 YEARS S/O.
MATHAI, PUTHAYATH HOUSE, KOTHAMANGALAM P.O,
ERNAKULAM DISTRICT-686 691 BY ADVS. ALEXANDER JOSEPH
AKHILASREE BHASKARAN RESPONDENT/S: 1 STATE OF KERALA,

REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF REVENUE, STATE SECRETARIAT, TRIVANDRUM
695 001. 2 THE DISTRICT COLLECTOR, ERNAKULAM, CIVIL
STATION, KUNNUMPURAM, KAKKANAD, ERNAKULAM-682 030 3

THE REVENUE DIVISIONAL OFFICER, MUVATTUPUZHA, OFFICE OF THE REVENUE DIVISIONAL OFFICER, MINI CIVIL STATION, MUDAVOOR, MUVATTUPUZHA 686 669. 4 THE TAHSILDAR, KOTHAMANGALAM, MINI CIVIL STATION, KOTHAMANGALAM, ERNAKULAM 686 691. 5 THE VILLAGE OFFICER, THRIKKARIYOOR VILLAGE, KOTHAMANGALAM, ERNAKULAM DISTRICT-686 661 6 LOCAL LEVEL MONITORING COMMITTEE, REP. BY ITS CONVENER/THE AGRICULTURE OFFICER, KRISHI BHAVAN, KOTHAMANGALAM, KOTHAMANGALAM P.O, ERNAKULAM DISTRICT-686 691 7 KOTHAMANGALAM MUNICIPALITY, REPRESENTED BY ITS SECRETARY, P.B. NO. 15, KOTHAMANGALAM P.O, ERNAKULAM DISTRICT-686 691 BY ADV SHRI.JOICE GEORGE, SC, KOTHAMANGALAM MUNICIPALITY -2-

OTHER PRESENT: SMT.VIDYA KURIAKOSE, GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -3-

P.V.KUNHIKRISHNAN, J.

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W.P.(C)	No.	281	of	2022
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Dated this the 16th day of June, 2022

JUDGMENT

The above writ petition is filed with following prayers: i) Issue a Writ of Certiorari or other appropriate writ,

order or direction quashing Exhibit P8 order.

ii) Issue appropriate writ, order or direction declaring that the property extending 20.03 Ares in Survey No. Taluk of the petitioner is Purayidom (Garden land) converted before the Notification of the Kerala Land Utilization Order 1967 and The Kerala Conservation of Paddy land and Wet land Act 2008 and before inclusion Section 27A of the Act and the petitioner is not liable to pay fees payable under S27 A(3) of the Act for utilizing the land for Commercial, Residential or other Purposes.

iii) Issue a writ of Mandamus or other appropriate writ

order or direction directing the 3 respondent to consider

Exhibit P5 application and issue certificate certifying that the property is Purayidom' without insisting for fees as claimed in Exhibit PS. -4- iv) Issue such other appropriate writ order or direction that this Honourable Court may deem fit and proper in the facts and circumstance of the case. (sic)

2. The petitioner is the owner in possession of the

property extending 20.03 Ares of land in Sy.No.532/1-1 of Thrikkariyoor Village of Kothamangalam Taluk. According to the petitioner, in Ext.P1 tax receipt, the property is described as Purayidam. It is the case of the petitioner that the 6 th respondent certified that the property is not included in the draft data bank. According to the petitioner, the property was dry land before 30.12.2017, the date when the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018 came into force. Subsequently, the petitioner filed Form- 6 application on 16.05.2019. Consequently Ext.P8 order was passed. As per Ext.P8, the petitioner is directed to pay an amount of Rs.6,65,060/-. The petitioner is aggrieved by the same. According to the petitioner the land is already converted long -5- back. The petitioner relies on Ext.P1 tax receipt, in which it is stated that the land is Purayidam. Hence, this writ petition is filed.

3. Heard the counsel for the petitioner and the Government Pleader.

4. Even though the counsel for the petitioner raised

several contentions before this Court, according to me, these are matters to be raised before the appellate authority, because admittedly, there is an appeal maintainable against Ext.P8 order. The petitioner is free to file an appeal against Ext.P8 and if such an appeal is filed, there can be a direction to the appellate authority to consider the same and pass appropriate orders, in accordance to law, within a time frame. Therefore, this writ petition is disposed of in the following manner: -6-

1. The petitioner is free to file an appeal against Ext.P8 order, within three weeks from the date of receipt of a copy of this judgment.

2. Once the appeal is received by the 2nd respondent -

appellate authority, will consider the appeal and pass appropriate orders in it, after giving an opportunity of hearing to the petitioner, as expeditiously as possible, at any rate, within two months from the date receipt of appeal.

3. All the contentions raised by the petitioner in this

writ petition are left open. The petitioner is also free to produce Ext.P6 along with the appeal and those contentions also can be raised before the appellate authority.

sd/- P.V.KUNHIKRISHNAN JUDGE
das -7- APPENDIX OF WP(C) 281/2022
PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE TAX RECEIPT DATED 27.12.2018 ISSUED BY THE 5TH RESPONDENT. Exhibit P2 TRUE COPY OF THE LETTER DATED 16.05.2019 OF THE 6TH RESPONDENT TO THE PETITIONER. Exhibit P3 TRUE COPY APPLICATION NO. 253/2019 DATED 16.05.2019 AND ENQUIRY REPORT DATED 02.07.2019 OF THE 5TH RESPONDENT. Exhibit P4 TRUE COPY REPORT AND PRO FORMA OF THE 6TH RESPONDENT TO THE 3RD RESPONDENT DATED 03.07.2019. Exhibit P5 TRUE COPY OF THE APPLICATION DATED 7.9.2020 OF THE PETITIONER TO THE 3RD RESPONDENT. Exhibit P6 TRUE COPY OF THE INFORMATION DATED 29.09.2020 RECEIVED BY THE PETITIONER FROM THE 7TH RESPONDENT UNDER THE RIGHT TO INFORMATION ACT. Exhibit P7 TRUE

COPY OF THE JUDGMENT DATED 28.07.2021 IN W.P.C NO. 19602/2020 OF THIS HON'BLE COURT. Exhibit P8 TRUE COPY OF THE ORDER DATED 04.10.2021 OF THE 3RD RESPONDENT.

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