

M.Abbas 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)/961/2022

Appellant : M.Abbas

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. 961 OF 2022 PETITIONER: M.ABBAS AGED 68 YEARS
A.R.VILLA, SIDEWALL, MANCODE P.O., CHITHARA, KOLLAM-
691559. BY ADVS. ENOCH DAVID SIMON JOEL S.SREEDEV RONY
JOSE LEO LUKOSE SUZANNE KURIAN CIMIL CHERIAN KOTTALIL
RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE
SECRETARY, DEPARTMENT OF REVENUE, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695001. 2 THE DISTRICT
COLLECTOR, CIVIL STATION, KAANKATHU MUKKU, KOLLAM-
691013. BY ADV ADVOCATE GENERAL OFFICE KERALA

ADV.ASHWIN SETHUMADHAVAN, SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- W.P.(C).No.961 of 2022
----- Dated this the 16th day of June, 2022

JUDGMENT

This writ petition is filed with following prayers:

i. Issue a writ of certiorari or other appropriate writ, order or direction calling for the records leading to Ext.P12 and quash the same. ii. Issue a writ of mandamus or other appropriate writ, order or direction directing the Respondent to renew Ext.P1 NOC in favour of the Petitioner, as expeditiously as possible, at any rate, within a period of 2 weeks. iii. Issue such other appropriate writ order or direction that may be deemed to be just and equitable in the facts and circumstances of the case. (SIC)

2. Petitioners request for renewal of No Objection Certificate (NOC) to undertake quarrying in Government land was turned down primarily on account of the fact that Ext.P8

guidelines for grant of NOC over the Government lands had

come into force. In Ext.P8 guidelines it is specifically noted that only lands which have road access to the top of the identified area shall be made available for grant of NOC. According to the petitioner, there is a way to his property. This point is not considered by the District Collector while passing Ext.P12 order. Hence this writ petition.

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

4. After hearing both sides, I think the petitioner can

be directed to approach the 1st respondent with a representation stating that there is a road in existence and the conditions in Ext.P8 guidelines are complied with by the petitioner. The Government can be directed to consider the same in accordance to law. A time limit also can be fixed to consider the representation by the Government. Therefore, this writ petition is disposed of in the following manner:

1. The petitioner is free to file a representation narrating his grievance raised in this writ petition before the 1st respondent, within two weeks from the date of receipt of a copy of this

judgment.

2. Once such a representation is received, the 1 st

respondent will consider the same 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 of receipt of the representation.

3. The petitioner is free to produce additional documents and additional statement, if necessary.

4. While passing final orders, the 1st respondent will consider the applicability of Ext.P13

judgment also.

sd/- P.V.KUNHIKRISHNAN JV JUDGE APPENDIX OF WP(C) 961/2022
PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE NOC DATED 14.8.2014
ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER. Exhibit P2 TRUE
COPY OF THE LETTER OF INTENT DATED 11.7.2016 ISSUED BY THE
DIRECTOR OF MINING AND GEOLOGY. Exhibit P3 TRUE COPY OF THE
ORDER DATED 16.3.2018 BEARING NO.B-17613/16 ISSUED BY THE SUB
COLLECTOR, KOLLAM. Exhibit P4 TRUE COPY OF THE ORDER DATED

9.10.2018

BEARING G.O.NO.1179/2018/IND ISSUED BY THE DEPUTY SECRETARY, DEPARTMENT OF INDUSTRIES, GOVERNMENT OF KERALA.

Exhibit P5 TRUE COPY OF THE REQUEST DATED 3.2.2021 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT. Exhibit P6 TRUE COPY OF THE JUDGMENT DATED 11.8.2021 IN WP(C) NO.16218/2021 ON THE FILES OF THIS HON'BLE COURT. Exhibit P7 TRUE COPY OF THE ORDER DATED 7.9.2021 BEARING NO.DCKLM.12636/20/L.12 ISSUED BY THE 2ND RESPONDENT. Exhibit P8 TRUE COPY OF GO (MS) 28/2021/RD DATED 28.1.2021 ISSUED BY THE 1ST RESPONDENT. Exhibit P9 TRUE COPY OF THE CADASTRAL MAP OF THE AREA IN QUESTION. Exhibit P10 TRUE COPY OF THE REPRESENTATION DATED 1.10.2021 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT. Exhibit P11 TRUE COPY OF THE JUDGMENT DATED 10.11.2021 IN WP(C) NO.22865/2021 ON THE FILED OF THIS HON'BLE COURT. Exhibit P12 TRUE COPY OF THE ORDER DATED 3.1.2022 WITH NO.DCKLM.12636/20/L.12 ISSUED BY THE 2ND RESPONDENT. Exhibit P13 TRUE COPY OF THE JUDGMENT DATED 10.3.2021 IN WP(C) NO.18777/2020 ON THE FILES OF THIS HON'BLE COURT. Exhibit P14 TRUE COPY OF THE LETTER DATED 8.12.2021 BEARING NO.C7-180923/2018 ISSUED BY THE DISTRICT COLLECTOR, PATHANAMTHITTA. RESPONDENT ANNEXURES ANNEXURE R2(a) THE TRUE COPY OF THE COMMUNICATION ISSUED BY THE ADDITIONAL CHIEF SECRETARY TO ALL DISTRICT COLLECTORS DATED 08.02.2022

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