

Mathew M. E. vs the District Collector

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Court : Kerala

Decided On : Dec-15-2022

Judge : Honourable Mr.Justice Murali Purushothaman

Appeal No. : WP(C)/1504/2022

Appellant : Mathew M. E.

Respondent : The District Collector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN THURSDAY, THE 15TH DAY OF DECEMBER 2022 / 24TH AGRAHAYANA, PETITIONER/S: MATHEW M. E. AGED 65 YEARS S/O. EASO, VETTIYEDATHUPARAMBIL, KOTTARKAVU, MAVELIKKARA P. O., ALAPUZHA - 690 101. BY ADVS. N.KRISHNA RAJA MAULI RENI JAMES RESPONDENTS: 1 THE DISTRICT COLLECTOR COLLECTORATE, CIVIL STATION WARD, ALAPUZHA - 688 001. 2 THE REVENUE DIVISIONAL OFFICER REVENUE DIVISIONAL OFFICE, CHENGANNOOR P. O., ALAPUZHA DISTRICT - 689 121. 3 THE TAHASILDAR MAVELIKKARA TALUK OFFICE, MAVELIKKARA P. O., ALAPUZHA - 690101. 4 THE VILLAGE OFFICER

MAVELIKKARA VILLAGE OFFICE, NEAR MINI CIVIL STATION, MAVELIKKARA P. O., ALAPUZHA - 690101. 5 LOCAL LEVEL MONITORING COMMITTEE REPRESENTED BY THE AGRICULTURAL OFFICER, KRISHNAPURAM - MAVELIKKARA ROAD, THEKKEVILAYIL, MAVELIKKARA P. O., ALAPUZHA - 690101.

6 MAVELIKKARA MUNICIPALITY REPRESENTED BY ITS SECRETARY, MAVELIKKARA P. O., ALAPUZHA - 690101. BY ADV V.RENJITH KUMAR - S.C. BY G.P. SRI.B.S.SYAMANTHAK THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15.12.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner has approached this Court challenging Exts.P8, P13 and P14 orders. By Ext.P8, the 1 st respondent, on finding that the petitioner has violated the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008 (for short, 'the Act'), directed him to restore the land to the original position invoking the provisions of Section 13 of the Act. Pursuant to Ext.P8, the petitioner approached the 2nd respondent by filing Form-5 and Form-7 applications for removal of the property from the Data Bank and for change of nature of the land from 'Nilam' to 'garden land'. By Ext.P13, the 2 nd respondent rejected the From-5 application submitted by the petitioner and consequently, Form-7 application was also rejected vide Ext.P14. On going through Ext.P13, it is seen that the 2nd respondent has not adverted to Ext.P11 report of the LLMC, Ext.P4 report of the KSREC and the report of the agricultural officer. Since Ext.P13 order is passed without adverting to relevant materials, the same is set aside. Consequently, Ext.P14 order rejecting Form 7 application is also set aside. There will be a direction to the 2nd respondent to consider Ext.P9 application of the petitioner in Form 5 afresh after adverting to Ext.P4 and the report of the agricultural officer and other relevant records and pass a reasoned order within a period of six weeks from the date of receipt of a copy of this judgment. The 2nd respondent shall reconsider Form-7 application of the petitioner in the light of the order to be

passed in Form-5 application. The writ petition is disposed of with the above direction. Sd/- MURALI PURUSHOTHAMAN JUDGE al/- APPENDIX OF WP(C) 1504/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE TAX RECEIPT DATED 17.06.2020. Exhibit P2 TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE 5TH RESPONDENT LLMC DATED 24.07.2018. Exhibit P3 TRUE COPY OF THE RECEIPT DATED 25.07.2018 ISSUED BY THE AGRICULTURAL FIELD OFFICER, MAVELIKKARA. Exhibit P4 TRUE COPY OF THE KSREC REPORT DATED 13.11.2018. Exhibit P5 TRUE COPY OF THE STOP MEMO ISSUED BY THE 4TH RESPONDENT DATED 28.12.2018. Exhibit P6 TRUE COPY OF THE REPLY GIVEN BY THE PETITIONER DATED 31.12.2018. Exhibit P7 TRUE COPY OF THE NOTICE DATED 30.08.2019 ISSUED BY THE 1ST RESPONDENT. Exhibit P8 TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT NO.C14- Exhibit P9 TRUE COPY OF THE FORM 5 APPLICATION FILED BEFORE THE 2ND RESPONDENT DATED 16.01.2020. Exhibit P10 TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.3717/2020 DATED 11.02.2020. Exhibit P11 TRUE COPY OF THE REPORT OF THE

LOCAL LEVEL MONITORING COMMITTEE DATED NIL ALONG WITH THE COVERING LETTER FROM THE AGRICULTURAL OFFICER DATED 23.10.2020. Exhibit P12 TRUE COPY OF THE PAGES FROM THE NOTE FILED FROM THE PETITIONER'S FILED IN THE RDO OFFICE. Exhibit P13 TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 01.10.2021. Exhibit P14 TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 11.10.2021.

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