

V.Pushpasree vs State of Kerala

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Court : Kerala

Decided On : Apr-06-2022

Judge : Honourable Mrs. Justice Anu Sivaraman

Appeal No. : WP(C)/2007/2022

Appellant : V.Pushpasree

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN
WEDNESDAY, THE 6TH DAY OF APRIL 2022 / 16TH CHAITHRA, 1944
WP(C) NO. 2007 OF 2022 PETITIONER: V.PUSHPASREE AGED 57
YEARS W/O. KRISHNANKUTTY MENON, VAKAYIL, SREENILAYAM,
P.O.PUTHANPALLY, GURUVAYUR NOW RESIDING AT PRARTHANA,
CHEVAYUR, CALICUT-673 017 BY ADVS. P.B.KRISHNAN
P.B.SUBRAMANYAN SABU GEORGE MANU VYASAN PETER
RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY ITS SECRETARY TO
GOVERNMENT, REVENUE DEPARTMENT, SECRETARIAT,

THIRUVANANTHAPURAM-695 001 2 THE DISTRICT COLLECTOR, THRISSUR FIRST FLOOR, CIVIL STATION, CIVIL LINES ROAD, KALYAN NAGAR, AYYANTHOLE , THRISSUR,PIN-680 003 3 THE REVENUE DIVISIONAL OFFICER, THRISSUR , FIRST FLOOR, CIVIL STATION, CIVIL LINES ROAD, KALYAN NAGAR, AYYANTHOLE, THRISSUR ,PIN-680 003 4 THE ADDL. THAHSILDAR, CHAVAKKAD TALUK OFFICE, CHAVAKKAD ,PIN-680 506 5 THE PRINCIPAL AGRICULTURAL OFFICER, G6JC+69M, UDYA NAGAR, CHEMBUKKAVU, THRISSUR-680 005 6 THE VILLAGE OFFICER, GURUVAYUR VILLAGE OFFICE, MUTHUVATTOOR-GURUVAYUR ROAD, MUTHUVATTOOR, GURUVAYUR, THRISSUR-680 101

BY SMT.PRINCY XAVIER-SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06.04.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 6th day of April, 2022 This writ petition is filed seeking the following reliefs:

i) Declare that the Kerala Conservation of Paddy Land and Wet Land Act, 2008, as amended by the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018, ie., Act 29 of 2018 has no application to 60.70 Ares (150 cents) of land comprised in Sy.No.143/1 and 143/2 of Guruvayur Village in Chavakkad Taluk belonging to the petitioner. ii) Issue a writ of mandamus or any other appropriate writ, order or direction commanding respondent No.2 to pass final/consequential orders pursuant to Ext.P13 order issued by the Land Revenue Commissioner and grant permission to the petitioner to utilize 60.70 Ares (150 cents) of land comprised in Sy.No.143/1 and 143/2 of Guruvayur Village in Chavakkad Taluk for other purposes as per Clause 6(2) of the Kerala Land Utilisation Order, 1967. iii) Issue a writ of mandamus or such other writ, order or direction in the nature thereof directing Respondent No.4 to

make fresh assessment of 60.70 Ares (150 cents) of land comprised in Sy.No.143/1 and without referring to Section 27A or 27C of the Kerala

Conservation of Paddy Land and Wetland Act, 2008, as amended by the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018, ie. Act 29 of 2018 and the Rules there under. iv) Call for the records relating to Ext.P19 and quash the same by issuing a writ of certiorari.

2. Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

3. It is submitted by the learned counsel

appearing for the petitioner that the petitioner is the owner in possession of 60.70 Ares (150 cents) of land comprised in Sy.No.143/1 and 143/2 of Guruvayur Village in Chavakkad Taluk of Thrissur District. It is submitted that by Exhibit P7 judgment of this Court dated 19.11.2013, the District Collector had been directed to take a decision on the representation submitted by the petitioner for use of the property for other purposes taking note of the contention that the property had long been converted and that it is not fit for paddy cultivation. It is submitted that by Exhibit P11 order dated 21.03.2014, the District Collector had referred the matter through the Land Revenue Commissioner to the Government for an appropriate decision. However, by Exhibit P13 dated 07.11.2014, the matter had been sent back to the District Collector by the Land Revenue Commissioner for an appropriate decision on the request of the petitioner. It is submitted that final orders are now to be passed by the District Collector on the request made by the petitioner on the strength of Exhibit P7 judgment of this Court as well as Exhibit P13 direction issued by the Land Revenue Commissioner. Having heard the learned Government Pleader also, there will be a direction to the 2nd respondent to pass final orders on the request made by the petitioner as directed in Exhibit P7 on the basis of Exhibit P13 direction issued by the Land Revenue Commissioner. Appropriate orders shall be passed within a period of two months from the date of receipt of a copy of this judgment. All other questions are left open to be decided in appropriate proceedings. This writ petition is ordered accordingly. Sd/- ANU SIVARAMAN JUDGE SSK/08/04 APPENDIX PETITIONER EXHIBITS Exhibit P1

A TRUE COPY OF THE REPORT OF THE PRINCIPAL AGRICULTURAL OFFICER, THRISSUR DATED 11.10.2006 Exhibit P2 A TRUE COPY OF THE MAHAZAR PREPARED BY THE VILLAGE OFFICER, GURUVAYOOR ON 30.08.2006 Exhibit P3 A TRUE COPY OF RELEVANT PORTION OF THE DATA BANK Exhibit P4 A TRUE COPY OF THE JUDGMENT , DATED 07.02.2013 OF THIS HON'BLE COURT IN WPC NO.26577 OF 2012 Exhibit P5 A TRUE COPY OF THE ORDER ISSUED BY THE SECRETARY, GURUVAYUR MUNICIPALITY ON 18.10.2012 Exhibit P6 A TRUE COPY OF THE ORDER DATED 29.04.2013 PASSED BY THE ADDL. TAHSILDAR Exhibit P7 A TRUE COPY OF THE JUDGMENT DATED 19.11.2013 IN WPC NO.12890 OF 2013 Exhibit P8 A TRUE COPY OF THE REPRESENTATION DATED 07.0.2014 SUBMITTED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR Exhibit P9 A TRUE COPY OF THE REPORT DATED 25.02.2014 SUBMITTED BY THE VILLAGE OFFICER BEFORE THE DISTRICT COLLECTOR Exhibit P10 A TRUE COPY OF THE REPORT DATED 25.02.201 4 SUBMITTED BY THE AGRICULTURAL OFFICER BEFORE THE DISTRICT COLLECTOR Exhibit P11 A TRUE COPY OF THE ORDER DATED 21.03.2014 PASSED BY THE DISTRICT COLLECTOR Exhibit P12 A TRUE COPY OF THE LETTER DATED 04.05.2014 SENT BY THE DISTRICT COLLECTOR TO THE LAND REVENUE COMMISSIONER Exhibit P13 A TRUE COPY OF THE LETTER DATED 07.11.2014 ISSUED BY THE LAND REVENUE COMMISSIONER TO THE DISTRICT COLLECTOR Exhibit P14 A TRUE COPY OF THE BUILDING PERMIT DATED 03.12.2016 Exhibit P15 A TRUE COPY OF THE LETTER DATED 29.04.2017 ISSUED BY THE PUBLIC INFORMATION OFFICER IN THE DISTRICT COLLECTORS OFFICE Exhibit P16 A TRUE COPY OF THE REPRESENTATION DATED 02.09.2020 SUBMITTED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR Exhibit P17 A TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER IN FORM 9, DATED 09.11.2020 Exhibit P18 A TRUE COPY OF THE REPRESENTATION DATED 06.09.2021 SUBMITTED BY THE PETITIONER BEFORE THE RDO Exhibit P19 A TRUE COPY OF THE ORDER DATED 27.12.2020 ISSUED BY THE RDO, THRISSUR Exhibit P20 A TRUE COPY OF THE BUILDING TAX RECEIPT ISSUED BY THE GURUVAYUR TOWNSHIP ON 22.11.1976 Exhibit P21 A TRUE COPY OF THE STATEMENT GIVEN BY

SRI.ARAVINDAKSH MENON (UNDATED) Exhibit P22 A TRUE COPY OF THE APPEAL DATED 29.12.2021 SUBMITTED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR Exhibit P23 A TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER IN FORM 7 DATED 29.12.2021 RESPONDENTS' EXHIBITS: NIL SSK //TRUE COPY// PA TO JUDGE

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