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John Kuruvila vs State of Kerala

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Court : Kerala

Decided On : Mar-09-2022

Judge : Honourable Mrs. Justice Anu Sivaraman

Appeal No. : WP(C)/5870/2022

Appellant : John Kuruvila

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN WEDNESDAY, THE 9TH DAY OF MARCH 2022 / 18TH PHALGUNA, 1943 PETITIONER: JOHN KURUVILA AGED 75 YEARS S/O KURUVILA, AIRAMPALLIL HOUSE, KALLOOPARA P O, PATHANAMTHITTA DISTRICT, PIN-689583. BY ADV R.SANTHOSH BABU RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF MINING AND GEOLOGY, GOVT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM-695001. 2 THE GEOLOGIST DEPARTMENT OF MINING AND GEOLOGY, DISTRICT OFFICE, NEAR KENDRIYA VIDYALAYAM, K.I.P.BUILDING, ADOOR P O,

PATHANAMTHITTA DISTRICT, PIN-691523.

3 THE SECRETARY KALLOOPPARA GRAMA PANCHAYAT, KALLOOPPARA P O, PATHANAMTHITTA DISTRICT, PIN-689583. VINITHA B-SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09.03.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This writ petition is filed seeking the following reliefs:

i) To issue a writ of mandamus or other appropriate writ order

or direction, directing the 2nd respondent to issue the necessary permission including transit passes for the removal of earth from the property of the petitioner for the constructions of the proposed agricultural shed on the basis of Ext. P3 to P6 as expeditiously as possible. ii) to issue a writ of mandamus or other appropriate writ

order or direction, directing the 2nd respondent to consider and pass

favourable orders on Ext. P8 within a time frame after hearing the petitioner in the interest of justice.

2. Heard the learned counsel for the petitioner, the learned Government Pleader as well as the learned Standing Counsel for the 3 rd respondent.

3. It is submitted by the learned counsel for the petitioner that the

petitioner had submitted an application for transportation of ordinary earth from his property on the strength of the building permit and development permit issued by the 3 rd respondent. It is submitted that Ext.P7 application had been submitted before the Geologist on 01.09.2021 and Ext.P8 representation had also been filed on 02.01.2022, but no steps have been taken thereon.

4. The learned Government Pleader submits, on instructions from

the 2nd respondent, that a site inspection had been carried out pursuant to Exts.P7 and P8 and that it is noticed that there are certain discrepancies in the development permit issued by the 3 rd respondent. It is submitted that a communication has also been issued to the 3 rd respondent to clarify the quantity of ordinary earth required to be removed for the construction of the building as proposed by the petitioner. It is submitted that as soon as the reply is received from the 3rd respondent, urgent steps will be taken by the 2 nd respondent to consider and dispose of Ext.P7. In the above view of the matter, there will be a direction to the 3 rd respondent to submit a reply to the communication issued by the 2 nd respondent at the earliest, at any rate, within a period of three weeks from the date of receipt of a copy of this judgment. On receipt of such clarification, the request made by the petitioner shall be considered by the 2nd respondent and appropriate orders shall be passed within a further period of three weeks thereafter. This writ petition is ordered accordingly. Sd/- ANU SIVARAMAN JUDGE SVP APPENDIX OF WP(C) 5870/2022 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE TAX RECEIPT DATED 19.05.2020 ISSUED FROM THE VILLAGE OFFICE, KALLOOPPARA. Exhibit P2 A TRUE COPY OF THE POSSESSION CERTIFICATE DATED 27.08.2020 ISSUED FROM THE VILLAGE OFFICE, KALLOOPPARA VILLAGE OFFICE. Exhibit P3 A TRUE COPY OF THE NEW CONSTRUCTION AS C5- BA(50408)/2021 DATED 25.02.2021 TO THE PETITIONER. Exhibit P4 A TRUE COPY OF THE DEVELOPMENT PERMIT AS NO.C5-BA(178449/2021 DATED 24.08.2021. Exhibit P5 A TRUE COPY OF THE BUILDING PLAN APPROVED BY THE R3 DATED 25.02.2021. Exhibit P6 A TRUE COPY OF THE EARTH CUTTING PLAN DATED 19.04.2021. Exhibit P7 A TRUE COPY OF THE APPLICATION DATED 01.09.2021 SUBMITTED BEFORE THE R2 BY THE PETITIONER. Exhibit P8 A TRUE COPY OF THE APPLICATION DATED 02.01.2022 BEFORE R2.

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