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Surendran vs State of Kerala

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Court : Kerala

Decided On : May-31-2022

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/12709/2022

Appellant : Surendran

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH TUESDAY, THE 31ST DAY OF MAY 2022 / 10TH JYAISHTA, 1944 PETITIONER: SURENDRAN AGED 64 YEARS, S/O.KRISHNAN THAZHATHUPURAKKAL HOUSE KANIPAYYOOR P.O, KANIPAYYOOR VILLAGE KUNNAMKULAM TALUK, THRISSUR DISTRICT PIN 680517, PIN - 680517 BY ADVS. PRABHU K.N. MANUMON A. RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY THE DISTRICT COLLECTOR PALAKKAD, PIN 678001, 2 THE REVENUE DIVISIONAL OFFICER PALAKKAD PALAKKAD, PIN 678001, PIN - 678001 3 THE

TAHSILDAR ALATHUR TALUK ALATHUR TALUK , PALAKKAD DISTRICT, PIN 678541, 4 THE VILLAGE OFFICER, VADAKKENCHERRY- I VILLAGE ,ALATHUR TALUK, PALAKKAD, PIN 678683., 5 THE AGRICULTURAL OFFICER VADAKKENCHERRY VADAKKENCHERRY, ALATHUR TALUK, PALAKKAD, PIN 678683, 6 THE LOCAL LEVEL MONITORING COMMITTEE (CONSTITUTED UNDER THE KERALA CONSERVATION OF PADDY LAND AND WETLAND ACT 2008) REPRESENTED BY ITS CONVENOR THE AGRICULTURAL OFFICER VADAKKENCHERRY, ALATHUR TALUK, PALAKKAD DISTRICT, PIN 678683 SMT.SURYA BINOY B, SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON

31.05.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 31st day of May, 2022 The petitioner, who is the owner of 0.1652 Hectares of land in Vadakkencherry I Village of Alathur Taluk in Palakkad District, has filed this writ petition, seeking to direct the 2 nd respondent to consider and dispose of Ext.P3 application within a short time frame.

2. The petitioner states that he is the owner of 0.1652

Hectares of land in Re-Survey No.155/9 of Block No.44 of Vadakkencherry I Village, Alathur Taluk in Palakkad District. Ext.P1 is the Possession Certificate. According to the petitioner, his land is a dry land, but was erroneously included in Data Bank prepared under the Kerala Conservation of Paddy Land and Wetland Act, 2008. Aggrieved by the inclusion of the land in Data Bank, the petitioner submitted application in Form 5 to the 6th respondent. Thereafter, the land was excluded from Data Bank as can be seen from Ext.P2. Thereafter, the petitioner submitted Form 6 application before the 2 nd respondent for changing the nature of the land in BTR. Ext.P3 is the Form 6 application.The petitioner has submitted application for permission to use the land for other purpose. Ext.P3 has not been

considered by the 2nd respondent so far. The petitioner states that the 2nd respondent is compellable to pass orders on Ext.P3 within a reasonable time.

3. The learned Government Pleader entered

appearance on behalf of the respondents and resisted the writ petition. The learned Government Pleader submitted that though a decision was taken to remove the land from the Data Bank, a notification has not been published so far. At any rate, no notification removing the land from the Data Bank has been submitted along with the application.

4. I have heard the learned counsel for the petitioner and the learned Government Pleader representing the respondents.

5. The petitioner has submitted Ext.P3 application

invoking his statutory right under Rule 12(1) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008. Ext.P3 being a statutory application, the competent authority is bound to consider the same and pass orders thereon within a reasonable time.

6. The learned Government Pleader would submit that

the application is not accompanied by a notification removing the land in question from the Data Bank. This is a matter to be considered by the 2nd respondent while processing the application. In the facts and circumstances of the case, the writ petition is disposed of directing the 2nd respondent to consider Ext.P3 application submitted by the petitioner, if the same is complete in all respects, accompanied by all supporting documents and paying the prescribed fee, if any. Orders on Ext.P3 shall be passed within a period of three months. sd/- N.NAGARESH JUDGE hmh APPENDIX OF WP(C) 12709/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY VILLAGE OFFICER VADAKKENCHERRY I VILLAGE DATED 12.02.2022 Exhibit P2 TRUE COPY OF THE ORDER NO.136/32/2021- 2022 PASSED BY THE 7TH RESPONDENT DATED 17-09-2021 Exhibit P3 TRUE COPY OF THE FORM 6 APPLICATION PREFERRED BY THE PETITIONER BEFORE THE 2ND

RESPONDENT DATED 18/02/2022

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