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Basheer vs State of Kerala

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Court : Kerala

Decided On : Jan-24-2022

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/17409/2021

Appellant : Basheer

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH MONDAY, THE 24TH DAY OF JANUARY 2022/4TH MAGHA, 1943 WP(C) NO. 17427 OF 2021 PETITIONER: KRISHNASWAMY, AGED 53 YEARS, S/O. PAZHANISWAMY, M.PUTHUR, GOVINDAPURAM P.O., MUTHALAMADA, PALAKKAD. BY ADV V.A.JOHNSON (VARIKKAPPALLIL) RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY PRINCIPAL SECRETARY, FOREST AND WILD LIFE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 2 CHIEF CONSERVATOR OF FORESTS, FOREST HEAD QUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM - 695 014. 3 THE DIVISIONAL FOREST OFFICER, DIVISIONAL FOREST

OFFICE, NEMMARA FOREST DIVISION, NEMMARA, PALAKKAD - 678 508. 4 THE FOREST RANGE OFFICER, FOREST RANGE OFFICE, KOLLENGODE, KOLLENGODE, PALAKKAD - 678 504. BY SPL.GOVT. PLEADER (FOREST) SRI.T.P.SAJAN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.01.2022, ALONG WITH WP(C).17021/2021, 17409/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH MONDAY, THE 24TH DAY OF JANUARY 2022/4TH MAGHA, 1943 WP(C) NO. 17021 OF 2021 PETITIONER: P. FEMIL, AGED 34 YEARS, S/O. PAKKEER MUHAMMED N., N.P.M. HOUSE, PALLAM, MUTHALAMADA P. O., PALAKKAD. BY ADV V.A.JOHNSON (VARIKKAPPALLIL) RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY PRINCIPAL SECRETARY, FOREST AND WILD LIFE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 2 CHIEF CONSERVATOR OF FORESTS , FOREST HEAD QUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM - 695 014. 3 THE DIVISIONAL FOREST OFFICER, DIVISIONAL FOREST OFFICE, NEMMARA FOREST DIVISION, NEMMARA, PALAKKAD - 678 508. 4 THE FOREST RANGE OFFICER , FOREST RANGE OFFICE, KOLLENGODE, KOLLENGODE, PALAKKAD - 678 504. BY SRI.T.P.SAJAN, SPL.GOVT.PLEADER (FOREST) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.01.2022, ALONG WITH WP(C).17427/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH MONDAY, THE 24TH DAY OF JANUARY 2022/4TH MAGHA, 1943 WP(C) NO. 17409 OF 2021 PETITIONER: BASHEER, AGED 66 YEARS, S/O.

ISMAIL RAWTHER, MANSOOR MANZIL, NANDANKIZHAYA, ANAMARI P.O., MUTHALAMADA, PALAKKAD. BY ADV V.A.JOHNSON (VARIKKAPPALLIL) RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY PRINCIPAL SECRETARY, FOREST AND WILD LIFE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001. 2 CHIEF CONSERVATOR OF FORESTS, FOREST HEAD QUARTERS, VAZHUTHACADU, THIRUVANANTHAPURAM-695 014. 3 THE DIVISIONAL FOREST OFFICER, DIVISIONAL FOREST OFFICE, NEMMARA FOREST DIVISION, NEMMARA, PALAKKAD-678 508. 4 THE FOREST RANGE OFFICER, FOREST RANGE OFFICE, KOLLENGODE, KOLLENGODE, PALAKKAD-678 504. BY ADV SHRI.T.P.SAJAN, SPL. G.P. (FOREST) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.01.2022, ALONG WITH WP(C).17427/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 24th day of January, 2022 ([WP(C) Nos.17427, 17021 & 17409 of 2021] The petitioners in these writ petitions seek to direct the 4th respondent to exempt their property situated in Muthalamada-I Village in Chittur Taluk of Palakkad District, from demarcating as Vested Forest of Kollengode Range.

2. The petitioners' grievance is that they have

purchased the property through proper documents. The property in question in WP(C) No.17427/2021 was originally obtained by Velayudhan as per Patta No.2861/72 (Purchase Certificate) issued by the Land Tribunal No.II, Kollengode as per order dated 29.11.1975. The petitioners in WP(C) Nos.17021/2021 and 17409/2021 also purchased property which were supported by valid purchase certificates. Now, without any prior information/notice to the petitioners, the respondents have started to construct 'jenda' through the petitioners' properties stating that the properties of the petitioners are Vested Forest. It is aggrieved by the said action of the Forest Officials that the petitioners have filed these writ petitions.

3. The learned Special Government Pleader

(Forests) entered appearance and filed statement. The learned Government Pleader submitted that the disputed properties claimed by virtue of sale deeds fall within the field of Vested Forest, as per Notification dated 28.04.2001 of the Conservator of Forests and Custodian Vested Forests, Olavakkode Circle, Palakkad. The land is vested with the Government under the provisions of the Kerala Private Forests (Vesting & Assignment) Act, 1971. The petitioners therefore have to seek remedy as contemplated under the Act 26 of 1971 to get their land exempted. A writ petition is not maintainable in the facts and circumstances of the case.

4. The learned counsel for the petitioners thereupon submitted that, if that be the case, the petitioners may be permitted to approach the Forest Tribunal for redressal of their grievances.

5. I have heard the learned counsel for the

petitioners and the learned Special Government Pleader (Forests) representing the respondents. In view of the facts stated above, this Court is of the view that the petitioners have to be relegated to the Forest Tribunal for redressal of their grievances. In the circumstances, the writ petitions are disposed of permitting the petitioners to approach the Forest Tribunal filing appropriate applications. If the petitioners file applications within a period of two months, the Forest Tribunal shall consider those applications on merits and pass orders thereon, in accordance with law. Sd/- N. NAGARESH JUDGE ncd/25.01.2022 APPENDIX OF WP(C) 17427/2021 PETITIONER'S EXHIBITS Exhibit P1 TRUE COPY OF THE DOCUMENT NO. 26.02.2005.

Exhibit P2 TRUE COPY OF THE PURCHASE CERTIFICATE

29.11.1975. Exhibit P3 TRUE COPY OF THE BASIC TAX RECEIPT DATED 05.12.2005 ISSUED BY THE MUTHALAMADA I VILLAGE OFFICER, Exhibit P4 COPY OF THE NEWS REPORT PUBLISHED IN THE MALAYALA MANORAMA DAILY DATED 12.08.2021. APPENDIX OF WP(C) 17021/2021 PETITIONER'S EXHIBITS Exhibit P1 TRUE COPY OF THE DOCUMENT NO.2553/13 OF S.R.O.,

KOLLENGODE DATED 05.10.2013. Exhibit P2 TRUE COPY OF THE DOCUMENT NO.907/1 OF S.R.O., KOLLENGODE DATED 29.04.1993. Exhibit P3 TRUE COPY OF THE PURCHASE CERTIFICATE NO.611/77 ISSUED BY THE LAND TRIBUNAL NO.II, KOLLENGODE DATED 16.02.1981. Exhibit P4 TRUE COPY OF THE BASIC TAX RECEIPT DATED 20.09.2013 ISSUED BY THE MUTHALAMADA - I VILLAGE OFFICER. Exhibit P5 TRUE COPY OF THE POSSESSION CERTIFICATE DATED 24.06.2021 ISSUED BY THE VILLAGE OFFICER, MUTHALAMADA - I VILLAGE.

Exhibit P6 TRUE COPY OF THE BASIC TAX RECEIPT

22.06.2021. Exhibit P7 COPY OF THE NEWS REPORT PUBLISHED IN THE MALAYALA MANORAMA DAILY DATED 12.08.2021. APPENDIX OF WP(C) 17409/2021 PETITIONER'S EXHIBITS Exhibit P1 TRUE COPY OF THE DOCUMENT NO.2367/2003 OF S.R.O. KOLLEGODE DATED 06.11.2003

Exhibit P2 TRUE COPY OF THE PURCHASE CERTIFICATE

29.11.1975 Exhibit P3 TRUE COPY OF THE BASIC TAX RECEIPT DATED 14.10.2003 ISSUED BY THE MUTHALAMADA -I VILLAGE OFFICER Exhibit P4 COPY OF THE NEWS REPORT PUBLISHED IN THE MALAYALA MANORAMA DAILY DATED 12.08.2021

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