SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Jincy vs State of Kerala

Jincy vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1618471

Court : Kerala

Decided On : Oct-01-2021

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/6765/2021

Appellant : JINCY

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH FRIDAY, THE 1ST DAY OF OCTOBER 2021 / 9TH ASWINA, 1943 WP(C) NO. 6765 OF 2021 PETITIONER: JINCY AGED 52 YEARS VATTEKKATT HOUSE, P.O.KUNDALIYOOR, ENGADIYOOR, THRISSUR. BY ADVS. K.P.SANTHI SMT.TARA PREM SMT.NISHA G.THARAMAL SMT.SARIMOL KAREETHARA RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695001. 2 THE DISTRICT COLLECTOR, CIVIL STATION, AYYANTHOLE, THRISSUR-680003. 3 THE REVENUE DIVISIONAL OFFICER, CIVIL STATION, AYYANTHOLE, THRISSUR-680003. 4 THE LOCAL LEVEL

MONITORING COMMITTEE, REPRESENTED BY ITS CONVENER, KRISHI BHAVAN, VATANAPILLY, THRISSUR-680614.

5 THE TAHSILDAR, TALUK OFFICE, CHAVAKKAD, THRISSUR-680506. :2 : 6 THE SECRETARY, VADANAPILLY GRAMA PANCHAYAT, VADANAPILLY, THRISSUR-680614. BY SRI.SYAMANTHAK B.S, GOVT. PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.10.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :3 : :4 :

JUDGMENT

Dated this the 1st day of October, 2021 The petitioner and her husband are owners in possession and enjoyment of 4.05 Ares of land comprised in Survey No.357/2A of Vatanappilly Village of Chavakkad Taluk. The petitioner has approached this Court seeking to direct the 3rd respondent to reconsider Ext.P4 application in the light of Ext.P8 affording opportunity of hearing to the petitioner within a time frame to be fixed by this Court.

2. The petitioner would submit that the petitioner and

her husband own the aforesaid 4.05 Ares of land which is classified as 'Nanja' in the revenue records. Though the land is included in the Data Bank, there is a remark in the Data Bank that there are coconut trees aged more than 8 years in the property. The petitioner has constructed a building in the property. On completion of the building, the petitioner :5 : submitted application for regularisation.

3. However, the petitioner was informed that the

permission from the 3rd respondent-RDO is required to regularise the construction and to allot number to the building. Thereupon, the petitioner submitted a representation dated 11.08.2017 to the 6th respondent. The 6th respondent forwarded the same to the 3 rd respondent-RDO. The 3 rd respondent thereafter issued proceedings dated 19.06.2018 and 26.07.2018 stating that report of the Local Level Monitoring Committee is not available.

4. When the Act 28 of 2008 was introduced with effect

from 31.12.2017, the petitioner submitted a Form-5 application seeking to remove the land in question from the Data Bank. The petitioner was directed to pay a one time tax also to the Village Officer. According to the petitioner, the 4 th respondent-LLMC has removed the land of the petitioner from the Data Bank. In such circumstances, the 3 rd respondent is liable to be compelled to consider Ext.P4 application in the light of Ext.P8. :6 :

5. Heard the learned counsel for the petitioner and the learned Government Pleader representing the respondents.

6. It emerges from the pleadings and arguments of the

parties in the writ petition that the land of the petitioner is described as 'Nanja' land in the revenue records. According to the petitioner, though the land is removed from the Land Data Bank as per the request made by the petitioner, still, as long as the description of the land in the revenue records is 'Nanja', the same will have to be appropriately corrected for which the petitioner has to make an application in Form-6 attached to the Kerala Conservation of Paddy Land and Wetland Rules, 2008.

7. The petitioner submits that the petitioner has

already submitted Ext.P13 Form-6 application dated 09.01.2021. According to the petitioner, the Village Officer has also submitted Ext.P14 mahazar. The petitioner would submit that the land is under acquisition for public purpose and the petitioner will get the monetary benefits of land acquisition only if the buildings are numbered. :7 :

8. In such circumstances, this Court is of the view that

the Form-6 application submitted by the petitioner being an application of statutory nature, it should be considered by the RDO expeditiously so that the petitioner can claim full benefit of the land acquisition. The writ petition is therefore disposed of directing the 3rd respondent-Revenue Divisional Officer to consider Ext.P13 Form-

6 application submitted by the petitioner and take a decision thereon expeditiously, within a period of two months. Sd/- N. NAGARESH, JUDGE aks/04.10.2021 :8 : APPENDIX OF WP(C) 6765/2021 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE RELEVANT PAGE OF DATA BANK IN RESPECT OF SURVEY NO.357. EXHIBIT P2 TRUE COPY OF THE RECEIPT ACKNOWLEDGING THE APPLICATION DATED 29.6.2017 ISSUED BY THE 6TH RESPONDENT. EXHIBIT P3 TRUE COPY OF THE LETTER NO. A5 4163/17 DATED 6.7.2017 OF THE 6TH RESPONDENT. EXHIBIT P4 TRUE COPY OF THE REPRESENTATION DATED 11.8.2017 SUBMITTED BY THE PETITIONER. EXHIBIT P5 TRUE COPY OF THE FORWARD NOTE DATED 11.8.2017 ISSUED BY THE 3RD RESPONDENT. EXHIBIT P6 TRUE COPY OF THE PROCEEDINGS NO.B2- 3RD RESPONDENT. EXHIBIT P7 TRUE COPY OF THE PROCEEDINGS NO.B2- 3RD RESPONDENT. EXHIBIT P8 TRUE COPY OF THE RELEVANT PAGE OF THE NEW DATA BANK IN RESPECT OF PROPERTY IN SURVEY NO.357. EXHIBIT P9 TRUE COPY OF THE PROCEEDINGS NO.BT2- RESPONDENT.

EXHIBIT P10 TRUE COPY OF THE RECEIPT DATED

LUXURY TAX PAID BY THE PETITIONER. EXHIBIT P11 TRUE COPY OF THE REPRESENTATION DATED 21.1.2021 SUBMITTED TO THE 3RD RESPONDENT. Exhibit P13 TRUE COPY OF FORM 6 DATED 9.1.2021 SUBMITTED TO 3RD RESPONDENT. Exhibit P14 TRUE COPY OF REPORT DATED 27.1.2021 OF VILLAGE OFFICER, VADANAPILLY.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com