

Pradeep Kumar vs the District Collector

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SooperKanoon Citation : sooperkanoon.com/1634728

Court : Kerala

Decided On : Oct-01-2021

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/10374/2021

Appellant : Pradeep Kumar

Respondent : The District Collector

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.
25588 OF 2020 PETITIONERS: 1 K.V. VASUMATHY, W/O.
SREEDHARAN, RESIDING AT SAKUNTHALA, OZHUVUPARA,
PALLASSENA, PALAKKAD DISTRICT.

2 P.S.SREEJA,, W/O.SADANANDAN, RESIDING AT SAKUNTHALA,
OZHUVUPARA, PALLASSENA, PALAKKAD DISTRICT. BY ADVS.
G.HARIHARAN SRI.PRAVEEN.H. RESPONDENTS: 1 THE DISTRICT
COLLECTOR, PALAKKAD-678 001. 2 THE TAHSILDAR, PALAKKAD
DISTRICT-678 101. 3 THE VILLAGE OFFICER PALLASSENA

VILLAGE, PALAKKAD DISTRICT-678 505. 4 THE REVENUE DIVISIONAL OFFICER, PALAKKAD-678 001. 5 THE AGRICULTURAL OFFICER, KRISHI BHAVAN, PALLASSENA, PALAKKAD DISTRICT-678 505. :2 :

6 THE LOCAL LEVEL MONITORING COMMITTEE, (CONSTITUTED UNDER THE KERALA CONSERVATION OF PADDY LAND AND WET LAND ACT, 2008) REPRESENTED BY ITS CONVENOR (THE AGRICULTURAL OFFICER, KRISHI BHAVAN, PALLASSENA, PALAKKAD DISTRICT-678 505. 7 KERALA STATE REMOTE SENSING AND ENVIRONMENT CENTRE, 1ST FLOOR, NEAR LEGISLATIVE ASSEMBLY, VIKAS BHAVAN, UNIVERSITY OF KERALA SENATE HOUSE CAMPUS, PMG, THIRUVANANTHAPURAM-695 033 REPRESENTED BY ITS DIRECTOR. R1-R6 SRI.VIPIN NARAYANAN, SR.GOV.T.PLEADER R7 SRI.VISHNU S., SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.10.2021, ALONG WITH WP(C).10374/2021, DELIVERED THE FOLLOWING: :3 :

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. 10352 OF 2021

PETITIONER: SREEJITH, S/O. SREEDHARAN, RESIDING AT 'SAKUNTHALA', OZHUVUPARA, PALLASSENA, PALAKKAD DISTRICT. BY ADVS. G.HARIHARAN SRI.PRAVEEN.H. RESPONDENTS: 1 THE DISTRICT COLLECTOR, PALAKKAD-678 001. 2 THE TAHSILDAR, CHITTUR TALUK, PALAKKAD DISTRICT-678 101. 3 THE VILLAGE OFFICER, PALLASSENA VILLAGE, PALAKKAD DISTRICT-678 505. 4 THE REVENUE DIVISIONAL OFFICER, PALAKKAD-678 001. 5 THE AGRICULTURAL OFFICER, KRISHI BHAVAN, PALLASSENA, PALAKKAD DISTRICT-678 505 :4 :

6 THE LOCAL LEVEL MONITORING COMMITTEE, (CONSTITUTED UNDER THE KERALA CONSERVATION OF PADDY LAND AND WET LAND ACT, 2008), REPRESENTED BY IS CONVENOR (THE AGRICULTURAL OFFICER, KRISHI BHAVAN, PALLASSENA, PALAKKAD DISTRICT-678 505. 7 KERALA STATE REMOTE SENSING AND ENVIRONMENT CENTRE, 1ST FLOOR, NEAR LEGISLATIVE ASSEMBLY, VIKAS BHAVAN, UNIVERSITY OF KERALA SENATE HOUSE CAMPUS, PMG, THIRUVANANTHAPURAM-695 033, REPRESENTED BY ITS DIRECTOR. R1-R6 SRI.VIPIN NARAYANAN, SR.GOV.T.PLEADER R7 SRI.VISHNU S., SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.10.2021, ALONG WITH WP(C).25588/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :5 :

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. 10374 OF 2021 PETITIONER: PRADEEP KUMAR, S/O. VELAYUDHAN EZHUTHACHAN, MANJATHODI HOUSE, MARIKULAMBU, KOODALLUR, PALLASSENA, CHITTUR TALUK, PALAKKAD DISTRICT-678505. BY ADVS. G.HARIHARAN SRI.PRAVEEN.H. RESPONDENTS: 1 THE DISTRICT COLLECTOR, PALAKKAD-678 001. 2 THE TAHSILDAR, CHITTUR TALUK, PALAKKAD DISTRICT-678 101. 3 THE VILLAGE OFFICER, PALLASSENA VILLAGE, PALAKKAD DISTRICT-678 505. 4 THE REVENUE DIVISIONAL OFFICER, PALAKKAD-678 001. 5 THE AGRICULTURAL OFFICER, KRISHI BHAVAN, PALLASSENA, PALAKKAD DISTRICT-678505. :6 : 6 THE LOCAL LEVEL MONITORING COMMITTEE, (CONSTITUTED UNDER THE KERALA CONSERVATION OF PADDY LAND AND WET LAND ACT, 2008), REPRESENTED BY ITS CONVENOR, (THE AGRICULTURAL OFFICER, KRISHI BHAVAN, PALLASSENA, CHITTUR TALUK, PALAKKAD DISTRICT-678 505. 7 KERALA STATE

REMOTE SENSING AND ENVIRONMENT CENTRE, 1ST FLOOR,
NEAR LEGISLATIVE ASSEMBLY, VIKAS BHAVAN, UNIVERSITY OF
KERALA SENATE HOUSE CAMPUS, PMG,
THIRUVANANTHAPURAM-695 033, REPRESENTED BY ITS
DIRECTOR. R1-R6 SRI.VIPIN NARAYANAN, SR.GOV.T.PLEADER R7
SRI.VISHNU S., SC THIS WRIT PETITION (CIVIL) HAVING COME UP
FOR ADMISSION ON 01.10.2021, ALONG WITH WP(C).25588/2020
AND CONNECTED CASES, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: :7 :

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.
12839 OF 2021

PETITIONER: BRIJITHA, W/O.SREEJITH, RESIDING AT
SAKUNTHALA, OZHUVUPARA, PALLASSENA, PALAKKAD DISTRICT-
678 505. BY ADVS. G.HARIHARAN PRAVEEN.H. K.S.SMITHA S.UMA
DEVI V.R.SANJEEV KUMAR RESPONDENTS: 1 THE DISTRICT
COLLECTOR, CIVIL STATION, PALAKKAD-678 001. 2 THE
TAHSILDAR, MINI CIVIL STATION, CHITTUR, PALAKKAD DISTRICT-
678 101. 3 THE VILLAGE OFFICER, PALLASSENA VILLAGE,
PALLASSENA, CHITTUR TALUK, PALAKKAD DISTRICT-678 505. 4
THE REVENUE DIVISIONAL OFFICER, V.H.ROAD, PALAKKAD-678
001. :8 : 5 THE AGRICULTURAL OFFICER, KRISHI BHAVAN,
PALLASSENA, PALAKKAD DISTRICT-678 505.

6 THE LOCAL LEVEL MONITORING COMMITTEE, (CONSTITUTED
UNDER THE KERALA CONSERVATION OF PADDY LAND AND WET
LAND ACT, 2008), REPRESENTED BY ITS CONVENOR (THE
AGRICULTURAL OFFICER, KRISHI BHAVAN, PALLASSENA,
CHITTUR TALUK, PALAKKAD DISTRICT-678 505. 7 KERALA STATE
REMOTE SENSING AND ENVIRONMENT CENTRE, 1ST FLOOR,
NEAR LEGISLATIVE ASSEMBLY, VIKAS BHAVAN, UNIVERSITY OF

KERALA, SENATE HOUSE CAMPUS, PMG,
THIRUVANANTHAPURAM-695 033, REPRESENTED BY ITS
DIRECTOR. R1-R6 SRI.VIPIN NARAYANAN, SR.GOV.T.PLEADER R7
SRI.VISHNU S., SC THIS WRIT PETITION (CIVIL) HAVING COME UP
FOR ADMISSION ON 01.10.2021, ALONG WITH WP(C).25588/2020
AND CONNECTED CASES, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: :9 :

JUDGMENT

Dated this the 1st day of October, 2021 [WP(C) Nos.25588/2020, 10352/2021, 10374/2021 & 12839/2021] In all these cases, the petitioners are aggrieved by the decision taken by the Local Level Monitoring Committee not to remove the pieces of land of the petitioners from the Data Bank.

2. The pieces of land owned by the petitioners in all

these writ petitions are in the same Re-survey numbers 370/2 and 405/6 in Pallassena Village in Chittur Taluk of Palakkad District. The facts of the four cases are identical and therefore

facts and exhibits as arrayed/marked in W.P.(C)

No.12839/2021, are referred to in this common judgment.

3. The petitioner in W.P.(C) No.12839/2021 submitted

an application for correction of Data Bank invoking the provisions of the Kerala Conservation of Paddy Land and Wetland Rules, 2008, in the year 2018. The application of the petitioner was rejected. Aggrieved by the rejection, the : 10 : petitioner approached this Court and this Court on 24.10.2018 directed the LLMC to reconsider the application and pass orders afresh. It appears that no further proceedings were taken by the LLMC and the petitioner filed a contempt case. Thereupon, the LLMC passed an order again rejecting the application. The petitioner would contend that the said rejection was without calling for any report from the KSREC.

4. The petitioner again approached this Court filing

W.P.(C) No.32815/2019 challenging the decision of the LLMC. This Court, in Ext.P6 judgment, found that the order was passed without receiving and adverting to any scientific data and consequently, directed the LLMC to reconsider the matter and pass orders afresh. The LLMC thereupon passed Ext.P7

order (in W.P.(C) No.12839/2021). The order of the LLMC

would show that the KSREC has reported that the land is lying fallow and there are buildings on the South-West and North- West part of the land. Nevertheless, the LLMC decided not to remove the land of the petitioner from the Data Bank. It is aggrieved by orders of similar nature passed by the LLMC in : 11 : all these cases that the petitioners are before this Court.

5. The respondents filed statement contesting the writ

petition. The respondents stated that the impugned orders were passed after referring to the report of the KSREC and there is no illegality or irregularity in the order passed by the LLMC. The KSREC has observed that the plots in question were observed under vegetation/plantation with construction/building at North-West part in the data of 2012. The same land use pattern with varied vegetative cover continued in the data of years 2016 and 2018. In such circumstances, the impugned orders are legal and sustainable, contended the learned Government Pleader.

6. Heard the learned counsel for the petitioners and the learned Government Pleader representing the respondents.

7. A perusal of the Report on Land Use Change

produced by the 5th respondent as Annexure-R5(a) would disclose that the properties were found to be under vegetation/plantation with construction/building at North-West : 12 : part in the data of the year 2006. The plot was also observed under vegetation/plantation with construction at South-West part in the data of the year 2012. This would show that the land was converted earlier. The said findings

of the KSREC do not reflect in the impugned Ext.P7 order. Though the LLMC has claimed to have considered the KSREC report, the impugned orders do not disclose the same and the impugned orders are therefore liable to be set aside for non-application of mind.

8. After the introduction of Section 27A of the Kerala

Conservation of Paddy Land and Wetland Act, 2008, the competent authority to decide as to making corrections in the Land Data Bank is the Revenue Divisional Officer. However, in this case, the petitioners have opted to file applications before the LLMC which are now found to be unsustainable. In such circumstances, this Court is of the opinion that the petitioners shall approach the RDO concerned filing Form-5 application. : 13 : In such circumstances, these writ petitions are disposed of setting aside the orders impugned in the writ petitions passed by the LLMC and permitting the petitioners to file fresh applications in Form-5 before the Revenue Divisional Officer concerned. If the petitioners submit applications supported by all requisite documents and paying the prescribed fee, if any, then the Revenue Divisional Officer shall consider those applications and pass appropriate orders thereon taking into consideration the report of the KSREC and also taking into consideration the judgment of this Court in Mather Nagar Residents Association v. District Collector [2020 (2) KLT 192]. The Revenue Divisional Officer shall take into consideration the KSREC report calling for the same from the Agricultural Officer concerned. A decision shall be taken by the Revenue Divisional Officer on the applications of the petitioners within a period of three months from the date of receipt of the applications from the petitioners and the KSREC reports. Sd/- N. NAGARESH, JUDGE aks/06.10.2021 : 14 : APPENDIX OF WP(C) 25588/2020 PETITIONER'S EXHIBITS EXHIBIT P1 TRUE COPY OF THE DOCUMENT NO.3388/2008 EXECUTED IN FAVOUR OF THE PETITIONER BY THE SELLERS. EXHIBIT P2 TRUE COPY OF THE LATEST BASIC TAX

RECEIPT DATED 5.4.2018 ISSUED IN THE NAME OF THE PETITIONER BY THE VILLAGE OFFICER, PALLASSENA VILLAGE.

EXHIBIT P3 TRUE COPY OF THE APPLICATION DATED 24.2.2016 SUBMITTED BY THE PETITIONERS BEFORE THE IST RESPONDENT.

EXHIBIT P4 TRUE PHOTOGRAPH OF THE PROPERTIES MENTIONED ABOVE. EXHIBIT P5 TRUE COPY OF THE APPLICATION DATED 22.9.2018 SUBMITTED BY THE PETITIONERS BEFORE THE 6TH RESPONDENT EXHIBIT P6 TRUE COPY OF THE JUDGMENT MADE IN WPC NO.34788/2018 DATED 25.10.2018. EXHIBIT P7 TRUE COPY OF THE ORDER DATED 26.4.2019 ISSUED BY THE 6TH RESPONDENT. EXHIBIT P8 TRUE COPY OF THE JUDGMENT MADE IN WPC NO.32799/2019 DATED 3.12.2019. EXHIBIT P9 TRUE COPY OF THE INTERIM ORDER DATED 20.2.2020 ISSUED BY THIS HON'BLE COURT MADE IN WPC NO.4917/2020.

EXHIBIT P10 TRUE COPY OF THE MEMO DATED 19.10.2020

NO.4917/2020. EXHIBIT P11 TRUE COPY OF THE ORDER DATED 28.1.2020 SENT BY THE 5TH RESPONDENT ALONG WITH COVERING LETTER DATED 12.11.2020. : 15 : APPENDIX OF WP(C) 10352/2021 PETITIONER'S EXHIBITS EXHIBIT P1 TRUE COPY OF THE BASIC TAX RECEIPT DATED 05.04.2018 ISSUED IN THE NAME OF THE PETITIONER BY THE VILLAGE OFFICER, PALLASSENA VILLAGE EXHIBIT P2 TRUE PHOTOGRAPH OF THE PROPERTIES MENTIONED ABOVE EXHIBIT P3 TRUE COPY OF THE APPLICATION DATED 22.09.2018 SUBMITTED BY THE PETITIONER BEFORE THE 6TH RESPONDENT EXHIBIT P4 TRUE COPY OF THE JUDGMENT MADE IN W.P(C) NO.34781/2018 DATED 25.10.2018 EXHIBIT P5 TRUE COPY OF THE ORDER DATED 26.04.2019 ISSUED BY THE 6TH RESPONDENT EXHIBIT P6 TRUE EXTRACT OF THE PROCEDURE FOR GETTING SATELLITE DATA INFORMATION AND REPORT FROM 7TH RESPONDENT EXHIBIT P7 TRUE COPY OF THE JUDGMENT MADE IN W.P

(C) NO.32822/2019 DATED 03.12.2019

EXHIBIT P8 TRUE COPY OF THE MEMO DATED 25.11.2020 SUBMITTED BY THE GOVERNMENT PLEADER BEFORE THIS HON'BLE COURT IN COC NO.1811/2020 EXHIBIT P9 TRUE COPY OF THE ORDER DATED 28.01.2020 PASSED BY THE 5TH RESPONDENT AND RECEIVED BY THE PETITIONERS COUNSEL THROUGH THE LEARNED GOVERNMENT PLEADER ON 01.12.2020 : 16 :

APPENDIX OF WP(C) 10374/2021 PETITIONER'S EXHIBITS EXHIBIT P1 TRUE COPY OF THE BASIC TAX RECEIPT DATED 17.4.2018 ISSUED IN THE NAME OF THE PETITIONER BY THE VILLAGE OFFICER, PALLASSENA VILLAGE. EXHIBIT P2 TRUE COPY OF THE JUDGMENT MADE IN WP(C) NO.35532/2018 DATED 31.10.2018. EXHIBIT P3 TRUE COPY OF THE ORDER DATED 26.4.2019 ISSUED BY THE 6TH RESPONDENT. EXHIBIT P4 TRUE EXTRACT OF THE PROCEDURE FOR GETTING SATELLITE DATA INFORMATION AND REPORT FROM 7TH RESPONDENT. EXHIBIT P5 TRUE COPY OF THE JUDGMENT MADE IN WP(C) NO.32823/2019 DATED 3.12.2019. EXHIBIT P6 TRUE COPY OF THE MEMO DATED 30.11.2020 SUBMITTED BY THE GOVERNMENT PLEADER BEFORE THIS HON'BLE COURT IN COC.NO.1770/2020. EXHIBIT P7 TRUE COPY OF THE ORDER DATED 28.1.2020

PASSED BY THE 5TH RESPONDENT AND RECEIVED BY THE PETITIONER'S COUNSEL THROUGH THE LEARNED GOVERNMENT PLEADER ON 1.12.2020. : 17 :

APPENDIX OF WP(C) 12839/2021 PETITIONER'S EXHIBITS Exhibit P1 TRUE COPY OF THE BASIC TAX RECEIPT DATED 5.4.2018 ISSUED IN THE NAME OF THE PETITIONER BY THE VILLAGE OFFICER, PALLASSENA VILLAGE. Exhibit P2 TRUE COPY OF THE APPLICATION DATED 22.9.2018 SUBMITTED BY THE PETITIONER BEFORE THE 6TH RESPONDENT. Exhibit P3 TRUE COPY OF THE JUDGMENT MADE IN WP(C) NO.34546/2018 DATED 24.10.2018. Exhibit P4 TRUE COPY OF THE ORDER DATED 26.4.2019 ISSUED BY THE 6TH RESPONDENT. Exhibit P5 TRUE EXTRACT OF THE PROCEDURE FOR GETTING SATELLITE DATA INFORMATION AND REPORT FROM 7TH RESPONDENT. Exhibit P6 TRUE COPY OF THE JUDGMENT MADE IN WP(C) NO.32815/2019 BY THIS HON'BLE COURT ON 3.12.2019. Exhibit P7 TRUE COPY OF THE ORDER DATED 28.1.2020 ISSUED BY THE 6TH RESPONDENT ALONG WITH A MEMO DATED 18.11.2020. RESPONDENTS' EXHIBITS ANNEXURE R5(a) A TRUE COPY OF THE REPORT OF THE 7TH RESPONDENT BEARING NUMBER Ancd