

Sonaji vs the Tahsildar (Lr)

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Court : Kerala

Decided On : Oct-01-2021

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/12460/2021

Appellant : Sonaji

Respondent : The Tahsildar (Lr)

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.
12460 OF 2021 PETITIONER: SONAJI AGED 43 YEARS D/O
PATHUMMA BEEGOM,ELASSERIL VEEDU,PERUNNAD,CLAPPANA.
BY ADVS. R.SUNIL KUMAR A.SALINI LAL RESPONDENTS: 1 THE
TAHSILDAR (LR) TALUK OFFICE,KARUNAGAPPALLY,PIN-690518. 2
THE AGRICULTURAL OFFICER, DEPARTMENT OF
AGRICULTURE,KRISHI BHAVAN, CLAPPAN-690546. 3 THE VILLAGE
OFFICER VILLAGE OFFICE,CLAPPANA,PIN-690546. By SRI.VIPIN
NARAYANAN, SR. GOVT. PLEADER THIS WRIT PETITION (CIVIL)
HAVING COME UP FOR ADMISSION ON 01.10.2021, THE COURT ON

THE SAME DAY DELIVERED THE FOLLOWING: :2 :

JUDGMENT

Dated this the 1st day of October, 2021 Petitioner is before this Court aggrieved by Exts.P3 and P7 and seeking to declare that the petitioner's property in Re-survey No.192/4 of Clappana Village as 'purayidom' and not to disturb the legal activities carry out by the petitioner in her property.

2. The petitioner states that she is the owner of 26.98 Ares of property in Re-survey No.192/4 of Clappana Village. The petitioner obtained the property under Ext.P1 Settlement

Deed dated 03.10.2005. For construction of a residential house, the petitioner submitted an application for Building Permit before the Municipal authorities. The Building Permit application is pending.

3. The petitioner would state that there are trees standing in the property, having age of more than 40 years. :3 :

When a road was constructed adjacent to the property of the petitioner, the land of the petitioner became low-lying land and therefore, before starting construction of residential building, the petitioner had to develop the property using ordinary earth. On 01.04.2021, when two lorries were unloading ordinary earth in the property of the petitioner, the 3 rd respondent- Village Officer came to the property and seized the vehicles alleging that the petitioner has violated the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008.

4. The petitioner would state that the land is evidently

'purayidom' in the Basic Tax Register. The Village Officer has issued Stop Memo deliberately ignoring the fact that the description of the property in the Basic Tax Register is 'purayidom'. The seizure of the lorries from the property of the petitioner is therefore illegal. The owners of the vehicles approached this Court and the said writ petition was disposed of directing the petitioners therein to approach the 1 st respondent-District Collector with an application. :4 :

5. The learned counsel for the petitioner would submit

that in Ext.P2, the 3rd respondent has a case that the property is included in the Data Bank. From Ext.P5 certificate, it is evident that the property is not included in the Data Bank. Ext.P4 would show that the land of the petitioner is a 'purayidom'/garden land. In such circumstances, there cannot be any prosecution or any other proceedings against the petitioner under the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008.

6. The learned Government Pleader opposed the writ

petition and submitted that the land is a low-lying paddy land and it ought to have been included in the Data Bank. The description of the property in the revenue records are wrong and the property of the petitioner ought to have been included in the Data Bank. It is in such circumstances that the Tahsildar has issued Ext.P7 communication to the Agricultural Officer, who is the Convenor of the Local Level Monitoring Committee, directing to take steps under Section 5(4)(1) of the Kerala Conservation of Paddy Land and Wetland Act to :5 : include the land in the Data Bank.

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

8. From the pleadings and arguments, it is evident that the land at present is described as 'purayidom' in the Basic Tax Register. There is also no dispute that the land as

on date is not included in the Land Data Bank. In the circumstances, the respondents will not be justified in any manner to interfere with the right of the petitioner for free enjoyment of the land invoking the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008 or the Rules made thereunder. The writ petition is allowed and Ext.P3 is quashed. The respondents are directed not to interfere with the right of the petitioner to enjoy the ownership of her property, invoking the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008 or the Rules made thereunder.

Sd/- N. NAGARESH, JUDGE aks/04.10.2021 :6 : APPENDIX OF WP(C) 12460/2021 PETITIONER EXHIBITS Exhibit P1 COPY OF THE TAX RECEIPT OF PETITIONER'S PROPERTY Exhibit P2 COPY OF THE REPORT GIVEN BY THE 1ST RESPONDENT TO THE SUB COLLECTOR,KOLLAM DATED 1/4/21. Exhibit P3 COPY OF THE STOP MEMO ISSUED BY THE 3RD RESPONDENT TO THE 1ST RESPONDENT Exhibit P4 COPY OF THE BASIC TAX REGISTER OF PETITIONER'S PROPERTY Exhibit P5 COPY OF THE CERTIFICATE ISSUED BY THE 2ND RESPONDENT DATED 23/4/21 Exhibit P6 COPY OF THE JUDGMENT IN W.P(C)NO.9223/2021 Exhibit P7 COPY OF THE LETTER GIVEN BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT DATED Exhibit P8 COPY OF THE JUDGMENT REPORTED IN 2020(4)KHC 33 .

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