

Darli vs State of Kerala

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Court : Kerala

Decided On : Sep-13-2021

Judge : Honourable Mrs. Justice Anu Sivaraman

Appeal No. : WP(C)/15126/2021

Appellant : DARLI

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN
MONDAY, THE 13TH DAY OF SEPTEMBER 2021 / 22ND BHADRA,
1943 PETITIONER: DARLI AGED 57 YEARS W/O. SURESH BABU,
MANI MANDIRAM (SREE SURYA), VALAKODE P.O, PUNALUR,
KOLLAM DISTRICT, PIN 691 305 BY ADVS. C.R.JAYAKUMAR NOBEL
RAJU RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY SECRETARY TO
GOVERNMENT, DEPARTMENT OF REVENUE, GOVERNMENT OF
KERALA, THIRUVANANTHAPURAM 695 001 2 THE DISTRICT
COLLECTOR, CIVIL STATION, KOLLAM, PIN 691 013 3 THE

REVENUE DIVISIONAL OFFICER, MINI CIVIL STATION, PUNALUR, KOLLAM 691 305 4 THE TAHASILDAR,(L.R) TALUK OFFICE, MINI CIVIL STATION, PUNALUR, KOLLAM 691 305 5 THE AGRICULTURAL OFFICER/THE CONVENER, LOCAL LEVEL MONITORING COMMITTEE, KRISHIBHAVAN, PUNALUR, KOLLAM 691 331 6 THE VILLAGE OFFICER VILLAGE OFFICE, PUNALUR, KOLLAM 691 305

OTHER PRESENT: SMT.SURYA BINOY B-SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13.09.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This writ petition is filed seeking the following reliefs:- (i) issue a writ of mandamus or such other writ, direction or

order compelling the 4th respondent to make necessary

corrections in Basic Tandaper Register by hearing the petitioner within a time frame to be fixed by this Hon'ble Court granting permission to develop the land.

(ii) issue a writ of mandamus or such other writ, direction or

order setting aside the Exhibit P9 order issued by the 3 rd

respondent without considering the material facts and requirements of the petitioner.

(iii) issue a writ of mandamus or such other writ, direction or

order setting aside the report prepared by the 6 th respondent

compelling the petitioner to remit Rs.2,09,788/- as the 20% of the total land value instead of 10% as prescribed in law.

(iv) issue a writ of mandamus or such other writ, direction or

order declaring that the property of the petitioner covered by

Exhibit P1 is dry land and suitable for building construction.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. It is submitted by the learned counsel for the petitioner

that the petitioner is the owner in possession of 15.78 Ares of property in Survey No.487/2A/5 of Punalur Village, Pathanapuram Taluk, Kollam District. It is submitted that the petitioner's property is not included in the Data Bank and he had filed an application under Form 6 before the 3rd respondent for use of the property for other purposes under Section 27A of the Kerala Conservation of Paddy Land and Wetland Act, 2008 (hereinafter referred to the 2008 Act). It is submitted that, by Ext.P9, the RDO has rejected the application on the ground that the property is remaining as Paddy land. It is submitted that the Village Officer had submitted a report that the property is dry land and that the property is also not included in the Data Bank. It is submitted that the petitioner has, therefore, approached the 2nd respondent with an appeal under Section 27B of the 2008 Act and seeks a consideration thereof.

4. Having heard the learned Government Pleader also,

there will be a direction to the 2nd respondent to take up, consider and pass orders on Ext.P12 appeal preferred by the petitioner, after hearing the petitioner through any appropriate means including video conferencing, within a period of six weeks from the date of receipt of a copy of this judgment. This writ petition is ordered accordingly. Sd/- ANU SIVARAMAN JUDGE bng/15.09.2021 APPENDIX OF WP(C) 15126/2021 PETITIONER EXHIBITS Exhibit P1 THE TRUE COPY OF THE SETTLEMENT DEED NO. PUNALUR, KOLLAM Exhibit P2 THE TRUE COPY OF THE TAX RECEIPT NO. 1162132 ISSUED BY THE 6TH RESPONDENT. Exhibit P3 THE TRUE COPY OF THE FORM 6 APPLICATION DATED 16-03-2021 SUBMITTED BEFORE THE 3RD Exhibit P4 THE TRUE COPY OF THE FORWARDING LETTER NO. Exhibit P5 THE TRUE COPY OF

THE PROPOSED RESIDENTIAL BUILDING PLAN. Exhibit P6 THE TRUE COPY OF THE FMB SKETCH OF THE PROPERTY RELATED WITH EXHIBIT P1 Exhibit P7 THE TRUE COPY OF THE REPORT DATED 8/4/2021 PREPARED BY THE 6TH RESPONDENT Exhibit P8 THE TRUE COPY OF THE REPORT NO. PLRKB-4/20- 21 DATED 18-3-2021 PREPARED BY THE 5TH Exhibit P9 THE TRUE COPY OF THE ORDER NO. B- THE 3RD RESPONDENT. Exhibit P10 THE TRUE COPY OF THE W.A NO. 47/2019 DT 12- 3-2019. Exhibit P11 THE TRUE COPY OF THE W.P(C) NO. 400/2020 Exhibit P12 THE TRUE COPY OF THE APPEAL NO.DCKLM/7820/21-L-10 DATED 16.08.2021 SUBMITTED BEFORE THE 2ND RESPONDENT

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