

Subair .T vs the State of Kerala

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Court : Kerala

Decided On : Oct-29-2021

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/23572/2021

Appellant : Subair .T

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN FRIDAY, THE 29TH DAY OF OCTOBER 2021 / 7TH KARTHIKA, 1943 PETITIONERS: 1 SUBAIR .T AGED 40 YEARS EDATHIL HOUSE, FAIRLAND COLONY, SULTHAN BATHERY, WAYANAD, PIN-673 592. 2 RIJINA C.K. W/O. SUBAIR T., EDATHIL HOUSE, FAIRLAND COLONY, SULTHAN BATHERY, WAYANAD, PIN-673 592. BY ADV RAFFEEKH.K RESPONDENTS:

1 THE STATE OF KERALA REPRESENTED BY THE SECRETARY, DEPARTMENT OF REVENUE, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695

001. 2 THE DISTRICT COLLECTOR WAYANAD, KALPETTA NORTH POST, WAYANAD, PIN-673 122. 3 THE DEPUTY COLLECTOR (LR) COLLECTORATE, KALPETTA NORTH POST, WAYANAD, PIN-673 122. 4 THE TAHSILDAR TALUK OFFICE, SULTHAN BATHERY, WAYANAD DISTRICT, PIN- 673 592. 5 THE VILLAGE OFFICER SULTHAN BATHERY VILLAGE OFFICE, WAYANAD DISTRICT, PIN-673 592.

OTHER PRESENT: SRI.ASHWIN SETHUMADHAVAN- SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.10.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners seek that the 2nd respondent be directed to assign them land in the Sulthan Bathery Village, as per the provisions of the Assignment of Land in Municipal and Corporation Area Rules, 1995 (hereinafter referred to as 'the Rules' for short), as also Ext.P3 Government Order.

2. The petitioners allege that even though their

applications for the afore purpose have been pending for the last several years, no action has been taken by the competent Authority on it until now; and therefore, prays that they be directed to do so, within a time frame to be fixed by this Court.

3. The learned Senior Government Pleader, Sri. Jaffar

Khan, submitted that if the petitioners only require their applications to be considered in terms of the Rules, there is no legal impediment for the competent Authority in doing so. He, however, explained that the petitioners may not be able to seek the benefit of Ext.P3 Government Order because it was one issued invoking the provisions of Rule 21 of the Rules, but that the same was under challenge before this Court, which finally led to the judgment in C.C.Anil Kumar v. State of

Kerala and Others [W.P(C)No.33638 of 2019]. He submitted that, therefore, even though some others were given the benefit of Ext.P3, the petitioners cannot seek the same, after this Court had delivered affirmative declarations in the afore judgment.

4. I do not propose to go into the merits of the

contentions of the learned Senior Government Pleader as afore, because, as of now, the petitioners are only seeking that their applications be considered in terms of law. Whether Ext.P3 would be applicable to them or if they are eligible to the beneficial prescriptions thereunder, are matters which will have to be decided by the competent Authority when the petitioners are afforded an opportunity of being heard.

Resultantly, I order this writ petition and direct the 2 nd respondent - District Collector, to consider the applications of the petitioners, after affording them an opportunity of being heard; thus culminating in an appropriate order thereon, as expeditiously as is possible, but not later than three months from the date of receipt of a copy of this judgment . Needless to say, I have not considered the merits of the contentions of the rival parties on their merits and all of them are left open - including as to whether Ext.P3 would be applicable to the petitioners - to be decided by the 2 nd

respondent appropriately, while the afore exercise is completed. Sd/- DEVAN RAMACHANDRAN JUDGE ANB APPENDIX OF WP(C) 23572/2021 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE SALE DEED DATED 31.7.2009. Exhibit P2 TRUE COPY OF G.O(MS)NO.322/2010/REV DATED 4.8.2010. Exhibit P3 TRUE COPY OF THE G.O(M.S) NO.86/2019/REVENUE DATED 1.3.2019. Exhibit P4 TRUE COPY OF THE APPLICATION FOR PATTa DATED 11.3.2019.

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