

Maria Construction Needs vs Mr.Ratheesh

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Court : Kerala

Decided On : Nov-30-2021

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : Con.Case(C)/1813/2021

Appellant : Maria Construction Needs

Respondent : Mr.Ratheesh

Judgement :

CON.CASE(C) NO. 1813 OF 2021 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V TUESDAY, THE 30TH DAY OF NOVEMBER 2021 / 9TH AGRAHAYANA, 1943 CON.CASE(C) NO. 1813 OF 2021 AGAINST THE JUDGMENT IN WP(C) 15263/2020 DATED 02.11.2020 OF HIGH COURT OF KERALA PETITIONER/PETITIONER IN W.P.(C) 15263 OF 2020: MARIA CONSTRUCTION NEEDS VAZHAMALA, NARIKKOTTUMALA P.O., REPRESENTED BY ITS MANAGING PARTNER, SRI.M.P.ABDULLA, AGED 64, S/O.KUNHIMOOSA, NARIKKOTTUMALA (PO), THALASSERY TALUK, KANNUR DISTRICT,

PIN-670693.

BY ADVS. M.I.JOHNSON P.K.MINIMOLE BAPPU GALIB SALAM MUHAMMED ASHIQUE RESPONDENTS/RESPONDENTS NO.1 TO 3 IN W.P.(C) 15263 OF 2020 : 1 MR.RATHEESH (AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER), THE VILLAGE OFFICER, THRIPPANGOTTOOR VILLAGE OFFICE, THALASSERY TALUK, KANNUR DISTRICT, PIN-670693. 2 MR.SREEKALA, (AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER), THE TAHSILDAR, THALASSERY TALUK OFFICE, THALASSERY P.O., KANNUR DISTRICT, PIN-670101. CON.CASE(C) NO. 1813 OF 2021 2 3 MR.S.CHANDRASEKAR, (AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER) THE DISTRICT COLLECTOR, KANNUR, COLLECTORATE, KANNUR P.O., PIN-670002.

BY SRI. BIJOY CHANDRAN, SR.GOVERNMENT PLEADER THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 30.11.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: CON.CASE(C) NO. 1813 OF 2021 3

JUDGMENT

While disposing of W.P(C) No.15263 of 2020, this Court, taking note of the directions issued by a learned Single Judge of this Court in judgment dated 6.6.2019 in W.P.(C) No.9556/2019 had ordered the respondents to issue the certificates sought for and receive land tax within a time frame. It was further ordered that the petitioner, being the person in possession, shall be entitled to the certificates until the land is ordered to be surrendered.

2. A counter affidavit has been filed by the 2nd respondent and in paragraph Nos. 5 and 6, it is stated as follows:

5. The Taluk Land Board after conducting due enquiry came to a conclusion

that the land was included in the ceiling proceedings No.TLB/1206/73/Tly dated 21.10.1994. The Chairman of the Taluk Land Board thereafter informed the Tahsildar that the 7E claim of the petitioner has already been rejected and further direction to take possession of the land. A true copy of the communication issued by the Chairman of Taluk Land Board dated 10.12.2020 is produced herewith and marked as Annexure R2(b).

6. It is submitted that the respondent is the Tahsildar (LR) and the

headquarters Tahsildar is the competent authority for taking possession of land. The headquarters Tahsildar taken possession the land after preparing a mahazar on 22.12.2020. A true copy of the mahazar dated 22.12.2020 is produced herewith as Annexure R2(c). It is submitted that since the property comprised in survey No.275/1A having an extent of 0.9106 hectros has been CON.CASE(C) NO. 1813 OF 2021 4 taken possession from the declarant in M/s Pothan Joseph & Sons and the land has become Government Property, the land tax from the petitioner cannot be accepted.

3. In the affidavit, it is stated that the property has been taken possession of on 22.12.2020 as per Annexure-R2(c) mahazar and in that view of the matter, the petitioner cannot insist that the land tax be accepted from him.

4. In view of the stand taken by the respondents, I am of the view that no

case for contempt is made out. If the petitioner is in any way aggrieved by the proceedings initiated by the respondents, it is for the petitioner to challenge the same by initiating appropriate proceedings. Reserving such right, this Contempt Case (C) is closed. Sd/- RAJA VIJAYARAGHAVAN V JUDGE NS CON.CASE(C) NO. 1813 OF 2021 5 APPENDIX OF CON.CASE(C) 1813/2021 PETITIONER(S) ANNEXURES : ANNEXURE A1 CERTIFIED COPY OF THE JUDGMENT DATED 02.11.2020 PASSED BY THIS HON'BLE COURT IN W.P(C)NO.15263/2020. ANNEXURE A2 THE TRUE COPY OF THE COMMUNICATION DATED 01.12.2020 ISSUED BY THE TAHSILDAR TO THE DISTRICT COLLECTOR. ANNEXURE A3 THE TRUE COPY OF THE LETTER SUBMITTED TO THE VILLAGE OFFICER, THRIPPANGOTTOOR VILLAGE OFFICE, KALIKANDY,

DATED 07.12.2020. ANNEXURE A4 THE TRUE COPY OF THE LETTER SUBMITTED TO THE TAHSILDAR, THALASSERY TALUK OFFICE, THALASSERY P.O., DATED 07.12.2020. ANNEXURE A5 THE TRUE COPY OF THE LETTER SUBMITTED TO THE DISTRICT COLLECTOR, KANNUR, COLLECTORATE, KANNUR, DATED 07.12.2020. RESPONDENT(S) ANNEXURES : ANNEXURE R2(a) A TRUE COPY OF THE ORDER DATED 04.07.2014 IN O.A.NO.749/2015. ANNEXURE R2(b) A TRUE COPY OF THE COMMUNICATION ISSUED BY THE CHAIRMAN OF TALUK LAND BOARD DATED 10.12.2020. ANNEXURE R2(c) A TRUE COPY OF THE MAHAZAR DATED 22.12.2020.

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