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Krishnan vs the District Collector

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Court : Kerala

Decided On : Jul-01-2021

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/25949/2020

Appellant : Krishnan

Respondent : The District Collector

Judgement :

WP(C) NO. 25949 OF 2020 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN THURSDAY, THE 1ST DAY OF JULY 2021 / 10TH ASHADHA, 1943 WP(C) NO. 25949 OF 2020 PETITIONER/S: 1 KRISHNAN AGED 60 YEARS S/O AYYAPPAN, MOOKKATTIL HOUSE, PERUVALLUR POST, MALAPPURAM DISTRICT,PIN-673 638. 2 VASANTHAKUMARI, AGED 50 YEARS W/O KRISHNAN, MOOKKATTIL HOUSE, PERUVALLUR POST, MALAPPURAM DISTRICT,PIN-673 638. BY ADVS. K.P.SUDHEER SMT.C.K.SHERIN RESPONDENT/S: 1 THE DISTRICT COLLECTOR CIVIL STATION, MALAPPURAM-676 505. 2 THE

SPECIAL TAHASILDAR, OFFICE OF THE SPECIAL TAHASILDAR, LAND TRIBUNAL, TIRURANGADI, MALAPPUAM DISTRICT, PIN-676 306.

3 THE VILLAGE OFFICER, PERUVALLUR, PADIKKAL-KARUVANKALLU ROAD, PARAMBIL PEEDIKA, PERUVALLUR, MALAPPURAM DISTRICT, PIN-676 317. 4 THE TALUK LAND BOARD, TIRURANGADI, MALAPPURAM DISTRICT, PIN-676 306, REPRESENTED BY ITS CHAIRMAN BY SMT.SHEEJA.C.S. GOVERNMENT PLEADER OTHER PRESENT: THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.07.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 25949 OF 2020 2 P.V.KUNHIKRISHNAN, J ---------- W.P.(C.) No.25949 of 2020 ---------- Dated this the 1st day of July, 2021

JUDGMENT

By virtue of Exts. P1 to P5 sale deeds and other deeds, it is submitted by the petitioners that they acquired a parcel of land having an extent of 25.10 ares (62 cents), 19.72 ares (48.72 cents) and 2.06 ares (5.09 cents) in re-survey No. P8 basic tax receipts would show that the basic tax in respect of the properties in question was accepted by the 3 rd respondent till 2006. According to the petitioners, from 2007 onwards, the 3rd respondent refused to accept basic tax in respect of the properties covered by Exts. P1 to P5 becase of some ceiling proceedings pending against the statutory family of one late. Krishnan Namboothiri. The petitioners submitted that they approached the Land Tribunal, Tirur by filing O.A.(7E) 14, 15 and 16 of 2017 invoking the benefit of Sec.7E of the Kerala Land Reforms Act, 1963. Exts.P9 to P11 WP(C) NO. 25949 OF 2020 3 will show that the Land Tribunal, Tirur issued notice to the landlords and the other intermediaries. While so, a land tribunal was constituted at Tirurangadi Taluk and the applications filed by the petitioners were transferred to the Land Tribunal, Tirurangadi. After the transfer, the applications are re-numbered. Exts.P12 to P14 would show that the Land Tribunal, Tirurangadi again issued notice to landlords

and intermediaries. The grievance of the petitioners is that the 3rd respondent is not accepting the basic tax from the petitioners in respect of the properties covered by Exts.P1 to P5. The petitioners relied Ext.P15 judgment. According to the counsel, in similar circumstances, this Court directed the authorities to accept tax.

2. Heard counsel for the petitioners and the Government Pleader.

3. The counsel for the petitioners submitted that in

the light of Ext.P15 judgment of this Court, there may be a direction to the authorities to accept tax. The Government Pleader submitted that in para No.5 of Ext.P15 judgment, it is clearly stated that the tax can be accepted only subject to WP(C) NO. 25949 OF 2020 4 the ceiling cases pending. The Government Pleader submitted that if this Court is allowing the prayers in the writ petition, the same conditions may be imposed. The Government Pleader submitted that the tax is not accepted because of the ceiling cases.

4. Admittedly, in a similar situation, this Court passed Ext.P15 judgment. The relevant portion of the judgment is extracted hereunder :

4. Taking note of the respective submissions made one

> thing is clear that the title still vest with the petitioner. Since the land board case is pending on revision before this Court or before the Land Board and since the boundary could not be located on two sides, tax was not being accepted by the statutory authority. Under the Land Tax Act, when there is a title vested with the owner the authority under the land Tax Act is bound to receive the land tax subject to any correction to be made in a future course of action. If during the enquiry, if it is found that ,the petitioner is having less property than what is claimed or more property than what is claimed then the tax will have to be varied in accordance with the said findings.

5. Therefore, I am of the considered opinion that in

accordance with the title of the petitioner the land tax, which was accepted is to be accepted by the respondents. If in enquiry it is found that, the petitioner is not in possession of the property as claimed in title deed or that the subject property is included in a land ceiling case, in accordance with the findings rendered thereunder the variation can be made by the respondents in accepting the land tax.

6. Therefore, leaving open the liberty of the respondents to do so, there will be a direction to the 4 th respondent to accept land tax from the petitioner for the property in question.

5. I think similar directions can be issued in this case

also. Moreover, the counsel for the petitioners submitted that WP(C) NO. 25949 OF 2020 5 in the statement filed by the 2 nd respondent, it is stated that the Land Tribunal will dispose the matters, within six months. The counsel submitted to record that statement. In the light of the above submissions, I think this writ petition can be disposed in the following manner : 1) The 3rd respondent is directed to accept tax from the petitioners for the properties covered in Exts.P1 to P5, subject to the result of the ceiling case pending before the authorities. 2) I also make it clear that if in the enquiry, it is found that the petitioners are not in possession of the properties as claimed in title deed or that the subject properties are included in a land ceiling case, in accordance with the finding rendered thereunder, the variation can be made by the respondents in accepting the land tax. 3) The second respondent will pass final orders in Exts. P12 to P14 as expeditiously as possible, at any rate, within six months from the date of receipt of a copy of this judgment. Sd/- P.V.KUNHIKRISHNAN JUDGE SKS WP(C) NO. 25949 OF 2020 6 APPENDIX OF WP(C) 25949/2020 PETITIONER ANNEXURE EXHIBIT P1 TRUE COPY OF SALE DEED DATED 17.10.1997 REGISTERED AS DOCUMENT NO 2959/1997 OF TENHIPALAM SRO EXHIBIT P2 TRUE COPY OF SALE DEED DATED 1.10.2004 REGISTERED AS DOCUMENT NO 5008/2004 OF TENHIPALAM SRO EXHIBIT P3 TRUE COPY OF CONSENT DEED DATED 19.2.2010 REGISTERED AS DOCUMENT NO 1156/2010 ON THE FILE OF SRO TENHIPALAM EXHIBIT P4 TRUE COPY OF SALE DEED DATED 1.10.2004

REGISTERED AS DOCUMENT NO 5010/2004 OF TENHIPALAM SRO EXHIBIT P5 TRUE COPY OF CONSENT DEED DATED 19.2.2010 REGISTERED AS NO 1158/2010 OF TENHIPALAM SRO EXHIBIT P6 TRUE COPY OF BASIC TAX RECEIPT NO 7513362 DATED 11.9.2006 ISSUED BY VILLAGE OFFICER, PERUVANNUR EXHIBIT P7 TRUE COPY OF BASIC TAX RECEIPT NO 7513361 DATED 11.9.2006 ISSUED BY VILLAGE OFFICER, PERUVANNUR EXHIBIT P8 TRUE COPY OF BASIC TAX RECEIPT NO 7513365 DATED 11.9.2006 ISSUED BY VILLAGE OFFICER, PERUVANNUR EXHIBIT P9 TRUE COPY OF NOTICE ISSUED BY LAND TRIBUNAL TIRUR IN OA (7E) 14/2017 IN FORM NO 24A EXHIBIT P10 TRUE COPY OF NOTICE ISSUED BY LAND TRIBUNAL, TIRUR IN OA (7E) 15/2017 IN FORM NO 24A EXHIBIT P11 TRUE COPY OF NOTICE ISSUED BY LAND WP(C) NO. 25949 OF 2020 7 TRIBUNAL, TIRUR IN OA (7E) 16/2017 IN FORM NO 24A EXHIBIT P12 TRUE COPY OF NOTICE ISSUED BY LAND TRIBUNAL, TIRURANGADI IN OA NO 24/2019 IN FORM NO 24A EXHIBIT P13 TRUE COPY OF NOTICE ISSUED BY LAND TRIBUNAL , TIRURANGADI IN OA NO 25/2019 IN FORM NO 24A EXHIBIT P14 TRUE COPY OF NOTICE ISSUED BY LAND TRIBUNAL IN OA NO 26/2019 IN FORM NO 24A EXHIBIT P15 TRUE COPY OF JUDGMENT DATED 8.11.2016 IN WRIT PETITION (CIVIL) NO 25115/2016 PASSED BY THIS HON'BLE COURT

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