

Sudheerkumar. K vs the Tahsildar

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Court : Kerala

Decided On : Oct-01-2021

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/30464/2013

Appellant : Sudheerkumar. K

Respondent : The Tahsildar

Judgement :

& 30464 of 2013 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 1ST DAY OF OCTOBER 2021 / 9TH ASWINA, 1943
WP(C) NO. 11930 OF 2006 PETITIONER/S:

1 *SUDHEER KUMAR, PARACHAL ROAD, VAKAYAD P.O.,
NADAVANNOOR, KOZHIKODE. 2 **THAROL PRABHAKARAN NAIR
*(EXPIRED) AITANALLOOR AMSOM, POONATH DESOM,, KOYILANDI
TALUK, (THE FIRST PETITIONER IS, REPRESENTED BY THE 2ND
PETITIONER, HIS POWER, OF ATTORNEY HOLDER). ADDL.P3.
SUMATHI AMMA,W/O LATE PRABHAKARAN NAIR, RESIDING AT

VELLAPPALAM VEEDU, KUNNIYULLA CHALIL, AVITTANALLOOR AMSOM, POONATH DESOM, KOYILANDI TALUK ADDL.P4. PRANEESH.A.K S/O THAROL PRABHAKARAN NAIR, ARAMKOTTAKKAL HOUSE, POONATH P.O., NADUVANNUR VIA, KOZHIKODE ADDL.P5. PRASANTH.A.K,S/O THAROL PRABHAKARAN NAIR, ARAMKOTTAKKAL HOUSE, POONATH P.O., NADUVANNUR VIA, KOZHIKODE BY ADV SRI.B.KRISHNA MANI

RESPONDENT/S: 1 THE SECRETARY, FOREST DEPT. FOREST DEPARTMENT, GOVERNMENT OF KERALA,, THIRUVANANTHAPURAM. 2 THE DIVISIONAL FOREST OFFICER FOREST DEPARTMENT, SPECIAL DIVISION,, KOZHIKODE. ADDL R3 V CARE ENTERPRISES INDIA PRIVATE LIMITED, CORPORATE OFFICE AT MANAGING DIRECTOR, MOHANDAS K.V., S/O P.V.RAMAKRISHNA, 163/1 HEBBAL COLONY, 6TH CROSS, BASAVANAGUDI, MYSORE, KARNATAKA ADDL.P3 TO P5 AND ADDL.R3 ARE IMPEADED AS PER ORDERS DATED 1.10.21 IN IA 3/21 AND IA 1/21 RESPECTIVELY IN WPC NO 11930/2006

OTHER PRESENT: SRI.T.P.SAJAN, SPL.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.10.2021, ALONG WITH WP(C).12367/2013, 30464/2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: & 30464 of 2013 2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN FRIDAY, THE 1ST DAY OF OCTOBER 2021 / 9TH ASWINA, 1943 WP(C) NO. 12367 OF 2013 PETITIONER/S: 1 THAROL PRABHAKARAN NAIR *(DIED) PARACHAL HOUSE, AVITTANALLOOR AMSOM, POONATH DESOM,KOYILANDI TALUK. 2 THAROL ABHILASH S/O.KAMALAMMA, VELLAPPALAN VEEDU, THRIKKATTUSSERY AMSOM, VAKERYAYADU DESOM, KOYILANDI TALUK. 3 SUDHAKARAN S/O.MEENAKSHI AMMA, MEETHALE CHALIL, CHANGAROTH AMSOM, AVITTANALLOOR AMSOM,POONATH DESOM,KOYILANDI TALUK

4 *RECORDED AS LEGAL HEIR OF THE DECEASED 1ST PETITIONER [SUMATHI AMMA, D/O.MEENAKSHI AMMA, VELLAPPALAN VEEDU, KUNNIYULLA CHALIL, AVITTANALLOOR AMSOM, POONATH DESOM, KOYILANDI TALUK] ADDL.P5 PRANEESH.A.K S/O THAROL PRABHAKARAN NAIR, ARAMKOTTAKKAL HOUSE, POONATH P.O., NADUVANNUR VIA, KOZHIKODE ADDL.P6 PRASANTH.A.K,S/O THAROL PRABHAKARAN NAIR, ARAMKOTTAKKAL HOUSE, POONATH P.O., NADUVANNUR VIA, KOZHIKODE *4TH PETITIONER IS RECORDED AS THE LEGAL HEIR OF THE DECEASED 1ST PETITIONER AND ADDITIONAL PEITIONER P5 AND P6 ARE IMPLEADED

AS THE LEGAL HEIRS OF THE DECEASED FIRST PETITIONER AS PER ORDER

DATED 1.10.2021 IN IA NO.1/2021 IN WPC NO. 12367/2013. BY ADVS. B.KRISHNA MANI D.KESAVAN NAIR RAHUL VENUGOPAL N.V.SANDHYA RESPONDENT/S: & 30464 of 2013 3 1 THE TAHSILDAR, KOYILANDI TALUK KOZHIKODE DISTRICT 673 305. 2 THE VILLAGE OFFICER KANATHALADU VILLAGE, KOZHIKODE DISTRICT 673 315 3 THE FOREST RANGE OFFICER PERIVANNAMUZHI RANGE, KOZHIKODE DISTRICT 673 528. BY SRI.T.P.SAJAN, SPL.GP (FOREST) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON

01.10.2021, ALONG WITH WP(C).11930/2006 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: & 30464 of 2013 4

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN FRIDAY, THE 1ST DAY OF OCTOBER 2021 / 9TH ASWINA, 1943 WP(C) NO. 30464 OF 2013

PETITIONER/S: SUDHEERKUMAR. K PARAKKAL HOUSE, VAKAYAD POST, KOYILANDI TALUK, KOZHIKODE DISTRICT BY ADV SRI.B.KRISHNA MANI RESPONDENT/S: 1 THE TAHSILDAR KOYILANDI TALUK, KOZHIKODE DISTRICT 673305 2 THE VILLAGE OFFICER KANTHALADU VILLAGE,

KOZHIKODE DISTRICT 673315 3 THE FOREST RANGE OFFICER
PERIVANNAMUZHI RANGE, KOZHIKODE DISTRICT 673528 ADDL.R4 V CARE
ENTERPRISES INDIA PRIVATE LIMITED, CORPORATE OFFICE AT

MANAGING DIRECTOR, MOHANDAS K.V., S/O P.V.RAMAKRISHNA, 163/1
HEBBAL COLONY, 6TH CROSS, BASAVANAGUDI, MYSORE, KARNATAKA
ADDL.R4 IMPEADED AS PER ORDER DATED 1.10.21 IN IA 1/21 BY
SRI.T.P.SAJAN, SPL.GP(FOREST) THIS WRIT PETITION (CIVIL) HAVING
COME UP FOR ADMISSION ON 01.10.2021, ALONG WITH WP(C).11930/2006
AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: & 30464 of 2013 5 P.V.KUNHIKRISHNAN, J
----- W.P.(C.) Nos.11930 of 2006 and 12367 & 30464
of 2013 ----- Dated this the 1st day of October, 2021

JUDGMENT

These three writ petitions are connected and therefore, I am disposing of these writ petitions by a common judgment. I will consider the facts in W.P.(C.) No. 11930 of 2006.

2. It is the case of the petitioners in W.P.(C.) No. 11930

of 2006 that, they along with 6 others purchased 29.708 acres of property in Koyilandy Taluk. Ext.P1 is the sale deed. It is the case of the petitioners that there was a partition suit, which resulted in Ext.P3 final decree. It is further stated in the writ petition that in the execution proceedings, the properties were allotted to the petitioners and the other sharers. At this stage, the petitioners came across a list issued by the Forest Department as evident by Ext.P12, in which the property of the petitioners is demarcated as 'vested forest'. Aggrieved by this, this writ petition is filed.

3. Heard the learned counsel for the petitioners and the & 30464 of 2013 6 learned Special Government Pleader (Forest).

4. It is the case of the petitioners that the properties in

dispute belongs to them for several decades. It is the case of the Forest Department that it is a vested forest. The Government Pleader submitted that, if the petitioners are aggrieved, their remedy is before the Forest Tribunal.

5. As far as W.P.(C.) No. 12367/2013 and W.P.(C.)

No.30464/2013 are concerned, those are petitions filed to accept property tax. At this stage, I am not in a position to decide the same because there is a dispute about the property itself. Therefore, those writ petitions can be closed, giving liberty to the petitioners to raise the same, at appropriate stage before the appropriate authority.

6. This Court, while invoking jurisdiction under Article

226 of the Constitution of India, cannot decide or pass any orders in these disputed questions. The parties have to approach before the Forest Tribunal to resolve this issue. I do not want to make any observation about the merit of the case. The petitioners are free to approach Forest Tribunal to resolve the issue. To facilitate the parties to approach the Tribunal & 30464 of 2013 7 concerned, there can be an interim order not to dispossess the petitioners for a period of two months. Therefore, these writ petitions are disposed in the following manner : 1) The parties in these writ petitions are free to approach the Forest Tribunal to resolve the disputes, if any. 2) For facilitating the parties to approach the Forest Tribunal, the official respondents shall not dispossess the petitioners for a period of two months from today. 3) The contentions of the petitioners in W.P.(C.) Nos.12367 of 2013 and 30464 of 2013 are left open. SD/- P.V.KUNHIKRISHNAN JUDGE SKS & 30464 of 2013 8 APPENDIX OF WP(C) 11930/2006 PETITIONER EXHIBITS EXT P1 TRUE COPY OF THE SALE DEED DATED 9.2.1995 EXT.P2 TRUE COPY OF THE PLAINT IN OS NO. 221/1995 BEFORE THE SUB COURT, KOYILANDI EXT.P3 TRUE COPY OF THE FINAL DECREE DATED 15.6.1998 EXT.P4 TRUE COPY OF THE PLAN EXT.P5 TRUE COPY OF THE APPLICATION DATED 11.2.1998 PRAYING FOR AMENDMENT OF THE PLAINT EXT.P6 TRUE COPY OF THE DELIVERY REPORT DATED 23.3.1999 EXT.P7 TRUE COPY OF THE TAX RECEIPT DATED 29.4.2005 EXT.P8 TRUE COPY OF THE POSSESSION CERTIFICATE DATED 29.4.2005 EXT.P9 TRUE

COPY OF THE TAX RECEIPT DATED 29.4.2005 EXT.P10 TRUE COPY OF THE POSSESSION CERTIFICATE DATED 29.4.2005 EXT.P11 TRUE COPY OF THE DELIVERY REPORT DATED 29.9.1999 EXT.P12 TRUE COPY OF THE LIST ISSUED BY THE FOREST DEPARTMENT EXT.P13 A TRUE COPY OF THE SALE DEED DATED 26.11.2015 EXT.P14 A TRUE COPY OF THE TAX RECEIPT DATED 22.2.2018 & 30464 of 2013 9 APPENDIX OF WP(C) 12367/2013 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE SALE DEED DATED 9/2/195 EXHIBIT P2 TRUE COPY OF THE PLAINT, OS NO.221/1995 BEFORE THE SUB COURT, KOYILANDI DATED NIL EXHIBIT P3 TRUE COPY OF THE FINAL DECREE DATED COURT, KOYILANDI EXHIBIT P4 TRUE COPY OF THE EXT.C6 PLAN MENTIONED IN FINAL DECREE DATED 15/6/1998 IN OS NO.221/1995 BEFORE THE SUB COURT, KOYILANDI EXHIBIT P5 TRUE COPY OF THE APPLICATION, IA NO.1381/96 DATED 11/2/1998 IN OS NO.221/1995 BEFORE THE SUB COURT, KOYILANDI EXHIBIT P6 TRUE COPY OF THE DELIVERY REPORT DATED EXHIBIT P7 TRUE COPY OF THE TAX RECEIPT DATED EXHIBIT P8 TRUE COPY OF THE POSSESSION CERTIFICATE DATED 29/4/2005 EXHIBIT P9 TRUE COPY OF THE POSSESSION CERTIFICATE DATED 29/4/2005 EXHIBIT P10 TRUE COPY OF THE TAX RECEIPT DATED EXHIBIT P11 TRUE COPY OF THE DELIVERY REPORT OF THE AMIN IN RESPECT OF PLOT B AS MENTIONED IN EXT.P3 EXHIBIT P12 TRUE COPY OF THE LIST ISSUED BY THE FOREST DEPARTMENT EXHIBIT P13 TRUE COPY OF THE TAX RECEIPT DATED & 30464 of 2013 10 EXHIBIT P14 TRUE COPY OF THE TAX RECEIPT DATED EXHIBIT P15 TRUE COPY OF THE TAX RECEIPT DATED EXHIBIT P16 TRUE COPY OF THE TAX RECEIPT DATED EXHIBIT P17 TRUE COPY OF THE TAX RECEIPT DATED 4/7/209 EXHIBIT P18 TRUE COPY OF THE TAX RECEIPT DATED 2/8/2010 EXHIBIT P19 TRUE COPY OF THE TAX RECEIPT DATED 2/8/2010 EXHIBIT P20 TRUE COPY OF THE TAX RECEIPT DATED EXHIBIT P21 TRUE COPY OF THE TAX RECEIPT DATED EXHIBIT P22 TRUE COPY OF THE TAX RECEIPT DATED 18/5/2010 EXHIBIT P23 TRUE COPY OF THE TAX RECEIPT DATED EXHIBIT P24 TRUE COPY OF THE POSSESSION CERTIFICATE DATED 30/6/2003 EXHIBIT P25 TRUE COPY OF THE POSSESSION CERTIFICATE DATED 15/12/2006 EXHIBIT P26 TRUE COPY OF

THE POSSESSION CERTIFICATE DATED 15/12/2006 EXHIBIT P27 TRUE COPY OF THE POSSESSION CERTIFICATE DATED 3/3/2012 EXHIBIT P28 TRUE COPY OF THE POSSESSION CERTIFICATE DATED 3/3/2012 & 30464 of 2013 11 EXHIBIT P29 TRUE COPY OF THE SKETCH ISSUED BY THE VILLAGE OFFICER ALONG WITH THE ABOVE POSSESSION CERTIFICATE EXHIBIT P30 TRUE COPY OF THE SKETCH ISSUED BY THE VILLAGE OFFICER ALONG WITH THE ABOVE POSSESSION CERTIFICATE EXHIBIT P31 TRUE COPY OF THE JUDGMENT DATED 18/8/2010 IN OP NO.17791/02 FILED BY THE 3RD PETITIONER BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM. EXHIBIT P32 TRUE COPY OF THE PROCEEDING DATED EXHIBIT P33 TRUE COPY OF THE PROCESSING DATED 24/6/2010 ISSUED BY THE 3RD RESPONDENT EXHIBIT P34 TRUE COPY OF THE WRIT PETITION, WPC NO.11930/2006 DATED 2/4/06 BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM & 30464 of 2013 12 APPENDIX OF WP(C) 30464/2013 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE SALE DEED DATED 09-02-1995 EXHIBIT P2 TRUE COPY OF THE PLAINT OS NO221/1995 BEFORE THE SUB COURT, KOYILANDI DATED NIL EXHIBIT P3 TRUE COPY OF THE FINAL DECREE DATED 15-06-1998 IN O.S NO 221/1995 BEFORE THE SUB COURT, KOYILANDI EXHIBIT P4 TRUE COPY OF THE EXT C6 PLAN MENTIONED IN FINAL DECREE DATED 15-06-1998 IN O.S NO 221/1995 BEFORE THE SUB COURT, KOYILANDI EXHIBIT P5 TRUE COPY OF THE APPLICATION, I.A NO 1381/96 DATED 11-02-1998 IN O.S NO 221/1995 BEFORE THE SUB COURT, KOYILANDI EXHIBIT P6 TRUE COPY OF THE DELIVERY REPORT DATED 23-03-1999 EXHIBIT P7 TRUE COPY OF THE DELIVERY REPORT DATED 30-09-99 EXHIBIT P8 TRUE COPY OF THE LIST ISSUED BY THE FOREST DEPARTMENT EXHIBIT P9 TRUE COPY OF THE TAX RECEIPT DATED 04-07-2009 EXHIBIT P10 TRUE COPY OF THE TAX RECEIPT DATED 30-06-2010 EXHIBIT P11 TRUE COPY OF THE TAX RECEIPT DATED 18-05-2012 EXHIBIT P12 TRUE COPY OF THE PROCEEDING DATED 29-04-2013 ISSUED BY THE VILLAGE OFFICER, KANTHALAD EXHIBIT P13 TRUE COPY OF THE PROCEEDING DATED 23-09-2013 ISSUED BY THE TAHSILDAR, TALUK OFFICE, KOYILANDY EXHIBIT P14 TRUE COPY OF THE RELEVANT PORTION OF WRIT PETITION, WPC NO 12367/2013 DATED 04-05-

2013 BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM
EXHIBIT P15 A TRUE COPY OF THE SALE DEED DATED 26.11.2015 EXHIBIT
P16 A TRUE COPY OF THE TAX RECEIPT DATED 22.2.2018.

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