

Devaki vs State of Kerala

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Court : Kerala

Decided On : Mar-23-2020

Judge : Honourable Mr. Justice Alexander Thomas

Appeal No. : WP(C)/9079/2020

Appellant : Devaki

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS
MONDAY, THE 23RD DAY OF MARCH 2020 / 3RD CHAITHRA, 1942
WP(C).No.9079 OF 2020(H) PETITIONERS: 1 DEVAKI AGED 76
YEARS D/O. LAKSHIAMMA, MADAPARAMBATHU,
MADATHILPARAMBIL, 2 JANAKI AGED 71 YEARS D/O.
LAKSHIAMMA, MADAPARAMBATHU, MADATHILPARAMBIL, 3
SAROJINI AGED 66 YEARS D/O. LAKSHIAMMA,
MADAPARAMBATHU, MADATHILPARAMBIL,

4 GIREEH KUMAR AGED 47 YEARS S/O. CHANDRAN, PLACKAL
HOUSE, MULLURKKARA VILLAGE, AATOOR P O, THRISSUR-

680583. BY ADVS. SRI.M.R.NANDAKUMAR SRI.P.SETHUMADHAVAN
RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY ITS
SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695001. 2 MULLURKKARA
GRAMA PANCHAYATH REPRESENTED BY ITS SECRETARY, 3 THE
THASILDAR(LR) THALAPPILLI, THRISSUR-680582. 4 DISTRICT
SURVEY SUPERINTENDENT, SURVEY AND LAND RECORDS, CIVIL
STATION, COLLECTORATE, AYYANTHOLE PO, THRISSUR-680003.
BY ADVS. SRI.JESTIN MATHEW, GOVT.PLEADER-R1, R3 AND R4.
SRI.T.RAJASEKHARAN NAIR, SC-R2. THIS WRIT PETITION (CIVIL)
HAVING COME UP FOR ADMISSION ON 23.03.2020, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

ALEXANDER THOMAS, J.

----- Dated this the
23rd day of March, 2020

JUDGMENT

The prayers in the above writ petition (C) are as follows:

1. Call for the records leading up to Exhibits P1,P3 and P3(a) issued by 2nd respondent and issue a writ of certiorari or other appropriate writ or direction to quash the same.

2. Issue a writ of nature of mandamus or other appropriate

writ, order or direction directing the 2nd respondent to consider the objection Exhibit P4 and P4(a) of the petitioner after affording a opportunity of being heard.

3. Issue a writ of mandamus or other appropriate writ or direction directing the respondents not to proceed with Exhibit P3 and P3(a).

4. Grant any other further or consequential reliefs, as may be prayed for and deemed fit by this Honourable Court.

2. Heard Sri.M.R.Nandakumar, learned counsel appearing for

the petitioners, Sri.Justine Mathew, learned Government Pleader appearing for the respondent Nos.1, 3 and 4 and Sri.T.Rajashekharan Nair, learned counsel appearing for R2.

3. Being aggrieved by Ext.P1 proceedings issued by the 3 rd

respondent Tahsildar in forum No.13, under the Kerala Survey and Boundaries Rules, the petitioners have preferred Ext.P2 appeal before the 4th respondent District Survey Superintendent.

4. Taking note of the facts and circumstances, it is ordered that

the 4th respondent District Survey Superintendent will take up for consideration the matters raised by the petitioners in Ext.P2 appeal and after affording reasonable opportunity of being heard to the petitioners and after following the requisite procedure and if necessary after conducting fresh survey and measurement by survey official of the 4th respondent but with prior notice to the petitioner and after ensuring that copy of the said survey report and survey sketch is given to the petitioner in advance. Thereafter the 3 rd respondent after affording reasonable opportunity of being heard to the petitioner as well as the 2nd respondent Mullurkkara Grama Panchayat, would render a considered decision on the matters raised in Ext.P2 appeal, without much delay preferably within a period of three months from the date of production of the certified copy of this judgment. Until orders are passed by the 4th respondent finally disposing of Ext.P2 appeal, further coercive steps in pursuance of Exts.P3 and P3(a) issued by the 2nd respondent Panchayat shall be kept in abeyance.

5. It is made clear that Exts.P3 and P3(a) proceedings issued

by the 2nd respondent Panchayat will be subject to the final result to be rendered by the 4th respondent appellate authority in Ext.P2 appeal. All other issues are left open to be raised in appropriate proceedings in the manner known to law.

6. It is also made clear that if the matters in relation to Exts.P3

and P3(a) are not fully dependent on the matters in Ext.P1, it is for the petitioners to take recourse to other appropriate remedies in the manner known to law in relation to his grievances if any, in respect of Exts.P3 and P3(a), after the final disposal of Ext.P2 appeal. With these observations and directions the above Writ Petition (Civil) will stand finally disposed of. Sd/- ALEXANDER THOMAS, JUDGE KAS APPENDIX PETITIONER'S/S EXHIBITS: EXHIBIT P1 A TRUE COPY OF THE COMMUNICATION IN FORUM NO.13 DATED 03.10.2019 FROM THE 3RD RESPONDENT. EXHIBIT P2 A TRUE COPY OF THE APPEAL FILED BY THE 1ST TO 3RD PETITIONERS AGAINST EXHIBIT P1 DATED 16.03.2020. EXHIBIT P3 A TRUE COPY OF THE NOTICE NO.B4-5456/19 DATED 05.03.2020 ISSUED TO THE PETITIONERS 1 TO 3. EXHIBIT P3(a) A TRUE COPY OF THE NOTICE B4-5456/19 DATED 05.03.2020 ISSUED TO THE 4TH PETITIONER. EXHIBIT P4 A TRUE COPY OF THE OBJECTION SUBMITTED BY THE 1ST TO 3RD PETITIONERS DATED 16.03.2020. EXHIBIT P4(a) A TRUE COPY OF THE OBJECTION SUBMITTED BY THE 4TH PETITIONER DATED 16.03.2020. RESPONDENT'S/S EXHIBITS: NIL //TRUE COPY// PA TO JUDGE

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