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Base P. Mathew vs the Survey Director

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Court : Kerala

Decided On : Nov-26-2020

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : WP(C)/24944/2020

Appellant : Base P. Mathew

Respondent : The Survey Director

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V THURSDAY, THE 26TH DAY OF NOVEMBER 2020 / 5TH AGRAHAYANA, 1942 WP(C).No.24944 OF 2020(P) PETITIONERS: 1 BASE P. MATHEW AGED 37 YEARS S/O KUNJU PAUL, PARUTHUVAYALIL HOUSE, AIRAPURAM, PIN-683 541. 2 ELDHO JACOB, AGED 37 YEARS S/O P.JACOB, PARUTHUVAYALIL HOUSE, RAYAMANGALAM VILLAGE, KEEZHILLAM, PIN-683 556. BY ADV. SRI.BIBIN KUMAR RESPONDENTS:

1 THE SURVEY DIRECTOR OFFICE OF THE SURVEY DIRECTOR, THIRUVANANTHAPURAM, PIN-682 024. 2 THE ASSISTANT

DIRECTOR, CENTRAL SURVEY OFFICE, THIRUVANANTHAPURAM, PIN-682 024. 3 THE DISTRICT SURVEY SUPERINTENDENT, OFFICE OF DISTRICT SURVEY SUPERINTENDENT, COLLECTORATE, ERNAKULAM, PIN-682 030. 4 THE TALUK SURVEYOR, MUVATTUPUZHA TALUK, MINI CIVIL STATION, MUVATTUPUZHA, PIN-686 669. 5 TAHASILDAR, TALUK OFFICE, MUVATTUPUZHA, MUDAVOOR P.O. PIN-686 669. 6 THE VILLAGE OFFICER, MULAVOOR VILLAGE, MUVATTUPUZHA, ERNAKULAM-686 673.

SRI BIMAL K NATH SR GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26.11.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No.24944 OF 2020 2

JUDGMENT

The petitioners state that they are the absolute owners in title and possession of property having an extent of 31.36 Ares comprised in Sy. No.

extent of 29.54 Ares comprised in Sy. No. 1006/3 in Mulavoor Village. They state that the property was purchased by Ext.P1 sale deed and they have been remitting tax as is evident from Ext.P2. The petitioner states that for the purpose of producing the survey sketch of the property before the Mining and Geology Department, they approached the 4th respondent and submitted an application. They contend that they were directed to approach each one of the respondents and reliance is placed on Exts.P4 to P6 requests made by them. Finally, by Ext.P7 communication, the petitioners were informed by the 2nd respondent that the survey sketch in respect of the properties owned by the petitioners are not available in the Central Survey Office, Thiruvananthapuram. It is in the said circumstances, the petitioners have approached this Court seeking a direction to the respondents to measure out and demarcate the property of the petitioners falling in the above survey number as per the boundaries in Ext.P1 sale deed and other available documents.

2. Sri. Bibin Kumar.K, the learned counsel appearing for the petitioners

submitted that if the survey sketch is not available, it is for the respondents to measure out the property on the basis of the available documents including the title deed of the petitioners. He would place reliance on the judgments of this court, which have been produced as Exts.P10 and P11.

3. I have heard the learned Government Pleader.

4. Rule 67 of the Survey and Boundaries Rules, 1964 provides that in

demarcating boundaries of new fields in unsurveyed tracts, or boundaries of sub-divisions created from an existing survey field or subdivision, the limits of enjoyment as seen on ground shall be followed as far as possible, unless there are valid documents to prove beyond all reasonable doubt that the boundaries have to be demarcated otherwise. In the case on hand, it is for the respondents to identify the property on the basis of the title deed and possession. It is for the petitioners to produce their title deeds and other documents and if the same is produced, the 5th respondent shall initiate steps to demarcate the land and issue survey sketch with notice to the petitioners as well as the affected parties.

> Resultantly, this writ petition is disposed of directing the 5th respondent to take steps to identify the land owned by the petitioners based on their title deeds and other documents. For enabling the 5th respondent to do so, the petitioners shall approach him and file an application with requisite fees within a period of two weeks from today. If such an application is filed, the 5th respondent shall

WP(C).No.24944 OF 2020 4 take expeditious steps to measure and demarcate the property as per procedure and in accordance with law, with notice to the petitioners and affected parties, if any. The entire exercise shall be completed within a time frame of three months. Sd/- RAJA VIJAYARAGHAVAN V JUDGE IAP WP(C).No.24944 OF 2020 5

APPENDIX PETITIONER'S/S EXHIBITS: EXHIBIT P1 THE TRUE COPY OF THE SALE DEED NO EXHIBIT P2 A TRUE COPY OF THE LAND TAX RECEIPT DATED 3.8.2020 EXHIBIT P3 A TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO THE PETITIONERS FROM MULAVOOR VILLAGE OFFICE DATED 17.8.2020 EXHIBIT P4 TRUE COPY OF THE LETTER DATED 15.10.2020 ISSUED BY THE 5TH RESPONDENT EXHIBIT P5 TRUE COPY OF THE LETTER DATED 1.10.2020 ISSUED BY THE 6TH RESPONDENT EXHIBIT P6 TRUE COPY OF THE LETTER NO G4-3578/2020 DATED 23.10.2020 ISSUED BY THE 3RD RESPONDENT EXHIBIT P7 THE TRUE COPY OF THE REPLY LETTER DATED 28.9.2020 ISSUED BY THE 2ND RESPONDENT EXHIBIT P8 A TRUE COPY OF THE JUDGMENT DATED 17.12.2015 IN WPC NO 38306/2015 EXHIBIT P9 A TRUE COPY OF THE JUDGMENT DATED 30.3.2017 IN WPC NO.5975/2017 EXHIBIT P10 A TRUE COPY OF THE JUDGMENT DATED 21.3.2018 IN WPC NO 9681/2018 EXHIBIT P11 A TRUE COPY OF THE JUDGMENT IN WPC NO RESPONDENTS' EXHIBITS: NIL

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