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Jayasree Vs. State of Kerala

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Court : Kerala

Decided On : Feb-05-2015

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : Jayasree

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON THURSDAY, THE5H DAY OF FEBRUARY201516TH MAGHA, 1936 WP(C).No. 2177 of 2015 (V) ---------- PETITIONER(S): ---------- JAYASREE, W/O.SURESH, PUTHENVILA VEEDU, KANJIRAMCODE CHERRY, MULAVANA P.O., MULAVANA VILLAGE, KOLLAM. BY ADVS.SRI.K.P.ANIL KUMAR (SASTHAMCOTTA) SRI.B.MOHANLAL RESPONDENT(S): ---------- 1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.

2. THE DISTRICT COLLECTOR, COLLECTORATE, CUTCHERY P.O., KOLLAM, PIN - 691 013.

3. THE REVENUE DIVISIONAL OFFICER, COLLECTORATE, CUTCHERY P.O., KOLLAM - 691 013.

4. THE TAHASILDAR, TALUK OFFICE, KOLLAM - 691 001.

5. THE VILLAGE OFFICER MULAVANA VILLAGE, MULAVANA P.O., KOLLAM, PIN - 691 503. BY SENIOR GOVERNMENT PLEADER SRI.MUHAMMED SHAFI M. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON0502-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: msv/ WP(C).No. 2177 of 2015 (V) ---------- APPENDIX PETITIONER(S)' EXHIBITS ---------- EXT.P1: THE TRUE COPY OF THE WILL NO. 34 DATED0711/1996 OF KUNDARA SUB REGISTRY EXECUTED IN FAVOUR OF THE PETITIONER. EXT.P2: THE TRUE COPY OF THE RELINQUISHMENT DEED NO. 2279/2014 OF KUNDARA SUB REGISTRY EXECUTED IN FAVOUR OF THE PETITIONER. EXT.P3: THE TRUE COPY OF THE TAX RECEIPT ISSUED BY THE5H RESPONDENT TO THE PETITIONER. EXT.P4: THE TRUE COPY OF THE TAX RECEIPT ISSUED BY THE5H RESPONDENT TO THE PETITIONER. EXT.P5: THE TRUE COPY OF THE SETTLEMENT DEED NO. 336/1965 EXECUTED BY SRI.GOVINDAN, FATHER OF LATE SRI.BALAKRISHNAN. EXT.P6: THE TRUE COPY OF THE APPLICATION DATED0604/2012 FILED BY THE PETITIONER BEFORE THE RE-SURVEY ADALATH HEADED BY THE4H RESPONDENT. EXT.P7: THE TRUE COPY OF THE APPLICATION DATED2610/2013 SUBMITTED BY THE PETITIONER BEFORE THE4H RESPONDENT. EXT.P8: THE TRUE COPY OF THE APPLICATION DATED2006/2014 FILED BY THE PETITIONER BEFORE THE3D RESPONDENT. EXT.P9: THE TRUE COPY OF THE REPLY NO. 16/2014 DATED2406/2014 SENT BY THE5H RESPONDENT TO THE PETITIONER UNDER RIGHT TO INFORMATION ACT. EXT.P10: THE TRUE COPY OF THE APPLICATION DATED1601/2015 SUBMITTED BY THE PETITIONER BEFORE THE2D RESPONDENT. RESPONDENT(S)' EXHIBITS: ---------- NIL //TRUE COPY// P.S.TO JUDGE Msv/ P.R. RAMACHANDRA MENON, J.

========== W.P.(C). No. 2177 of 2015 ---------- Dated this the 5th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers: "i. To call for the records leading to the proceedings of the respondents to vacate the petitioner from 8 cents of excess land included in the property covered in Ext.P1 to P5 and issue a writ of certiorari or other appropriate writ order or direction quashing the proceedings against the petitioner in respect of 8 cents of excess land covered in Ext.P1 to P5. ii. To issue a writ of mandamus or other appropriate writ, order or direction commanding the respondents to desist from evicting the petitioner from 8 cents of excess land comprised in Re-Survey No. 532/17, 532/18 and 532/19 in Block No.10 of Mulavana Village included in Ext.P1 to P5 till a final decision is taken by the respondents 3 and 4 in Ext.P6 to P8 application for assignment of the land. iii. To issue a writ of mandamus or other appropriate writ, order or direction commanding the respondents 3 and 4 to take effective steps to assign 8 cents of excess land comprised in Re- Survey No. 532/17, 532/18 and 532/19 in Block No.10 of Mulavana Village included in the property covered in Ext.P1 to P5 to the petitioner within a stipulated time as directed by this Hon'ble Court and till then proceedings of the Respondents for taking over possession of the excess land and construction of the building in the property may be kept in abeyance. iv. To issue a writ of mandamus or other appropriate writ, order or direction commanding the respondents 3 and 4 to consider Ext.P6 to P8 and assign 8 cents of excess land W.P.C. No. 2177 of 2015 -2- comprised in Re-Survey No. 532/17, 532/18 and 532/19 in Block No.10 of Mulavana Village to the petitioner included in the property covered in Ext.P1 to P5 within a stipulated time as directed by this Hon'ble Court and till then proceedings of the Respondents for taking over possession of the excess land and construction of the building in the property may be kept in abeyance. v. To declare that the petitioner is entitled to get assignment of 8 cents of excess land comprised in Re-Survey No. 532/17, 532/18 and 532/19 in Block No.10 of Mulavana Village in Ext.P1 to P5 from the respondents taking into consideration of Ext.P6 to P8 application for Assignment of the land. vi. To issue a writ of mandamus or other appropriate writ, order or direction commanding the respondents to issue a copy of the order or proceedings against the petitioner in respect of the 8 cents of excess land comprised in Re-Survey No. 532/17, 532/18 and 532/19 in Block No.10 of Mulavana Village covered in Ext.P1 to P5 within a stipulated time as directed by this Hon'ble Court and till then proceedings

of the Respondents for taking over possession of the excess land and construction of the building in the property may be kept in abeyance." 2. The learned counsel for the petitioner points out that, the grievance of the petitioner is mainly with regard to the apprehended forceful eviction from the property concerned. It is stated that the petitioner had already moved the 2nd respondent by filing Ext.P10. It is further pointed out that, the property of the petitioner is in the possession of the petitioner from 1965 onwards and that application has already been moved before the concerned authority for assignment of land as borne by Ext.P7. W.P.C. No. 2177 of 2015 -3- It is without any regard to the pendency of above proceedings that the petitioner is sought to be evicted forcefully which made the petitioner to approach this Court for immediate interference.

3. Heard the learned Government Pleader as well.

4. Since the petitioner has already moved the 2nd respondent by filing Ext.P10, this Court finds it fit and proper to cause the same to be considered and disposed of. Accordingly, the 2nd respondent is directed to consider and pass appropriate orders on Ext.P10 in accordance with law, also considering the pending proceedings for assignment of land in question. The proceedings as above shall be finalized, at the earliest, at any rate, within 'three months' from the date of receipt of a copy of this judgment. 'Status quo' shall be maintained till such time. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps. The writ petition is disposed of. P.R. RAMACHANDRA MENON, JUDGE. kp/-

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