

Beebi Vs. Administrator

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Court : Kerala

Decided On : Feb-16-2004

Reported in : 2004(1)KLT1019

Judge : Kurian Joseph, J.

Acts : Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Regulation, 1965 - Regulation 15(1); Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Rules, 1968 - Rule 17

Appeal No. : O.P. Nos. 17583, 17632 and 17698 of 1996

Appellant : Beebi

Respondent : Administrator

Advocate for Def. : S. Radhakrishnan, Adv.

Advocate for Pet/Ap. : T.P. Kelu Nambiar, Sr. Adv.,; P.V. Mohanan,; B.S. Shivaj

Judgement :

Kurian Joseph, J.

1. Petitioners in these cases are aggrieved due to steps taken by the respondents for evicting them from their holdings. It is their case that they have been paying 'quit rent' for the holdings for quite long. It is also their case that if at all they are

liable to be evicted, it can be done only after complying with the procedure under the Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Regulation, 1965 (hereinafter called the Regulation). At the outset it will be profitable to refer to the statutory scheme in the matter of eviction. Regulation 15 reads as follows:-

'15(1) Any person who occupies or continues to occupy any pandaram land without lawful authority shall be regarded as a trespasser and may be summarily evicted therefrom by the competent authority in the prescribed manner and any building or other construction erected or anything deposited on such land, if not removed within such reasonable time as such authority may, from time to time, fix for the purpose, shall be liable to be forfeited to the Government and to be disposed of in such manner as the competent authority may direct provided that the competent authority may, in lieu of ordering the forfeiture of any such building or other construction, order the demolition of the whole or any part thereof. (2) Such trespasser shall also be liable by way of penalty to pay a sum which may extend to six times the annual land revenue assessed on such land as may be specified by the competent authority and such sum shall be recoverable in the same manner as an arrear of land revenue.'

2. Rule 17 of the Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Rules, 1968, (hereinafter called the Rules provides for the manner of eviction, which reads follows:-

' 17(1) Before ordering eviction of a person under Sub-section (1) of Section 15, the competent authority shall issue a notice to him requiring him to show cause within a period to be specified in the notice why he should not be evicted from the land. (2) If the person concerned files an objection within the period specified in the notice or such extended period as may be allowed by the competent authority, it shall hold a summary inquiry in the manner laid down in Schedule-III. (3) If the person concerned files no objection within the time so specified or allowed, or if after inquiry the competent authority Finds that the person is a trespasser, it shall order his eviction and also require him to remove any building or other construction erected, or anything deposited on the land within a time specified in

the order.'

3. A combined reading of the Regulation and the Rules would clearly indicate that once a person is regarded as a trespasser, he can be summarily evicted by the competent authority but only in the prescribed manner. The prescribed manner is provided under the Rules. The mandatory requirements of Rule 17 is that the competent authority has to first issue a notice to the person to be regarded as trespasser requiring him to show cause within a specified period why he should not be evicted from the land. His objection has to be considered by holding an enquiry in the manner provided under Schedule III and if on such enquiry the competent authority finds the person to be a trespasser, then also eviction can be ordered. In other words, before evicting a person on the ground that he is a trespasser, there has to be a due finding on that. Of course, if no objection to the notice is filed, then there is no need for the finding based on the enquiry; the silence is sufficient ground for ordering eviction. Only if a person thus found to be a trespasser does not surrender vacant possession despite an order to do so, the question of removal of any building or other construction arises.

4. Sri. S. Radhakrishnan, learned Standing Counsel for the Lakshadweep Administration submits that the respondents have taken only bona fide and earnest steps to see that trespassers are evicted. But unfortunately as pointed out by the learned Senior Counsel Sri. T.P. Kelu Nambiar the same is not in accordance with the Regulation and the procedure as prescribed under the Rules. Exts.P26, P27 and P28 notices in O.P. No. 17698/96 clearly show that the competent authority had already taken a decision that the petitioners were trespassers even before hearing them. That is unreasonable.

5. In that view of the matter, I do not think it necessary to go into the various other details in all the three cases. The impugned notices are quashed. However, I make it clear that in case the respondents proposes to evict the trespassers, they shall do so only after following the procedure prescribed under the Rules.

The Original Petitions are disposed of as above.

