

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WA.No. 1070 of 2015 () IN WP(C).35777/2008

AGAINST THE JUDGMENT IN WP(C) 35777/2008 DATED 23-09-2014

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APPELLANT/RESPONDENT IN THE WP(C) :

THE TAHSILDAR
MEENACHIL TALUK -3, TALUK OFFICE, MEENACHIL
PALAI

BY SPL. GOVERNMENT PLEADER, SMT.GIRJA GOPAL

RESPONDENT/PETITIONER IN THE WP(C) :

P.L.JOSE
PULICKAL HOUSE, PIRAYAR, KIDANGOOR PO
KOTTAYAM-686 572.

BY ADV. SRI.JOSEPH T.JOHN
SRI.P.BABU KUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 29-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.A. No. 1070 OF 2015

Dated this the 29th day of July, 2015

JUDGMENT

Ashok Bhushan, C.J.

This writ appeal has been filed against the judgment dated 23.09.2014 passed in W.P.(C) No.35777 of 2008 by which the learned Single Judge has directed the respondent to effect transfer of registry of the property in favour of the petitioner within six weeks. It was further observed by learned Single Judge that if any identification or demarcation of the property is required, necessary steps shall be taken to demarcate or identify the property and accept the basic tax from the petitioner. The State aggrieved by the said order has come up with this appeal.

2. From the facts brought on record it appears that 9.250 cents of land claimed by the petitioner was assigned on 19.01.1988 by issuance of purchase certificate. The Tahsildar reported that the land claimed by the petitioner was Government land and the Land Tribunal cancelled the order

dated 19.01.1988. Challenging the said order, O.P. No.5011 of 1989 was filed by the petitioner. This Court set aside the order of Land Tribunal and remanded for fresh final disposal. Thereafter the Land Tribunal restored the original order and the petitioner was directed to remit the price fixed. Petitioner paid the amount But mutation was not effected. In this writ petition, petitioner has sought for the following prayer:

“i. To call for the records leading to Ext.P1 and issue writ of mandamus or any other appropriate writ, order or direction to the 1st respondent to effect transfer of registry of the property in Sy.No.472/4-1-1 of Kidangoor Village, Meenachil Taluk, Kottayam District mentioned in Ext.P1, P2 orders in favour of the petitioner.”

3. The learned Single Judge disposed of the writ petition by judgment dated 23.09.2014. It has been brought to our notice that against the order of Land Tribunal, O.P. No.7313 of 1993 was filed and vide Ext.P3 judgment the writ petition was allowed. Against this Government filed appeal being W.A. No.1825 of 2000 but the same was dismissed for non prosecution. The matter was taken to Apex Court by the State

by filing SLP No.10799 of 2009 which was dismissed on 07.07.2009 and the order was to the following effect :

"The special leave petition is dismissed. However, question of law, if there be any, is left open to be decided in an appropriate case either by the appropriate forum or by this Court."

4. From the aforesaid it is clear that the claim of petitioner had become final even up to Supreme Court. Hence we do not find any error in the order of learned Single Judge directing mutation of the property.

There is no merit in the appeal. Hence the Writ Appeal is dismissed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**

W.A. No. 1070 of 2015

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