

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 1396 of 2015 (Y)

PETITIONER :

**MINI PAPPACHAN, AGED 57 YEARS
PUTHENVEETIL HOUSE, IKKA NAGAR, MUNNAR POST
K.D.H. VILLAGE, DEVIKULAM TALUK,
IDUKKI DISTRICT.**

BY ADV. SRI.S.JIJI

RESPONDENT(S) :

- 1. THE REVENUE DIVISIONAL OFFICER
OFFICE OF THE R.D.O., DEVIKULAM POST,
IDUKKI-685613.**
- 2. THE THAHASILDAR (L.A.),
DEVIKULAM TALUK OFFICE,
DEVIKULAM-685613.**
- 3. THE VILLAGE OFFICER
K.D.H. VILLAGE OFFICE,
DEVIKULAM-685613.**

R1 TO R3 BY GOVT. PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 1396 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT P1: TRUE COPY OF THE AGREEMENT DATED 18.11.2012.
- EXHIBIT P2: TRUE COPY OF THE AGREEMENT DATED 11.1.2007.
- EXHIBIT P3: TRUE COPY OF THE OWNERSHIP CERTIFICATE ISSUED BY THE MUNNAR GRAMA PANCHAYATH DATED 24.11.2010.
- EXHIBIT P4: BUILDING TAX RECEIPT DATED 6.11.2010 OF MUNNAR GRAMA PANCHAYATH.
- EXHIBIT P5: TRUE COPY OF THE BUILDING MODIFICATION PERMIT ISSUED BY THE MUNNAR GRAMA PANCHAYATH DATED 14.2.2011.
- EXHIBIT P6: TRUE COPY OF THE STOP MEMO ISSUED BY THE KDH VILLAGE OFFICER DATED 19.4.2012.
- EXHIBIT P7: TRUE COPY OF THE REPLY GIVEN BY THE SON OF THE PETITIONER.
- EXHIBIT P8: TRUE COPY OF THE APPLICATION DATED 26.4.2012 BEFORE 1ST RESPONDENT.
- EXHIBIT P9: TRUE COPY OF THE OWNERSHIP CERTIFICATE ISSUED BY THE MUNNAR GRAMA PANCHAYATH DATED 11-12-12.
- EXHIBIT P10: TRUE COPY OF THE BUILDING TAX RECEIPT DATED 12-12-12.
- EXHIBIT P11: TRUE COPY OF THE SAID APPLICATION FOR PATTa DATED 22.2.2013.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.1396 of 2015

Dated this the 30th day of March, 2015

JUDGMENT

The delay in considering the application for assignment submitted by the petitioner before the 2nd respondent vide Ext.P4 made the petitioner to approach this Court by filing the writ petition for appropriate relief.

2. A Counter Affidavit has been filed on behalf of the first respondent pointing out that the petitioner is not actually entitled to have the relief sought for, paragraphs 2 and 3 of which read as follows:

"2. It is submitted that the grievance of the petitioner is that the lethargy on the part of the respondents for non-issuance of patta for a piece of land comprised in Survey No.62/9 in KDH Village occupied by the petitioner. The land in question is comprised in Survey No.62/9 of KDH Village in Devicolam Taluk. On verification of the puramboke register of KDH Village, it is found that the Survey No.62/9 in KDH Village is PWD land having an extent of 26.25 Acres. Moreover, the Vigilance and Anti-Corruption Bureau, Eastern Range, Kottayam has registered a case No.VACB/10/13/IDK and conducting an enquiry about land assignments made in Survey No.62/9 in KDH Village. Another fact is that at present no process of issuance of patta is carried on in KDH Village.

3. The petitioner herself had stated that 'the land in question' is a non-patta land and she

purchased the same from one Mr. Ramesh on 11.01.2007 which is absolutely illegal because the vender never had a saleable right over the said land as it is absolutely a Government land especially a Puramboke which is solely earmarked for public purposes. No puramboke lands are assignable. As per KLC Act and KLA Act & Rules only "Tharisu" lands can be assigned. As and when an unauthorised construction was noticed in the Government puramboke land, the Village officials issued stop memo, which is right and legal as per KLC Act."

3. The learned Government Pleader also points out that no application is received till date in the Office of the Tahsildar, Land Assignment, Devikulam as stated in paragraph 5 and further that the land in question is reserved for public purposes only and marked as puramboke in the puramboke register of KDH Village, which is stated as not assignable.

4. The version is sought to be rebutted by the learned counsel for the petitioner stating that, a Mahazar has already been prepared by the 2nd respondent and that similarly situated lands in the nearby properties have been assigned in favour of the beneficiaries. It is stated that the extent involved is only about 5 cents and that the petitioner has been given the Occupancy Certificate by the concerned local authority as borne by Ext.P9.

5. The learned Government Pleader points out with reference to the contents of Ext.P11 submitted by the petitioner herself that the assignment sought for is only for beneficial enjoyment of some other properties as stated against Column No.15 and the circumstance under which assignment has already been made in the case of others stands on a different footing. This Court does not intend to deal with the merits of the case involved.

6. In the circumstances, the writ petition is disposed of, directing the competent authority to consider and pass appropriate orders on Ext.P11, after hearing the petitioner, at the earliest, at any rate, within 'three months' from the date of receipt of a copy of this judgment. All issues are left open.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the concerned respondents, for further steps.

The writ petition is disposed of.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

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