

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

WP(C).No. 16945 of 2006 (P)

PETITIONER(S):

1. **VILASINI.T.S. W/O.K.R.CHANDRAN,**
AGED 53 YEARS, H.NO.X/60, OLD NO.X/537,
KARAKKATU HOUSE, DEVIKULAM P.O., IDUKKI DISTRICT.
2. **K.R.CHANDRAN, S/O.RAGHAVAN,**
AGED 62 YEARS, H.NO.X/60, OLD NO. X/537,
KARAKKATTU HOUSE, DEVIKULAM P.O., IDUKKI DISTRICT.

BY ADVS.SRI.N.M.VARGHESE
SRI.ROY THOMAS

RESPONDENT(S):

1. **STATE OF KERALA TO BE REPRESENTED BY**
THE ADDITIONAL CHIEF SECRETARY TO GOVERNMENT,
REVENUE (R) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.
2. **THE DISTRICT COLLECTOR,**
IDUKKI DISTRICT, COLLECTORATE,
KUYILIMALA, IDUKKI.
3. **THE SUB COLLECTOR,**
DEVIKULAM, IDUKKI DISTRICT.
4. **THE TAHSILDAR, DEVIKULAM TALUK,**
DEVIKULAM, IDUKKI DISTRICT.
5. **THE VILLAGE OFFICER,**
KANAN DEVAN HILLS VILLAGE, DEVIKULAM,
IDUKKI DISTRICT.

BY GOVERNMENT PLEADER SRI.MANOJ P. KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE RELEVANT PAGES OF THE RATION CARD OF THE PETITIONER'S FAMILY**
- P2 COPY OF THE ELECTORAL CARD OF THE PETITIONER'S FAMILY DATED 13/10/2001**
- P3 COPY OF THE POSSESSION CERTIFICATE NO.K.DIS 2239/1992/B7 DATED 10/4/1992 ISSUED BY THE 4TH RESPONDENT IN THE NAME OF THE PETITIONER.**
- P4 COPY OF THE RESIDENTIAL CERTIFICATE NO.L.DIS.938/90/B7 DATED 31/1/1990 ISSUED BY THE 4TH RESPONDENT IN THE NAME OF THE 2ND PETITIONER.**
- P5 COPY OF THE MEMORANDUM DATED 3/11/1993 SUBMITTED BY THE 2ND PETITIONER AND 55 OTHERS BEFORE THE 1ST RESPONDENT GOVERNMENT**
- P6 COPY OF THE GOVERNMENT COMMUNICATION NO.1638/A2/96/RD DATED 01/2/1996**
- P7 COPY OF THE JUDGMENT OF THIS HON'BLE COURT PASSED IN WP(C). NO.17099/2005-1 DATED 19/1/2006**
- P8 COPY OF THE REPRESENTATION DATED 27/3/2006 SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT**
- P9 COPY OF THE COMPLAINT DATED 6/3/2006 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 3RD RESPONDENT**
- P10 COPY OF THE ORDER NO.C2-37387/2005 DATED 30/5/2006 PASSED BY THE 2ND RESPONDENT AND COMMUNICATED TO THE PETITIONERS.**
- P11 COPY OF THE STUDY REPORT NO.G4-814 DATED 6/9/1972 SUBMITTED BY THE 2ND RESPONDENT BEFORE THE 1ST RESPONDENT GOVERNMENT**
- P12 COPY OF THE GOVERNMENT ORDER NO.6053/U2/1973/RD DATED 18/8/1974 ADDRESSING THE 2ND RESPONDENT**
- P13 COPY OF THE APPEAL MEMORANDUM SUBMITTED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT DATED 19/6/2006**
- P14 COPY OF THE RELEVANT PAGES OF THE RATION CARD OF OUR FAMILY COMMENCING FROM 1985-86**

WP(C).NO.16945/2006

P15 COPY OF THE FRONT PAGE OF PRESENT RATION CARD

P16 COPY OF THE SURVEY PLAN OF PROPERTIES COMPRISED IN SURVEY NO.20 AND 155 OF KANAN DEVAN HILLS VILLAGE PREPARED AND ISSUED IN CERTIFIED COPY BY THE DIRECTOR OF SURVEY AND LAND RECORDS TO ANOTHER PARTY.

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

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K. VINOD CHANDRAN, J.

W.P.(C) No. 16945 of 2006 (P)

Dated this the 27th day of July, 2015

J U D G M E N T

The petitioners are aggrieved with the rejection of the assignment sought for by Ext.P10.

2. The petitioners' contention is that the petitioners had in their possession 70 cents of land in Sy.No. 152/2 of Kanan Devan Hills Village (K.D.H.Village), Devikulam Taluk. The petitioners herein possessed the said property for the last 33 years. When the petitioner was sought to be evicted from the property, she approached this Court with a writ petition, which was decided by Ext.P7. The 3rd respondent in the said case filed a counter affidavit in which it was stated that though the petitioner was in possession of 50 cents of land earlier, recently she had encroached into another 50 cents and the assignment sought is of that land. This Court kept the eviction in abeyance and directed that the assignment of 50 cents of land, which was in their possession, would be considered by the District Collector.

3. The petitioners are said to have approached the District Collector with an application as provided in Ext.P8, wherein it was stated that the 70 cents of land, she possessed, is in Sy. No. 155/2. The District Collector by Ext.P10 considered the issue in detail and rejected the claim. Ext.P10 found that the petitioners' residence was in 50 cents of land in Sy.No.20/1 of K.D.H. Village, Devikulam and the present assignment sought for, is of 70 cents of property in Sy.No.155/2 of K.D.H. Village, which was encroached in the year 2005. It was also specifically found that the Kanan Devan Hills (Resumption of Lands) Act 1971 and Kanan Devan Hills (Reservation and Assignment of Vested Lands) Rules 1977 vests the said lands with the Government and none can claim assignment of the same under the Kerala Land Assignment Rules.

4. This Court does not find any infirmity in Ext.P10 especially since the specific contention of the petitioner was with respect to the assignment of land in Sy.No.152/2. The

petitioners have considerably changed the identity of the property by claiming under Sy.No.155/2. The petitioner however says that an appeal has been filed, as evidenced by Ext.P13. Only if the appeal, said to have been filed as per Ext.P13, is instituted properly and pending consideration, the same should be dealt with immediately within a period of one month from the date of this judgment. However, if no such appeal is filed before the Appellate Authority, then the petitioner would not have any remedy of filing a fresh appeal, since stay granted in the above writ petition was only with respect to the eviction and not the consideration of the appeal.

Writ petition hence would stand dismissed leaving liberty only to prosecute the appeal at Ext.P3, if instituted properly and is still pending.

Sd/-
K.VINOD CHANDRAN,
JUDGE