

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 8146 of 2015 (P)

PETITIONERS :

1. JOSEPH P.A., AGED 45 YEARS,
S/O.JOSEPH ANTONY, PATTATHIL HOUSE,
THAYAMKARI P.O.EDATHUA, ALAPPUZHA DISTRICT.
2. OUSEPH ANTONY,
S/O.JOSEPH P. A., PATTATHIL HOUSE,
THAYAMKARI P.O., EDATHUA, ALAPPUZHA DISTRICT.
3. VARGHESE ANTONY,
S/O.JOSEPH ANTONY, PATTATHIL HOUSE,
THAYAMKARI P.O., EDATHUA, ALAPPUZHA DISTRICT.

**BY ADVS.SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW
SRI.SUNIL KUMAR A.G**

RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY THE REVENUE SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
PIN - 695 001.
2. REVENUE DIVISIONAL OFFICER,
ALAPPUZHA.

R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF BASIC TAX RECEIPT DATED 15/05/2013.
- EXT.P2: TRUE COPY OF BASIC TAX RECEIPT DATED 15/05/2013.
- EXT.P3: TRUE COPY OF SALE DEED NO. 2184 DATED 27/08/2008 OF SUB REGISTRAR OFFICE, AMBALAPPUZHA.
- EXT.P4: TRUE COPY OF ORDER NO. 1598/2014/K.DIS DATED 28/05/2012 OF 2ND RESPONDENT.
- EXT.P5: TRUE COPY OF ORDER NO. 1600/12/K.DIS DATED 28/05/2012 OF 2ND RESPONDENT.
- EXT.P6: TRUE COPY OF ORDER DATED 10/03/2015 ON 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 8146 of 2015

Dated this the 24th day of March, 2015

JUDGMENT

The petitioners have approached this Court with the following prayers:

"I. To issue a writ of certiorari or any other appropriate writ, direction or order calling for the records culminated in the passing of Ext.P6 order and quash the same.

ii. To issue such other order or direction as this Hon'ble Court deems fit and proper to grant."

2. Heard the learned counsel for the petitioners as well as the learned Government Pleader for the respondents, who points out that after obtaining necessary permit for effecting construction of a residential building in the property, reclamation was effected and instead of constructing the residential building, the petitioners made use of the property for some industrial activities which is forbidden as per the statute. The learned counsel for the petitioners however disputes the correctness of the said submission.

3. When the matter came up for consideration before this Court on 13.3.2015 the following interim order was passed:

"GP to get instructions. Restoration ordered as per Ext.P6 shall be kept in abeyance for a period of two weeks.

No industrial activity shall be pursued by the petitioners in the concerned property under any circumstance.”

4. After hearing both the sides and going through the materials on record, this Court finds that Ext.P6 order has been passed by the 2nd respondent herein ordering restoration of the property as a paddy land invoking the power under Section 13 of the Act 28 of 2008. After going through the scheme of statute, this Court finds that the competent authority to deal with the matter is none other than the District Collector and no power is vested with the 2nd respondent to invoke the power and procedure under Section 13 to order restoration. In the said circumstance, Ext.P6 is set aside, without prejudice to the rights and liberties of the competent authority to reconsider the matter and pass appropriate orders in accordance with law, after issuing notice to the petitioners, at the earliest, at any rate, within 'three months' from the date of receipt of a copy of this judgment. Interim order passed on 13.03.2015 will continue till such time. The petitioners 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.**