

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

WEDNESDAY, THE 24TH DAY OF JUNE, 2015/3RD ASHADHA, 1937

WP(C).No. 25858 of 2005 (C)

PETITIONER(S):

1. P.MOIDEEN KUTTY,
S/O.LAILAMMA ANND ABDUL RAHIMAN,
CHEMNAD FERRY ROAD,
PULIKUNNU, THALANGARA VILLAGE, KASARAGODE.
2. SMT.MAIMOONA, W/O.HABEEB,
CHEMNAD FERRY ROAD, PULIKUNNU, THALANGARA VILLAGE,
KASARAGODE.

BY ADV. SRI.P.K.MUHAMMED

RESPONDENT(S):

1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT OF KERALA,
LOCAL ADMINISTRATIVE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.
2. THE SPECIAL TAHSILDAR (A), KASARAGODE.
3. THE TAHSILDAR, KASARAGODE.
4. KASARAGOD MUNICIPALITY,
REP. BY THE SECRETARY, MUNICIPAL OFFICE, KASARAGODE.

R1 TO R3 BY GOVERNMENT PLEADER, SRI.ABHIJITH LESLIE
,R4 BY ADV. SRI.V.M.KURIAN, STANDING COUNSEL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24.06.2015 , THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

APPENDIX

PETITIONERS' EXHIBITS:

- EXT.P1 TRUE COPY OF THE LEASE ORDER ISSUED IN THE NAME OF 1ST PETITIONER'S MOTHER BY SOUTH CANARA DISTRICT BOARD DATED 21.3.1939.
- EXT.P2 TRUE COPY OF THE ORDER PASSED BY THE REVENUE DIVISIONAL OFFICER, KASARAGODE IN K. DIS.4735/1965 DATED 27.12.1965.
- EXT.P3 TRUE COPY OF THE JUDGMENT PASSED BY THE HON'BLE HIGH COURT IN O.P.NO.3948/1972 DATED 01.07.1974.
- EXT.P4 TRUE COPY OF THE LETTER ADDRESSED BY THE 4TH RESPONDENT TO THE 1ST RESPONDENT DATED 17.9.2004.
- EXT.P5 TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT TO THE 1ST PETITIONER DATED 06.06.2001.
- EXT.P6 TRUE COPY OF THE RECEIPT FOR PAYMENT OF PROPERTY TAX TO THE 4TH RESPONDENT DATED 01.08.2000.
- EXT.P7 TRUE COPY OF THE RECEIPT FOR PAYMENT OF PROPERTY TAX TO THE 4TH RESPONDENT DATED 17.06.2005.
- EXT.P8 TRUE COPY OF THE RECEIPT ISSUED IN THE NAME OF 1ST PETITIONER'S MOTHER LILAMMA FOR PAYMENT OF BASIC TAX UNDER MIS PATTAN NO.12 DATED 2.3.1966.
- EXT.P9 TRUE COPY OF THE RECEIPT OBTAINED BY THE 1ST PETITIONER FOR PAYMENT OF ELECTRICITY CHARGES DATED 22.04.2005.
- EXT.P10 TRUE COPY OF THE RECEIPT FOR PAYMENT OF WATER CHARGES DATED 01.02.2005.
- EXT.P11 TRUE COPY OF THE TELEPHONE BILL ISSUED IN THE NAME OF 2ND PETITIONER DATED NIL.
- EXT.P12 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE HON'BLE REVENUE MINISTER DATED 31.3.1993.
- EXT.P13 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE CHIEF MINISTER OF KERALA DATED 19.11.2004.
- EXT.P14 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE CHIEF MINISTER OF KERALA DATED 25.07.2005.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

St/-

SHAJI P. CHALY, J.

W.P.(C) No.25858 OF 2005

Dated this the 24th day of June, 2015

JUDGMENT

This writ petition is filed by the petitioner seeking to implement Ext.P2 order of the Revenue Divisional Officer, Kasaragod, bearing No.K.Dis.4735/65 dated 27.12.1965. By Ext.P2 order, the R.D.O. has found that the 1st petitioner is in occupation of the land for more than 30 years and the land occupied by the 1st petitioner is comprised in the portion denoted as R.S.No.13/4. The order further reads that the entire land cannot be assigned in favour of the 1st petitioner and the 1st petitioner is entitled to get only that portion lying to the west of the line connecting F-line 214 with the western boundary of R.S.No.14/9 along with a rider that the 1st petitioner leaves the remaining portion of the land which is required for widening of the road. It was further directed in the order *supra* to assign the land in favour of the 1st petitioner after consulting the local authority with whom the adjacent road is vested.

2. Heard the learned counsel for the petitioner, learned Standing Counsel for the Municipality and the learned Government Pleader.

3. It is seen that as per Ext.P4 dated 17.09.2002, the 4th Respondent Municipality has issued a communication to the Government Secretary, Local Administration Department, stating that they have no objection in assigning 6 cents of land in favour of the 1st petitioner, leaving apart 2 cents of land for the development of the road.

4. I have considered the rival submissions and perused the documents produced along with the writ petition and found that Ext.P2 order passed by the R.D.O has become final and therefore it is only just and proper that the directions contained in the order to the Special Tahsildar (A) to assign land in favour of the 1st petitioner is ordered to be implemented.

5. Therefore, there will be a direction to the 2nd Respondent, Special Tahsildar (A), Kasaragode to assign the land mentioned in Ext.P2 order of the R.D.O in favour of the 1st petitioner, in whose favour the assignment is directed to be granted, within a period of 45 days from the date of receipt of a copy of this judgment.

The writ petition is disposed of accordingly. In the facts and circumstances of the case, no order as to costs.

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.S. to Judge

St/-

