

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 30120 of 2015 (L)

PETITIONER(S)/PETITIONER:

1. SATHISH BABU, AGED 68 YEARS
S/O LATE RAMA, R/AT DOOR NO.MGP.15/88, CAR STREET
HOSABETTU VILLAGE, MANJESHWAR
KASARAGOD TALUK AND DISTRICT.
2. SANTHA, AGED 64 YEARS
W/O.SATHISH BABU, R/AT DOOR NO.MGP.15/88, CAR STREET
HOSABETTU VILLAGE, MANJESHWAR
KASARAGOD TALUK AND DISTRICT.

BY ADV. SRI.KODOTH SREEDHARAN

RESPONDENT(S)/RESPONDENTS:

1. MANJESWAR GRAMA PANCHAYATH,
MANJESHWAR-671328.
2. SECRETARY,
MANJESHWAR GRAMA PANCHAYATH, MANJESHWAR-671328.
3. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY
LOCAL SELF GOVERNMENT DEPARTMENT, GOVT.SECRETARIAT
THIRUVANANTHAPURAM-1.
4. TAHSILDAR, (LA) ,
KASARAGOD-671121.
5. MEERA.R.BHAT,
W/O.REGUNATHA BHAT, R/AT DOOR NO.MGP.15/92
RAMANATHA KRIPA, HOSABETTU VILLAGE, MANJESHWAR
KASARAGOD TALUK AND DISTRICT.

R1,R2 BY ADV. SRI.T.B.SHAJIMON
R5 BY ADV. SRI.R.LAKSHMI NARAYAN
R5 BY ADV. SMT.R.RANJINI
R3 & R4 BY ADV.K.A.SANJEETHA,GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
14-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S) ' EXHIBITS

P1 TRUE COPY OF THE SALE DEED NO.523/1982 SRO MANJESHWAR IN FAVOUR OF THE PETITIONERS
P2 TRUE COPY OF TAX RECEIPT TAX DT.27/12/1988 BY THE 1ST RESPONDENT
P2(A) TRUE COPY OF TAX RECEIPT DT.25/7/2001 BY THE 1ST RESPONDENT
2(B) TRUE COPY OF THE TAX RECEIPT DT.07/01/2013 BY THE 1ST RESPONDENT
P3 TRUE COPY OF THE ASSESSMENT REGISTER IN RESPECT OF THE BUILDING IN THE PROPERTY FOR PERIOD FROM 1/4/1992 TO 31/03/1997
P4 TRUE COPY OF ASSESSMENT LIST IN RESPECT OF THE BUILDING IN THE PROPERTY FOR PERIOD FROM 1/4/1997 TO 31/3/2002
P5 TRUE COPY OF THE JUDGMENT IN WP(C)30922/2007 BY THIS HON'BLE COURT DATED 18/10/2007
P6 TRUE COPY OF THE RESOLUTION DATED 21.6.2010 PASSED BY THE 1ST RESPONDENT
P7 TRUE COPY OF THE LETTER SENT TO THE GOVERNMENT BY THE PANCHAYATH DATED 04.09.2010
P8 TRUE COPY OF LIST PREPARED BY THE TAHSILDAR FOR ASSIGNMENT THE LAND TO THE PETITIONERS
P9 TRUE COPY OF THE JUDGMENT IN WP(C)NO.1938/2014 BY THIS HON'BLE COURT DATED 30.06.2015
P10 TRUE COPY OF THE NOTICE DT.20/8/2015 ISSUED BY THE 1ST RESPONDENT.
P11-true copy of the appeal memorandum filed before the first respondent by the petitioners

RESPONDENT(S) ' EXHIBITS

ANNEXURE R2(A)-THE PHOTOSTAT COPY OF THE RECORDS OF TAKING POSSESSION DATED 1.10.2015.

ANNEXURE R2(B)-PHOTOSTAT COPY OF THE COMPLAINT FILED ON BEFORE THE MANJESHWAR POLICE STATION

ANNEXURE R2(C)-PHOTOCOPY OF THE RECORDS OF SEALING THE PREMISES DATED 9.10.2015

TRUE COPY

SKS

P.A TO JUDGE

V.CHITAMBARESH, J.

W.P(C)NO. 30120 OF 2015

Dated this the 14th day of October, 2015

JUDGMENT

Ext.P10 notice for eviction issued by the 2nd respondent is impugned in Ext.P11 appeal with the first respondent. The petitioner has purportedly invoked Sec.276 of the Kerala Panchayath Raj Act, 1994 in filing the appeal. The 5th respondent has a contention that Ext.P11 appeal is not maintainable in law with the first respondent. The maintainability of the appeal or merits of the same are matters to be considered by the first respondent.

2. I direct the first respondent to consider Ext.P11 appeal with notice to the petitioners and respondents 2 to 5. The same shall be done within a period of two months from the date of receipt of a copy of this judgment.

3. The petitioners have a contention that they are entitled for assignment of the land on registry owing to continued possession. It is their further case that such summary proceedings for eviction should not be resorted to

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when there is a bonafide dispute of title.

4. The fact that proceedings for assignment of the land are pending has been taken note of in Ext.P9 judgment. It will be inequitable therefore for me to pronounce on that aspect in this subsequent writ petition. It is clarified that the entitlement of the petitioners for assignment on registry is left open to be agitated in the writ appeal proposed to be filed against Ext.P9 judgment.

5. The parties are at variance as to whether the petitioners were evicted from the property pursuant to Ext.P9 judgment or not. I therefore direct the status-quo to be maintained till Ext.P11 appeal is disposed of by the first respondent as directed above.

The writ petition is disposed of as above.

V.CHITAMBARESH, JUDGE

sks

