

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

WP(C) .No. 34915 of 2015 (L)

PETITIONER(S) :

HAMZA,
S/O.MOHAMMED HUSSAIN, ANTHIRATHODI,
CHAKKUNGAL PARAMBU,
OTTAPPALAM TALUK.

BY ADV. SRI.H.BADARUDDIN.

RESPONDENT(S) :

1. THE TAHSILDAR,
OTTAPPALAM TALUK, PALAKKAD DISTRICT-679 101.
2. THE ADDITIONAL TAHSILDAR,
OTTAPPALAM TALUK, PALAKKAD DISTRICT-679 101.
3. THE VILLAGE OFFICER,
POOKKOTTUKAVU, OTTAPPALAM TALUK,
PALAKKAD DISTRICT-679 101.
4. UNION OF INDIA,
REPRESENTED BY SECRETARY TO THE CENTRAL GOVERNMENT OF INDIA,
MINISTRY OF FORESTS, NEW DELHI-110 001.
5. THE DIVISIONAL FOREST OFFICER,
PALAKKAD, PIN-679 001.

R4 BY ADV. SRI.A.R.GANGADAS, CGC
BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
BY GOVERNMENT PLEADER SMT.C.K.SHERIN
BY SRI.M.P.MADHAVANKUTTY, SPL. GOVT. PLEADER FOR FOREST

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS:

- EXT. P1 : TRUE COPY OF THE POWER OF ATTORNEY OF THE PRINCIPAL SIGNED BY SANKARANARAYANAN, NANIKUTTY AMMA, REMANI, BALAMANI AND UNNINARAYANAN.
- EXT. P2 : TRUE COPY OF THE SEPARATE POWER OF ATTORNEY BY SRI.P.K.KUTTAPPAN NAIR TO THE PETITIONER.
- EXT. P3 : TRUE COPY OF THE ORDER IN OA 191/1981 BEFORE THE FOREST TRIBUNAL, PALAKKAD DT.27-10-1984.
- EXT. P4 : TRUE COPY OF THE JUDGMENT IN MFA 188/1985 DT.20-9-1990 BY THIS COURT.
- EXT. P5 : TRUE COPY OF THE JUDGMENT IN WPC 21680/2008 DT.30-9-2008 BY THIS COURT.
- EXT. P6 : TRUE COPY OF THE REPRESENTATION DT.21-4-2015 MADE BY THE PETITIONER BEFORE THE ADDITIONAL TAHSILDAR, OTTAPPALAM.
- EXT. P7 : TRUE COPY OF THE CERTIFICATE DT.27-3-2015 ISSUED BY DIVISIONAL FOREST OFFICER, PALAKKAD.
- EXT. P7A : TRUE COPY OF THE SURVEY SKETCH.
- EXT. P8: TRUE COPY OF THE REPORT DT.4-5-2015 MADE BY THE VILLAGE OFFICER BEFORE THE 1ST AND 2ND RESPONDENTS.

RESPONDENT(S) ' EXHIBITS:

NIL.

/TRUE COPY/

P.A. TO JUDGE

rvs.

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 34915 of 2015

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Dated this the 17th day of December, 2015

J U D G M E N T

The petitioner has approached this Court for following reliefs:

“i. to issue a writ of mandamus or any other appropriate order or direction directing the respondents 1 to 3 to collect the land tax from the petitioner and issue the possession certificate to him of his Principals for the property that mentioned in Exts.P6, P7 and P7(a) as expeditiously as possible in a time framed manner, untrammelled by the stigma in Ext.P7 by considering in Ext.P6 representation.

and

ii. to grant such other and further reliefs as that are warranted under the law has this Hon'ble Court may deem fit and proper in the circumstances of this case.”

2. As seen from Ext.P7, the land referred therein is excluded from the purview of Kerala Private Forest (Vesting and Assignment) Act 1971 as per the judgment of Forest Tribunal dated 27.10.1984. However the petitioner submits that in spite of above judgment, the land tax is not accepted and also the possession certificate is not issued to the petitioner.

3. This Court is of the view that in the light of Ext.P7 certificate the land tax shall be accepted and possession

certificate shall be issued to the petitioner. However the question relating to the use for non forestry purpose is left open as no such prayer is made before this Court. If the petitioner is otherwise entitled the land for use of non forestry purpose, certainly the petitioner can use the land for non forestry purpose only in accordance with the law. The writ petition is disposed of leaving open the question relating to non forestry purpose.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE