

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMMED MUSTAQUE

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

WP(C).No. 35687 of 2015 (I)

PETITIONER:

E.S.MEERAN, AGED 55 YEARS, S/O.SAIDU,
ERACKAL HOUSE, PIDAVOOR KARA,
VARAPPETTY VILLAGE, KOTHAMANGALAM TALUK,
ERNAKULAM DISTRICT.

BY ADVS.SRI.SIRAJ KAROLY
SRI.R.PARAMESWARA IYER

RESPONDENTS:

1. THE REVENUE DIVISIONAL OFFICER,
MUVATTUPUZHA, REVENUE DIVISIONAL OFFICE,
VAZHAPPILLY P.O., MUVATTUPUZHA.
2. THE TAHSILDAR, KOTHAMANGALAM,
TALUK OFFICE, KOTHAMANGALAM.
3. THE VILLAGE OFFICER, VARAPPETTY VILLAGE,
VILLAGE OFFICE, P.O.VARAPPETTY
KOTHAMANGALAM.
4. VARAPPETTY GRAMA PANCHAYATH
REPRESENTED BY SECRETARY,
GRAMA PANCHAYATH OFFICE,
VARAPPETTY P.O., KOTHAMANGALAM.
5. DISTRICT COLLECTOR, ERNAKULAM,
CIVIL STATION, KAKKANAD, KOCHI - 30.

BY SPECIAL GOVERNMENT PLEADER SRI. P.K. SOYUZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 : TRUE COPY OF THE TITLE DEED DATED 14.7.2011
- EXT.P1(a) : TRUE COPY OF THE TITLE DEED DATED 17.11.2011
- EXT.P2 : TRUE COPY OF THE TAX RECEIPT DATED 31.10.2012
- EXT.P3 : TRUE COPY OF THE POSSESSION CERTIFICATE DATED 11.1.2013
OF THE PROPERTY ISSUED BY THE IST RESPONDENT
- EXT.P3(a) : TRUE COPY OF THE POSSESSION CERTIFICATE DATED 24.11.2007
- EXT.P4 : TRUE COPY OF THE PHOTOGRAPHS SHOWING THE LIE OF THE
PROPERTY
- EXT.P5 : TRUE COPY OF THE PRIOR TITLE DEED OF THE PROPERTY DATED
6.6.1988
- EXT.P6 : TRUE COPY OF THE PERMIT DATED 13.10.1989
- EXT.P7 : TRUE COPY OF THE RELEVANT PAGES OF THE DATA BANK
PREPARED BY THE AUTHORITY
- EXT.P8 : TRUE COPY OF THE BUILDING PERMIT DATED 8.2.2013
- EXT.P9 : TRUE COPY OF THE COMPLAINT DATED 30.11.2011
- EXT.P9(a) : TRUE COPY OF THE COMPLAINT DATED 17.12.2011
- EXT.P9(b) : TRUE COPY OF THE FIR DATED 2.12.2011
- EXT.P10 : TRUE COPY OF THE ORDER ISSUED BY THE IST RESPONDENT
DATED 16.2.2013
- EXT.P11 : TRUE COPY OF THE ORDER DATED 2.3.2013
- EXT.P12 : TRUE COPY OF THE APPLICATION SUBMITTED BY THE
PETITIONER DATED 6.3.2013
- EXT.P13 : TRUE COPY OF THE JUDGEMENT IN WPC NO.5808/13 DATED
10.4.2013
- EXT.P14 : TRUE COPY OF DATED 20.6.2013
- EXT.P15 : TRUE COPY OF THE APPLICATION DATED 9.10.2015

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 35687 of 2015

Dated this the 25th day of November, 2015

J U D G M E N T

Petitioner claims to be the absolute owner and in possession of 22.5 cents of dry land comprised in Sy.No.474 and 475 of Varapetty village in two sub divisions. He submits that the land covered under property lying in Sy.No.474 is garden land as per the revenue records whereas the authorities say that the land admeasuring 11.56 cents in Sy.No.475 is 'Nilam' in revenue records. According to him, he applied for a building permit from the local body to construct a commercial building. Fourth respondent issued a building permit, which is marked as Ext.P8. According to him, he started the construction as per the building permit. Now, the petitioner is served with a prohibitory order by the third respondent to stop the construction of the building. Ext.P10 is the order issued by the third respondent. The fourth respondent/Panchayat cancelled Ext.P8

permit by issuing Ext.P11 order. Petitioner submitted an application for rectification in the BTR regarding categorization of land. Ext.P12 is the application. Petitioner approached this Court by filing W.P(C) No.5808 of 2013 for quashing Exts.P10 and P11 orders and this Court passed the following directions:-

“5. After hearing both the sides, the writ petition is disposed of directing the 1st respondent to inspect the property and report to the 3rd respondent as to the physical nature of the property as on date, with notice to the parties. This shall be done at the earliest, at any rate, within 'one month' from the date of receipt of a copy of this judgment. On receipt of the report as above, the Tahsildar shall consider Ext.P12 application preferred by the petitioner and pass appropriate orders in accordance with law, after giving an opportunity of hearing to the petitioner as well. This shall be done within a further period of one month. It is made clear that the petitioner is free to approach the 4th respondent/Panchayat for necessary clearance to effect the construcion, if the order to be passed by the 3rd respondent turns to be in favour of the petitioner.”

According to the petitioner, as per the directions of this Court, Ext.P12 was considered by the Tahsildar and he informed the petitioner that he has no authority to consider the application as per the order of the

Land Revenue Commissioner dated 25.5.2013 and as such, he had forwarded the report for necessary action to the Revenue Divisional Officer, Muvattupuzha. The communication received from the Tahsildar, Kothamangalam is marked as Ext.P14. It is stated by the petitioner that aggrieved by this, petitioner again approached this Court for review of Ext.P13 judgment by way of R.P.No.858 of 2014 and this Court disposed of the same, recalling Ext.P13 judgment and to pass a fresh judgment to the effect that the review petitioner may take suitable steps for redressal of his complaint by approaching appropriate authority. Accordingly, the petitioner submitted an application (Ext.P15) under clause 6 of the Kerala Land Utilization Order, 1967 (hereinafter referred to as 'the Order') to the first respondent/the R.D.O., Muvattupuzha.

2. In view of the claim of the petitioner, the case shall be considered under Clause 6 of the Order by the first respondent, after verifying the draft data bank to find out whether the property of the

petitioner is a paddy or wet land under the Act 28 of 2008. If the land is not classified as above, necessarily, the application of the petitioner shall be considered under Clause 6 of the Order for utilizing other purposes. Needful shall be done within a period of two months from the date of receipt of a copy of this judgment, after issuing notice to the petitioner.

This writ petition is disposed of as above.

sd/-

A.MUHAMED MUSTAQUE,
Judge

MBS/

