
(2012) 07 KL CK 0337

In the High Court Of Kerala

Case No : Writ Petition (C) No. 9058 of 2012

Asharaf

APPELLANT

Vs

Eramala Grama Panchayat

RESPONDENT

Date of Decision : 06-07-2012

Acts Referred:

Citation : (2012) 3 KLJ 849 : (2012) 3 KLT 323

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : K. Mohanakannan, A.R. Pravitha and Rashmi Ravindran, for the Appellant; Asok M. Cheriyan and Government Pleader (M. Mohammed Shafi), for the Respondent

Judgement

Antony Dominic

1. Heard the counsel for the petitioners and the learned counsel appearing for the Panchayath. Challenge in this Writ Petition is against Ext.P7. Briefly stated the facts of the case are that the petitioners made an application for a building permit to the first respondent Panchayath. That application was initially rejected by Ext.P4 order stating that the land comprised in survey Nos. 56/4 and 7 in Eramala Village mentioned in the application was a Nanja land. Petitioner challenged that order before this Court in W.P.(C)No. 26665/2011. That Writ Petition was disposed of by Ext.P6 judgment, clarifying that even if in the records, the property is described as a paddy field, the Secretary should be guided by the ground realities. On that basis, the order was quashed and the matter was ordered to be reconsidered.

2. Accordingly, a committee including the Secretary, Village Officer, Agricultural Officer and the Assistant Engineer, LSGD inspected the site. Thereafter, Ext.P7 order was passed rejecting the application once again. In Ext.P7, it is stated that the land was a paddy field, which was converted two years back and planted with coconut saplings of one year old. It is stated that in view of Ext.P8 circular, the request of the petitioners cannot be granted. It is challenging Ext.P7, this Writ

Petition is filed. A reading of Ext.P7 gives the impression that according to the respondents, the land was converted in violation of the provisions of Act 28 of 2008. However, to apply the provisions of the said Act, the land should be included in the Data Bank. Ext.P5 is the Data Bank prepared under the provisions of the Act and it is not disputed by even the respondents that the Data Bank does not include the property in question. If that be so, the Act cannot apply and therefore, the ground mentioned in Ext.P7, can be no reason for rejecting the application.

Therefore, I set aside Ext.P7 and direct that the application made by the petitioners shall be reconsidered and orders granting permits shall be issued, at any rate, within four weeks from the date of production of a copy of this judgment. Writ Petition is disposed of as above.