
(2021) 01 KL CK 0199

In the High Court Of Kerala

Case No : Writ Petition (C) No. 27544 Of 2020

Biju. K And Ors

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 06-01-2021

Acts Referred:

Kerala Stamp Act, 1959 — Section 28(A)

Citation : (2021) 01 KL CK 0199

Hon'ble Judges : Anil K. Narendran, J

Bench : Single Bench

Advocate : Shoby K. Francis, Vidhya

Final Decision : Disposed Of

Judgement

1. Petitioners, who are the owners of 20 cents of land in Re-Survey Sub-Division No.414/1 in Mulloorkkara Village of Talappilly Taluk in Thrissur District, out of 30 cents covered by Ext.P1 sale deed bearing No.1780/2008 dated 17.06.2008 of the Sub Registrar Office, Chelakkara, has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of mandamus commanding respondents 4 and 5 to submit reports to the 2nd respondent forthwith to enable the 2nd respondent to consider and dispose of Ext.P3 appeal filed against the notification of land value issued under Section 28A of the Kerala Stamp Act, 1959; a writ of mandamus commanding the 2nd respondent to consider and dispose of Ext.P3 appeal after hearing the petitioners within a time limit, taking into account the reports filed by respondents 4 and 5 in the matter; and a writ of mandamus commanding the 2nd respondent to consider and dispose of Ext.P3 appeal taking into account the fact that Ext.P1 property is classified as "garden land without vehicular access" and directing to revise the fair value in accordance with the above classification and to issue an erratum notification to that effect.

2. Heard the learned counsel for the petitioners and the learned Government Pleader appearing for the respondents.

3. Against the notification fixing the land value under Section 28A of the Kerala Stamp Act, the petitioners filed Ext.P3 appeal before the 2nd respondent District Collector, which is pending consideration. In Ext.P2 appeal, the 5th respondent submitted Ext.P5 mahazar dated 11.05.2020 and Ext.P6 report dated 17.08.2020.

4. The learned Government Pleader would submit that if Ext.P3 appeal filed by the petitioners is in order and the same is pending consideration, the 2nd respondent will consider the same and pass appropriate orders thereon, within a time limit to be specified by this Court.

5. The learned counsel for the petitioners would submit that consideration of Ext.P3 appeal may be with notice to the petitioners and after affording them an opportunity of being heard.

6. Having considered the submissions made by the learned counsel on both sides, this writ petition is disposed of by directing the 2nd respondent to consider and pass appropriate orders on Ext.P3 appeal filed by the petitioners, if that appeal is in order and the same is pending consideration, after affording them an opportunity of being heard, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a certified copy of this judgment.

7. In *State of U.P. v. Harish Chandra* [(1996) 9 SCC 309] the Apex Court held that no mandamus can be issued to direct the Government to refrain from enforcing the provisions of law or to do something which is contrary to law. In *Bhaskara Rao A.B. v. CBI* [(2011) 10 SCC 259] the Apex Court reiterated that, generally, no Court has competence to issue a direction contrary to law nor can the Court direct an authority to act in contravention of the statutory provisions. The courts are meant to enforce the rule of law and not to pass the orders or directions which are contrary to what has been injected by law.

Therefore, in terms of the direction contained in this judgment, the 2nd respondent shall take an appropriate decision in the matter, strictly in accordance with law, taking note of the relevant statutory provisions and also the law on the point.