
(2010) 12 KL CK 0094

In the High Court Of Kerala

Case No : Writ Petition (C) No. 12600 of 2007 (Y)

K.C. Varghese

APPELLANT

Vs

The Survey Director, The Re-Survey Superintendent, The
District Collector and Village Officer

RESPONDENT

Date of Decision : 13-12-2010

Acts Referred:

Citation : (2010) 12 KL CK 0094

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : M.P. Ashok Kumar, for the Appellant; Government Pleader, for the Respondent

Judgement

Antony Dominic, J.—Dispute in this writ petition is regarding the requirement of survey of the property in the possession of the Petitioner. It is seen that in 1969 Patta No. 694 was issued to one Poulose, assigning an extent of 1.63 acres of land in Survey No. 45/1/4 of Pananchery Village. In 1981 Petitioner's father purchased the said property and was paying tax also. Subsequently, he executed a settlement deed, settling the property in favour of the Petitioner.

2. Initially tax was accepted for 1.63 acres, but later tax was accepted only for 1.57 acres on the plea that the remaining land was "Canal Puramboke". Petitioner made complaints and finally resurvey was conducted by the 4th Respondent which was without notice to the Petitioner. Later, he was informed by Ext.P6 that as per resurvey records there was reduction in the extent of the property and that the Petitioner should get the resurvey records corrected. Although applications were made by the Petitioner, the resurvey authorities have taken the stand that although the assignment and title deed of the predecessor in the W.P.(C). No. 12600 OF 2007 interest of the Petitioner was for an extent of 1.63 acres of land, what was actually in the possession of the assignee and the Petitioner's father was only 1.57 acres of land. In this writ petition the Petitioner's contention is that only if a proper survey is conducted with notice to

the Petitioner, can it be ascertained whether he had only 1.57 acres in his possession or whether the reduction was due to error in the resurvey.

3. Although, it is the contention of the Government Pleader that Petitioner has still in his possession, the extent of land he held even prior to the resurvey, I am also of the view that the dispute about the actual extent of the land can be resolved only if a proper survey is conducted with notice to the Petitioner.

This is for the reason that subsequent to Ext.P3, when the 4th Respondent surveyed the property and confirmed that the Petitioner had only 1.57 acres of land, that survey was conducted without notice to the Petitioner.

4. In that view of the matter I am inclined to think that the 2nd Respondent should conduct a fresh survey of the property of the Petitioner as sought for by him. This will necessarily be at the cost of the Petitioner and if it is found as a result of the resurvey, there was deduction of any extent of land which was actually in his possession, it will also be open to the Petitioner to make an application for getting the resurvey records corrected. If any such application is filed, orders will be passed as expeditiously as possible at any rate within 8 weeks of production of a copy of this judgment along with a copy of this writ petition.

5. Petitioner to produce a copy of this judgment before the 2nd Respondent for compliance.