courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 12/09/2026

(2023) 03 KL CK 0169

In the High Court Of Kerala

Case No : Writ Petition (C)No.3801 Of 2022

Sunil Kumar APPELLANT

Vs

Sub Registrar Sub Registrar Office, Peermade, Peermade P.O.,Idukki District 685531 RESPONDENT

Date of Decision : 17-03-2023

Acts Referred:
Kerala Land Reforms Act, 1963 — Section 81(4), 120A

Citation : (2023) 03 KL CK 0169

Hon'ble Judges : T.R. Ravi, J

Bench : Single Bench

Advocate : G.Hariharan, Praveen.H., K.S.Smitha, V.R.Sanjeev Kumar, Tpm.Ibrahim Khan, Jaffar Khan, Harshadev M.

Final Decision : Allowed

Judgement

T.R. Ravi, J

1. The petitioners are transferees of portions of land owned by M/s Goldview Vyapar Private Limited, a company registered under the Companies Act and having its head office at Kolkata, West Bengal. The 1st petitioner has purchased 3 hectares 64 Ares and 23 M2 of thottam land and the 2nd petitioner has purchased 1 hectares 1 Are and 17 M2 of land in Sy.No.39/1/1, Elappara Village, Peermedu Taluk, Idukki District.

2. Exts.P2 and P4 are the copies of the sale deeds. On 04-01-2022, the petitioners along with the seller submitted the sale deeds for registration before the 1st respondent. They remitted the registration fee as well as the stamp duty required for the registration. The 1st respondent returned the sale deeds stating that the registration cannot be effected as the 3rd respondent has issued Ext.P6 order restraining sale of plantation land of shorter extents, invoking the power under Section 120A of the Kerala Land Reforms Act (hereinafter referred to as the KLR Act). Ext.P7 is the memo evidencing the return of Ext.P2 and P4, along

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sunil-kumar-appellant-hash-sub-...

with three other sale deeds produced by the seller. The writ petition has been filed in the above circumstances, praying to quash Ext.P6 to the extent it affects the registration of Exts.P2 and P4 documents and for a direction to the 1st respondent to register the original of Exts.P2 and P4.

3. The counsel for the petitioner places reliance of Ext.P8 judgment of this Court, which was rendered in similar circumstances. This Court held that the respondents cannot interdict sale on the ground that the lands involved were exempted lands. Sri Jaffar Khan, Senior Government Pleader supports Ext.P6 order on the reason that under Section 81(4) of the KLR Act, only 5% of the plantation land can be permitted to be converted and sale of smaller extents of the land will affect the very purpose for which the exemption is granted for plantations under the KLR Act. He relies on the judgment of a Full Bench of this Court in Mathew K.Jacob & Anr. v. District Environmental Impact Assessment Authority reported in [2018(4) KLT 913] and submits that prevention of fragmentation is also an intention behind the enactment. Specific reference was made to paragraphs 11,12 and 13 of the judgment. Reliance is also placed on the judgment of a Division Bench of this Court in One Earth One Life and others v. State of Kerala & Ors. [2019 (1) KLT 985] to submit that fragmentation of the estate has to be treated as a case of conversion of the plantation into some other category of land.

4. Section 81(4) of the KLR Act permits the use of exempted land for the purpose of construction of hotels, resorts, or other tourism projects upto an upper limit of 10 acres. The said provision is an enabling provision that permits the estate owner to utilise a portion of his estate for the purposes mentioned therein, without in any manner affecting the exemption granted for the estate from the provisions of the KLR Act. The provision cannot be read to mean that other than the area specified in the section, no further extent of the estate can be used for non-plantation purposes. Regarding the contention that exempted land (plantation in this case) cannot be used for any other purpose, the law is settled. The consequence of such use can only be that the excess area liable to be surrendered under the KLR Act will have to be re-worked. The dictum in Mathew K.Jacob (supra) relied on by the Senior Government Pleader is only to that effect. The above judgment has been confirmed by the Hon'ble Supreme Court in Nazar v. Mathew K.Jacob [2019 (4) KLT 82 (SC). In One Earth One Life (supra), this Court was concerned with the transfer of portions of the Kinalur Estate to several persons including the employees and legal heirs, causing a fragmentation of the entire plantation. This Court did not accept the contention that the fragmented estate will remain to be a plantation. The Court held that the object of the enactment in granting exemption was to ensure that the plantation remained a plantation contributing to the economy of the State and welfare of the people as a whole. This Court however did not consider all the situations in which fragmentation can occur. For instance, a plantation that is owned by a single owner, can by operation of the law of succession, get fragmented on the death of the owner. There can be ever so many like situations.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sunil-kumar-appellant-hash-sub-…

5. A Division Bench of this Court has recently in its judgment dated 1.3.2023 in State of Kerala & Ors. v. M.C.George (W.A.No.102 of 2022) considered a similar situation where an order was issued invoking the power available under Section 120A of the KLR Act. The contentions based on the fragmentation of the plantation, the purpose of the KLR Act, and the power available under Section 120A were raised before the Division Bench by the Senior Government Pleader in the appeal filed by the State. The Court held that the power available under Section 120A is to prevent a transfer which is intended to defeat the provisions of the KLR Act. The Court noticed that the KLR Act contains various provisions protecting the interests of the tenant and the State. The Court opined that the very purpose of the provision may be to prevent the sale of the excess land in possession of the declarant. The Division Bench negatived the contentions and dismissed the writ appeal. The concerned Registrar was directed to register the documents which were the subject matter in the said appeal if all other conditions are satisfied. Since a Division Bench has already pronounced on the issue and I am in respectful agreement with the dictum laid down by the Division Bench, there is no necessity to reconsider the same question. The petitioner has filed I.A.No.1 of 2023 praying for extending the validity of the Stamp papers used for the sale deeds in question, as the case was pending before this Court from February, 2022. The prayer is justified and is allowed.

6. In the result, the writ petition is allowed. Ext.P6 order to the extent if affects the registration of the originals of Exts.P2 and P4 sale deeds is quashed. The 1st respondent is directed to register the originals of Exts.P2 and P4 sale deeds when presented by the petitioner if the same are otherwise in order, treating the documents as presented within the time prescribed by the statute. The 1st respondent shall treat the stamp papers used for execution of the documents as valid. The petitioner shall present the documents before the 1st respondent for registration within two weeks from the date of receipt of a certified copy of this judgment.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sunil-kumar-appellant-hash-sub-…