

(2010) 09 KL CK 0073

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 27290 of 2010 (I)

T. Abdul Azeez

APPELLANT

Vs

The General Manager, The District Collector and The
Tahasildar

RESPONDENT

Date of Decision : 08-09-2010

Acts Referred:

Citation : (2010) 09 KL CK 0073

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : A.C. Sankara Varma, for the Appellant; Saji Varghese, for the Respondent

Judgement

Antony Dominic, J.—Petitioner claims to be the Proprietor Taaztech Tipper Body Building Unit. According to the petitioner, by virtue of lease deed No. 1645/2006, 2.5 acres of land comprised in R.S. No. 47 in Panakkad Village in Malappuram District forming part of the Industrial Growth Centre was allotted to him by the 1st respondent. However, the Unit could not be set up and while so he has been issued Ext.P4 notice wherein the 1st respondent has called upon the petitioner to show cause why the land should not be resumed after terminating the lease. According to him, he submitted Ext.P5 reply and the matter has not been decided by the 1st respondent so far.

2. It is stated that in view of the above, the petitioner agreed to purchase a plot of land belonging to a person called Kunjumammed, where according to the petitioner, a shed was also constructed. It is stated that the 3rd respondent pulled down the shed, as a result of which he is not in a position to continue his business even in that place.

3. In the above back ground, the writ petition has been filed praying for a direction against the 1st respondent not to proceed with steps for repossessing the land allotted to him and to allot the whole of the 10 acres sought for by the petitioner as lease. The petitioner also seeks a direction to respondents 2 and 3

to permit the petitioner to rebuild the shed in R.S. No. 14/1 of Koottilangadi village.

4. I heard the learned Government Pleader also.

5. As far as the prayer sought against the 1st respondent is concerned, in view of the case of the petitioner that pursuant to Ext.P4 notice though he has filed Ext.P5 reply, the matter has not been finally decided, such prayer is premature. At this stage, if as stated by the petitioner, the matter has not been decided so far, all that is required is to direct the said respondent to decide on the show cause notice in the light of Ext.P5 reply submitted by the petitioner.

6. In so far as the 2nd prayer sought for a direction to respondents 2 and 3 to permit the petitioner to rebuild the shed in R.S. No. 14/1 of Koottilangadi village is concerned, learned Government Pleader produced before me a communication dated 08/09/2010 from the 3rd respondent, which shows that the land in question is a paddy field. It is stated that without obtaining any clearance from the concerned authorities under the KLU order or the Paddy Field Act, 2008, the petitioner proceeded to construct a shed. It is stated that on coming to know of it, a stop memo was issued and that ignoring the same, the petitioner proceeded with the construction. It is stated that the land lord, from whom the petitioner has allegedly agreed to purchase the land, himself has agreed that the land is a paddy field. According to the 3rd respondent, since the construction was in violation of the stop memo and the relevant statutory provisions, the shed was demolished.

7. Going by the submissions thus made by the learned Government Pleader, the land is a paddy field. Without obtaining statutory clearance from the authorities, it was not possible for the petitioner or the land lord to convert the same. If that be so, this Court will not be justified in directing the respondents to permit the petitioner to put up any construction in such a plot of land. Therefore, the 2nd prayer sought for by the petitioner cannot be granted.

In view of the above, this writ petition is disposed of directing the 1st respondent to consider the issue raised in Ext.P4 show cause notice in the light of the contentions raised by the petitioner in Ext.P5 reply. Orders shall be passed with notice to the petitioner and after affording him an opportunity to make his submissions.

This writ petition is disposed of as above.