

(2011) 03 KL CK 0250

High Court Of Kerala

Case No: Writ Petition (C) No. 6669 of 2011 (G)

M.V. Avarachan and Joy M.V.

APPELLANT

Vs

The Revenue Divisional Officer,
The Tahsildar, The Village Officer
and The Commissioner for Land
Revenue

RESPONDENT

Date of Decision: March 8, 2011

Acts Referred:

- Kerala Land Conservancy Act, 1957 - Section 15, 16, 16(2), 16(4), 17

Hon'ble Judges: Antony Dominic, J

Bench: Single Bench

Advocate: H.B. Shenoy, for the Appellant; No Appearance, for the Respondent

Judgement

Antony Dominic, J.

Petitioners in these writ petitions are aggrieved by the proceedings initiated against them under the Kerala Land Conservancy Act, 1957. In so far as, the Petitioners in W.P(C) No. 6669/2011 are concerned, Ext.P4 is the proceedings of the Tahsildar, directing eviction of the Petitioners from the plot mentioned therein. Against that order, Petitioners filed appeal before the Revenue Divisional Officer, which was rejected by Ext.P9 order. The Petitioners filed a revision before the Land Revenue Commissioner. That was rejected by Ext.P13 order stating that such a revision is not maintainable u/s 16 (4) of the Kerala Land Conservancy Act, 1957.

2. In so far as, the Petitioners in W.P(C) Nos. 6872 and 6873 of 2011 are concerned, in similar circumstances, Ext.P3 order was issued by the Tahsildar, which was confirmed in Ext.P8 appellate order of the Revenue Divisional Officer. The revision filed before the Land Revenue Commissioner was rejected by Ext.P12 order.

3. In W.P(C) No. 6874/2011, Ext.P2 is the order of the Tahsildar and Ext.P7 is the appellate order of the Revenue Divisional Officer confirming Ext.P2. The revision

filed before the Land Revenue Commissioner was dismissed by Ext.P11 in similar circumstances.

4. In these writ petitions, the impugned order is the order passed by the Land Revenue Commissioner rejecting the revisions filed by the Petitioners.

5. Section 16 of the Kerala Land Conservancy Act, 1957 provides for appeal and revision against orders passed u/s 15 of the Act. The Land Revenue Commissioner has power of revision u/s 16 of the Act. Reading of this provision shows that the Land Revenue Commissioner can exercise his powers only against the order passed by the Collector on appeal. Admittedly, the appellate orders in these writ petitions were passed not by the Collector, but, by the Revenue Divisional Officer. If that be so, the rejection of the revisions filed before the Land Revenue Commissioner, as per the orders mentioned, cannot be said to be illegal for any reason.

6. However, the Petitioners do have remedy against the appellate order of the Revenue Divisional Officer. Section 16 (2) of the Act confers the power of revision on the Collector, against the order passed by the Revenue Divisional Officer exercising his appellate power. Therefore, instead of having filed the revision before the Land Revenue Commissioner, the Petitioners ought to have filed the revision before the District Collector.

7. However, the learned Government Pleader pointed out that, time limit prescribed in Section 17 of the Act, has already expired and therefore, the Petitioners have lost that remedy as well. Though this submission is correct, fact remains that the Petitioners were prosecuting their grievances before an incompetent authority, which dismissed the revision on the ground of maintainability. This, coupled with the fact that u/s 17(2), it is possible for the revisional authority to condone the delay, I feel that the Petitioners should be given an opportunity to pursue the revisional remedy before the District Collector.

8. Therefore, I dispose of this writ petition with the following directions that: (1) it will be open to the Petitioners to file revision before the District Collector against the orders of the Revenue Divisional Officer. (2) it is directed that if the revision is filed within two weeks from today, the District Collector will entertain the revision and pass appropriate orders with notice to the Petitioners. (3) it is also directed that, subject to the Petitioners filing revisions as directed above, further proceedings against them will stand stayed until the disposal of the revision to be filed by the Petitioners.