

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2489-2490 OF 2018
(ARISING OUT OF SLP(C) NOS.3551-3552 OF 2017)

MATHER NAGAR RESIDENTS ASSOCIATION ETC. ETC. APPELLANT(S)

VERSUS

THE DISTRICT COLLECTOR, ERNAKULAM & ORS. ETC. RESPONDENT(S)

O R D E R

Leave granted.

The dispute in the present cases relates to entitlement of the respondent-builder to construct on land which according to the appellants-association is wet land and therefore, not capable of being built on.

The High Court while considering the writ petitions filed by both the appellant-association and the respondent-builder, came to the conclusion that the respondent-builder should be allowed to make construction under police protection. That common order passed by the High Court is impugned before us.

We find that the High Court has observed that there is no evidence or material available for determining the nature and status of the lands in question.

Accordingly, by order dated 21.11.2017, we directed an enquiry into the nature of the lands in question and asked the Revenue Secretary, Government of Kerala, to appoint a suitable officer to visit the lands in question, and also go through the revenue records, and submit a report to this Court.

In pursuance of the aforesaid order, the Sub-Collector, Fortkochi, Ernakulam District, Kerala, has submitted a detailed report pointing out that certain lands are wet lands and others are not.

It is, however, not clear whether the permissions for construction have been granted in respect of the wet lands or other lands. Rival contentions in this regard were made before us. A detailed investigation would be necessary.

Taking an overall view of the matter, we consider it appropriate to set aside the common impugned order passed by the High Court, and remand the matter for a fresh decision after taking into account the detailed report submitted by the Sub-Collector, Fortkochi, Ernakulam District, Kerala. If necessary, the High Court is at liberty to order further report.

We order accordingly.

The High Court shall determine the entire controversy afresh in accordance with law.

The High Court is further requested to dispose of these matters at the earliest preferably not later than

six months from the date of receipt of copy of this order.

In the meanwhile, there shall be *status quo* as regards the constructions on the lands in question.

However, all submissions and contentions of both the parties are left open.

The appeals are disposed of in the aforesaid terms.

.....J
[S. A. BOBDE]

.....J
[L. NAGESWARA RAO]

New Delhi;
March 05, 2018.

ITEM NO.52

COURT NO.7

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).3551-3552/2017

(Arising out of impugned final judgment and order dated 21-12-2016 in WP (C) No.33717/2016 and WP (C) No.34983/2016 passed by the High Court Of Kerala At Ernakulam)

MATHER NAGAR RESIDENTS ASSOCIATION ETC. ETC. Petitioner(s)

VERSUS

THE DISTRICT COLLECTOR, ERNAKULAM & ORS. ETC. Respondent(s)

(FOR ON IA 3/2017 and IA No.28775/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

Date : 05-03-2018 These matters were called on for hearing today.
CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mr. Huzefa Ahmadi, Sr. Adv.
Mr. Zulfiker Ali P. S, AOR
Ms. Lakshmi Sree P., Adv.

For Respondent(s) Mr. Guru Krishna Kumar, Sr. Adv.
Mr. Amman A. John, Adv.
Mr. Venkita Subramoniam T.R, AOR

Mr. Nishe Rajen Shonker, AOR
Mr./Ms. Anu K. Joy, Adv.
Mr. Alim Anwar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are disposed of in terms of the signed order.

As a sequel to the above, pending interlocutory applications, if any, stand disposed of.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
ASST.REGISTRAR

(Signed Order is placed on the file)