

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

Con.Case(C).No. 596 of 2015 (S) IN WP(C).3749/2015

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AGAINST THE ORDER/JUDGMENT IN WP(C) 3749/2015 of HIGH COURT OF
KERALA DATED 27-02-2015**

PETITIONER(S)/PETITIONER/PETITIONER IN THE WP:

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P.G.VIJAYAKUMAR, AGED 62 YEARS
S/O GOPALA PILLAI, PINNATTU PUTHEN VEEDU, IVERKALA
PATHANAPURAM P.O., KOLLAM.**

**BY ADVS.SRI.B.MOHANLAL
SRI.K.P.ANIL KUMAR (SASTHAMCOTTA)**

RESPONDENT(S)/RESPONDENTS/RESPONDENTS 4 & 5 IN THE WP:

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1. SRI.ALEX P.THOMAS
FATHER'S NAME AND AGED NOT KNOWN TO THE PETITIONER
THE DEPUTY TAHSILDAR (RR), TALUK OFFICE
KUNNATHOOR P.O., SASTHAMCOTTAH, KOLLAM-690520.**

**2. SMT. SUKUMARY
FATHER'S NAME AND AGE NOT KNOWN TO THE PETITIONER
THE VILLAGE OFFICER, KUNNATHOOR VLLAGE
KUNNATHOOR P.O., KOLLAM-690520.**

R1,R2 BY ADV. GOVERNMENT PLEADER SMT.M.J.RAJASREE

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR
ADMISSION ON 30-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

A.K.JAYASANKARAN NAMBIAR, J.

Cont. Case (C).NO.596 OF 2015 (S)

Dated this the 30th day of June, 2015

J U D G M E N T

The Contempt of court case has been filed alleging a disregard by the respondents of the directions of this Court in the judgment dated 27.2.2015. By the said judgment, this Court had directed the 5th respondent to consider the request of the petitioner for issuance of a possession certificate, and if on an enquiry conducted by the 5th respondent, it was found that the petitioner is, in fact, the owner of the property in question, and in possession thereof, to issue a possession certificate to the petitioner. In the contempt of court case, the allegation of the petitioner is that, while he continues to be in possession of the property in question, the 5th respondent in the writ petition, the 2nd respondent herein, did not issue a possession certificate as directed by this Court, whereas, she passed an order dated 29.5.2015, wherein, a reference is made to the proceedings that were initiated in respect of the property under the Kerala Revenue Recovery Act and Rules, and in the light of the said proceedings, it was found that the possession certificate could not be issued to the

petitioner. The petitioner would allege that this amounts to a willful disregard of the directions of this Court.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader for the respondents.

On a consideration of Annexure R2(b) order dated 29.5.2015 that is passed by the 2nd respondent, on the application preferred by the petitioner for the issuance of a possession certificate, I find that the 2nd respondent has noted that, pursuant to proceedings initiated in respect of the property under the Kerala Revenue Recovery Act [hereinafter referred to as the 'RR Act'], the property in question had been attached, and in accordance with Section 39 of the RR Act, the Village Officer was appointed as an agent to take symbolic possession of the property in question. It is under these circumstances, and taking note of the fact that pursuant to the attachment of the property, an agent had also been appointed in terms of Section 36 of the RR Act, that the 2nd respondent found that this was not a property in respect of which a possession certificate could be issued to the petitioner. On a consideration of the reasons stated in Annexure R2

(b) order of the 2nd respondent, I am of the view that the 2nd respondent is justified in the stand taken by her in the order, and there is no willful or contumacious conduct on behalf of the 2nd respondent as alleged by the petitioner in these proceedings. Although it is trite that the Tahsildar, who is entrusted with the task of issuance of a possession certificate, need not go into the title of the property while issuing a possession certificate, inasmuch as a possession certificate is only a document that indicates the factum of possession of the property, by the person in whose favour a certificate is issued, I find that, in the instant case, where the proceedings had gone beyond the stage of mere attachment, and steps were to be taken under the RR Act to put the property for sale through an auction, the issuance of a possession certificate to the petitioner could pose problems for the State Government while going ahead with the proceedings under the RR Act and Rules. It is therefore that I feel that the stand taken by the 2nd respondent does not amount to a willful breach of the directions of this Court in the judgment referred to above. I leave it open to the petitioner to pursue his remedies against Annexure R2(b) order before an appropriate forum, if he is so advised. The adjudication in such proceedings will be untrammelled

by any observation made in this judgment. The Contempt of court case is closed on finding that there is no willful or contumacious conduct on the part of the respondents.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**

prp