

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

RP.No. 613 of 2015 (G)

AGAINST THE JUDGMENT IN WP(C) 34665/2014 DATED 19-12-2014

REVIEW PETITIONER/PETITIONER :

**HAMZA KOYA
S/O.ENIKUTTY, CHAMBANTAKATH HOUSE
RAYIRIMANGALAM AMSOM DESOM, P.O.TANUR-676302
MALAPPURAM DISTRICT
THROUGH POWER OF ATTORNEY HOLDER AND WIFE ZEENATH.**

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS/RESPONDENTS :

**1. THE SUB REGISTRAR
TANUR-676302, MALAPPURAM DISTRICT.**

**2. THE DISTRICT COLLECTOR
MALAPPURAM DISTRICT.**

R1 & R2 BY GOVT. PLEADER SMT. M.T. SHEEBA

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 29-07-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONERS' ANNEXURES :

ANNEXURE A1 : COPY OF THE APPLICATION DATED 03/04/2010 SENT BY WIFE OF THE PETITIONER TO THE DISTRICT COLLECTOR, KOZHIKODE ALONG WITH THE POSTAL RECEIPT AND POSTAL ACKNOWLEDGEMENT CARD.

ANNEXURE A2 COPY OF THE REPLY DATED 10/5/2010 GIVEN BY THE COLLECTORATE, KOZHIKODE.

ANNEXURE A3 COPY OF THE RELEVANT PORTION OF NOTIFICATION UNDER SECTION 28A OF THE REGISTRATION ACT.

RESPONDENT'S ANNEXURES : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A. MUHAMED MUSTAQUE, J.

Review Petition No. 613 of 2015

Dated this the 29th day of July, 2015

O R D E R

This Review Petition is filed at the instance of the writ petitioner. In the writ petition, the petitioner has approached this Court stating that the property situated in Re-Survey No.418/1A of Tanur Village is a Government land and he wants to alienate the property. On account of refusal of registering the documents, the petitioner has approached this Court.

2. This Court taking note of the rigor of promise under Section 71(3) of the Registration Act, directed the petitioner to obtain NOC from the competent authority and disposed the writ petition.

3. Thereupon the petitioner filed Clarification Petition as I.A. No.2646/2015 stating that no competent officer has been authorised by the State for obtaining permission. This Court clarified the judgment by an order dated 17.03.2015, in the light of the Government Order as G.O.(MS) No.18/2014/TD dated 03.02.2014 stating that District Collectors of the Revenue Districts are the competent officer to issue NOC.

4. The present review is filed based on the notification under Section 28A of Stamp Act stating fixation of fair value.

Petitioner submits that since the value has been fixed, treating it as a non-Government land, the judgment has to be reviewed.

5. The learned Government Pleader submits that, the property is still shown as 'puramboku' in the Basic Tax Register and it is a Government land and therefore review has to be dismissed.

6. This Court taking note of the facts and circumstances of the view that, the District Collector has to take a decision in the matter whether this is a Government land or not. If it is found that it is Government land necessarily, the application shall be considered in terms of Section 71(3) of the Stamp Act. The petitioner has to move the District Collector within one week from the date of receipt of a copy of this judgment. The District Collector shall take appropriate decision after verifying the relevant records and after hearing the petitioner within six weeks thereafter. Needless to say, if it is found that it is not Government land, Registering authority shall register the instrument without waiting for production of NOC.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.