

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

RP.No. 630 of 2015 (M)

JUDGMENT DATED 30.3.2015 IN WP(C) 3930/2015
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REVIEW PETITIONER(S)/3RD PARTY:

**VIGILANCE AND ANTI CORRUPTION BUREAU,
REP. BY DY.SP VACB ERNAKULAM UNIT.**

BY GOVERNMENT PLEADER

RESPONDENT(S):

1. **SHAMSUDHEEN, S/O.ANDUL KUNJU,
AGED 48 YEARS, KODACKADU HOUSE,
MYLOOR KARA, VARAPETTY VILLAGE,
KOTHAMANGALAM, ERNAKULAM DISTRICT.**
2. **RAHIYANATH, W/O.SHAMSUDEEN, S/O.ANDUL KUNJU,
AGED 48 YEARS, KODACKADU HOUSE,
MYLOOR KARA, VARAPETTY VILLAGE,
KOTHAMANGALAM, ERNAKULAM DISTRICT.**
3. **K.M.SAYYED MOHAMMED, S/O.MAITHEEN,
KOTTAYI HOUSE, VARAPETTY, KOTHAMANGALAM.**
4. **P.P.JAMAL, S/O.PAREED, PONNIRICKAL HOUSE,
ADIVADU, PALARIMANGALAM VIA, ERNAKULAM DISTRICT.**
5. **K.M.ABOOBACKER, S/O.MAITHEEN,
KOTTAYI HOUSE, VARAPETTY, KOTHAMANGALAM,
ERNAKULAM DISTRICT.**
6. **K.H.SUDHEER, S/O.HAMZA, KUNJATTU HOUSE,
MYLOOR PO, KOTHAMANGALAM, ERNAKULAM DISTRICT.**
7. **K.M.ASSY, S/O.MAITHEEN, KUNJATTU HOUSE,
VARAPETTY, KOTHAMANGALAM, ERNAKULAM DISTRICT.**

**BY ADVS. SRI.ALEXANDER JOSEPH
SRI.P.V.BABY**

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
15-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

A.M.SHAFIQUE, J

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R.P.No.630 of 2015
in W.P.C.No.3930 of 2015

Dated this the 15th day of July 2015

ORDER

This review petition has been filed by a third party namely Vigilance and Anti Corruption Bureau represented by the Deputy Superintendent inter alia contending that the judgment happened to be passed without taking note of certain crucial matters relating to the property in question.

2. The writ petition was disposed of when a claim was made by the writ petitioners in respect of an extent of 1 Acre and 88 cents of land in different survey numbers of Myloor kara of Varapetty village of Kothamangalam Taluk. It was contended that, on account of a mistake in the revenue records, 54 cents of land was not mutated which remained in Thandaper Nos.584 and 1373 in the name of original owners. On an application submitted by the 1st petitioner under Rule 28 of the Transfer of Registry Rules, the property

was mutated in his name and thereafter the said property was settled in favour of his wife as per settlement deed No.414/08. Later, the mutation in favour of the petitioners were set aside on the basis of some complaint. Revision was filed before the District Collector, who passed separate orders by which the matter was remitted back to the Revenue Divisional Officer. Petitioners preferred a revision before the Land Revenue Commissioner which resulted in Ext.P12 order by which the Land Revenue Commissioner directed the Revenue Divisional Officer to reconsider the whole issue. The Revenue Divisional Officer remitted the matter back to the Tahsildar as per Ext.P13. In the judgment impugned, this Court only directed the Tahsildar to consider the entire matter afresh in terms with Rule 28 of the Transfer of Registry Rules.

3. It is contended by the review petitioner that an enquiry was conducted by the Vigilance Department with reference to the aforesaid property and according to him,

the original owners Sri.Syedumma and Ooran Muhammed died about 50 years back. They did not have any legal heirs and therefore the property is to be escheated to the Government in terms of Section 3 of Escheats and Forfeitures Act, 1964. This aspect of the matter had to be considered, which requires review of the judgment. It is also submitted that a vigilance case has been initiated against certain persons including the petitioner under Sections 404, 409, 477 A I.P.C read with Sections 13(1)(c) and (d) of the Prevention of Corruption Act, 1988 and investigation is in progress. Under such circumstances, if the Tahsildar considers the matter, it will do substantial injustice to the Government, is the contention urged.

4. Respondents appeared through counsel. Learned counsel appearing for the writ petitioner submits that the property cannot be escheated as the statutory provision has no application to the factual issues. Further, this Court had only directed the Tahsildar to consider the application for

mutation in terms of the order passed by the Land Revenue Commissioner. If at all, the Vigilance Department has such a contention, the remedy is to approach the revenue authorities and they cannot interfere with the proceedings.

5. Learned counsel appearing for respondents 7 to 11 in the writ petition supported the stand taken by the review petitioner and submitted that if the enquiry is being conducted in the matter, Tahsildar may not be permitted to proceed with the enquiry under Rule 28 of the Transfer of Registry Rules.

6. Having heard the learned Government Pleader on behalf of the review petitioner and learned counsel appearing for respondents, I do not think that the situation warrants review of the judgment. As far as the Vigilance Department is concerned, the investigation is in progress. If there is any fraudulent activities, as stated in the review petition, it is for the said authority to bring the matter to the notice of the Tahsildar concerned, who will enquire into the

matter. They cannot independently interdict into the proceedings and seek for modification of the judgment. They can approach this Court only through the revenue authorities. In so far as I have only directed the Tahsildar to consider the matter in the light of the direction issued by the Land Revenue Commissioner, it is always open for the Tahsildar to take an independent view in the matter.

Under such circumstances, I do not think it necessary to review the judgment and accordingly, the review petition is dismissed.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

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