

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

WP(C).No. 1200 of 2012 (Y)

PETITIONER:

THOMAS JOSEPH AGED 51 YEARS
NON RESIDENT INDIAN (NRI),
S/O.A.T. JOSEPH, ANGILIVELIL KALATHOOR HOUSE
EETTICHUVADU.P.O, RANNI ANGADI VILLAGE, RANNI TALUK
PATHANAMTHITTA DISTRICT.

BY ADVS.SRI.V.SETHUNATH
SRI.V.VINAY
SRI.K.T.SEBASTIAN

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY
TO REVENUE DEPARTMENT
THIRUVANANTHAPURAM - 695 001.

2. THE DISTRICT COLLECTOR,
PATHANAMTHITTA - 695 645.

3. THE TAHSILDAR,
OFFICE OF THE TAHSILDAR, RANNI - 689 672.

4. THE VILLAGE OFFICER,
ANGADI VILLAGE, RANNI - 689 672.

5. DISTRICT SURVEY SUPERINTENDENT,
OFFICE OF SURVEY AND LAND RECORDS, COLLECTORATE
PATHANAMTHITTA - 689 645.

6. ASST. DIRECTOR OF SURVEY,
OFFICE OF THE SURVEY AND LAND RECORDS
SOUTHERN RANGE, KOTTAYAM - 686 001.

7. PHILIPOSE THOMAS
I.A.S (RTD), ETTICHUVATTIL HOUSE, KUMARAPURAM.P.O
THIRUVANANTHAPURAM - 695 011.

SRI.RAFEEL V.K., ADV. GOVERNMENT PLEADER
R7 BY ADV. SRI.PRATHAP PILLAI
R7 BY ADV. SRI.SAIJO HASSAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

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APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE SETTLEMENT PATTAYAM IN THE THANDAPER NO. 1302 OF RANNI RAKUTHI.

EXHIBIT-P2- TRUE COPY OF THE TAX RECEIPTS DATED 19/11/1992 ISSUED BY THE 4TH RESPONDENT VILLAGE OFFICER,ANGADI.

EXHIBIT-P3- TRUE COPY OF THE TAX RECEIPT DATED 25/05/1992 SHOWING THE SURVEY NUMBER AND EXTENT.

EXHIBIT-P4- TRUE COPY OF THE TAX RECEIPTS DATED 19/12/1996 AND 07/01/1999 SHOWING THE RESURVEY NUMBER.

EXHIBIT-P5- TRUE COPY OF THE PLAN AND SKETCH SHOWING THE FINALISATION OF PROPERTY COMPRISED IN RESURVEY NUMBER 94/2

EXHIBIT-P6- TRUE COPY OF THE APPLICATION DATED 23/10/1998 GIVEN BY THE 7TH RESPONDENT TO THE DISTRICT SURVEY SUPERINTENDENT IN THE SURVEY ADALATH, RANNI.

EXHIBIT-P7- TRUE COPY OF THE REPORT DATED 24/03/1999 SENT BY THE 3RD RESPONDENT TO THE 5TH RESPONDENT.

EXHIBIT-P8- TRUE COPY OF THE LETTER DATED 20/04/1999 WRITTEN BY THE FATHER OF THE PETITIONER TO THE 2ND RESPONDENT.

EXHIBIT-P9- TRUE COPY OF THE ORDER NO. R9-631/1999 DATED 10/06/1999 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT-P10- TRUE COPY OF THE COMPLAINT GIVEN BY THE FATHER OF THE PETITIONER TO THE MINISTER FOR REVENUE, DATED 27/01/2001.

EXHIBIT-P11- TRUE COPY OF THE TAX RECEIPT DATED 07/01/1999 AND 24/12/1999 ISSUED IN THE YEAR 1999.

EXHIBIT-P12- TRUE COPY OF THE PERMIT CERTIFICATE AND PLAN ISSUED BY THE RUBBER BOARD.

EXHIBIT-P13- TRUE COPY OF THE DEATH CERTIFICATE DATED 14/02/2003 OF THE FATHER OF THE PETITIONER.

EXHIBIT-P14- TRUE COPY OF THE TAX RECEIPT DATED 28/11/2011 AND THANDAPER REGISTER SHOWING THE PRESENT OWNERSHIP OF THE PROPERTIES.

RESPONDENTS' EXHIBITS : NIL

RKC

TRUE COPY

PA TO JUDGE

P.V.ASHA, J.,

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Dated this the 5th day of June, 2015

JUDGMENT

The petitioner is challenging Ext.P9 proceedings dated 10.6.1999 of the District Collector, Pathanamthitta. His complaint is that an extent of his property comprised in Re.Sy.No.94/2 has been reduced after finalisation of re-survey on the basis of a complaint preferred by the 7th respondent who is an IAS Officer.

2. The case of the petitioner in this writ petition is that by Ext.P7 report the 3rd respondent-Tahsildar, reducing certain extent of property owned by the petitioner, treating it as Tharisu and adding some extent of property to the 7th respondent which was treated as Tharisu earlier, sought approval from the District Collector to reconvert 28.500 Ares of registered land of the petitioner comprised in re survey No.94/2 to Tharisu land and to reconvert the Tharisu property of the 7th respondent to registered land and the District Collector on 10.6.1999, by Ext.P9 proceedings approved the revised creation of separate sub divisions for the Tharisu in Re.Sy.Nos.94/2, 95/1 and 95/2.

3. Heard learned counsel appearing on either side.

4. Respondents 1 to 6 have filed a counter affidavit stating that the Tahsildar sought approval for correction of new sub divisions in revenue records as per Ext.P7 and the District Collector approved the same as per Ext.P9 after conducting site inspection, verification of records and measuring the land in the presence of all the parties. It is submitted that the proceedings were initiated on the basis of a complaint preferred by the 7th respondent. It is stated that the properties of the petitioner and the 7th respondent were measured after giving notice under the Survey and Boundaries Act and it was only thereafter the mistake was rectified in which 14.50 Ares in Sy.No.95/1 and 14.60 Ares in Sy.No.95/17 in possession of the 7th respondent were found as Tharisu and 27.15 Ares of land in Sy.No.94/5 in possession of the petitioner was also found as Tharisu. It was thereafter as per Ext.P9 proceedings of the District Collector, 27.15 Ares of the land in possession of the petitioner was declared as Tharisu.

It is seen that the impugned orders have been issued after measurement with notice to the petitioner. In case the petitioner

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is aggrieved, it is open for him to approach the civil court.
Keeping his remedy before the civil court open, this writ petition
is dismissed.

Sd/-

**P.V.ASHA,
JUDGE.**

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