

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).No. 1495 of 2013 (J)

PETITIONER:

SICILY MATHEW, AGED 65 YEARS
D/O MATHEW, KOCHERIPADAVIL HOUSE, KUNINJI P.O.
VZHITHALA, THODUPUZHA, (PRESIDENT
JAI BHARATH MAHILA SAMAJAM, REG.NO.K-10/77 KUNINJI
VAZHITHALA P.O., THODUPUZHA, IDUKKI DISTRICT.

BY ADV. SRI.ALEXANDER JOSEPH

RESPONDENTS:

1. STATE OF KERALA,
REPRRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
 2. THE DISTRICT COLLECTOR,
IDUKKI DISRICT, IDUKKI-685 603.
 3. THE TAHSILDAR,
THODUPUZHA TALUK, THODUPUZHA-685 584, IDUKKI DISTRICT.
 4. THE VILLAGE OFFICER,
PURAPPUZHA VILLAGE, VAZHITHALA P.O., THODUPUZHA
685 583, IDUKKI DIST.
 5. THE CHILD DEVELOPMENT PROJECT OFFICER,
THODUPUZHA-685 584, IDUKKI DISTRICT.
 6. PURAPPUZHA GRAMA PANCHAYT, REP. BY ITS SECRETARY,
VZHITHALA P.O., THODUPUZHA-685 583, IDUKKI DISTRICT.
- SMT.SUSHEELA BHATT, SPL.GOVERNMENT PLEADER
R6 BY ADV. SRI.SHYSON P.MANGUZHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

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APPENDIX

PETITIONER(S) EXHIBITS

EXHIBIT P1: TRUE COPY OF THE GIFT DEED NO.994/1977 OF THODUPUZHA S.R.O.

EXHIBIT P2: TRUE COPY OF THE TAX RECEIPT DTED 2.1.2011 ISSUED BY THE 4TH RESPONDENT.

EXHIBIT P3: TRUE COPY OF THE LETTER DTED 29.11.2001 OF THE 5TH RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE LETTER DATED 5.12.2012 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.

EXHIBIT P5: TRUE COPY OF THE INFORMATION DTED 7.12.2012 FURNISHED BY THE 6TH RESPONDENT TO THE PETITIONER.

EXHIBIT P6: TRUE COPY OF G.O.(P)NO.189/95 LSGD DATED 18.9.1995 OF THE 1ST RESPONDENT.

EXHIBIT P7: TRUE COPY OF THE APPLICATION DATED 5.11.2012 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.

EXHIBIT P8: TRUE COPY OF THE APPLICATION DATED 1.1.2013 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

RKC

TRUE COPY

PA TO JUDGE

P.V.ASHA, J.,

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Dated this the 15th day of June, 2015

JUDGMENT

The petitioner, who claims to be the President of Jay Bharath Mahila Samajam with register No.K-1077, Kuninji, Vazhithala P.O., Thodupuzha, which is registered as a charitable society under the Travancore-Cochin Literary Scientific & Charitable Societies Act, 1955, has filed this writ petition, aggrieved by the cancellation of mutation, which was effected in her name based on Ext.P1 gift deed, in favour of the aforesaid Mahila Samajam in the name of the petitioner. According to her, she was regularly paying land tax in respect of the property covered by Ext.P1 deed, for an extent of 14 ½ cents. She has produced Ext.P2 tax receipt, in support of her contention that the mutation of property was effected in her name and tax was being remitted and accepted. She has stated that the Mahila Samajam was conducting a Balawady in that property, which was taken over by the Child Welfare Department and they started an Anganwady in which she worked as Anganwady worker. It is

stated that the Anganwady was also subsequently closed and she was residing in that building. As per Ext.P4 letter dated 5.12.2012, the Tahsildar, Thodupuzha Taluk informed the petitioner that he has transferred the mutation in respect of that property into the name of the Secretary of the Purappuzha Grama Panchayat-6th respondent.

2. The petitioner submits that the action of the revenue authorities in cancelling the transfer of registry and effecting mutation in the name of the Panchayat on their request, that too without any notice to her is illegal. As per Ext.P4 letter, the mutation was stated to be effected on the basis of the request by the Panchayat, on the basis of G.O.(P) No.189/95/LSGD dated 18.9.1995. According to the petitioner, the said Government order does not provide for effecting mutation in the name of the Grama Panchayat, when the property is in her name for and on behalf of the Mahila Samajam based on valid title and no transfer has been effected in the name of the Panchayat thereafter. In the above circumstances, the petitioner submits that she has already approached the 3rd respondent-Tahsildar by submitting

Ext.P7 representation. One of the prayers in this writ petition is for the disposal of the representation-Ext.P7.

3. The 2nd respondent has filed a counter affidavit, in which it is stated that in the place of Balawady which was being run by the Mahilasamajam, the Child Welfare Department started an Anganwady, based on Lr.No.ICDS-A3/15927/93 dated 9.9.1993 of the Social Welfare Department. It is further stated that the petitioner who was working as Anganwady worker was not interested in improving the conditions of the Anganwady and accordingly the Anganwady was closed. It is further stated that the mutation was effected in the name of the Grama Panchayat, Purappuzha based on G.O.(P) No.189/95/LSGD dated 18.9.1995 after publishing statutory notice under the Transfer of Registry Rules, 1956.

4. The petitioner submits that the transfer of registry in her name has been transferred without following any procedure or without any notice. It is also submitted that the revenue authorities effected mutation in the name of the Panchayat when the petitioner is the title holder and there is no provision under

the Transfer of Registry Rules in order to cancel such mutation .

5. I heard the learned counsel for the petitioner, the learned Special Government Pleader and the learned counsel for the Grama Panchayat.

6. According to the Grama Panchayat, the property in which the Anganwady was being run has already been taken over by the Panchayat and mutation is already effected. It is stated that a new building complex is almost completed in the said property. But no provision is pointed out in order to effect a transfer of registry, apart from the Government Order Ext.P6. From Ext.P6, it is not understood, how the land in which the Anganwady was functioning can also be taken over by the Panchayat. Similarly, no provision of law permitting transfer of registry in the name of Panchayat in such circumstances is also not stated or revealed.

Under the above circumstances, in view of the fact that the petitioner has already approached the 3rd respondent in Ext.P7, it is only appropriate that the 3rd respondent consider and pass orders thereon, with due notice to all the parties likely to be affected. In the meanwhile, the transfer of registry already

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effected/transferred in favour of the Grama Panchayat shall stand set aside for the purpose of reconsideration, with notice to the petitioner, Grama Panchayat as well as all the parties concerned. The 3rd respondent shall take a decision on Ext.P7 within a period of three months from the date of receipt of a copy of this judgment with notice to the parties.

Sd/-

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

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