

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 3664 of 2010 (G)

PETITIONER:

**AUGUSTINE GERVACIS,ALUMMOOTTIL THEKKETHIL,
CHERUKOLE,CHENNITHALA,MAVELIKKARA.**

BY ADV. SRI.R.KRISHNA RAJ

RESPONDENTS:

- 1. TAHSILDAR,MAVELIKKARA,ALAPPUZHA DISTRICT.**
- 2. VILLAGE OFFICER,CHENNITHALA,ALAPPUZHA DISTRICT.**

BY GOVT. PLEADER SRI.K.C.VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

W.P(C) NO.3664/2010

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE SALE DEED.

EXT.P2: COPY OF THE APPLICATION.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.3664 OF 2010
.....

Dated this the 7th January, 2015

J U D G M E N T

The petitioner seeks for a direction to the concerned respondent to consider Ext.P2 application preferred by the petitioner for effecting mutation in respect of 12 cents of property covered by Ext.P1 sale deed. Grievance of the petitioner is that the property was purchased by the petitioner as early as in the year 1968 and is enjoying the same without any interruption from any corner. But no 'Pattayam' has been issued to the said property. It is stated that the erstwhile owner of the property had been satisfying the tax and the petitioner continued to effect tax after effecting mutation. But after the re-survey, the property of '**12**' cents, which was originally situated in Sy.Nos.92/6 A&B of Chennithala village came to be included in Re.Sy.No.361/9, but with a reduction by '**3**' cents , showing the actual extent only as '**9**' cents. Though the petitioner made several attempts to effect mutation in respect of the entire extent, the same was refused to be acted upon. Hence the writ petition.

2. A counter affidavit has been filed by the first

respondent/Tahsildar pointing out that there is a 'river puramboke' on the eastern side of the property belonging to the petitioner, bordering the 'Achankovil river' and that by virtue of ruling rendered by this Court in **O.P.17233/1996**, the property cannot be assigned; and as such, the reliefs sought for, for effecting mutation in respect of the entire extent is not liable to be entertained.

3. The petitioner has filed a reply affidavit as well, pointing out that there is no claim for the petitioner to assign any property and that the reliefs sought for is only to effect mutation in respect of the entire extent, which is even now available, as situated on the southern side of the property of '9' cents. The learned Counsel asserts that the petitioner does not propose to claim for the alleged property, pointed out by the first respondent as situated on the eastern side of the property of the petitioner. On the other hand, the remaining '3' cents is still available on the southern side of the petitioner's property. In the said circumstance, Ext.P2 application has been preferred before the concerned respondent. The learned Counsel further points out that the petitioner has now been let known by the concerned

Tahsildar that since the re-survey was already complete years back, nothing can be pursued at this stage.

4. Heard the learned Government Pleader as well, who submits that if the claim of the petitioner is in respect of the remaining extent of the property, stated as situated on the southern side and if it is not 'Attu -Puramboke', the grievance of the petitioner can be considered, by causing the property to be identified, measured out and by effecting necessary correction in the survey records. The petitioner is having an effective remedy by way of Revision, by virtue of **Section 13A (Power of Revision by the Collector) of the Kerala Survey and Boundaries Act.**

In the said circumstance, the petitioner is relegated to pursue appropriate remedy in this regard. With the above observation, the writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

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