

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 236 of 2015 (D)

PETITIONER(S) :

**MRS.OMANA MATHEW,
W/O. THAMPY MATHEW, GOMATHY HAVEN, MOOLAVATTOM P.O,
KOTTAYAM-686 012.**

**BY ADVS.SRI.MATHEWS K.UTHUPPACHAN
SRI.TERRY V.JAMES**

RESPONDENT(S) :

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, KOTTAYAM-686 002.**
- 2. THE DISTRICT SURVEY SUPERINTENDENT,
COLLECTORATE, KOTTAYAM-686 002.**
- 3. PUBLIC INFORMATION OFFICER & HEAD DRAUGHTSMAN,
OFFICE OF THE DISTRICT SURVEY SUPERINTENDENT,
COLLECTORATE P.O., KOTTAYAM-686 002.**
- 4. THE TAHSILDAR,
KOTTAYAM-686 002.**

*** ADDITIONAL R5 IMPEADED**

- 5. THE ADDITIONAL TAHSILDAR,
KOTTAYAM - 686 001.**

*** ADDITIONAL R5 IS IMPEADED AS PER ORDER DATED 09.02.2015 IN
I.A.NO.1688 OF 2015.**

BY ADV. SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 :** TRUE COPY OF THE SALE DEED NO.6 OF 1964 DATED 02.01.1964.
- P2 :** TRUE COPY OF DRAFT SKETCH OBTAINED FROM THE VILLAGE OFFICE,
PANACHIKKADU VILLAGE.
- P2(A) :** TRUE COPY OF THE EXHIBIT P2 DRAFT SKETCH WITH THE 5.78 ARES
EQUIVALENT TO 14.276 CENTS ENCIRCLED.
- P3 :** TRUE COPY OF COMPLAINT DATED 20.07.1992 FILED BY
THE PETITIONER BEFORE THE 4TH RESPONDENT TAHSILDAR,
KOTTAYAM.
- P4 :** TRUE COPY OF COMPLAINT DATED 06.04.1993 FILED BY
THE PETITIONER BEFORE THE REVENUE MINISTER.
- P5 :** TRUE COPY OF LETTER DATED 15.04.1993 ISSUED BY
THE 1ST RESPONDENT DISTRICT COLLECTOR TO THE PETITIONER.
- P6 :** TRUE COPY OF NOTICE NO.C3-55575/2004 DATED 03.01.2005 ISSUED
FROM THE 1ST RESPONDENT'S OFFICE.
- P7 :** TRUE COPY OF NOTICE DATED 25.01.2006 ISSUED BY
THE 2ND RESPONDENT.
- P8 :** TRUE COPY OF APPLICATION DATED 27.10.2014 UNDER THE RIGHT TO
INFORMATION ACT BEFORE THE 3RD RESPONDENT.
- P9 :** TRUE COPY OF NOTICE DATED 24.11.2014 ISSUED BY
THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R.RAMACHANDRA MENON, J.

W.P.(C).No.236 of 2015

Dated this the 10th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

- i. Declare that the property admeasuring 5.78 Ares equivalent to 14.276 cents of land in Block No.21 in Survey No.64 in Panachikkadu Village, Nattakom, Kottayam is the petitioner's property covered by sale deed No.6 of 1964 dated 2.1.1964 and to direct the respondents to receive basic tax from the petitioner with respect to the said property.*
- ii. Direct 1st and 2nd respondents by issue of a writ of mandamus or such other appropriate writ, direction or order to forthwith enquire into and conduct survey and all other necessary steps with respect to the petitioners complaints starting from Exts.P3 and P4 with respect to the 5.78 Ares of land owned and possessed by the petitioner in block No.21 in Survey No.64 in Panachikkadu Village, Nattakom, Kottayam covered by Ext.P1 sale deed No.6 of 1964 dated 2.1.1964 and to take a final decision on the same.*
- iii. If necessary, call for the records leading to Ext.P9 and quash the same by issue of a writ of certiorari or such other appropriate writ, direction or order.*

W.P.(C).No.236 of 2015

2. The sequence of events as put forward by the learned Senior Counsel appearing for the petitioner is that the petitioner is the owner of the property having an extent of 5.78 Ares covered by Ext.P1 sale deed, who is enjoying the same, along with such other properties mentioned therein. The petitioner was enjoying the property also satisfying the tax in terms of the Kerala Land Tax Act for the period from 1964 to 1992. Thereafter, the respondents refused to accept the tax stating that there was some resurvey. After the resurvey, the property of the petitioner came to be shown as 'Government land', which was quite shocking to the petitioner who preferred Exts.P3 and P4 complaints before the fourth respondent and others concerned as early as in 1992 - 1993. In the course of further proceedings, the petitioner produced all the relevant documents before the Survey Superintendent, who conducted a survey on 14.2.2006. Nothing transpired in the positive and the petitioner was never let known as to the fate of the proceedings. Finally, as there was no other alternative, the petitioner invoked the remedy under the RTA Act by way of Ext.P8, whereupon, the petitioner has been informed

W.P.(C).No.236 of 2015

that the records are not traceable as on date. This made the petitioner to approach this Court with the prayers mentioned as above.

3. Heard the learned Government Pleader as well.

4. It is brought to the notice of this Court during the course of hearing that the powers vested with the concerned authority of the Survey Department now stands delegated to the Additional Tahsildar by virtue of G.O. No.200/10 dated 31.5.2010. It is accordingly, that the Additional Tahsildar, Kozhikkode has been impleaded as the fifth respondent in the party array.

5. The learned Government Pleader points out that if the petitioner files application before the fifth respondent for causing a survey and measurement of the properties, upon which necessary steps will be taken to have the grievances redressed within the shortest possible time.

6. In the above circumstances, the petitioner is set at liberty to file a fresh petition before the additional fifth respondent, in so far as prayer No.2 of the writ petition is concerned, which shall be done within two weeks from the date

W.P.(C).No.236 of 2015

of receipt of a copy of this judgment. On receipt of the application as above, further steps shall be pursued by the additional fifth respondent to conduct the survey and effect the measurement of the property also fixing the boundaries with notice to the petitioner and other interested parties, if any. The process shall be completed at the earliest, at any rate, within three months from the date of receipt of a copy of this judgment.

The writ petition is disposed of.

The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the additional fifth respondent for further steps.

Sd/-

**P.R.RAMACHANDRA MENON,
JUDGE.**

rkc.