IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

WP(C).No. 507 of 2015 (K)

PETITIONER(S):
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1. STATE BANK OF TRAVANCORE,
   REPRESENTED BY ITS ASSISTANT GENERAL MANAGER,
   STRESSED ASSETS RESOLUTION CENTRE, PALAYAM,
   VIKAS BHAVAN.P.O., THIRUVANANTHAPURAM-695 033.

2. GIRIJA.O., W/O. BAIJU,
   CHARUVIL MELATHIL VEEDU, AMBIPOIKA.P.O.,
   EAST KUNDARA, KOLLAM DISTRICT.

   BY ADVS.SRI.SATHISH NINAN
   SRI.SANTHOSH MATHEW

RESPONDENT(S):
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1. THE VILLAGE OFFICER,
   VILAVOORKKAL, NEYYATTINKARA TALUK,
   THIRUVANANTHAPURAM.PIN-695 001

2. THE TAHSILDAR,
   REVENUE RECOVERY, NEYYATTINKARA TALUK OFFICE,
   NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT-695 001

   R1 & R2 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
   ON 14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
   FOLLOWING:

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WP(C).No. 507 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

P1. **TRUE COPY OF THE SALE CERTIFICATE NO. 1530 OF 2014 OF SRO, MALAYINKEEZHU.**

P2. **TRUE COPY OF THE COMMUNICATION DATED 23-6-2014 ISSUED BY THE VILLAGE OFFICER TO THE SECOND PETITIONER.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO.JUDGE

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P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.507 of 2015

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Dated this the 14th day of January, 2015

JUDGMENT

The 1st petitioner Bank and the 2nd petitioner who is the purchaser of the property, have approached this Court with the following prayers:

> "i) Call for the records leading to Exhibit P2 and issue a writ of certiorari or any other appropriate writ order or direction, quashing the same;
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> ii) Issue a writ of mandamus or any other appropriate writ order or direction commanding the second respondent to effect mutation in respect of 2.83 Ares of property in R.S.No.70/16-1 of Vilavoorkkal Village in Neyyattinkara Taluk, in the name of the second petitioner on the strength of Exhibit P1 sale certificate;
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> iii) to issue a writ of mandamus or any other appropriate writ order or direction, commanding the respondents to release the attachments effected over the 2.83 Ares of property in R.S.No.70/16-1 of Vilavoorkkal Village in Neyyattinkara Taluk."

2. The bank has given some financial assistance to the borrower who turned to be a defaulter when the property was proceeded against in terms of the SARFAESI Act. In the sale conducted in accordance with the relevant provisions of law, the

2nd petitioner came to be the successful bidder and the property was accordingly sold to the 2nd petitioner on satisfaction of the entire sale consideration, followed by issuance of necessary sale certificate. On approaching the respondents for effecting mutation and to satisfy tax under the Kerala Land Tax Act, the request came to be rejected stating that some revenue recovery proceedings were pending against the predecessor-in-title (Radha K Nair). This made the petitioners to approach this Court by filing the writ petition.

3. Heard the learned Government Pleader as well.

4. It is brought to the notice of this Court that the mortgage was created in favour of the Bank by the borrower, much prior to the liability which form the subject matter of the revenue recovery proceedings. The transaction is complete, whereby the property came to be conveyed to the 2nd petitioner, to the exclusion of all others. Even otherwise, attachment over the property subsequent to the mortgage or the revenue recovery proceedings for realisation of the alleged amount stated as due as aforesaid cannot be a bar in causing mutation to be effected. This is more so in view of the fact that mutation is only

a process whereby necessary entries are made in the revenue records and the same does not by itself confer the title upon anybody. The legal position is declared by this Court as in **Thulasibhai C.C v. State of Kerala** (2010(3) KLT 215 and 2010(4) KHC 142)

In the said circumstances, there will be a direction to the respondents to consider the application preferred by the petitioner for causing the mutation to be effected and for payment of basic tax which form the subject matter of Ext.P2 and make necessary entries facilitating such exercise, thus redressing the grievance of the petitioner, which shall be done within one month from the date of receipt of a copy of the judgment. The relief sought for as prayer No.3 and other incidental aspects involved are left open. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

P.R.RAMACHANDRA MENON,
JUDGE

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