

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 546 of 2015 (P)

PETITIONER(S):

**SIBI THOMAS, AGED 48 YEARS,
S/O.TOMY MATHEW, RESIDING AT KADALIKKATIL ESTATE,
CHANDANAPARA, MAVADI P.O., NEDUMKANDAM
IDUKKI.**

**BY ADVS.SRI.GEO PAUL
SRI.SANU MATHEW
SRI.RADHIKA RAJASEKHARAN P.
SRI.C.R.PRAMOD
SRI.S.ASHOK KUMAR.
SRI.LENIN P. SUKUMARAN
SRI.JERRY VARGHESE**

RESPONDENT(S):

**THE VILLAGE OFFICER
PARATHODU VILLAGE, UNDUMBANCHOLA TALUK,
PIN-685 553.**

BY SPECIAL GOVERNMENT PLEADER SMT.SUSHEELA BHAT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 546 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE SALE DEED NUMBER 1578/1987 OF SRO,
UDUMBANCHOLA.**
- EXT.P2. TRUE COPY OF THE BASIC TAX RECEIPT ISSUED FROM THE VILLAGE
OFFICER, PARATHODU**
- EXT.P3. TRUE COPY OF THE APPLICATION DATED 11/11/2014**
- EXT.P4. TRUE COPY OF THE APPLICATION UNDER RTI DATED 3/12/2014.**
- EXT.P5. TRUE COPY OF THE REPLY ISSUED BY THE RESPONDENT DATED
10/12/2014.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 546 of 2015

Dated this the 15th day of January, 2015

JUDGMENT

The petitioner is the owner of the property covered by Ext.P1 sale deed bearing No.1578 of 1987 of SRO, Udumbanchola who is enjoying the same with absolute ownership, exclusive possession and clear and marketable title to the exclusion of all others, also remitting tax under the Kerala Land Tax Act as borne by Ext.P2 basic tax receipt. For the purpose of availing a loan the petitioner was required to produce possession certificate and location sketch from the respondent. Accordingly, Ext.P3 application was preferred before the respondent on 11.11.2014. Absolutely no steps were taken by the respondent to have it acted upon. Finally Ext.P4 application under the RTI Act was preferred and the respondent issued Ext.P5 reply informing the petitioner that the possession certificate could not be issued on account of the attachment ordered by the Family Court over the property. This made the petitioner to approach this Court by filing this writ petition.

2. Heard the learned counsel for the petitioner as well as the learned Government Pleader.

3. No statement has been filed from the part of the

respondent and no fruitful instruction is forthcoming despite the direction already given. The learned Government Pleader submits that, there is no dispute with regard to the title or possession of the property as discernible from Ext.P5 and the only reason is with reference to the attachment ordered by the Family Court.

4. The Department can never place a hurdle with regard to the attachment ordered, as per the law declared by this Court in **2009 (3) KLT 914** and **2012 KHC 2981**. After hearing both the sides, this Court finds that the petitioner is entitled to succeed. The writ petition is disposed of, directing the respondent to issue possession certificate as sought for by the petitioner as per Ext.P3, subject to satisfaction of the legal requirements. This shall be done at the earliest, at any rate within 'two weeks' from the date of receipt of a copy of this judgment.

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.**