

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

WP(C).No. 5100 of 2012 (J)

PETITIONERS:

1. NARAYANA MENON @ UNNI, AGED 72 YEARS,
SON OF LATE KRISHNA MENON, PARAPPILLIL,
THIRUVANKULAM AND NOW RESIDING AT CHALIYATHU HOUSE
THEKKUMBHAGAM, TRIPUNITHURA.

2. LEELAMMA, AGED 71 YEARS,
D/O.KORATHATTU DEVAKI AMMA, PARAPPILLIL HOUSE,
IRIMPANAM, TRIPUNITHURA AND NOW RESIDING AT C/207
JUPITOR, 2ND FLOOR, HARANANDINI COMPLEX,
NEAR LAKHANDAWALA COMPLEX, OPPOSITE 4 BANGALOWS
ANDHERI, BOMBAY.

3. BHANUMATHY AMMA, AGED 65 YEARS,
D/O.KORATTU DEVAKI AMMA, PARAPPILLIL,
PUTHENPURAYIL, IRIMPANAM,
TRIPUNITHURA AND NOW RESIDING AT ROOM NO.132
ARAM NAGAR, MACHILIMAR, ANDHERI, BOMBAY.

BY ADV. SRI.JOSE TOM C. KANDATHIL

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY THE REVENUE SECRETARY,
THIRUVANANTHAPURAM.

2. THE SURVEY SUPERINTENDENT,
OFFICE OF THE RESURVEY, KAKKANAD, ERNAKULAM.

3. THE ADDITIONAL TAHSILDAR,
TALUK OFFICE, KANAYANNOOR TALUK, ERNAKULAM.

4. THE VILLAGE OFFICER,
THIRUVANKULAM, ERNAKULAM.

5. THE SPECIAL TAHSILDAR,
COCHIN DEVASOM BOARD, THRISSUR.

BY GOVERNMENT PLEADERSRI. V.K. RAFAEEK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 18-11-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

WP(C) NO.5100 OF 2012

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 - TRUE COPY OF KRAYA CERTIFICATE ISSUED BY the LAND TRIBUNAL, KOTTAYAM, DATED 3/10/1981.

EXT.P2 - TRUE COPY OF DOCUMENT NO.5138 OF 1994 OF SRO, TRIPUNITHURA.

EXT.P3 - TRUE COPY OF DECREE IN O.S.NO.287 OF 1997 OF FIRST ADDITIONAL MUNSIFF COURT, ERNAKULAM DATED 20/8/1999.

EXT.P4 - TRUE COPY OF EVICTION NOTICE ISSUED BY THE 5TH RESPONDENT DATED 25/5/2011.

EXT.P5 - TRUE COPY OF OBJECTION FILED BEFORE THE 5TH RESPONDENT DATED 8/6/2011.

EXT.P6 - TRUE COPY OF REQUEST FOR RECTIFICATION OF MISTAKE IN RESURVEY DATED 23/3/1996.

EXT.P7 - TRUE COPY OF REMINDER FOR RECTIFICATION OF MISTAKE IN RESURVEY DATED 3/2/1999.

EXT.P8 - TRUE COPY OF REQUEST FOR RECTIFICATION OF MISTAKE IN RESURVEY MADE TO THE 3RD RESPONDENT DATED 20/9/2011.

EXT.P9 - TRUE COPY OF REPORT OF THE 4TH RESPONDENT DATED 10/10/2011.

//true copy//

P.S. to Judge

K. HARILAL, J.

W.P. (C) No.5100 of 2012-J

Dated this the 18th day of November, 2015

JUDGMENT

The petitioners are the owners in possession of 22 cents of property in old Sy.No.726 of Thiruvankulam Village. According to them, they obtained the said property by virtue of purchase certificate issued from the Land Tribunal, Kottayam, dated 3/10/1981. Thereafter, the said property has not been mutated in the name of the petitioners in the Thandaper Register. But, the petitioners now came to know that the property is included in the re-survey records as 'Devaswom Puramboke'. The 1st petitioner is very old and other two petitioners are residing at Mumbai, at present. Recently, the petitioners got Ext.P4 notice requiring them to

vacate from the property which the petitioners got by virtue of purchase certificate and it is learnt from Ext.P4 that the property is given Re.Sy. No.300/14 and shown in the re-survey records as 'Devaswom Purmaboke'. Hence the petitioners prayed for issuing a writ of mandamus directing the respondents 2 and 3 to rectify the mistake in the records relating to re-survey with regard to the property obtained by the petitioners as per Ext.P2 purchase certificate.

2. The learned Government Pleader submits that the above property has been included in the Re.Sy.No.300/14 of the Thiruvankulam Village as 'Sarkar Puramboke'. Even though the petitioners' claim that they got the property by virtue of purchase certificate, as per the Village records, no proceedings had been initiated to register the property under the provisions of the Transfer of Registry Rules and the remedy is available to the

petitioners under the civil court only.

3. Heard.

4. Going by the grievance projected in this writ petition, it is seen that even though the petitioners have obtained the property by virtue of purchase certificate in the year 1981, no further proceedings has been initiated to get it registered under the provisions of the Transfer of Registry Rules up to 1996. In the meantime, re-survey has been effected and the said property has been included in Re.Sy. No.300/14 as 'Devaswom Puramboke'.

5. In the above circumstances, I am of the opinion that mere correction in the survey number is not sufficient to redress the grievance of the petitioners. The remedies are open to the petitioner either under the provisions of the Kerala Survey and Boundaries Act, 1961 or by a properly instituted civil suit and these remedies are left open to the petitioners.

6. Hence this Court declines the jurisdiction and it is for the petitioners to seek proper remedies, provided under law.

This writ petition is dismissed accordingly.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge