IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).No. 1420 of 2015 (B)

PETITIONER(S):

ABDURAZAK, AGED 45 YEARS
S/O. AHAMMEDKUTTY HAJI, RAMLATH MANZIL, KUZHIMANNA P.O.
ERANAD TALUK, MALAPPURAM DISTRICT.

BY ADVS.SRI.U.K.DEVIDAS
SMT.P.M.SHAHIDA

RESPONDENT(S):
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1. THE VILLAGE OFFICER
PORUNNANOOR, MANANTHAVADI TALUK,
WYNAD DISTRICT-670645.

2. THE DISTRICT COLLECTOR,
WYNAD DISTRICT-670101.

BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 1420 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: **TRUE COPY OF THE ASSIGNMENT DEED NO.510/2014 OF S.R.O. VELLAMUNDA DATED 26.2.2014.**

EXHIBIT P2: **TRUE COPY OF THE FORM NO.1 APPLICATION ISSUED BY THE SUB REGISTRAR, VELLAMUNDA DATED 26.2.2014.**

EXHIBIT P3: **TRUE COPY OF THE APPLICATION DATED 13.8.2014 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.**

EXHIBIT P4: **TRUE COPY OF THE LETTER DATED 21.11.2014 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

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W.P.(C)No. 1420 OF 2015

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Dated this the 29th January, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

> *"i. A writ of mandamus or any other appropriate writ, order or direction to the respondents to receive the basic tax of 0.1140 hectors in Re-Survey No.168/7 in Porunnanoor amsom in Karingari desom Mananthawadi Taluk.*
>
> *ii. A writ of mandamus or any other appropriate writ order or direction to the second respondent to dispose of Ext.P3 application after giving an opportunity of hearing to the petitioner within a reasonable time.*
>
> *Iii. Such other relief's as this Honourable Court deems fit to grant in the nature of this case."*

2. The learned Counsel for the petitioner points out that the property having an extent of 0.1140 hectors was purchased by the petitioner as per Ext.P1 assignment deed No.510/2014 of SRO, Vellamunda. It is stated that the title is clear and

absolute. There is no dispute with regard to the said rights or possession in respect of the property. The predecessors-in-interest were enjoying the property, also remitting the tax under the Kerala Land Tax Act. After purchase of the property by the petitioner, he is entitled to remit the tax and enjoy the property in a befitting manner. When the petitioner approached the revenue authorities, the tax was refused to be accepted , which made the petitioner to file Ext.P3 application before the second respondent/District Collector, which is still to be acted upon. It is also stated that transfer of Registry is also still to be made.

3. Heard the learned Government Pleader as well, who points out that the vendors of the property concerned herein had approached the concerned authority and had obtained four different reclamation permits for filling up the land in question, so as to enable them to effect construction of a residential building and thereafter the property was wrongly transferred to the petitioner herein. This is stated as the reason for not accepting the basic tax and for effecting mutation.

4. It is not brought to the notice of this Court as to the

existence of any adverse stipulation or condition at the time of granting reclamation permit to the predecessors-in-interest. There is also no dispute with regard to the flow of title. Conveyance of immovable property is governed by the relevant provisions of the Transfer of Property Act and the property has come to the hands of the petitioner, who is enjoying the same. This being the position, the petitioner is entitled to have the mutation effected in respect of the property concerned in the name of the petitioner and to have the land tax remitted accordingly.

5. In the above circumstance, the first respondent/Village Officer is directed to do the needful in the light of the observations as above and to accept basic tax in respect of the property concerned, as and when the same is tendered by the petitioner. The writ petition is disposed of. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the first respondent/Village Officer for further steps. It is also made clear that, if any adverse stipulation is there in the reclamation permit issued to the predecessors-in-

interest, it is open for the concerned respondent to proceed with appropriate steps in accordance with law, to ensure its compliance or to take consequential action for violation, if any.

P.R.RAMACHANDRA MENON
JUDGE

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