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.1508 of 2015 (K)

PETITIONER:

P.V.SHAJIHAN,S/O.IBRAYI,AGED 69 YEARS,
RESIDING AT RASEENA MANZIL,
NEAR GOVERNMENT HOSPITAL,
MAHE 673 310.

BY ADVS.SRI.B.KRISHNAN
SRI.R.PARTHASARATHY

RESPONDENTS:
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1. THE TAHSILDAR,VATAKARA,
TALUK OFFICE,VATAKARA-673 101.

2. THE VILLAGE OFFICER,VATAKARA-673 101.

3. THE SECRETARY (REVENUE),
SECRETARIAT,THIRUVANANTHAPURAM-695 001.

*ADDITIONAL 4TH RESPONDENT IMPLEADED.

ADDL.R4:THE VILLAGE OFFICER,AHIYUR,P.O.AZHIYUR,
KOZHIKODE DISTRICT-673309.

*ADDITIONAL 4TH RESPONDENT IMPLEADED AS PER ORDER
DATED 10.3.2015 IN I.A.NO.3303/2015 IN W.P(C) NO.1508/2015.

R1 TO ADDL.R4 BY GOVT. PLEADER SRI.K.C.VINCENT.

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

pk

W.P(C) NO.1508/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE DEED OF ASSIGNMENT DATED 21ST JUNE,1985.

EXT.P2:TRUE COPY OF THE DEED OF ASSIGNMENT DATED 9TH APRIL,1985.

EXT.P3:TRUE COPY OF THE DEED DATED 14TH JULY 1986.

EXT.P4:TRUE COPY OF THE DEED DATED 4TH MAY,1987.

EXT.P5:TRUE COPY OF THE DEED DATED 14TH JULY,1986.

EXT.P6:TRUE COPY OF THE BASIC TAX RECEIPT BY THE VILLAGE OFFICER, AZHIYUR DATED 17.12.2008.

EXT.P7:TRUE COPY OF THE REQUEST TO THE 2ND RESPONDENT BY WRIT PETITIONER DATED 24.6.2014.

EXT.P8:TRUE COPY OF THE REQUEST TO THE 1ST RESPONDENT BY WRIT PETITIONER DATED 4.8.2014.

EXT.P9:TRUE COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 15.10.2014.

EXT.P10:TRUE COPY OF THE REQUEST DATED 29.11.2014 BY THE PETITIONER TO THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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P.R. RAMACHANDRA MENON J.
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W.P.(C) No. 1508 of 2015
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Dated, this the 10th day of March, 2015

JUDGMENT

The grievance of the petitioner is mainly with regard to the failure on the part of the respondents in accepting tax in terms of the Kerala Land Tax Act in respect of the property covered by Exts. P1 to P5.

2. The sequence of events as narrated in the writ petition shows that the property concerned herein was purchased by the petitioner and his two brothers, who were enjoying the same eversince from the execution of Ext. P1 and P2 sale deeds. Subsequently, one of the brothers of the petitioner by name Abdul Nasheem expired, and all the rights and interest of the deceased brother came to the hands of the petitioner and the surviving brother, based on Exts. P3 to P5 release deeds. But the petitioner and surviving brother however omitted to satisfy tax for a long period due to some unforeseen circumstances and when request was made for payment of tax in respect of the subsequent years, the same was

refused to be accepted by the Village Officer. On approaching the first respondent by submitting Ext. P8 request, the petitioner was required to approach the concerned village officer. When the petitioner approached the Village Officer as aforesaid, the petitioner was directed to produce certain documents, as per Ext. P9. It is stated that the petitioner has produced all the requisite documents as per Ext. P10 dated 29.11.2014, pointing out the pendency of civil suit with a neighbour and the present position was also explained in paragraph No. 3 of Ext. P10. But the relief is still to be granted. Hence the writ petition.

3. The learned Government Pleader points out that some civil dispute was pending by way of O.S No. 10 of 1994 between the petitioner and his brother and that the issue is now pending consideration of before this Court by way of RSA No. 240 of 2014. It is also pointed out that the petitioner had never produced the release deeds (copies of which have been produced as Exts. P3 to P5) before the Village Officer for settling the issue. The learned Government Pleader points out that suit filed by the petitioner for recovery of possession against the neighbour was dismissed. Though the issue is pending consideration before this Court by way

of RSA, as on date a portion of the property covered by Exts. P1 and P2 is in the hands of the neighbour. As such, the actual extent of property which can be enjoyed by the petitioner and his surviving brother, by virtue of Exts. P3 to P5 release deeds, requires to be measured out and tax can be accepted only in respect of the said extent of land, which shall be subject to the result of the RSA. The learned Government Pleader also points out that encumbrance certificate of as on date is also necessary for solving the issue once and for all.

4. In the above circumstances, the first and additional 4th respondents are directed to cause measurement of the property covered by Exts. P1 to P5, with notice to the petitioner and other interested parties, if any, and tax shall be accepted from the petitioner in respect of the actual extent of the property now in possession of the petitioner. The eligibility of the petitioner to satisfy tax in respect of the remaining extent of the property will be subject to the outcome of the RSA. The petitioner shall also make available the encumbrance certificate as on date before the first and additional respondent for settling the issue.

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

The writ petition is disposed of.

Sd/-

P. R. RAMACHANDRA MENON,
(JUDGE)

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