

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 5539 of 2012 (N)

PETITIONER(S):

**PEERUMEDU THOTTAM THOZHILALI UNION (CITU)
REPRESENTED BY ITS GENERAL SECRETARY SRI. P.A.RAJU
VATTATHOTTIYIL HOUSE, P.R. CENTRE, VANDIPERIYAR.**

**BY ADVS.SRI.JOHN K.GEORGE
SRI.N.K.SHYJU**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
IDUKKI DISTRICT, CIVIL LANE, PAINAVU-685580.**
- 2. THE ADDITIONAL TAHSILDAR,
PEERUMEDU TALUK OFFICE, CIVIL STATION,
PEERUMEDU, PIN-685531.**
- 3. THE VILLAGE OFFICER,
PERIYAR VILLAGE, SPRINGVALLEY P.O., KUMALY,
PIN-685531.**
- 4. SRI. M.T.SURENDRAN,
PRESIDENT, INDIAN NATIONAL CONGRESS (I),
VANDIPERIYAR MANDALAM COMMITTEE, VANDIPERIYAR P.O.
PIN-685533.**

**R1 BY GOVERNMENT PLEADER SRI.T.J.MICHAEL
R4 BY ADV. SRI.C.S.AJITH PRAKASH
R4 BY ADV. SRI.T.D.SALIM
R4 BY ADV. SRI.PAUL C THOMAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-11-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 5539 of 2012 (N)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: TRUE COPY OF THE DOCUMENT NO.2784/04 DATED 8.9.94.

EXHIBIT P2: TRUE COPY OF THE TAX RECEIPT FOR THE YEAR 2011-12.

**EXHIBIT P3: TRUE COPY OF COMPLAINT DATED 23.7.2011 BEFORE THE 1ST
RESPONDENT.**

**EXHIBIT P4: TRUE COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED
27-2-2012.**

RESPONDENT'S EXHIBITS: NIL

OKB

TRUE COPY

P.A. TO JUDGE

K.HARILAL, J.

W.P.(C) No.5539 of 2012

Dated this the 9th day of November, 2015.

JUDGMENT

The petitioner is the owner in possession of 3.24 Ares of land in Sy.No.53/6-2 of Periyar Village by virtue of Ext.P1 and he has been paying tax for the said property after effecting mutation. The petitioner had purchased the said land to construct an office building. While so, some political opponents of the petitioner filed Ext.P3 complaint against the petitioner alleging that the petitioner had obtained pattayam with the help of Revenue officers owing allegiance to the petitioner. As a matter of fact, the petitioner is having pattayam since 1979 and on enquiry it is learnt that the present complaint is made with an intent to stall construction of the office building in the said property. To his dismay, on receipt of Ext.P3, the respondents 1 to 3 jumped into action and initiated steps on war footing, without

issuing notice to the petitioner. Under the leadership of the Sub Collector, measurements were made on the banks of the river and, thereafter, the 2nd respondent arrived at a strange conclusion, which states that the property covered by Thandaper No.8335 in the petitioner's name in Sy.No.53/6-2 is not available within the boundaries stated and instead it is the Government land comprised in Sy.No.67/7. On the basis of such a secret enquiry the 2nd respondent has passed Ext.P4 order cancelling the mutation of the property in favour of the petitioner. The entire exercise for cancellation of mutation and Thandaper was conducted without notice to the petitioner and thereby the respondents had denied natural justice to the petitioner. Hence the petitioner prayed for a writ of certiorari calling for all records leading to Ext.P4 and to quash the same.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. The sum and substance of the arguments advanced by the learned counsel for the petitioner is

that Ext.P4 order cancelling the mutation was passed without affording an opportunity of being heard to the petitioner and thereby the impugned order is arbitrary and vitiated by denial of natural justice.

4. It is not discernible from Ext.P4 whether an opportunity had been given to the petitioner to show cause as to why the mutation should not be cancelled. Even if the mutation was effected illegally, or by any kind of misrepresentation, the respondents ought to have granted an opportunity to the petitioner to show cause as to why the order effecting mutation should not be cancelled. In the above view of the matter, I find some substance in the argument advanced by the learned counsel for the petitioner that Ext.P4 is vitiated by denial of natural justice. Needless to say, a statutory order passed without affording an opportunity of being heard to the aggrieved party is arbitrary and unsustainable.

5. In the above view, Ext.P4 order will stand quashed and the matter is remitted back to the 2nd respondent directing him to pass order afresh, after

affording an opportunity of being heard, to all the affected parties, at the earliest, at any rate, within a period of three months from the date of receipt of a copy of this judgment.

This writ petition is disposed of accordingly.

Sd/—
K. HARILAL, JUDGE

okb.