

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 2648 of 2015 (E)

PETITIONERS :

- 1. THOMAS N. JOSEPH, AGED 46 YEARS,
S/O.N.T.JOSEPH, NJALLANIYIL HOUSE, ANAKKAL P.O.,
KANJIRAPPALLY VILLAGE, KOTTAYAM DISTRICT.**
- 2. HAZEL DHANYA THOMAS,
W/O.THOMAS N.JOSEPH, NJALLANIYIL HOUSE, ANAKKAL P.O.,
KANJIRAPPALLY VILLAGE, KOTTAYAM DISTRICT.**

**BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA**

RESPONDENTS :

- 1. THE VILLAGE OFFICER
KANJIRAPPALLY 686507.**
- 2. THE SUB INSPECTOR OF POLICE
KANJIRAPPALLY POLICE STATION, KANJIRAPPALLY-686507.**

R1 & R2 BY GOVERNMENT PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 2648 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF SALE DEED NO.2652/2010 OF THE S.R.O.,
KANJIRAPPALLY DATED 24.06.2010.

EXHIBIT-P2: TRUE COPY OF THE SALE DEED NO.2567/2014 OF THE S.R.O.,
KANJIRAPPALLY DATED 16.10.2014.

EXHIBIT-P3: TRUE COPY OF THE THANDAPER EXTRACT NO.3444 OF THE VILLAGE
OFFICER, KANJIRAPPALLY DATED NIL.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.2648 of 2015

Dated this the 4th day of February, 2015

JUDGMENT

Grievance of the petitioners is mainly with regard to the refusal on the part of the Revenue Authorities in effecting mutation in respect of the property covered by Exts.P1 and P2 Sale Deeds and to enable the party concerned to satisfy the tax, in accordance with the relevant provisions of the Kerala Land Tax Act.

2. The sequence of events narrated in the writ petition shows that, the petitioners have purchased property having an extent of 4.25 Ares comprised in Re.Survey No.26/11/1/2 in Block No.12 (Old Survey No.100/1/11/1) of Kanjirappally Village of the SRO Kanjirappally. Ever since the execution of the said Sale Deed, the petitioners are enjoying the property to the exclusion of all others, with absolute ownership, exclusive possession and clear marketable title. The property was sought to be conveyed by the petitioners to another person for valuable sale consideration and Ext.P2 was executed in this regard. But,

when further steps were taken by moving the 1st respondent to effect the Transfer of Registry in accordance with the Transfer of Registry Rules and to satisfy the land tax, the same was not acceded to, referring to some instructions given by the 2nd respondent/Sub Inspector of Police as to the involvement of the 1st petitioner in Crime No.57 of 2011 of the Kanjirappally Police Station. This made the petitioners to approach this Court by filing the writ petition.

3. Heard the learned Government Pleader as well.

4. The only insinuation made against the petitioners is with regard to the involvement of a crime, which made the 2nd respondent to issue instruction, to have the property virtually attached, without causing the mutation to be effected. The scope of such intervention at the instance of the Investigating Officer had come up for consideration before this Court in **Kuriachan Chacko Vs. State of Kerala [2012(3) KLT 600]**, wherein it was observed that neither the Investigating Officer, nor the Magistrate's Court does have any power under Section 102 of the Cr.P.C. to cause attachment of the property. The said decision is squarely applicable to the case in hand, submits the learned

counsel.

5. The learned Government Pleader submits on instructions that, but for the existence of a criminal case, no other insinuating circumstance is stated as in existence with regard to the case in hand.

6. After hearing both the sides, this Court finds that in so far as the purchaser is the owner of the property concerned and there is no dispute with regard to the title, possession or enjoyment, the purchaser is having every right to have the property mutated in terms of the Transfer of Registry Rules and to satisfy the tax accordingly.

7. It is also pointed out that, the petitioners are constrained to approach this Court because of the terms of sale and understanding with the purchase of the property to have taken all necessary things in accordance with law, so as to cause the Transfer of Registry Rules, in so far as the entries in the Thandaper Registry still remain in the name of the petitioners.

8. In the above circumstances, there will be a direction to the first respondent to effect the transfer of registry in accordance with the relevant provisions of the Transfer of

Registry Rules and accept the land tax from the person concerned, as and when the same is tendered.

Either the petitioners or the beneficiary shall produce a copy of this judgment, along with a copy of the writ petition, before the 1st respondent, for further steps.

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE**

sp